ACTS

AND

RESOLVES

PASSED BY THE

General Court of Massachusetts

IN THE YEAR

1993

PUBLISHED BY

William Francis Galvin

SECRETARY OF THE COMMONWEALTH

The General Court which was chosen November 3, 1992 assembled on Wednesday, January 6, 1993 for the first session.

His excellency William F. Weld and his Honor Argeo Paul Cellucci continued to serve as Governor and Lieutenant Governor respectively for the political year of 1993.

Chapter 1. AN ACT RELATIVE TO THE PROTECTION OF CONDOMINIUM RESIDENTS.

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

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

SECTION 1. Subsection (c) of section 6 of chapter 183A of the General Laws, as most recently amended by section 11 of chapter 407 of the acts of 1992, is hereby further amended by adding the following paragraph:-

Except as provided in section twenty-one, in the event of a conflict between this subsection and the master deed, trust, or by-laws, and any amendment thereto, the provisions of this subsection shall govern, notwithstanding the date on which the condominium was submitted to the provisions of this chapter.

SECTION 2. Section eight of chapter four hundred of the acts of nineteen hundred and ninety-two is hereby repealed.

SECTION 3. This act shall take effect on April sixth, nineteen hundred and ninety-three.

Approved January 26, 1993.

Chapter 2. AN ACT RELATIVE TO THE BOARD OF SELECTMEN IN THE TOWN OF DARTMOUTH.

Be it enacted, etc., as follows:

SECTION 1. The board of selectmen of the town of Dartmouth shall consist of five at-large members.

SECTION 2. A member of said board serving on the effective date of this act shall continue to serve for the balance of the term for which he was elected.

SECTION 3. At the first annual town election next following the effective date of this act the voters of said town shall elect three persons to said board. The person receiving the highest number of votes shall be elected for a term of three years; the person receiving the second highest number of votes shall be elected for a term of two years; and the person receiving the third highest number of votes shall be elected for a term of one year. A person elected to said board thereafter shall be elected for a term of three years.

SECTION 4. Upon a vacancy in said board of selectmen a special election shall be held within ninety days of such vacancy; provided, however, that if such vacancy occurs less than one hundred and twenty days prior to the annual town election, such special election shall not be held.

SECTION 5. This act shall take effect upon its passage.

Approved January 28, 1993.

Chapter 3. AN ACT EXEMPTING THE PLYMOUTH/CARVER REGIONAL SCHOOL DISTRICT FROM ITS TEACHERS' SALARY DEFERRAL FOR FISCAL YEAR NINETEEN HUNDRED AND NINETY-THREE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section three of chapter three hundred and thirty-six of the acts of nineteen hundred and ninety-one or any other general or special law to the contrary, the Plymouth/Carver Regional School District shall not defer its teachers' compensation for the fiscal year beginning July first, nineteen hundred and ninety-two.

Approved February 5, 1993.

Chapter 4. AN ACT ESTABLISHING A PLYMOUTH PROMOTIONS FUND IN THE TOWN OF PLYMOUTH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws or any other general or special law to the contrary, the town of Plymouth is hereby authorized to establish in the town treasury a special account to be known as the Plymouth Promotions Fund, into which account shall be deposited certain receipts which comprise a portion of the total local room occupancy tax received annually by the town under the provisions of section three A of chapter sixty-four G of the General Laws.

SECTION 2. For the purposes of establishing the portion of the local room occupancy tax that may be deposited in the Plymouth Promotions Fund, the town is hereby authorized to deposit, commencing during fiscal year nineteen hundred and ninety-four, twenty-five percent of all local room occupancy tax receipts; in fiscal year nineteen hundred and ninety-five, thirty-five percent of all receipts from said tax; in fiscal year nineteen hundred and ninety-six, forty-five percent of all receipts from said tax; and in each fiscal year subsequent to fiscal year nineteen hundred and ninety-six, forty-five percent of all local room occupancy tax receipts shall be deposited in said fund. All interest earned from said fund shall be treated as general fund revenue of the town of Plymouth.

SECTION 3. There is hereby established in the town of Plymouth a visitor services board consisting of seven members to be appointed by the board of selectmen, as follows: one member nominated by the Plymouth area chamber of commerce, one member nominated

by the Plymouth county development council, one member nominated by the Plymouth development and industrial commission, one member representing retail interests within the town, and three members at-large. If any of the organizations with nominating privileges hereunder cease to exist or operate, the board of selectmen may appoint in place of such nominees individuals qualified to serve on said visitor services board, as appointees at-large. The board of selectmen shall fill any vacancies in said visitor services board in a like manner.

SECTION 4. The visitor services board shall recommend to the annual town meeting, commencing with the nineteen hundred and ninety-four town meeting, programs and projects that enhance the beautification, recreational resources, public safety, promotional and marketing activities, events, services, and public improvements which are of clear mutual interest to the residents and visitors of the town of Plymouth, and which strengthen said town as an attractive center for tourism, conventions, and related purposes of the visitor industry. The cost of such programs shall not exceed the funds available in the Plymouth Promotions Fund, and shall be allocated as follows: beginning with fiscal year nineteen hundred and ninety-four receipts appropriated for expenditure in fiscal year nineteen hundred and ninety-five, and appropriations made each subsequent fiscal year, no less than ten percent and no more than forty percent of said Plymouth Promotions Fund shall be used for public improvements including beautification, recreational resources, and public safety related to the mutual needs of visitors and residents with the balance available for promotional programs and projects.

SECTION 5. Upon approval by town meeting of the programs, services and other projects set forth under section four of this act, the visitor services board with the approval of the town manager shall be empowered to expend from said special revenue fund for the uses authorized by town meeting, and may for the purposes of this section designate funds to be expended under the direction of the Plymouth department of public works or other town agency as applicable; or obtain competitive proposals or bids for any services, programs or projects to be provided to the town by vendor contracts, all in accordance with the requirements of chapter thirty B of the General Laws or any other general law governing public bidding and procurement as may apply to the program or project. Any and all contracts for services, programs and projects authorized hereunder shall be awarded and executed by the town manager on the recommendation of the visitor services board, subject to compliance with applicable procurement laws of the commonwealth.

SECTION 6. This act shall take effect on January first, nineteen hundred and ninety-four

Approved February 5, 1993.

Chapter 5. AN ACT RELATIVE TO INSPECTORS OF PLUMBING, SEALERS AND DEPUTY SEALERS OF WEIGHTS AND MEASURES IN THE TOWN OF WRENTHAM.

Be it enacted, etc., as follows:

SECTION 1. 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, inspectors of plumbing, sealers and deputy sealers of weights and measures and inspectors and deputy inspectors of weights and measures in the town of Wrentham shall be exempt from the provisions of chapter thirty-one of the General Laws.

SECTION 2. The provisions of section one of this act shall not impair the civil service status of any person holding any one of said positions in the town of Wrentham on the effective date of this act.

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

Approved February 5, 1993.

Chapter 6. AN ACT EXEMPTING CERTAIN POSITIONS IN THE TOWN OF WEST SPRINGFIELD FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. All positions now or hereafter listed in the town of West Springfield classification plan by-law in the "S" classification shall be exempt from the provisions of chapter thirty-one of the General Laws, including but not limited to, all positions in the following offices, boards or departments: board of assessors, accounting department, building department, council on aging, board of selectmen, board of health, recreation department, planning department, town clerk, town treasurer, town collector, and veterans services department; and in the department of public works: the superintendent, all deputy superintendents, town engineer, all assistant civil engineers and junior civil engineers, all senior clerk typists, all junior clerk typists, office manager, tree warden, water service inspector, and all typists; and in the fire department: secretary and clerk; and in the police department: secretary, all dispatchers, and all police records clerk matrons.

SECTION 2. The provisions of section one of this act shall not impair the civil service status of any person holding any such position in the town of West Springfield on the effective date of this act.

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

Approved February 5, 1993.

Chapter 7. AN ACT PROVIDING FOR THE ESTABLISHMENT AND ADMINISTRATION OF RENT REGULATIONS AND THE CONTROL OF EVICTIONS IN MOBILE HOME PARKS IN THE TOWN OF RAYNHAM.

Be it enacted, etc., as follows:

SECTION 1. Declaration of Emergency. The general court hereby finds and declares that a serious public emergency exists in the town of Raynham with respect to the housing of a substantial number of the residents of said town, which emergency has been created by the excessive, abnormally high and unwarranted rental increases imposed by some owners of mobile home parks located therein, and by the potential discontinuance of the use of certain mobile home parks by certain owners of said mobile home parks; that unless mobile home park rents and eviction of tenants and discontinuances of the use of mobile home parks are regulated and controlled, such emergency and the further inflationary pressures resulting therefrom will produce serious threats to the public health, safety and general welfare of the residents of said town, and will produce a drastic loss of housing units, will increase homelessness, and will cause many residents loss of their life savings, especially 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 Raynham.

SECTION 2. General Powers. The town of Raynham may, by by-law, 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, minimum standards for use or occupancy of mobile home park accommodations in the town and evictions of tenants therefrom and may, by by-law, require registration by owners of mobile home park accommodations, under penalty of perjury, or information relating to the mobile home park accommodations; provided, however, that any such by-law shall not apply to any mobile home park which is resident owned. Such rents, standards and evictions may be regulated by the rent board so as to remove hardships or correct inequities for both the owner and tenants of such mobile home park accommodations. The board of selectmen shall appoint, but not serve as, members of the rent board. The rent board shall have all powers necessary or convenient to perform its functions. It may make rules and regulations, require registration by owners of mobile home park accommodations, under penalty of perjury, of information relating to the mobile home park accommodations, sue and be sued, compel the attendance of persons and the production 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-law adopted pursuant to this act or any order of the rent board shall be punishable by a fine of not more than one thousand dollars for any one offense.

SECTION 3. Regulating Rents. In regulating such 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 the mobile home park accommodations in said town are established at levels which yield to owners a fair net operating income for such units. Said town in its by-laws or said rent

board by regulations may establish further standards and rules consistent with this act. If the maximum rent is not otherwise established, it shall be established by the board. Any maximum rent may be subsequently adjusted under 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 the provisions of section two, as if said rent board were an agency of the commonwealth, including those provisions giving agencies the power to issue, vacate, modify and enforce subpoenas, as well as those provisions relating to judicial review of any agency order.

SECTION 5. Conference of Jurisdiction. (*a*) The Taunton division of the district court department shall have original jurisdiction, concurrently with the superior court and the housing court departments, of all petitions for review brought pursuant to section fourteen of chapter thirty A of the General Laws;

(*b*) The superior court and the housing court departments shall have jurisdiction to enforce the provisions of this act, and by-law adopted thereunder, and may restrain violations thereof.

SECTION 6. Defense to Summary Process for Possession. The town of Raynham may by by-law regulate the evictions of tenants in mobile home parks, and the rent board, established under the provisions of section two, may issue orders which shall be a defense to an action of summary process for possession and such order shall be reviewable pursuant to sections four and five.

SECTION 7. The personnel of the rent board established pursuant to the provisions of section two shall not be subject to the provisions of section nine A of chapter thirty or chapter thirty-one of the General Laws.

Approved February 5, 1993.

Chapter 8. AN ACT PROVIDING FOR DISCONTINUANCE PERMITS FOR MOBILE HOME PARKS IN THE TOWN OF RAYNHAM.

Be it enacted, etc., as follows:

SECTION 1. The town of Raynham may by its by-laws regulating the discontinuance of the use of part or all of the land owned and licensed as a mobile home park:

(1) The provisions of this act regarding the discontinuance of the use of part, or all of the land owned and licensed as a mobile home park shall apply to all mobile home parks and mobile home park accommodations.

(2) When used in this act the term "discontinuance" shall include any change of use or discontinuance of the use of part, or all of the land owned and licensed as a mobile home park requiring a two-year notice pursuant to subsection (8) of section thirty-two L of chapter one hundred and forty of the General Laws. The term "discontinuance" shall include, but shall not be limited to, the licensee's conversion of the mobile home park, or part thereof, to

a condominium or cooperative corporation.

(3) It shall be unlawful for any person to discontinue the use of part or all of the land owned and licensed as a mobile home park without having first obtained a discontinuance permit from the board of selectmen subject to the provisions contained in this act.

(4) (*a*) The board of selectmen shall consider an application for a discontinuance permit for a mobile home park accommodation upon receipt of an application filed by the licensee or other authorized person. The board of selectmen shall forward said application within fourteen days to the rent board in the town of Raynham.

(*b*) The rent board shall schedule a public hearing within sixty-five days of receipt of the application. Notice of the time and place of such public hearing, or the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the town of Raynham once in each of two successive weeks, the first publication to be not less than fourteen days before the date of the public hearing and by posting such notice in a conspicuous place in town hall for a period of not less than fourteen days before the day of said hearing. The rent board shall also notify all tenants living in the affected mobile home park accommodations of the time, place and subject matter of the public hearing. No defect in the form of any notice under this section shall invalidate any grant or denial of a discontinuance permit unless such defect is found to be misleading.

(*c*) No vote by the board of selectmen to grant or deny a discontinuance permit shall be taken until a report with recommendations by the rent board has been submitted to the board of selectmen or twenty-one days after said hearing have elapsed without submission of such report. After such notice, hearing and report, or after twenty-one days shall have elapsed after such hearing without submission of such report, the board of selectmen may vote to grant or deny the discontinuance permit. If the board of selectmen fails to vote on the proposed discontinuance permit within ninety days after such hearing, no action shall be taken thereon until after subsequent public hearing is held with notice and report as above provided.

(*d*) No discontinuance permit may be granted except by a majority vote of the board of selectmen.

(*e*) Notwithstanding any other provision of this section, the rent board may, without holding a hearing, recommend the denial of a discontinuance permit if a decision has been made with regard to the discontinuance of a mobile home park accommodation within the preceding twelve months, and if the park licensee fails, in the new application, to allege a substantial change of circumstances since the previous hearing which would merit the rent board in hearing new evidence. In addition, the rent board may recommend denial of the discontinuance permit without holding a hearing if the application is not in conformance with the requirements of this section or other applicable regulations.

(5) In determining whether to recommend that the board of selectmen grant or deny a discontinuance permit the rent board shall consider the aggravation of the shortage of safe, decent and affordable mobile home park accommodations in the town of Raynham which may result from the discontinuance, especially for tenants of low and moderate income and handicapped or elderly persons on fixed incomes. In making such determination the rent

board shall make findings of the following factors:

(*a*) the benefits and detriments to the persons whom this act and this section seek to protect;

(*b*) the hardships imposed on the tenant residing in the mobile home park accommodations proposed to be discontinued;

(*c*) circumstances demonstrating hardship and inequity to the licensee seeking a discontinuance permit;

(*d*) the rate of vacancy of mobile home park accommodations in the town of Raynham at the time the licensee applies for a discontinuance permit and the average rental rates for said available accommodations;

(*e*) the availability of land zoned and otherwise suitable for development or expansion of mobile home parks.

The rent board, in its discretion, may also review other relevant factors in making its report and recommendations.

For the purposes of this act, the "vacancy rate" shall be defined as that percentage of the mobile home park accommodations which are empty of mobile homes and are offered for rental to mobile home tenants. Further, to be considered a "vacancy" the rental offer of the mobile home park accommodation must be without entrance fee; without restrictions as to the age, size or character of the mobile home; and, without a requirement that the prospective tenant purchase a mobile home from the park owner.

In its report, the rent board shall determine the current vacancy rate for comparable mobile home park accommodations in the town of Raynham. Any parties involved may submit evidence presented to the rent board at the public hearing.

(6) (*a*) The licensee or applicant seeking a discontinuance permit must make application to the board of selectmen for said permit within thirty days of serving the tenants with the notices required under the provisions of subsection (8) of section thirty-two L of chapter one hundred and forty of the General Laws.

(*b*) Notwithstanding the foregoing, no eviction certificate shall be issued by the rent board because of the discontinuance of the use of all or a part of a mobile home park unless a discontinuance permit has been issued by the board of selectmen.

SECTION 2. The provisions of this section shall not apply to mobile home parks which have sent out notices of a change of use or discontinuance under the provisions of subsection (8) of section thirty-two L of chapter one hundred and forty of the General Laws prior to the effective date of this act; provided, however, that the provisions hereof shall apply to any mobile home parks which send out new or amended notices of change of use or discontinuance pursuant to the provisions of said subsection (8) of said section thirty-two L subsequent to the effective date of this act.

Approved February 5, 1993.

Chapter 9. AN ACT RELATIVE TO AIRCRAFT LIENS.

Be it enacted, etc., as follows:

Section 31E of chapter 255 of the General Laws is hereby amended by adding the following paragraph:-

Any person entitled to a lien under this section, shall within sixty days after last furnishing of labor, money, material or supplies for the production of, altering or repairing of said personal property, file in the office of the federal aviation administration aircraft registry, a statement in writing verified by oath, showing the amount of labor, money, material or supplies furnished for the producing, storage, parking, servicing, altering or repairing of said personal property, the name of the person for, and by whom labor, money, material or supplies, was furnished, and specifying the registration number of said aircraft. Unless the person entitled to such lien shall file such statement within the time aforesaid, he shall be deemed to have waived his rights thereto; provided, however, that the lien provided for in this section shall not attach to any personal property after it has been purchased by an innocent purchaser for value, and has passed into his possession unless the lien shall have been filed with the federal aviation administration aircraft registry before the property was purchased by such purchaser, or he shall have received written notice, from the party entitled to the lien, of his intention to file the same.

Approved February 5, 1993.

Chapter 10. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SUSAN RAMONDETTA, AN EMPLOYEE OF THE DEPARTMENT OF MENTAL HEALTH.

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 department of mental health, 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, rule or regulation to the contrary, the department of mental health is hereby authorized and directed to establish a sick leave bank for Susan Ramondetta, an employee of said department. Any employee of said department may voluntarily contribute one or more of his sick, personal or vacation days to said sick leave bank for use by said Susan Ramondetta.

The foregoing was laid before the Governor on the twenty-eighth day of January, 1993 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him with his objection thereto within that time.

Chapter 11. AN ACT AUTHORIZING THE COMMISSIONER OF THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE CERTAIN PARCELS OF LAND IN THE TOWNS OF KINGSTON AND PLYMOUTH.

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 acquire by eminent domain, or otherwise, certain parcels of public land located in the towns of Kingston and Plymouth, and to transfer the care, custody and control of said parcels to the department of highways. Parcels 6-2, 6-5 and 6-51 owned by and located in the town of Kingston, are presently dedicated for recreational use. Parcel 6-48 owned by the Plymouth Housing Authority and located in the town of Plymouth is presently dedicated for a housing use. All of said parcels are to be diverted from their present use to a highway use.

SECTION 2. The parcels of land described in section one are shown on a plan entitled, KINGSTON-PLYMOUTH Relocated U.S. Route 44, Preliminary Right of Way Plan, Property Plan. This plan shall be kept on file with the chief engineer of the department of highways.

Approved February 12, 1993.

Chapter 12. AN ACT FURTHER IMPROVING THE MANAGEMENT AND ADMINISTRATION OF THE TRIAL COURT OF THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately improve the management and administration of the trial court 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 379 of the acts of 1992 is hereby amended by striking out section 1C and inserting in place thereof the following section:-

Section 1C. Paragraph (c) of subdivision (2) of said section 24 of said chapter 90, as amended by section 4 of chapter 460 of the acts of 1991, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- 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 has terminated in favor of the defendant.

SECTION 2. Said chapter 379 is hereby further amended by striking out section 5 and inserting in place thereof the following two sections:-

Section 5. Paragraph (4) of subsection (A) of section 3 of chapter 90C of the General Laws, as appearing in section 161 of chapter 138 of the acts of 1991, is hereby amended by striking out, in lines 8, 10 and 25, the word "administrative" and inserting in place thereof, in each instance, the following word:- chief.

Section 5A. Said subsection (A) of said section 3 of said chapter 90C, as so appearing, is hereby further amended by striking out paragraph (5) and inserting in place thereof the following paragraph:-

(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 chief 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 justice for administration and management of the trial court. Proceedings under this chapter shall not be reviewable by a civil action in the nature of certiorari.

SECTION 3. Said chapter 379 is hereby further amended by striking out section 20A and inserting in place thereof the following section:-

Section 20A. Section 61 of said chapter 119 is hereby amended by striking out the sixth and seventh paragraphs, as appearing in section 188 of chapter 286 of the acts of 1992, and inserting in place thereof the following two paragraphs:-

If, at the conclusion of the hearing, the court enters a written finding based upon clear and convincing evidence that the child presents a significant danger to the public and that the child is not amenable to rehabilitation within the juvenile justice system, the court shall dismiss the delinquency complaint and cause a criminal complaint to be issued. The case shall thereafter proceed according to the usual course of criminal proceedings and in accordance with the provisions of section thirty of chapter two hundred and eighteen. 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.

If a child is charged with murder in the first or second degree, 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, and a finding of probable cause has been made, there shall exist a rebuttable presumption that the child presents a significant danger to the public and that such child is not amenable to rehabilitation within the juvenile justice system. If, at the hearing, the court enters a written finding based upon a preponderance of the evidence that the child presents a significant danger to the public and that the child is not amenable to rehabilitation within the juvenile justice system, the court shall dismiss the delinquency complaint and cause a criminal

complaint to be issued. The case shall thereafter proceed according to the usual course of criminal proceedings and in accordance with the provisions of section thirty of chapter two hundred and eighteen. 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 4. Said chapter 379 is hereby further amended by striking out sections 89 and 90 and inserting in place thereof the following two sections:-

Section 89. Said chapter 211B is hereby further amended by striking out section 19, added by section 360 of chapter 177 of the acts of 1990, and inserting in place thereof the following section:-

Section 19. The chief justice for administration and management may establish and promulgate rules for a mandatory alternative dispute resolution program for civil actions within the trial court subject to the approval of the supreme judicial court; provided, however, that the parties to a dispute resolution shall not be bound by the results thereof. The chief justice for administration and management shall supervise and establish standards for the implementation of such program and shall further implement a program of certification for all personnel conducting alternative dispute resolution programs in the courts of the commonwealth.

The chief justice of administration and management shall establish a pilot program of alternative dispute resolution within the counties of Bristol, Worcester and Suffolk under his direct supervision. Pursuant to said pilot program, he shall be responsible to fund, coordinate, and evaluate activities of the trial court within said counties to screen and refer cases to alternative dispute resolution. Within said counties, the chief justice for administration and management shall, no later than twelve months from the date of filing any civil litigation which involves a contract claim, tort claim, equitable remedy dispute or other litigation the trial court may determine to be appropriate, be screened for referral to a qualified alternative dispute resolution program. Screening should enable litigants or their attorneys to select among options which include self-directed settlement negotiation, case evaluation, mediation, non-binding arbitration, expert fact finding and binding arbitration. The chief justice for administration and management shall monitor and evaluate the cost, impact and effectiveness of activities undertaken to screen and refer cases to alternative dispute resolution and report annually to the general court on his findings. The annual report should identify unmet needs and promising opportunities for additional screening and referral activities and recommend legislative actions required to implement these activities.

Section 90. Said chapter 211B is hereby further amended by striking out section 20, added by section 260 of chapter 286 of the acts of 1992, and inserting in place thereof the following section:-

Section 20. A chief justice of the trial court may, subject to the approval of the chief

justice for administration and management, grant a leave of absence for study, research, teaching, or such other reason as said chief justice deems appropriate to the improved administration of justice, to a judge of said department, said leave to be for a period not to exceed one year. Any judge who takes an approved leave of absence shall not receive pay during the period of the leave of absence; provided, however, that time spent on leave of absence shall be credited to the judge for retirement purposes; 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. The chief justice for administration and management, in approving such leaves, shall consider the speedy dispatch of judicial business, including reassignment of judges pursuant to section nine. The chief justice for administration and management, in consultation with the chief justices of the departments of the trial court, shall establish and promulgate standards governing the approval of such leaves including procedures for the submission and disposition of requests for leave.

No leave of absence under this section shall be granted prior to the seventh year of service or within one year of retirement. A judge granted a leave of absence under this section shall not be eligible to take another leave of absence until the expiration of seven years following his return to judicial duties.

All statutory requirements and rules of court pertaining to judges shall continue to be applicable to a judge while he is on leave of absence pursuant to this section.

SECTION 5. Said chapter 379 is hereby further amended by striking out section 124 and inserting in place thereof the following section:-

Section 124. Said chapter 218 is hereby further amended by striking out section 8 and inserting in place thereof the following section:-

Section 8. Each district court shall have a clerk, except that the municipal court of the city of Boston shall have two clerks as provided in section fifty-three. All such clerks shall be appointed by the governor, with the advice and consent of the council. Said clerks shall hold office during good behavior, but subject, however, to retirement under the provisions of any applicable general or special law relative to retirement systems. Said clerk shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping.

Each clerk appointed prior to January first, nineteen hundred and eighty-seven under the authority of this section and serving continuously thereafter shall be entitled to thirty days vacation and thirty days sick leave in each calendar year. Any such clerk may accumulate vacation and sick leave not used in any such year; provided, however, that the total amount of vacation days so accumulated shall not exceed sixty and the total amount of sick leave so accumulated shall not exceed one hundred and eighty days; and, provided further, that no additional such days shall be accumulated on or after said January first except in accordance with the policies and procedures established by the chief justice for administration and management pursuant to section eight of chapter two hundred and eleven B. All other clerks appointed under the authority of this section shall be entitled to vacation leave and sick leave in accordance with the policies and procedures established by

the chief justice for administration and management pursuant to said section eight.

SECTION 6. Said chapter 379 is hereby further amended by striking out section 140 and inserting in place thereof the following section:-

Section 140. Said chapter 218 is hereby further amended by striking out section 27, as amended by section 9 of chapter 488 of the acts of 1991, and inserting in place thereof the following section:-

Section 27. They may impose the same penalties as the superior court for all crimes of which they have jurisdiction, except that they may not impose a sentence to the state prison; provided, however, that the divisions of the juvenile court department 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 7. Said chapter 379 is hereby further amended by striking out section 164 and inserting in place thereof the following section:-

Section 164. Said chapter 218 is hereby further amended by striking out section 58, as so appearing, and inserting in place thereof the following section:-

Section 58. The Suffolk county division of the juvenile court department shall consist of seven justices, the Middlesex county division shall consist of five justices, the Worcester county division shall consist of four justices, the Franklin and Hampden counties division shall consist of four justices, the Bristol county division shall consist of three justices, the Essex county division shall consist of three justices, the Norfolk county division shall consist of two justices, the Plymouth county division shall consist of three justices, the Barnstable county and town of Plymouth division shall consist of one justice, and the Berkshire and Hampshire counties division shall consist of one justice, all of whom shall be members of the bar. The chief justice of the district court department may, upon request of the chief justice of the juvenile court department, assign a special justice who is not serving full-time under the provisions of section six A from the district court department to sit in any court of the juvenile court department. The chief justice of the juvenile court department shall have the power to define the duties of said first justices, and shall appoint, from among the justices of the juvenile court department, a first justice for each of the divisions within said department; provided, that appropriate consideration shall be given to seniority, length of service at that particular division, and managerial ability. Each first justice so appointed shall serve as the first justice of that particular division for a five-year term, and shall be eligible to be reappointed for additional five-year terms at that particular division. Any first justice may be removed from his position as first justice by the chief justice of the juvenile court department, when it is determined by the said chief justice to be in the best interests of the administration of justice. Any first justice who is removed from his position as first justice by the chief justice of the juvenile court department may appeal the removal to the chief justice for administration and management, who shall hear and determine the matter.

Citations, orders of notice, writs, executions and all other processes issued by the clerk of each division shall bear the teste of the first justice thereof. The first justice shall be the administrative head of his division; provided, however, that clerks shall have

responsibility for the internal administration of his office, including personnel, staff services and record keeping. A first justice or a clerk of the court may submit any dispute that arises between said first justice and said clerk concerning the management and administration of the office of the clerk, the duties, powers and obligations of the clerk, or a member of their staff, or the interpretation of the personnel standards provided for under section eight of chapter two hundred and eleven B, to the chief justice of the department. Any person aggrieved by a decision of a chief justice under this paragraph may appeal said decision to the chief justice for administration and management, who shall, within thirty days, hear and determine the matter.

In the case of the absence, death or removal of a clerk of a division of the juvenile court department, or a vacancy in the position of clerk for any other reason, the chief justice of the juvenile court department may appoint a temporary clerk, to act until the clerk resumes his duties, or until the vacancy is filled. The clerk of the court shall appoint assistant clerks and support personnel in his division, with all of such appointments subject to approval by the chief justice for administration and management with respect to personnel standards as provided in section eight of chapter two hundred and eleven B. In the case of the absence, death or removal of an assistant clerk of a division of the juvenile court department, or a vacancy in the position of assistant clerk for any other reason, the clerk may appoint a temporary assistant clerk, to act until such assistant clerk resumes his duties, or until the vacancy is filled.

Each division shall have a clerk, who shall be appointed by the governor, with the advice and consent of the council and who shall hold office during good behavior, subject, however, to retirement under the provisions of any applicable general or special law relative to retirement systems. The Boston court of the Suffolk county division of the juvenile court department shall have a first assistant clerk and five assistant clerks, who shall be appointed by the clerk of said court, with all such appointments subject to approval by the chief justice for administration and management with respect to personnel standards promulgated under section eight of chapter two hundred and eleven B.

The salaries of the clerks and assistant clerks in the juvenile court department shall be paid by the commonwealth in accordance with the job classification and pay plan established, subject to appropriation, by the chief justice for administration and management.

The clerks and assistant clerks of the juvenile court department shall devote their entire time during ordinary business hours to their respective duties and shall not, directly or indirectly, engage in the practice of law.

Each clerk and assistant clerk of the juvenile court department appointed to such position prior to January first, nineteen hundred and eighty-seven and serving continuously in such position thereafter shall be entitled to thirty days vacation and thirty days sick leave in each calendar year. Each such clerk and assistant clerk may accumulate vacation leave and sick leave not used in any such year; provided, however, that the number of vacation days so accumulated shall not exceed sixty and the total amount of sick leave shall not exceed one hundred and eighty days; and provided, further, that no additional such days shall be accumulated on or after said January first except in accordance with the policies and

procedures established by the chief justice for administration and management pursuant to section eight of chapter two hundred and eleven B. Any other clerk and assistant clerk of said department shall be entitled to vacation leave and sick leave in accordance with the policies and procedures established by the chief justice for administration and management pursuant to said section eight.

The first justice of each division of the juvenile court department may, with the approval of the chief justice for administration and management, appoint such official interpreters, or enter into service contracts for telephone-based interpretation services, as he may deem necessary for the sessions of his division. Any such interpreter shall hold his position at the pleasure of said first justice, and shall render such additional services as said first justice may require. Said first justice shall forthwith discharge any such interpreter who is found by him to have requested or received, directly or indirectly, any gratuity, bonus or fee in connection with any case pending or in the course of preparation for presentation to any court. Other interpreters may be employed by the first justice when the services of the official interpreter are not available.

SECTION 8. Said chapter 379 is hereby further amended by striking out section 207 and inserting in place thereof the following section:-

Section 207. Criminal actions commenced in Essex and Hampden counties prior to January first, nineteen hundred and ninety-four shall be governed to conclusion by the provisions of chapter five hundred and thirty-seven of the acts of nineteen hundred and eighty-six.

SECTION 8A. Said chapter 379 of the acts of 1992 is hereby amended by striking section 215 and inserting in place thereof the following section:-

Section 215. A person who retires under the provisions of this act and is eligible to receive payment in lieu of accrued vacation time, unused sick leave or any other severance payment program shall receive fifty percent of the total amount of such payments on July first, nineteen hundred and ninety-four, and the remaining fifty percent on July first, nineteen hundred and ninety-five.

SECTION 8B. Section 215A of chapter 379 of the acts of 1992 is hereby amended by deleting the first sentence and so much of the second sentence up to and including the words "fiscal year nineteen hundred and ninety-three;" and adding the following in place thereof; "Fifty percent of the total premium cost for health insurance provided to any employee who so retires in fiscal year nineteen hundred and ninety-three pursuant to the retirement incentive program shall be paid out of the sums appropriated or otherwise made available to the judiciary for the fiscal year nineteen hundred and ninety-three;".

SECTION 9. Said chapter 379 is hereby further amended by striking out section 226 and inserting in place thereof the following section:-

Section 226. Sections one hundred and ninety-nine and two hundred of this act shall take effect upon its passage and sections one B, one C, eighteen, nineteen, twenty A, twenty-three, sixty-six, one hundred and thirty-nine, one hundred and forty-one, one hundred and forty-two, one hundred and eighty-one to one hundred and eighty-seven, inclusive, and sections one hundred and ninety-three to one hundred and ninety-eight, inclusive, shall take

effect on January first, nineteen hundred and ninety-four and shall apply to criminal actions commenced on or after said date. For the purposes of this section and section two hundred and seven commencement of a criminal action shall be defined as the date of arrest, or in cases not initiated by arrest, the date of the issuance of a criminal complaint.

SECTION 10. Said chapter 379 is hereby further amended by striking out section 233 and inserting in place thereof the following section:-

Section 233. Sections seven to seventeen, inclusive, sections twenty, twenty-one and twenty-two, twenty-four to thirty, inclusive, one hundred and forty, one hundred and sixty-two, one hundred and sixty-six, one hundred and sixty-seven and one hundred and eighty shall take effect on July first, nineteen hundred and ninety-three.

SECTION 11. Chapter 276 of the General Laws is hereby amended by striking out sections 98 and 99, as amended by section 191 of chapter 379 of the acts of 1992, and inserting in place thereof the following two sections:-

Section 98. There shall be a commissioner of probation who shall have executive control and supervision of the probation service. He shall be appointed for a term of six years by the chief administrative justice and shall devote his full time during business hours to the duties of his office. The commissioner of probation may appoint an administrative assistant. Said administrative assistant shall perform such duties as the commissioner may from time to time define.

The commissioner, with the approval of the chief administrative justice, shall appoint five deputy commissioners and may, with like approval, for cause, remove them. The commissioner may designate one deputy commissioner as associate commissioner, who shall perform the duties of the commissioner in the absence of the commissioner. Each deputy commissioner shall devote his full time during business hours to the duties of his office.

The commissioner of probation shall appoint four supervisors of court probation services and one assistant supervisor of court probation services. There shall also be a supervisor of probation for the superior court and an assistant supervisor of probation for the superior court designated according to the provisions of section eighty-three.

Said supervisors of court probation services and assistant supervisors of court probation services shall, in addition to other duties imposed upon them by said commissioner, be responsible for the evaluation of the probation service in each court in the commonwealth, for the recruitment, training, educational development and evaluation of the work performance of probation officers. They shall plan, initiate and develop volunteer, diversion and other programs in consultation with probation officers throughout the commonwealth and shall supervise and evaluate all programs within the probation service. Said commissioner may appoint a chief administrative clerk and two senior clerk typists to assist the supervisors of services in the performance of their duties.

The commissioner of probation shall be provided with suitable accommodations in the Suffolk county courthouse or elsewhere, and may, subject to appropriation, employ such assistants as may be necessary for the performance of his duties, including a director of research and other research assistants, and to compile, evaluate and make available for official use and public education the statistical information on delinquency, crime and

appropriate family service matters available in his records.

The commissioner of probation, associate commissioner, administrative assistant, deputy commissioners, supervisors of court probation services, the assistant supervisor of court probation services, the supervisor of probation for the superior court and the assistant supervisor of probation for the superior court shall be paid by the commonwealth in accordance with a schedule of salaries as recommended in writing by the chief administrative justice of the trial court and filed with the house and senate committees on ways and means.

Section 99. In addition to other duties that may be imposed upon him, the commissioner of probation shall have executive control and supervision of the probation service and shall supervise the probation work in all of the courts of the commonwealth, and for such purposes, he and his staff shall have access to all probation records of said courts. He shall establish the reports and forms to be maintained in the various tiers of probation offices, the procedures required to be carried out in the various tiers of probation offices, the standards and rules of probation work, including methods and procedures of investigation, mediation, supervision, case work, record keeping, accounting, caseload and case management, to be followed in the various tiers of probation offices, subject to the approval of the chief administrative justice; and shall enforce his requirements regarding reports, procedures, standards and rules to be followed in the various tiers of probation offices by citation for disciplinary action of a probation officer or officers. He shall provide consultation service to all probation offices. He shall qualify or disqualify persons eligible for appointment as probation officers and persons eligible for promotion to the various supervisory probation officer positions, prior to their appointment or designation under section eighty-three, according to standards fixed by the committee on personnel standards, provided, that any applicant disqualified by the commissioner for such appointment or designation shall have the right of appeal to said committee on personnel standards. He shall establish standards and procedures for the performance evaluation of line and supervising probation officers in the various tiers of probation offices. He may recommend to a court or courts the appointment of additional probation or clerical personnel or both, and shall notify the chief administrative justice within thirty days as to the action taken by such court or courts concerning such recommendations. He shall develop and conduct basic orientation and in-service training programs for probation officers, such programs to be held at such times and for such periods as he shall determine. He shall conduct research studies relating to crime and delinquency, and may participate with other public and private agencies in joint research studies.

The commissioner shall receive all notices of intended disciplinary action against a probation officer or supervising probation officer including reprimand, fine, suspension, demotion or discharge, that may be initiated by a justice, supervisor or chief probation officer, shall cause an investigation to be made and a report, with recommendations, to be written. Copies of the report and recommendations shall be furnished to the initiating justice, supervisor or chief probation officer and to the line or supervising probation officer against whom disciplinary action is proposed. If either the complainant or the person

complained against declines to accept the commissioner's recommendation as the order of disposition, there shall be full hearing and disposition by the chief administrative justice or his designee. The commissioner of probation may also, for cause, discipline a probation officer or supervising probation officer including reprimand, suspension, demotion or discharge, shall give him notice of the charge and a hearing on same and shall make an order of disposition. The probation officer so disciplined may appeal and shall be entitled to a full hearing and disposition by the chief administrative justice.

To promote the co-ordination and development of the probation service, the commissioner of probation may hold conferences on probation throughout the commonwealth, and may authorize the attendance of any or all justices of the several courts and of any or all probation officers at such conferences or at any other conference within or without the commonwealth which in his judgment will further the interests of the probation service. The traveling expenses of said justices or officers when authorized to attend any such conference shall be paid as the other expenses of the respective courts or offices are paid. Said commissioner of probation shall not promulgate rules and regulations concerning probation offices unless said rules and regulations have been approved in writing by the chief administrative justice. Said justice shall also review for approval or disapproval any such rule or regulation in effect on July one, nineteen hundred and seventy-eight.

SECTION 12. Said chapter 276 is hereby further amended by striking out sections 98 and 99, as most recently amended by section 11 of this act, and inserting in place thereof the following two sections:-

Section 98. There shall be a commissioner of probation appointed by the chief justice for administration and management, who shall have executive control and supervision of the probation service and who shall devote his full-time during business hours to the duties of his office. Subject to the approval and consent of the chief justice for administration and management, the commissioner may appoint deputies, supervisors and assistants necessary for the performance of his duties. Said commissioner, deputies, supervisors and assistants, shall receive a salary to be fixed by the chief justice for administration and management and subject to appropriation. Subject to the approval and direction of the chief justice for administration and management, the commissioner shall perform such duties and responsibilities as otherwise provided by law or as designated from time to time by the chief justice for administration and management, and shall be responsible for: making recommendations to the first justice and the chief justice for administration and management on the appointment of chief probation officers, assistant chief probation officers and probation officers; the supervision and evaluation of all probation programs within the trial court; the evaluation of the probation service in each court of the commonwealth; the compilation, evaluation, and dissemination of statistical information on crime, delinquency, and appropriate family service matters available in his records; the recruitment, training, and educational development of probation officers; the evaluation of the work performance of probation officers; planning, initiating, and developing volunteer, diversion, and other programs in consultation with probation officers throughout the commonwealth.

Section 99. The commissioner of probation shall supervise the probation work in all of the courts of the commonwealth and for such purposes he and his staff shall have access to all probation records of said courts. Subject to the approval of the chief justice for administration and management, the commissioner shall establish reports and forms to be maintained by probation officers; procedures to be followed by probation officers; standards and rules of probation work, including methods and procedures of investigation, mediation, supervision, case work, record keeping, accounting, caseload and case management. The commissioner shall promulgate rules and regulations concerning probation officers or offices provided said rules and regulations have been approved in writing by the chief justice for administration and management subject to chapter one hundred and fifty E. The commissioner shall assist the chief justice for administration and management in developing standards and procedures for the performance evaluation of probation officers, and shall assist each first justice in evaluating the work performance of probation officers. The commissioner shall receive all notices of intended disciplinary action against a probation officer or supervising probation officer including reprimand, fine, suspension, demotion or discharge, that may be initiated by a first justice, supervisor or chief probation officer. The commissioner shall develop and conduct basic orientation and in-service training programs for probation officers, such programs to be held at such times and for such periods as he shall determine. He shall conduct research studies relating to crime and delinquency, and, may participate with other public and private agencies in joint research studies. The commissioner shall have the responsibility for assessing the needs of probation offices and assisting the first justices in this effort. He may recommend to first justices, or the chief justice for administration and management the appointment and assignment of additional probation or clerical personnel or both. The commissioner shall annually submit written budget recommendations for the probation service to the chief justice for administration and management. These recommendations shall be in addition to the budget requests submitted by the first justices on behalf of their respective courthouse or courthouses, including probation offices. The commissioner shall annually conduct regional meetings with chief probation officers to discuss the budget needs of the local probation offices. The commissioner may hold conferences on probation throughout the commonwealth. The traveling expenses of trial court justices or probation officers authorized by the chief justice for administration and management to attend any such conference shall be paid by the commonwealth.

SECTION 13. Sections nine and eleven of this act shall take effect as of January thirteenth, nineteen hundred and ninety-three.

SECTION 14. Section twelve of this act shall take effect on February twelfth, nineteen hundred and ninety-three.

Approved February 12, 1993.

Chapter 13. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND AND EASEMENT IN THE TOWN OF PLYMOUTH TO HECTOR E. PATENAUDE AND JEAN W. PATENAUDE AND MARGARET W. STACY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the conveyance of a certain parcel of land and easement and settlement of an action against 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:

Notwithstanding the provisions of sections forty F to forty J, inclusive, of chapter seven of the General Laws, and the provisions of sections sixty-one to sixty-two H, inclusive, of chapter thirty of the General Laws and regulations promulgated thereunder, the commissioner of the division of capital planning and operations, acting for and on behalf of the commonwealth and the department of environmental management, is hereby authorized to convey the fee in a parcel of land together with an access easement located in the town of Plymouth acquired and maintained heretofore by the department of environmental management for conservation and recreation purposes to Hector E. Patenaude and Jean W. Patenaude ("Patenaude") and Margaret W. Stacy ("Stacy"), all of the town of Plymouth, plaintiffs in a civil action filed with the land court department, Case No. 130,000 Misc., free from any such restrictive purposes.

The conveyance of the land described herein shall be in full settlement and satisfaction of any and all of said Patenaudes' and Stacy's claims or any others claiming by and through them, against the commonwealth for title to and in another parcel of land designated as lot 59 of plat 96 of the Plymouth assessor's maps, containing 77 acres, more or less, and for full release of any rights therein.

The parcel to be conveyed in satisfaction of said Patenaudes' and Stacy's claims is located in the town of Plymouth, bounded and described as follows: Beginning at the southwest corner of the parcel described at a point 213.16 feet easterly of a concrete bound located at the intersection of the northerly and easterly sidelines of Bettencourt Road, so-called, a private way; thence N 06° 42' 20" E a distance of 1050.05 feet, more or less, to a concrete bound; thence S 86° 38' 14" E a distance of 1112.13 feet, more or less, to a point, said point located in Little Micajahs Pond, so-called; thence S 06° 41' 00" W a distance of 1115.13 feet, more or less, to a point; thence N 83° 16' 55" W a distance of 1110.51 feet, more or less, to the point of beginning, containing 26.78 acres, more or less, and shown as lot 58A1 on a plan of land entitled "Plan of Division of Land in Plymouth, Mass. as Prepared for Commonwealth of Massachusetts Department of Environmental Management" scale 1" = 100 ft., dated June 27, 1991 and prepared by Schofield Brothers, Inc., of Orleans, Mass. Said parcel is to be conveyed together with a right to use a 40 foot width right of way shown on said plan, in common with the commonwealth which is necessary for the reasonable use of and access and egress to and from said parcel and Federal Furnace Road, so-called, a pub-

lic way. Said parcel to be conveyed is a portion of a larger parcel of land described in a deed recorded with the Plymouth county registry of deeds in Book 1700, Page 299. For further reference, see also deeds recorded with said Registry of Deeds in Book 3236, Page 250 and in Book 3869, Page 53.

Approved February 12, 1993.

Chapter 14. AN ACT RELATIVE TO THE NORTH EAST SOLID WASTE COMMITTEE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide alternative means for the members of the North East Solid Waste Committee to raise amounts necessary to satisfy certain arbitration awards, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section twenty-three of chapter fifty-nine of the General Laws or any other general or special law to the contrary, municipalities, which are members of the North East Solid Waste Committee, established under the provisions of chapter three hundred and twenty-eight of the acts of nineteen hundred and eighty-eight, are authorized to raise over consecutive years amounts required to satisfy the municipality's obligations due pursuant to the arbitration award granted to Massachusetts Refusetech, Inc., against the North East Solid Waste Committee entitled Massachusetts Refusetech, Inc. Contractual Request for Adjustment to Service Fee. Amounts to be raised shall be certified annually by the municipality's treasurer to the board of assessors prior to the approval of a tax rate.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, municipalities, which are members of the North East Solid Waste Committee, established under the provisions of chapter three hundred and twenty-eight of the acts of nineteen hundred and eighty-eight, are hereby authorized to borrow for the purposes of satisfying the municipality's obligations due pursuant to the arbitration award granted to Massachusetts Refusetech, Inc., against the North East Solid Waste Committee entitled Massachusetts Refusetech, Inc. Contractual Request for Adjustment to Service Fee, a sum not to exceed the amount due and payable to Massachusetts Refusetech, Inc. on December thirty-first, nineteen hundred and ninety-two by said municipality pursuant to said arbitration award, including interest accrued to date of borrowing, and to issue therefor bonds or notes the proceeds of which shall be deposited into an account established by the municipality to be used to finance any amounts not raised, pursuant to section one, for the purpose of satisfying said arbitration award. Such bonds or notes shall bear on their face the words Solid Waste Disposal Loan Act of 1992 and shall be payable within seven years from

issuance 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, by the city treasurer with the approval of the mayor; provided, that such borrowing has been authorized by the city council; 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.

SECTION 3. Indebtedness incurred under this act shall not be included in determining the statutory limit of indebtedness of the municipality under section ten of chapter forty-four of the General Laws but, except as provided herein, shall otherwise be subject to the provisions of said chapter forty-four.

SECTION 4. Adoption of a municipality's allocable share of the judgement shall be approved by the city council or the mayor in the case of a city, or by the town council or board of selectmen in the case of a town.

SECTION 5. Notwithstanding any general or special law to the contrary, any arbitration award described in this act shall be deemed to be a final judgement for all purposes of section thirty-one of chapter forty-four and section twenty-three of chapter fifty-nine of the General Laws and any similar provisions of law.

Approved February 22, 1993.

Chapter 15. AN ACT FURTHERING THE ESTABLISHMENT OF A MULTI-PURPOSE ARENA AND TRANSPORTATION CENTER.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the construction of a transportation center and multi-purpose arena, 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 the construction of a new transportation center and multi-purpose arena will substantially enhance the North Station area in the city of Boston and prevent the creation of any blighted open areas which would be detrimental to the safety, health, morals and welfare of the community.

It is hereby further found and declared that a new transportation center will: (1) significantly improve mass transportation services to and from the metropolitan Boston area as well as the commonwealth overall; (2) create a new state of the art regional transportation center including an enclosed train shed, passenger concourse, platform, ticketing facilities and train persons' facilities; (3) extend and improve the existing rapid transit system for the state's capital city and surrounding cities; (4) create a better linkage between the rapid transit system and the commuter rail system; and (5) provide or allow for

other significant structural improvements including a super platform for the rapid transit system.

It is hereby further found and declared that the construction of a multi-purpose arena will: (1) preserve the commonwealth's existing capacity to provide facilities open and available to large numbers of citizens for activities such as concerts, theatrical exhibitions, other cultural presentations, recreational activities including shows, expositions and professional and amateur athletic events; (2) expand the commonwealth's existing capacity by providing a larger year round facility which will provide greater access to the public for such activities and increase the commonwealth's ability to attract national and international amateur sporting and cultural events.

It is hereby further found and declared that: (1) the construction of a new multi-purpose arena and transportation center in the metropolitan Boston area is vital to the overall health and growth of the commonwealth's economy; (2) the commonwealth suffers from structural economic weaknesses which contribute to an unacceptable level of unemployment and underemployment; (3) between nineteen hundred and eighty-nine and nineteen hundred and ninety-two over ten percent of the total number of jobs in the commonwealth have been lost; (4) this lack of gainful employment puts additional pressure on the state's welfare programs and increases the cost of unemployment compensation; (5) construction of the multi-purpose arena and transportation center will promote the prosperity and general welfare of all the citizens of the commonwealth by increasing gainful employment, decreasing welfare and unemployment compensation costs, increasing the tax base of the commonwealth, encouraging economic development and stimulating investment within and around the capital city as well as the commonwealth overall.

It is hereby further found and declared that the multi-purpose arena and transportation center, and the resulting public benefits, would not occur by the operation of private enterprise and finance alone and public participation is hereby declared to be essential for the creation of such facilities.

SECTION 2. Section 31 of chapter 15 of the acts of 1988 is hereby amended by striking out, in line 26, the word "herein" and inserting in place thereof the following words:- in this paragraph.

SECTION 3. Said chapter 15 is hereby further amended by inserting after section 31 the following two sections:-

Section 31A. Notwithstanding the provisions of section thirty-one of this chapter, chapter seven of the General Laws or any other general or special law to the contrary and for the purpose of further improving mass transportation and rail service, the commonwealth, acting through the department of highways, is hereby authorized to transfer for compensation of one dollar to the Massachusetts Bay Transportation Authority the following parcels which had been used for a lawful public purpose:

(a) fee simple title to Parcels B1 and B2, as shown on a plan entitled, "Subdivision Plan of Land in Boston, Mass., Prepared for New Boston Garden Corporation", dated September fifteenth, nineteen hundred and ninety-two, Revised October twentieth, nineteen hundred and ninety-two, as recorded with the Suffolk county registry of deeds in Book

17881 at Page End; and

(b) property interests and easements in Parcels E1, E2, E3, E4 and E5 as shown on a plan entitled, "M.H.D. Easements located in Boston, Mass., Prepared for New Boston Garden Corporation", dated October seventh, nineteen hundred and ninety-two, as recorded with the Suffolk county registry of deeds in Book 17881 at Page End.

Section 31B. Notwithstanding the provisions of section thirty-one or any other general or special law to the contrary and for the purpose of further improving economic development, employment opportunities, and the generation of tax revenues, the Massachusetts Bay Transportation Authority is hereby authorized to transfer to the Garden Corporation, a Massachusetts corporation:

(a) the following easements below thirty-five feet above the highest elevation of the surface of Parcels A1 and A2 as shown on a plan entitled, "Subdivision Plan of Land in Boston, Mass. Prepared for New Boston Garden Corporation" dated September fifteenth, nineteen hundred and ninety-two, Revised October twentieth, nineteen hundred and ninety-two, as recorded with the Suffolk county registry of deeds in Book 17881 at Page End which surface elevation is hereby determined to have been, for the purposes of said section thirty-one, at 11.9 feet above mean sea level as defined by the National Geodetic Vertical Datum of 1929:

(1) a permanent encroachment easement, commencing at elevation 41.9 feet above said mean sea level up to elevation 46.9 feet above said mean sea level, for the construction, ownership and use of a building, including, without limitation, as to structure, exterior and interior walls, utility systems, elevators and elevator cores and pits, escalators and escalator cores and pits, passageways, stairways, structural members, floors and ceilings, and as to use, any lawful use;

(2) a permanent encroachment easement, commencing at the elevation of the surface of said Parcels A1 and A2 up to elevation 41.9 feet above said mean sea level, for the construction, ownership and use of a building including, without limitation, as to structure, exterior and interior walls, utility systems, elevators and elevator cores and pits, escalators and escalator cores and pits, passageways, stairways, structural members, floors and ceilings; provided, however, that said Authority shall approve the location of all improvements, which approval shall not be unreasonably withheld, including those authorized by the following clauses (i) and (ii) of this section, on the surface or surface level of said parcels A1 and A2, and, as to use:

(i) the exclusive right to use up to fifty-three thousand square feet of space within such improvements, for any lawful purpose, other than retail purposes;

(ii) the exclusive right to use up to eleven thousand square feet, for retail purposes within such improvements, other than on the cross-platform, which cross-platform shall not be used for any commercial purpose; and

(iii) the exclusive right to use for advertising purposes (A) the space identified in the preceding clauses (i) and (ii), including on all walls defining said space; and (B) the space within and on all walls defining the interim concourse referred to below and any interim or permanent concourse built in replacement thereof. Said Authority shall retain the exclusive

right to use for advertising purposes the space within and on all walls defining the train shed shell described below. Said Authority shall have the exclusive right to advertise within the space and on all walls defining the cross platform described below.

(b) the following easement below thirty-five feet above the highest elevation of the surface of Parcels A3 and A4, as shown on a plan entitled "Subdivision Plan of Land in Boston, Mass., Prepared for New Boston Garden Corporation", dated September fifteenth, nineteen hundred and ninety-two, revised October twentieth, nineteen hundred and ninety-two, as recorded with the Suffolk county registry of deeds in Book 17881 at Page End, which surface elevation is hereby determined to have been, for the purposes of said section thirty-one, at 11.9 feet above mean sea level as defined by the National Geodetic Vertical Datum of 1929: a permanent encroachment easement commencing at elevation 41.9 feet above said mean sea level up to 46.9 feet above said mean sea level, for the construction, ownership and use of a building, including, without limitation, as to structure, exterior, and interior walls, utility systems, elevators and elevator cores and pits, escalators and escalator cores and pits, passageways, stairways, structural members, floors and ceilings, and as to use, any lawful use.

(c) the following easements in Parcels A3, A4, C1, C2 and C3, and the parcel, referred to herein as the "Additional Parcel", shown as "N/F M.B.T.A.", bounded on the east by Parcel A3 and on the north by Parcel C1, all as shown on a plan entitled "Subdivision Plan of Land in Boston, Mass., Prepared for New Boston Garden Corporation", dated September fifteenth, nineteen hundred and ninety-two, Revised October twentieth, nineteen hundred and ninety-two, as recorded with the Suffolk county registry of deeds in Book 17881 at Page End:

(1) a permanent truck ramp easement approximately 15 feet in width across the northern end of Parcels C1, C2 and C3, with an appropriate truck turning radius onto Nashua street;

(2) two permanent pedestrian access easements approximately twenty feet in width across (A) the portion of Parcel A3 and the Additional Parcel abutting the parcel shown as "N/F General Services Administration" on said plan, and (B) the portion of Parcels A4, C2 and C3 abutting Parcels A2, C4 and C5; and

(3) permanent subsurface utility easements across one or more of said Parcels in locations approved by said Authority.

(d) the following easements in Parcels C4, C5, C6, C7, C8 and B2 as shown on a plan entitled, "Subdivision Plan of Land in Boston, Mass., Prepared for New Boston Garden Corporation", dated September fifteenth, nineteen hundred and ninety-two, Revised October twentieth, nineteen hundred and ninety-two, as recorded with the Suffolk county registry of deeds in Book 17881 at Page End:

(1) a permanent encroachment easement, commencing at elevation 41.9 feet above said mean sea level, for the construction, ownership and use of a building, including, without limitation, as to structure, exterior and interior walls, utility systems, elevators and elevator cores and pits, escalators and escalator cores and pits, passageways, stairways, structural members, floors and ceilings, and as to use, any lawful use;

(2) a permanent encroachment easement, commencing at the elevation of the surface of said Parcels C4, C5, C6, C7, C8 and B2 up to elevation 41.9 feet above said mean sea level, for the construction, ownership and use of a building; provided, however, that said Authority shall approve the location of all improvements on the surface or surface level of said parcels, which approval shall not be unreasonably withheld, and specifically shall not affect any rail track or rail track operations on parcels C6, C7 and C8, including, without limitation, as to structure, exterior and interior walls, utility systems, elevators and elevator cores and pits, escalators and escalator cores and pits, passageways, stairways, structural members, floors and ceilings, and as to use, the same rights, subject to the same limitations, as are set forth in clauses (i) to (iii), inclusive, of paragraph (2) of subsection (a), that is, the exclusive right to use up to fifty-three thousand square feet and eleven thousand square feet set forth in subsections (a)(2) (i)-(ii) hereof shall include the use of Parcels C4, C5, C6, C7, C8, and B2 below elevation 41.9 feet set forth in this paragraph (2); and

(3) a permanent easement for the installation of foundations and structural elements by said New Boston Garden Corporation in said parcels, and for the use of support for foundations installed by said Authority, on or beneath the surface of said parcels, together with subsurface utility easements, and which shall not affect any rail track or rail track operations as presently conducted on said parcels, including during any construction phase.

(e) the following easements in Parcels B1 and B2, as shown on a plan entitled, "Subdivision Plan of Land in Boston, Mass., Prepared for New Boston Garden Corporation", dated September fifteenth, nineteen hundred and ninety-two, Revised October twentieth, nineteen hundred and ninety-two, as recorded with the Suffolk county registry of deeds in Book 17881 at Page End and in Parcels E1, E2, E3, E4 and E5 as shown on a plan entitled, "M.H.D. Easements Located in Boston, Mass., Prepared for New Boston Garden Corporation", dated October seventh, nineteen hundred and ninety-two, as recorded with the Suffolk county registry of deeds in Book 17881 at Page End;

(i) a permanent pedestrian and vehicular access easement and subsurface easement across Parcels B1 and B2 in locations approved by said Authority;

(ii) a permanent roof overhang and an advertising sign and building encroachment easement above Parcels E1 and E2;

(iii) a temporary construction easement on Parcels E3 and E4;

(iv) a permanent vehicular access and media truck hookup and parking easement on Parcels E3 and E5 in locations approved by said Authority; and

(v) a permanent building encroachment easement above Parcel E5.

(f) the following easements or rights in Parcels E1, E2 and E3 as shown on a plan entitled "M.B.T.A. Easements Located in Boston, Mass., Prepared for New Boston Garden Corporation", dated October sixth, nineteen hundred and ninety-two, as recorded with the Suffolk county registry of deeds in Book 17881 at Page End:

(i) a permanent subsurface utility easement across Parcels E1 and E2 in locations approved by said Authority; and

(ii) a right to connect to an existing storm water runoff pipe located on Parcel E3; provided, however, that said Garden Corporation shall thereafter be responsible for one-half

of the cost of maintaining said pipe.

All of the easements to be granted to and by said Garden Corporation or said New Boston Garden Corporation pursuant hereto shall run with the land.

(g) The Massachusetts Bay Transportation Authority shall not transfer to said Garden Corporation any of the above-described property interests and easements until said Garden Corporation has transferred to the Massachusetts Bay Transportation Authority the following easements, all of which shall run with the land encumbered by the respective easements: (1) a mutually satisfactory underground easement through the existing Boston Garden site for the proposed Green Line extension; (2) a mutually satisfactory underground and above ground easement for access to the super platform serving the Green line and Orange line; (3) a mutually satisfactory access easement to the elevated tracks of the existing Green Line above Causeway street; (4) a mutually satisfactory easement for the concourse, either interim or permanent, described above to be located on the existing Boston Garden site following its demolition; such permanent concourse to be generally in the following location: that portion of the parcel shown as "N/F New Boston Garden Corporation" containing 2.035 acres on a plan entitled "Subdivision plan of Land in Boston, Mass. prepared for New Boston Garden Corporation" dated September fifteenth, nineteen hundred and ninety-two, revised October twentieth, nineteen hundred and ninety-two recorded with the Suffolk county registry of deeds in Book 17881 at Page End, beginning at a point on the southeasterly boundary on said parcel along Causeway street which is 168.5 feet from the southeast corner of said parcel; then continuing along the Southeast boundary a distance of 95 feet; then turning and running to the Northwest boundary of said parcel along a line which is parallel to the Northeast boundary of the parcel; then turning and running along the Northwest boundary a distance of 95 feet; then turning and running southeasterly to the point of beginning; or in a location mutually acceptable to said Garden Corporation and said Authority; said easement to include the obligation of said Garden Corporation to construct and maintain the permanent concourse as described above; and (5) such other easements as said Authority and said Garden Corporation may mutually agree upon. The above-described property interests and easements shall revert to said Authority, subject to reasonable notice and reasonable opportunities to cure of the lenders as provided in said master agreement, if said Garden Corporation and said New Boston Garden Corporation fail to construct the train shed shell and finish the cross platform, including the provision of restrooms pursuant to this section. Upon completion of construction of said train shed shell and the finish of said cross platform and restrooms, the secretary of the executive office of transportation and construction shall issue a certificate acknowledging such completion and releasing said right of reversion. The obligation of said Garden Corporation and said New Boston Garden Corporation to build and maintain said permanent concourse shall be set forth in the easement required herein and shall run with the title to the existing Boston Garden site and shall be binding upon said Garden Corporation and said New Boston Garden Corporation and their successors and assigns with respect to the existing Boston Garden site. Said Garden Corporation shall indemnify and hold harmless said Authority for the nonperformance by said New Boston Garden Corporation of the New Boston Garden Corporation's obligations

to said Authority set forth in this paragraph. In no event shall any rail tracks at North Station be filled in; and said Authority, Garden Corporation and New Boston Garden Corporation have entered into a binding master agreement, which shall be consistent with the provisions of this act, whereby said Garden Corporation and said New Boston Garden Corporation shall do the following:

(i) construct a train shed shell, except for the south wall thereof which shall be the responsibility of said Authority, of approximately sixty-two thousand square feet; provided, however, that said Authority shall approve the design of said train shed shell, which approval shall not be unreasonably withheld,

(ii) finish up to the normal standards of said Authority, and maintain a cross platform area of approximately twelve thousand square feet; provided, however, that said Authority shall approve the design of said cross platform, which approval shall not be unreasonably withheld;

(iii) construct to the normal standards of said Authority, and maintain public restrooms on said cross-platform; provided, however, that if the existing Boston Garden building is used as an interim concourse, said Garden Corporation or said New Boston Garden Corporation shall maintain any existing public restrooms to the normal standards of said Authority;

(iv) upon the receipt of a use and occupancy permit for the new Boston Garden, in this act referred to as the opening date, construct and maintain a permanent train persons' room of approximately four thousand square feet within the new Boston Garden site or provide said train persons' room at a distance of not more than one thousand feet from said site;

(v) construct or provide and maintain an interim concourse of approximately nineteen thousand square feet which shall include a passenger waiting area and ticketing facilities; provided, however, that the design and location of said interim concourse or an alternate temporary protected walkway shall be subject to the approval of said Authority; and provided further, that no commercial activity shall take place within said nineteen thousand square foot area within the interim concourse with the exception of advertising and non-fixed vendors, the number and placement of said vendors to be approved by said Authority, which approval shall not be unreasonably withheld. Nothing herein shall preclude said Garden Corporation from adding additional space to said interim concourse for any use. Said Authority shall consider the alternate walkway's capacity, requisite width, public safety and protection. Said interim concourse or an alternate temporary protected walkway shall be in existence at all times during and after construction of the new Boston Garden until such time as the permanent concourse referred to below is operational, such interim concourse to be replaced by said Garden Corporation with a permanent concourse of not less than nineteen thousand square feet on the site of the existing Boston Garden when said site is developed or put to any commercial use; provided, however that for the purposes of this requirement, commercial use shall not include non-fixed vendors or limited parking; provided further, that for the purposes of this requirement, landscaping improvements shall not constitute development; and

(vii) demolish the entire existing Boston Garden to grade prior to the start of any

construction by the Authority of the Green Line extension within the underground easement through the existing Boston Garden site for the Green Line extension, which would require additional expense, if any, to the Authority caused by the non-demolition of the existing Boston Garden to grade; provided, that the authority shall give reasonable notice of said construction; or make a full payment to the Authority of an amount equal to said additional expense, within sixty days of the commencement of said construction;

(h) Upon the transfer by said Authority to said Garden Corporation of the above-described property interests and easements, said New Boston Garden Corporation shall compensate said Authority for certain work performed by said Authority on behalf of said New Boston Garden Corporation for the new Boston Garden in the amount of five million, one hundred and twenty-six thousand dollars. Such sum shall be paid by said New Boston Garden Corporation on the date of the transfer of said property interests by delivery to said Authority of an interest-bearing promissory note, in said amount, containing a provision that the principal amount of said note shall be repaid in ten annual installments, commencing on the eleventh anniversary of the opening date.

(1) Said note shall bear interest at a fixed rate equal to the prime rate at time of the transfer. The interest obligation shall begin to accrue on the opening date. The first interest payment shall be payable on the first anniversary of the opening date and each successive interest payment shall be made on the same date annually thereafter.

(2) Prior to the eleventh anniversary of the opening date, annual payments of interest shall be made on said note from the cash flow of said New Boston Garden Corporation after payment of all principal and interest obligations due prior lienholders, including payments due such lienholders from such cash flow. The term "cash flow" as used herein shall have the same meaning as the term has in any loan agreements between said New Boston Garden Corporation and the lenders. To the extent the cash flow of said New Boston Garden Corporation in any year prior to the eleventh anniversary of the opening date is insufficient to make all or any portion of the annual installment of interest then due, additional interest on the unpaid amount as a result of such late payment shall accrue at a rate three percent greater than the interest rate of said note and be payable to the extent of available cash flow of said New Boston Garden Corporation in the succeeding years.

(3) Upon the eleventh anniversary of the opening date, all accrued interest and late payment fees shall be fully due and payable, and thereafter all payments of principal and interest shall be paid to said Authority when due and payable without respect to the cash flow of said New Boston Garden Corporation.

(4) Said note shall be secured by a lien upon the existing Boston Garden site and such property interests in said Parcels A3 and A4 as said Authority has granted to said Garden Corporation or said New Boston Garden Corporation pursuant hereto. Said Authority shall subordinate the obligation to pay principal and interest on said promissory note and the accompanying lien to the encumbrances held as security by any lender and the city of Boston. Said Authority shall not have any rights of recourse against the new Boston Garden for nonpayment of said note. Said note may be prepaid at any time without penalty.

(5) If said Garden Corporation or said New Boston Garden Corporation sells or refinances all or any portion or any interest therein of either the existing Boston Garden site or its interest in said Parcels A3 or A4, or transfers development rights in said properties, said Corporations shall prepay said promissory note by (1) applying the net proceeds of such sale after deductions for costs of sale, payment of prior liens and payment of taxes attributable to such transaction; or (2), if a refinancing, provides net proceeds after payment of any transaction costs and payment of all obligations due prior lien holders, applying such net proceeds.

(6) Nothing herein shall be deemed to proscribe the right of said Garden Corporation, New Boston Garden Corporation and their successors and assigns, from further alienating, either by deed, lease, mortgage or other form of conveyance, the property interests and rights acquired pursuant to sections thirty-one, thirty-one A and thirty-one B of chapter fifteen of the acts of nineteen hundred and eighty-eight and any other applicable provision of law and subject to the provisions and limitations of said sections thirty-one, thirty-one A and thirty-one B and any other applicable provision of law.

SECTION 4. Whenever easements are granted or conveyed under the authority of this chapter, a temporary easement shall be granted in each instance when it is sufficient to meet the needs of the party to whom the easement is to be granted.

SECTION 5. Notwithstanding any general or special law to the contrary, including sections thirty-one, thirty-one A and thirty-one B of chapter fifteen of the acts of nineteen hundred and eighty-eight the Massachusetts Bay Transportation Authority shall not transfer any property interests, easements and land to the Garden Corporation as authorized by said sections thirty-one, thirty-one A and thirty-one B until the secretary of the executive office of transportation and construction certifies to the house and senate committees on ways and means that:

(a) he has determined that binding contracts have been entered into by said Garden Corporation, said New Boston Garden Corporation or such other entity or entities that will construct the transportation center and multi-purpose arena that require that all construction employees employed in connection with the construction of said center and arena shall be paid no less than the wage rate established for such work pursuant to the Project Labor Agreement with the Boston Trade Unions.

(b) he has determined that binding contracts have been entered into by the Garden Corporation, the New Boston Garden Corporation or such other entity or entities that will construct the transportation center and multi-purpose arena with a best faith effort to comply with the residential and minority construction employee hiring and procurement guidelines of the Boston Redevelopment Authority; provided, however, that in hiring construction workers preference may be given to persons who are residents of the commonwealth.

SECTION 6. Notwithstanding any general or special law to the contrary, including sections thirty-one, thirty-one A and thirty-one B of chapter fifteen of the acts of nineteen hundred and eighty-eight:

(*a*) the parking garage to be constructed in connection with the North Station transportation center may be managed and operated by the Massachusetts Bay Transporta-

tion Authority, and said Authority may contract for the management, operation or setting of fees fee collection, security services, cleaning and maintenance for said parking garage; provided, however, that if the Authority contracts for the management of said garage, said contract shall expire no more than two years after its date of execution, at which time, said Authority shall assume management of the garage and shall not enter into any subsequent management contracts for said garage without prior statutory authorization;

(*b*) said Authority shall establish a process to determine fair and reasonable rates for parking at said garage, which rates shall be filed with the house and senate committees on ways and means;

(*c*) if said Authority shall choose to contract with the Garden Corporation, the New Boston Garden Corporation, or any other entity for the right to reserve a certain number of parking spaces in said garage, then said contract shall provide that:

(*i*) no parking spaces may be reserved prior to six o'clock p.m. any weekday except as provided in clauses (*iii*) and (*iv*);

(*ii*) payment for all such reserved parking spaces, whether used on any particular day or not, shall be no less than the standard fee determined pursuant to paragraph (*b*) plus a fifteen percent premium as compensation for the right to reserve parking spaces to the exclusion of the general public multiplied by the number of reserved dates multiplied by the numbers of parking spaces reserved;

(*iii*) the New Boston Garden Corporation may reserve up to one hundred and twenty-five parking spaces; provided, however, that payment for all such reserved parking spaces shall be no less than the standard fee for such parking pursuant to paragraph (*b*) plus a fifteen percent premium as compensation for the right to reserve parking spaces to the exclusion of the general public;

(*iv*) the New Boston Garden Corporation may reserve parking spaces prior to six o'clock p.m. on weekdays for not more than five events in the course of any calendar year; provided, however, that payment for all said reserved parking spaces, whether used or not, shall not be less than the standard fee determined pursuant to paragraph (*b*) plus a fifteen percent premium as compensation for the right to reserve parking spaces to the exclusion of the general public multiplied by the number of reserved dates multiplied by the number of parking spaces reserved; and

(*v*) nothing herein shall be construed to prevent said Authority from entering into individual monthly parking contracts with members of the general public subject to the provisions of this section.

SECTION 7. In consideration of the property interests and easements authorized to be transferred by this act, the new Boston Garden Corporation shall administer, produce, promote and sponsor no less than three charitable events per year at the New Boston Garden while the new Boston Garden is in operation which events shall be in consultation with the metropolitan district commission, and shall pay the net proceeds, after the deduction of expenses of said events, which expenses shall not include any rental payment for the use of the new Boston Garden, to said metropolitan district commission.

Said proceeds shall be used for the construction, renovation, modernization and

rehabilitation of facilities and land of the metropolitan district commission; provided, however, that said proceeds shall not provide for compensation of employees, including independent contractors and consultants other than those deemed necessary to meet the purposes of this section; provided, further, that said proceeds shall not be used for any purpose other than described herein.

Approved February 26, 1993.

Chapter 16. AN ACT ESTABLISHING A FUNDING SCHEDULE FOR THE CONTRIBUTORY RETIREMENT SYSTEM OF THE CITY OF PITTSFIELD.

Be it enacted, etc., as follows:

SECTION 1. The city of Pittsfield and the contributory retirement system of said city of Pittsfield are 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-one as the required payments into the pension fund of the contributory retirement system of the city of Pittsfield for the fiscal year commencing July first, nineteen hundred and ninety-two, 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 March fifteenth, nineteen hundred and ninety-three and the resulting revised appropriation shall be issued by said actuary no later than March thirty-first, nineteen hundred and ninety-three.

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

Approved March 4, 1993.

Chapter 17. AN ACT CONFIRMING THE DISPOSITIONS OF CERTAIN LAND.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for confirming the dispositions of certain land, 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 dispositions of land or interest therein or any changes in the use thereof, authorized by chapter fifteen of the acts of nineteen hundred and ninety-three are hereby approved and confirmed.

Approved March 9, 1993.

Chapter 18. AN ACT PROVIDING THAT THE ANNUAL TOWN ELECTION IN THE TOWN OF FRAMINGHAM SHALL BE HELD ON APRIL FOURTEENTH IN THE YEAR NINETEEN HUNDRED AND NINETY-THREE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Framingham shall hold the nineteen hundred and ninety-three annual town election on Wednesday, April fourteenth, nineteen hundred and ninety-three. This act shall not effect the date of the preliminary town election to be held on Monday, March eighth, nineteen hundred and ninety-three.

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

Approved March 9, 1993.

Chapter 19. AN ACT RELATIVE TO INCENTIVES FOR ECONOMIC DEVELOPMENT.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act, the sum set forth in section two are hereby appropriated for the several purposes and subject to the conditions, specified in chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two, including fund designations in said chapter one hundred and thirty-three and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in said chapter one hundred and thirty-three for the fiscal year ending June thirtieth, nineteen hundred and ninety-three, the sums so appropriated to be in addition to any amounts available for said purposes.

SECTION 2.

Item

EXECUTIVE OFFICE OF LABOR.

9400-1700 ..... $2,000,000

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth and to meet certain requirements of law, the sums set forth herein shall be appropriated from the General Fund unless specifically designated otherwise and shall be for the several purposes and subject to the conditions specified herein and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two, for the fiscal year ending June thirtieth, nineteen hundred and ninety-three.

EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.

9000-0200 For the purpose of the export finance fund established in section thirty-four A of chapter twenty-three A of the General Laws $2,750,000

9000-0210 For the purpose of the export finance program established in section thirty-four B of chapter twenty-three A of the General Laws $250,000

Department of Employment and Training.

9081-0400 For the purpose of supporting the Massachusetts youth service and conservation corps $500,000

Small Business Development Center.

9000-1850 For a capital access reserve to provide loan guaranties to small business $5,000,000

Bay State Skills Corporation.

9081-7044 For the support and creation of manufacturing networks $1,000,000

SECTION 3. Section 2 of chapter 23A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following paragraph:-

(g) Developing a rapid economic response team, herein referred to as the team. The team shall consist of the director of MOBD or his designee, the director of the industrial service program or his designee and the division coordinators as designated by the director of MOBD. The purpose of the team shall be to aggressively market the commonwealth to attract prospective business and to intervene in situations where there exists a possibility of job loss. The team shall create and disseminate promotional information concerning available economic assistance programs offered through any state, quasi-public, public, nonprofit corporation or other entity as deemed necessary. The director of MOBD shall also be empowered to adopt rules and regulations regarding expenditures including travel expenses, lines of communication and other activities consistent with these provisions.

SECTION 4. Said chapter 23A of the General Laws is hereby further amended by inserting after section 3, as so appearing, the following eight sections:-

Section 3A. As used in sections three A to three H, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Affiliate", any business which directly or indirectly controls or is controlled by or is under direct or indirect common control with another business, including, but without limitation, any business with whom a business is merged or consolidated, or which purchases all or substantially all of the assets of a business.

"Business", a private business corporation, partnership, firm, unincorporated association or other entity engaging or proposing to engage in economic activity within the commonwealth, and any affiliate thereof, which is subject to taxation under chapter sixty-two or chapter sixty-three.

"Business incubator", a facility which: (i) provides small units of space, shared support services, or financing and management assistance to new and established businesses; or (ii) is created and operated for the principal purpose of addressing conditions of unemployment and economic distress by encouraging the creation of new businesses and improving their ability to survive and grow.

"Certified project", a project that has been approved by the Economic Assistance Coordinating Council for participation in the economic development incentive program pursuant to the provisions of section three F.

"Control", the power to direct the management and policies of a business or a facility thereof, directly or indirectly, through the exercise of voting rights, by contract, or otherwise.

"Controlling business", a business which controls a business or a facility thereof.

"Distress factor", a fraction, the numerator of which is the sum of (1) the city or town's unemployment rate for the most recent three years divided by the commonwealth's unemployment rate for the same period and (2) the commonwealth's per capita personal income divided by the city or town's per capita personal income, and the denominator of which is two.

"Economic assistance coordinating council" or "EACC", the council established pursuant to section three B.

"Economic development incentive program" or "EDIP", a program designed to promote increased business development and expansion in economic target areas of the commonwealth, to be administered by the EACC.

"Economic opportunity area" or "EOA", an area of the commonwealth, located wholly within an economic target area, which is designated by the EACC pursuant to section three E as an economic opportunity area.

"Economic target area" or "ETA", an area of the commonwealth designated as such by the EACC pursuant to section three D.

"Facility", the physical location, in real property owned or leased by a business, of a commercial or industrial activity, division or component controlled by said business, or any real estate project which involves the construction or renovation of real property to serve such purpose, or any combination of the foregoing, at which are employed, or are projected to be employed, permanent full-time employees of the controlling business.

"Municipal application", an application submitted by a municipality to the EACC pursuant to section three D or three E for designation of one or more areas as an ETA or an EOA; provided, however, that: (i) the application is submitted in a timely manner, in such

form and with such information as is prescribed by the EACC, and supported by independently verifiable information; (ii) the area proposed for designation in the application is located, in whole or in part, within each municipality participating in said application; (iii) each municipality within which said proposed area is located participates in the application for designation; (iv) that said application is properly authorized in advance of submission; (v) in the case of an application submitted by more than one municipality, all requirements applicable thereto, including without limitation the requirements associated with proper authorization thereof, shall, apply equally to each municipality participating in said application; and (vi) a single application may request designation of both an ETA and EOA.

"Municipality", a city or town in the commonwealth or, in a case in which two or more cities or towns agree to act jointly for some purpose hereunder then, collectively, all cities and towns participating in such a collaborative agreement.

"Permanent full-time employee", an individual who: (i) is described under the definition of "full-time employee" set forth in section thirty-one C of chapter sixty-three; (ii) at the inception the employment relationship described in clause (i) does not have a termination date which is either a date certain or determined with reference to the completion of some specified scope of work; and (iii) receives employee benefits at least equal to those provided to other full-time employees of the controlling business. The term "increase in the number of permanent full-time employees of the controlling business employed by and at the project" shall be determined with reference to this definition and to the definition of "increase in the number of full-time employees employed by the corporation" set forth in section thirty-one C of chapter sixty-three.

"Poverty rate", the poverty rate, as defined by the United States Bureau of the Census, using the most recent census data available, for purposes of identifying poverty areas.

"Project", a facility which in its entirety and as of the project proposal date is located or to be located within an EOA; provided, however, that in the case of a facility which as of the project proposal date is already located in an EOA, the term "project" shall refer only to a facility for which there is proposed an expansion of the number of permanent full-time employees at such facility by the controlling business, to occur subsequent to the project proposal date, which expansion shall represent: (i) an increase in the number of permanent full-time employees employed by the controlling business within the commonwealth; and (ii) not a replacement or relocation of permanent full-time employees employed by the controlling business at any other facility located within the commonwealth; and provided, further, that in the case of a facility to be located within an EOA after the project proposal date, the term "project" shall refer only to a facility which is: (i) the first facility of the controlling business to be located within the commonwealth; or (ii) a new facility of such business and not a replacement or relocation of an existing facility of such controlling business located within the commonwealth or expansion of an existing facility of the controlling business which results in an increase in permanent full-time employees.

"Project EOA", the EOA within which a project is located or to be located.

"Project ETA", the ETA within which a project is located or to be located, deter-

mined with reference to the project EOA.

"Project proposal", a proposal submitted by a controlling business to the EACC pursuant to section three F for designation of a project as a certified project; provided, however, that: (i) the proposal is submitted in a timely manner, in such form and with such information as is prescribed by the EACC, supported by independently verifiable information and signed under the penalties of perjury by a person authorized to bind the controlling business; (ii) the proposal includes specific targets by year for the subsequent five calendar year period relative to the projected increase in the number of permanent full-time employees of the controlling business to be employed by and at the project from among residents of the project ETA; provided, further that in the case of a project which as of the project proposal date is already located in the project EOA, such projected increase shall not be less than twenty-five percent over the subsequent five year period; and (iii) in the case of a project which is a new facility within the meaning of clause (ii) of the definition of project, such proposal shall include, in addition, the number of permanent full-time employees employed by the controlling business at other facilities located in the commonwealth.

"Project proposal date", the date on which a project proposal is received by the EACC; provided, however, that such project proposal had been properly approved in advance of such receipt by the municipality which contains the project EOA.

"Real estate project", real property relative to which, at a specified date subsequent to the project proposal date, there shall be initiated construction or renovation activity which, when completed, will result in an increase in the assessed value of said real property of at least one hundred percent over the assessed value of such real property as of the project proposal date; provided, however, that in the case of a real estate facility which is a business incubator facility and which is designated to be a certified project pursuant to section three F, each commercial or industrial facility which executes a binding lease for space in such incubator facility subsequent to the date at which the construction or renovation activity begins shall be eligible for designation in its own right as a certified project pursuant to section three F.

Section 3B. There shall be an economic assistance coordinating council, hereinafter referred to as EACC, established within MOBD. The EACC shall consist of: the secretary of economic affairs, or his designee, who shall serve as co-chairperson; the secretary of communities and development, or his designee, who shall serve as co-chairperson; the secretary of labor, or his designee; the executive director of MOBD or his designee; the director of the industrial service program, or his designee; the director of the Bay State Center for Applied Technology, or his designee; and three members to be appointed by the governor, one of whom shall be from the western region of the commonwealth, one of whom shall be from the central region of the commonwealth, and one of whom shall be from the eastern region of the commonwealth, and all of whom shall have expertise in issues pertaining to training, business relocation, and inner city and rural redevelopment, and who are knowledgeable in public policy and international and state economic and industrial trends. Each member appointed by the governor shall serve at the pleasure of the governor.

The EACC shall adopt bylaws to govern its affairs.

Section 3C. (1) The EACC shall administer the economic development incentive program and, in so doing, shall be empowered to exercise the following powers and duties:

(a) promulgate rules and regulations and prescribe procedures to effectuate the purposes of sections three A to three H, inclusive;

(b) review applications from municipalities for the designation of areas as economic target areas and economic opportunity areas and to make such designations;

(c) certify projects for participation in the economic development incentive program and establish regulations for evaluating the proposals of said projects;

(d) assist municipalities in obtaining state and federal resources and assistance for economic opportunity areas and for certified projects within economic opportunity areas;

(e) provide appropriate coordination with other state programs, agencies, authorities, and public instrumentalities to enable activity within economic opportunity areas to be more effectively promoted by the commonwealth;

(f) monitor the implementation and operation of the economic development incentive program; and

(g) conduct a continual evaluation of economic opportunity areas and the projects certified for participation in the economic development incentive program.

(2) There shall be appointed within MOBD a director of economic assistance who shall be responsible for administering the recommendations of the EACC. The secretary of the executive office of communities and development shall designate a staff person who shall serve as a liaison to the EACC and who shall meet with the director of economic assistance on a regular basis.

(3) The EACC shall annually submit to the governor, the senate and the house ways and means committees, and the joint committee on commerce and labor, within ninety days after the end of its fiscal year, a complete and detailed report setting forth its operations and accomplishments, including a listing of all projects certified under the EDIP.

(4) Two years after the first meeting of the EACC, and every two years thereafter, the EACC shall prepare a report which evaluates the relative effectiveness of the EDIP, and shall make recommendations to the secretary of economic affairs as necessary or advisable to improve such effectiveness. Each such report shall be made available to the senate and house ways and means committees and to the joint committee on commerce and labor.

Section 3D. The EACC may from time to time designate one or more areas of the commonwealth as ETAs, and take any and all actions necessary or appropriate thereto, upon compliance with the following:

(a) receipt of a municipal application requesting such designation and representing therein that the municipality, based on its own independent investigation, has determined that the area proposed for designation and comprised of three or more contiguous census tracts or one or more contiguous municipalities, in their entirety and either;

(i) has an unemployment rate that exceeds the statewide average by at least twenty-five percent; or

(ii) satisfies at least one of the following criteria:

(A) if the municipality is located in a metropolitan area as defined by the EACC, then at least fifty-one percent of the households in the area proposed for designation have household incomes that are below eighty percent of the median income for households in the metropolitan area in which said municipality is located;

(B) if the municipality is not located in a metropolitan area as defined by the EACC, then at least fifty-one percent of the households in the area proposed for the designation have household incomes that are below eighty percent of the median income for households (i) in the commonwealth, or (ii) in such applicable non-metropolitan area category as the EACC may from time to time establish or employ;

(C) has a poverty rate which is at least twenty percent higher than the average poverty rate for the commonwealth;

(D) if the municipality has experienced a plant closing or permanent layoffs, or military base closing resulting in job loss of two thousand or more within the four years prior to designation as an ETA;

(E) is located in a community or labor market area which has a distress factor greater than one and thirty-three one hundredths, as defined in section three A;

(F) if within the municipality there is an area owned by a state agency or authority authorized and established under the laws of the commonwealth which exceeds fifty acres and such land has, within the past ten years, been used to manufacture or repair maritime vessels and is zoned for development or industrial use which the municipality would like to designate as an ETA to develop and return to the tax rolls, and is not being developed or used by such agency or authority; or

(G) or the designated area has a commercial vacancy rate of twenty percent or more.

(b) approval of the municipal application by the EACC; provided, however, that the EACC shall find, based on the information submitted in support of the municipal application and such additional investigation as the EACC shall make, and incorporate in its minutes, that the area or areas proposed for designation in said application comport with the definition of an ETA as set forth in, clauses (i) to (iii), inclusive, of paragraph (a); provided, further, that such decision shall be effective as specified by the EACC; provided, further, that the statistical criteria employed by the EACC in making such designation shall be the most recent data available as of the date of such decision; provided, further, that the EACC shall be under no obligation to revoke or modify any designation because of changes in statistical data which are published subsequent to a designation decision; and, provided further, that in the event the statistical categories incorporated by reference as aforesaid are subsequently materially altered or superseded by the publishers thereof, the EACC is authorized and directed to develop or employ new categories of statistical criteria which most nearly comport with the aforesaid referenced criteria; provided, that said new categories of statistical criteria shall become effective when approved by the secretary of economic affairs.

Section 3E. The EACC may from time to time designate one or more areas of an ETA as an EOA, and take any and all actions necessary or appropriate thereto, upon compliance with the following:

(1) receipt of a municipal application requesting such designation for a specified

period of years, which shall be not less than five years nor more than twenty years, and representing that the municipality, based on its own independent investigation, has determined that the area proposed for designation:

(a) is wholly within an area designated as an ETA pursuant to section three D;

(b) conforms to the definition of a "blighted open area", "decadent area", or "substandard area" as set forth in section one of chapter one hundred and twenty-one A or has experienced a plant closing or permanent layoff resulting in a job loss of two thousand or more within the four years prior to designation as an EOA; and

(c) satisfies such additional mandatory or permissive criteria as may be prescribed from time to time by the EACC; and

(2) receipt with the municipal application of the following documents:

(a) a detailed map of the area proposed for designation, which clearly delineates and identifies such area and which indicates with particularity existing streets, highways, waterways, natural boundaries and other physical features;

(b) a statement describing the economic development goals of the municipality for the area proposed for designation for the five year period subsequent to the date on which the application is submitted;

(c) a statement which describes the manner and extent to which the municipality shall provide for an increase in the efficiency of the delivery of local services within the area proposed for designation;

(d) a plan, if any, to link the municipality's choice of banking institutions to the performance of such institutions in complying with the requirements of the community reinvestment act;

(e) a proposal which identifies an individual who shall be authorized to review and approve project proposals for and on behalf of the municipality and the standards and procedures to be employed thereby; and

(f) in the case of a municipal application submitted, in whole or in part, by a municipality with a population in excess of fifty thousand people according to the most recent United States census, an economic development plan submitted by said municipality which contains the following elements:

(i) a proposal which provides for streamlined licensing procedures for certified projects within the area proposed for designation;

(ii) a proposal which provides for the provision of adequate infrastructure support, including transportation access, water and sewer hook-ups, lighting, and other utilities, to and for certified projects within the area proposed for designation;

(iii) a statement which describes the municipality's proposals to secure access to publicly or privately sponsored training programs to be made available to employees of certified projects, or others who reside in the ETA which contains the area proposed for designation; and

(iv) a plan by which the municipality shall increase the level of involvement by private persons and community development organizations in the economic revitalization of the area proposed for designation, which may include commitments from private persons

to provide jobs and job training to residents and employees who work, or who will work, for certified projects in the area proposed for designation; and

(g) such additional documentation or information as may be prescribed by the EACC; and

(3) receipt with the municipal application of a binding written offer from the municipality, subject only to acceptance by the EACC through designation of the area proposed therefor, in the municipal application as an EOA, to provide to certified projects within the project EOA and pursuant to section fifty-nine of chapter forty either tax increment financing or a special tax assessment as follows:

(a) for the purposes of the provision of tax increment financing, said binding written offer shall contain a tax increment financing plan adopted in accordance with the provisions of, section fifty-nine of chapter forty; provided, however, that the tax incremental financing zone proposed in such plan shall in addition satisfy the requirements set forth in paragraph (1) of this section;

(b) for the purposes of the provision of a special tax assessment, said binding written offer shall set forth the following assessment schedule for each parcel of real property in and on which is located, and which is otherwise a part of, a certified project in the project EOA:

(i) in the first year, an assessment of zero percent of the actual assessed valuation of the parcel; provided, that such assessment shall be granted for the year designated in the binding written offer;

(ii) in the second year, an assessment of up to twenty-five percent of the actual assessed valuation of the parcel;

(iii) in the third year, an assessment of up to fifty percent of the actual assessed valuation of the parcel;

(iv) in the fourth year, an assessment of up to seventy-five percent of the actual assessed valuation of the parcel;

(v) in subsequent years, assessment of up to one hundred percent of the actual assessed valuation of the parcel.

For the purposes of this clause the term "municipality's fiscal year" shall refer to a period of three hundred and sixty-five days beginning, in the first instance, with the, calendar year in which the assessed property is purchased or acquired or the calendar year in which the assessed property is designated as an EOA, whichever is last to occur; provided, further, that no such written offer from a municipality shall be considered to be binding as aforesaid unless and until it is authorized.

(4) approval of the municipal application by the EACC, provided that the EACC shall find, based on the information submitted in support of the municipal application and such additional investigation as the EACC shall make, and incorporate in its minutes, that:

(a) the area or areas proposed for designation in said application comport with the definition of an EOA as set forth in clauses (a) to (c), inclusive, of paragraph (1); provided, however, that such decision shall be effective as specified by the EACC; provided, further, that the statistical criteria employed by the EACC in making its decision hereunder shall be the most recent data available as of the date of such decision; provided, further, that the

EACC shall be under no obligation to withdraw or rescind any such designations because of changes in said statistical data which are published subsequent to such decision; provided, further, that in the event the statistical categories incorporated by reference in said clauses (a) to (c), inclusive, of said paragraph (1) are subsequently materially altered or superseded by the publishers thereof, the EACC is authorized and directed to develop or employ new categories of statistical criteria which most nearly comport with those incorporated by reference as aforesaid; and provided, further, that said new categories of statistical criteria shall become effective when approved by the secretary of economic affairs;

(b) the documents required pursuant to clauses (a) to (g), inclusive, of paragraph (2) are final and complete and otherwise satisfactory;

(c) the binding offer of the municipality complies with the requirements of paragraph (3); and

(d) the request for designation as set forth in the municipal application, in its entirety and including all documents and materials submitted therewith, will if approved, have a reasonable probability of inducing businesses to locate or expand within the area proposed for designation and thereby increase the prospects of achieving economic stability and reducing chronic unemployment in said area; provided, however, that (i) in evaluating requests for designation pursuant to this clause the EACC may, subject to such criteria as it shall prescribe, consider and rank the relative merits of municipal applications, ascribing to each a total score which reflects the considered judgment of the EACC as to the prospects and degree to which said applications, if approved, will further the public purposes set forth in this clause; (ii) the EACC shall, if and as directed by the secretary of economic affairs, establish an application process pursuant to which municipal applications are reviewed in a competitive fashion; (iii) the EACC shall work with interested municipalities to assist such municipalities to understand the purpose and requirements of the application process and how to best exploit the economic development potential of an affirmative designation decision and, further, to minimize the administrative burden associated with such application process; and (iv) the EACC shall, through regulations or otherwise, tailor its program specifications to maximize the extent to which the commonwealth's economic opportunity area program can benefit from similar programs sponsored by the federal government and if necessary or appropriate, file legislation with the general court which seeks amendments designed to serve such purpose.

An EOA shall retain its designation for at least five years and not more than twenty years from the date it is so designated, as determined by the EACC, unless such designation is revoked prior to the expiration of the specified period; provided, however, that the EACC shall not specify a duration in excess of that requested in the municipal application. The designation of an EOA may be revoked only by the EACC, and only upon the following grounds: (a) upon the petition of the municipality which requested the designation which petition satisfies the authorization requirements for a municipal application, and which petition shall be granted as a matter of course; or (b) if the EACC determines, based on its own investigation, that plans and commitments incorporated with the municipal application for such designation are materially at variance with the conduct of the municipality

subsequent to the designation and such variance is found to frustrate the public purpose which such designation was intended to advance. Any such revocation shall only be applied prospectively to deny certification to any projects located or to be located in such EOA and not certified prior to such revocation and shall not apply to, nor revoke any benefits due to or which may become due to, any certified project already in existence in said EOA, including but without limitation any benefits included in any plans and commitments incorporated with the municipal application for such designation; provided, however, that in no event shall a certified project receive any benefits arising from its status as a certified project for a period of longer than that specified by the EACC in its certification designation, including any renewals thereof, or twenty years, whichever period is of shorter duration. The EACC shall review the designation of each EOA at least once every two years. No designation of an area as an EOA may be renewed or extended except pursuant to the provisions of paragraphs (1) to (4), inclusive. No renewal shall be granted for a period to exceed, when combined with the durations of all prior periods of designation, twenty years.

(5) notwithstanding any provision of sections three to three H, inclusive, the EACC shall not designate nor shall there exist at any one time more than twenty Economic Opportunity Areas.

Section 3F. (1) The EACC may from time to time designate one or more projects as certified projects, and take any and all actions necessary or appropriate thereto, upon compliance with the following:

(a) receipt of a project proposal therefor requesting such designation from the controlling business;

(b) receipt of a written approval of said project proposal by the municipality which contains the project EOA, said municipality having found, based on the information submitted with said project proposal and such additional investigation as the municipality shall make, and incorporate in a formal written determination, that:

(i) the project proposal complies with the definition of a project proposal set forth in section three A;

(ii) the project as described in the proposal and all documentation submitted therewith:

(A) is consistent with and can reasonably be expected to benefit significantly from the municipality's plans relative to the project EOA, as those plans are described in paragraph (2) of section three E; and

(B) together with all other projects previously certified and located in the same project EOA, will not overburden the municipality's supporting resources, including but without limitation those set forth in clause (f) of said paragraph (2) of section three E;

(iii) the project proposal includes a workable plan, with precise goals and objectives, by which the controlling business proposes to realize the increased piece employment objectives advanced for the project in the proposal from among residents of the project ETA and, in so doing, to employ aggressive affirmative action goals, objectives and identification and recruitment techniques;

(iv) the project proposal contains documentation regarding an agreement, if any,

between the controlling business and area banking institutions by which said controlling business agrees to establish one or more accounts in said banks and said banks agree to commit a specified percentage of the funds deposited in said accounts for loans made thereby to businesses located within the project EOA pursuant to the Massachusetts capital access program established pursuant to section fifty-seven of chapter twenty-three A; and

(v) the project as described in the proposal, together with the municipal resources committed thereto, will, if certified, have a reasonable chance of increasing employment opportunities for residents of the project ETA as advanced in said proposal and will thereby reduce conditions of blight, economic depression and widespread reliance on public assistance; and

(c) receipt with such written approval by the municipality of a request for a designation of the project as a certified project for a specified number of years, which shall be not less than five years nor more than: (i) twenty years or (ii) the number of years remaining on the duration of the designation of the project EOA, whichever is less; and

(d) the following findings are made by the EACC, based on the project proposal, documents submitted therewith, the municipality's written approval decision, and such additional investigation as the EACC shall make, and incorporate in its minutes, that:

(i) the project proposal complies with the definition of a project proposal set forth in section three A, with all other applicable statutory requirements, and with such other criteria that EACC may prescribe from time to time; and

(ii) the project as described in the proposal, and as further described in the written determination of the municipality made pursuant to clause (b) will, if certified, have a reasonable chance of increasing employment opportunities for residents of the project ETA as advanced in said proposal and will thereby reduce conditions of blight, economic depression and widespread reliance on public assistance; and

(2) A certified project shall retain its certification for the period specified by the EACC in its certification decision; provided, however, that such specified period shall be not less than five years from the date of certification nor more than: (i) twenty years from such date; or (ii) the number of years remaining on the duration of designation of the project EOA, including any renewals thereof; or (iii) the number of years requested by the municipality approving the project proposal, whichever is less, unless such certification is revoked prior to the expiration of said specified period. The certification of a project may be revoked only by the EACC, and only upon (a) the petition of the municipality which approved the project proposal, which petition satisfies the authorization requirements for a municipal application, or the petition of the secretary of economic affairs; and (b) the independent investigation and determination of the EACC that representations made by the controlling business in its project proposal are materially at variance with the conduct of the controlling business subsequent to the certification and such variance is found to frustrate the public purposes which such certification was intended to advance; provided, however, that the EACC shall review such certified project at least once every two years; provided, further, that where the actual number of permanent full-time employees employed by the controlling business at the project from among residents of the project ETA is less than fifty

percent of the number of such permanent full-time employees projected in the project proposal, then this shall be deemed a material variance for the purposes of a revocation determination. Any such revocation shall only be applied prospectively and shall not apply to, nor revoke any benefits due to the project which relate to years prior to the year in which the revocation determination is made, unless the EACC determines that the controlling business of said project made a material misrepresentation in its project proposal, in which case both the commonwealth and the municipality shall have causes of action against the controlling business for the value of any economic benefits received subsequent to the date on which such material misrepresentation was made.

(3) The EACC shall evaluate and either grant or deny any project proposal within ninety days of its project proposal date and failure to do so by the EACC will result in approval of such project for a term of five years.

Section 3G. Any municipality which contains an economic opportunity area is hereby authorized to make application to the foreign trade zone board established by an act of Congress, Public Law 397, 19 USC 81(a) to 81(u), inclusive, for a grant to said city or town for the privilege of establishing, operating and maintaining a foreign trade zone within its economic opportunity area.

Section 3H. Each executive office in the commonwealth shall appoint a senior staff member who shall be responsible for coordinating the efforts of the commonwealth to provide one-stop licensing for all business and developments in order to expedite the process of obtaining commonwealth licenses, permits, certificates, approvals, registrations, charters and other requirements of law. Said senior staff members shall meet at least once a month with the director of economic assistance of MOBD and shall meet with each other on a regular basis. The commissioner of administration and finance shall work with said senior staff members to develop a recommended format for an application form and procedure which may be used by all executive offices wherever possible.

SECTION 5. Said chapter 23A is hereby further amended by inserting after section 10, as so appearing, the following section:-

Section 10A. The MOBD shall establish a Buy Massachusetts Program. In implementing said program the MOBD shall analyze and compile a list of products or goods that companies and businesses in the commonwealth need or that are produced for them. The raw materials listed shall include agricultural items produced in the commonwealth and parts of special services provided by said companies. Special attention shall be given to those items or products that such companies currently purchase outside the commonwealth or from foreign countries and especially an item or product needed or required for the first time. MOBD shall make inquiries as to the needs of locally-based companies and businesses and determine if other commonwealth based companies and business entities need the item or product, or are capable of making or producing the item or product with additional capital or retooling. MOBD shall utilize said lists for the purpose of bringing together the needs, as so determined, with the business entities utilizing said products or items and more than one entity may be serviced by one or more local suppliers or buyers, the purpose of said program being to connect local companies' needs with products made or services provided

by other local companies.

Said department may expend such funds as may be appropriated therefor, and may accept federal funds, or private gifts and grants to assist it in carrying out the purposes as set forth in this section.

SECTION 6. Section 28A of said chapter 23A, as so appearing, is hereby amended by adding the following paragraph:-

Notwithstanding any other provision of this section, the greater Fall River area, which shall include the city of Fall River and the towns of Swansea, Westport and Somerset, shall be authorized to make application to the federal foreign trade zone board.

SECTION 7. Subsection (b) of section 30 of said chapter 23A, as so appearing, is hereby amended by inserting after the definition of "Loan" the following two definitions:-

"Massachusetts Export Finance Fund", the fund established by section thirty-four A.

"Massachusetts export finance program" or "export finance program", the program established by section thirty-four B.

SECTION 7A. Said subsection (b) of said section 30 of said chapter 23A, as so appearing, is hereby further amended by inserting after the definition of "Revenues" the following definition:-

"Small business", any business with its principal place of business within the commonwealth that has either average gross sales of less than twelve million dollars per year for the most recent two fiscal years, or has less than two hundred and fifty full-time employees, except that a business primarily engaged in wholesaling shall be considered eligible if its average gross annual sales for the most recent two fiscal years does not exceed twenty-four million dollars per year.

SECTION 8. Said chapter 23A is hereby further amended by inserting after section 34, as so appearing, the following two sections:-

Section 34A. (a) There is hereby established within the agency the Massachusetts Export Finance Fund, referred to in this section and section thirty-four B as the fund. Said fund shall receive state, federal, and private monies and the return from investment generated thereby, and allocate the same for the purposes of the export finance program. Said fund shall consist of a separate account or accounts segregated from other agency funds within the Industrial Mortgage Insurance Fund, to which shall be credited any state appropriation or funding from any other source, public or private, which may be made available to the fund.

Notwithstanding the provisions of any general or special law to the contrary, the agency shall utilize the fund, and be empowered to so utilize the fund, as provided in section thirty-four B.

(b) The liabilities or obligations of the agency for any insurance, co-insurance or loan guarantees made pursuant to the Massachusetts export finance program, shall not extend beyond the funds which are allocated and deposited in the fund and shall not constitute a debt or pledge of the faith and credit of the commonwealth or of any subdivision thereof.

(c) Those monies which are deposited in the fund, pending allocation as provided in this section, may be invested in securities issued by the Treasury of the United States

government or the government of the commonwealth. Returns from such investments shall be deposited in the fund and shall be used to support loan guarantees, insurance, and co-insurance as provided in section thirty-four B and to defray the administrative and operational costs of the Massachusetts export finance program.

(d) The monies in the fund shall be paid out by the treasurer of the agency in furtherance of the purposes of this section and section thirty-four B.

Section 34B. (a) There is hereby established within the agency the Massachusetts export finance program to expand employment and income opportunities through increased exports of Massachusetts goods and services by providing actual and potential Massachusetts exporters, including in particular small and medium-sized exporters, with insurance, co-insurance, loan guarantees, and information and technical assistance on export opportunities and exporting techniques in support of increased export transactions.

(b) The agency shall utilize the fund, other than as permitted in subsection (c) of section thirty-four A, solely to insure, co-insure and guarantee loans related to export transactions, and to make extensions of the same, made pursuant to the provisions of this section and detailed regulations adopted by the board; provided, however, that the agency shall make no reservation, encumbrance, or disbursement from the fund unless and until said regulations have been reviewed and approved in writing by the secretary of economic affairs. Any determination to insure, co-insure and guarantee loans, or to make an extension of the same pursuant to this section, shall be made by the board.

(c) The agency may charge fees to defray the operating expenses of the export finance program. The amount of the fees shall be determined by the board.

(d) Loan guarantees and insured export transactions shall be secured by no less than a thirty percent reserve in the fund. The board may elect to require a higher reserve. The regulations adopted by the board as provided in subsection (b) shall include provisions regarding the terms and limits for loan guarantees to be secured by the fund; provided, however, that in no instance shall a loan guarantee secured by the fund exceed either of the following: (1) seventy percent of the required financing or (2) five hundred thousand dollars.

(e) The agency shall make no affirmative determination to insure, co-insure or guarantee any loan or any extension of the same to be secured by the fund unless and until the board has made the following findings of fact, to be incorporated in the formal records of its proceedings:

(1) that borrowers have a minimum equity interest in the business as determined by the board;

(2) that the proposed loan guarantees, insurance and coinsurance will be extended to companies that export goods and services produced primarily in Massachusetts or to companies which export goods and services and which have their principal place of business in Massachusetts;

(3) there exists adequate collateral or security agreements to ensure the full repayment of loan guarantees and solvency of any insurance or co-insurance program extended under this chapter and to assist in evaluating the program;

(4) that, to the extent possible, said loan guarantee or insurance or coinsurance is such that a definite benefit to the economy of the commonwealth may reasonably be expected therefrom; and

(5) that financing assistance secured by the fund shall only be extended in one or both of the following circumstances:

(i) as part of a governmental match which may be required to secure participation of Massachusetts firms in federal, state, or private financing programs;

(ii) if adequate financing assistance is not readily available from public or private sources in a timely manner.

(f) In administering the fund and the export finance program, the agency shall coordinate to the maximum extent possible with the programs and goals of the United States Export-Import Bank, the International Trade Administration of the United States Department of Commerce, the Foreign Credit Insurance Association, the Massachusetts office of international trade and investment, and other private and public programs, designed to provide export assistance and export-related financing; and assemble, publish, and disseminate information to Massachusetts exporters on export opportunities, techniques of exporting, sources of public and private export assistance, and sources of export-related financing.

(g) No company shall be eligible for a loan guarantee under this section until it complies with the terms of this section.

(h) The agency shall, prior to making any loan guarantee pursuant to this section comply with the following requirements: (1) develop or distribute written materials and other information it believes appropriate to familiarize any company interested in exporting with how to enter the export market; (2) to distribute said materials and information, the agency shall present a series of seminars throughout the commonwealth; and, (3) a loan guarantee may only be offered to a company which has attended at least one seminar within one year prior to its application.

(i) Nothing contained in this section shall be deemed to be a pledge of the credit of the commonwealth.

SECTION 9. Said chapter 23A is hereby further amended by adding the following three sections:-

Section 56. (a) There shall be within MOBD a Massachusetts quasi-public corporation planning council, hereinafter referred to as the council, which shall not be subject to the supervision or control of the MOBD, except as provided in this section.

The purpose of said council shall be to ensure regular communication and coordination between the quasi-public corporations as to their economic development projects, programs and plans. Said council shall consist of the chief executive officers or their designees from the Bay State Skills Corporation, Massachusetts Community Development Finance Corporation, Industrial Services Program, Massachusetts Centers of Excellence, the Massachusetts Corporation for Educational Telecommunication, Massachusetts Government Land Bank, Massachusetts Industrial Finance Agency, Massachusetts Technology Development Corporation, Massachusetts Micro Electronics Center, and the Thrift Fund for Econom-

ic Development. The council shall meet from time to time but no less than monthly.

The director of the office of MOBD shall appoint personnel necessary to coordinate the activities of the council.

The council is hereby authorized to review and determine if the present regional offices operated by any corporation subject to this section would appropriately serve the goals of the council in establishing and implementing a more coordinated economic development policy; provided, however, that the council shall maintain no more than eight regional offices through the expansion of said offices already in operation or by establishing any new offices. Each office shall be responsible for the implementation of the coordinated plans programs and projects in each region of the state.

(b) In order to fully utilize all appropriate measures to provide risk capital to small businesses in the commonwealth the Massachusetts Community Development Finance Corporation, the Massachusetts Industrial Services Program, the Massachusetts Government Land Bank, the Massachusetts Industrial Finance Agency, and the Massachusetts Technology Development Corporation are hereby directed to establish one or more small business investment corporations (sbic) or special small business investment corporations (ssbic) as provided by the Small Businesses Equity Enhancement Act of 1992, Title iv of U.S. Public Law 102-366.

Section 57. (a) For the purposes of this section and section fifty-eight the following terms shall, unless the context clearly requires otherwise, have the following meaning:

"Agency", the Massachusetts office of business development.

"Borrower", any business that receives a loan with respect to which a reserve is created in accordance with this section.

"Business", the carrying on of any business activity for profits, whether as corporation, partnership, sole proprietorship or otherwise.

"Financial institution", any bank, trust company, savings bank, savings and loan association or cooperative bank chartered by the commonwealth or any national banking association, federal savings and loan association or federal savings bank; provided, however, that the financial institution has its principal office, located in the commonwealth.

"Loan", without limitation, a sale and lease back, a financial lease, a conditional sale or any other arrangement that is in the nature of a loan.

"Participating financial institution", any financial institution participating in the program established by this section.

"Program", the small business capital access program established by this section.

"Small business", a business that had total annual sales in its most recently completed fiscal year of less than five million dollars and which has a principal place of business within the commonwealth; provided, however, that no loan or loans to a borrower in an aggregate principal amount in excess of five hundred thousand dollars and no loan for passive real estate purposes shall be considered to be a loan to a small business borrower.

(b) Each time a participating financial institution originates a loan to a small business borrower after the effective date of this section, said institution shall set aside an amount specified by the agency or its agent, referred to in paragraph (a) of section fifty-

eight, which amount shall not be less than one and one-half percent nor more than three and one-half percent of the principal amount of the loan, into a loss reserve which said institution shall maintain applicable to all such loans by said institution to small business borrowers pursuant to the program.

(c) At the time of the making of such loan to a small business borrower, the participating financial institution shall obtain from said borrower an amount equal to the reserve contribution made by the participating financial institution with respect to such loan as provided in paragraph (b) and shall set aside such amount into said loss reserve maintained by the participating financial institution applicable to all such loans by said participating financial institution to borrowers pursuant to the program. The participating financial institution may obtain such amount as payment from the borrower or may advance the amount to the borrower as part of the loan.

(d) After such loan to a small business borrower has been made, the participating financial institution shall certify to the agency or its agent, in such fashion and with such supporting information as the agency or its agent shall prescribe, that it has made such loan and has set aside its contribution and the equal contribution of the borrower into said loss reserve.

(e) The agency or its agent shall, after such certification as provided in paragraph (d) transfer to the participating financial institution an amount equal to the total of the contributions of the participating financial institution and the borrower or such additional amount up to one hundred and fifty percent of such contributions as determined by the agency or its agent, and the participating financial institution shall set aside such amount so received into said loss reserve.

(f) In the event the participating financial institution suffers a loss on any such loan, it may in its discretion draw upon the funds in such loss reserve to repay the loan in whole or in part.

(g) All amounts set aside by the participating financial institution into said loss reserve shall be deposited by it in an account at said institution. All earnings or interest on said loss reserve account shall be added to the principal of said loss reserve account and held as additional loss reserve; provided, however, that the agency or its agent may require at any time and from time to time that a portion or all of the accrued earnings or interest remaining in said loss reserve account be paid to the agency or its agent to be used to defray the costs of administering the program.

(h) Any loan made under this program shall be used predominantly for business activities within the commonwealth.

(i) Any financial institution desiring to become a participating financial institution shall execute an agreement in such form as the agency or its agent may prescribe, which agreement shall contain the terms and provisions set forth in paragraphs (a) to (h), inclusive, and such other terms and provisions as the agency or its agent may deem necessary or appropriate.

Section 58. The agency is hereby authorized to do the following:

(a) to enter into a contract with the Massachusetts business development corporation,

hereinafter referred to as MBDC, established under the provisions of chapter six hundred and seventy-one of the acts of nineteen hundred and fifty-three, to act as the agent of the agency with respect to the administration of the program. Said contract: (1) shall be for a period of two years and shall be renewed for additional two year periods subject to the requirements of paragraph (b) of this section; and (2) shall provide for compensation and reimbursement of the agent on terms the agency may deem appropriate for the administration of said program for any expenses incurred by the MBDC in connection with its services as agent and for such other services as the agency may deem appropriate including, but not limited to the use of the premises, personnel and personal property of the MBDC.

(b) conduct an annual review and assessment of the performance of the MBDC in its capacity as agent for the agency to determine whether the contract referenced in paragraph (a) should be renewed for an additional two year period. Said review shall be based on whether the MBDC has satisfactorily met the terms and conditions of the contract.

Upon an initial determination by the agency that the MBDC's performance is unsatisfactory, the MBDC shall be given the opportunity to take corrective action. If, upon a final review of the MBDC's performance the agency continues to conclude that the MBDC's performance is unsatisfactory, it shall submit to the joint committee on commerce and labor its recommendation to terminate the contract with MBDC and transfer the contract to another agency.

(c) to make and publish rules and regulations respecting the implementation of the small business capital access program established by this section and any other rules and regulations necessary to fulfill the purposes of this section; and

(d) to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this section.

SECTION 10. Paragraph (a) of section 11 of chapter 23D of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- The trust shall further be empowered to provide assistance to firms in specific mature industries for the purpose of technological investment or upgrading of management operations in order for the business to maintain future economic stability.

SECTION 11. Paragraph (a) of section 13 of said chapter 23D, as so appearing, is hereby amended by inserting after clause (1) the following clause:-

(1A) the business within a specific mature industry requires assistance for the purpose of technological investment or upgrading of management operations in order for the business to maintain future economic stability;.

SECTION 12. Chapter 40 of the General Laws is hereby amended by adding the following section:-

Section 59. Notwithstanding any general or special law to the contrary, any city or town by vote of its town meeting, town council, or city council with the approval of the mayor where required by law, on its own behalf or in conjunction with one or more cities or towns, and pursuant to regulations issued by the secretary of the executive office of communities and development, may adopt and prosecute a tax increment financing hereinafter referred to as TIF plan, and do any and all things necessary thereto; provided,

however, that the TIF plan:

(i) designates or more areas of such city or town as a TIF zone; provided, however, that each area so designated is wholly within an area designated by the secretary of economic affairs, pursuant to regulations adopted by the economic assistance coordinating council established pursuant to section three B of chapter twenty-three A, as presenting exceptional opportunities for increased economic development; provided, further, that in the case of a TIF plan adopted by more than one city or town, the areas designated as TIF zones shall be contiguous areas of such cities or towns;

(ii) describes in detail all construction and construction-related activity, public and private, contemplated for such TIF zone as of the date of adoption of the TIF plan; provided, however, that in the case of public construction as aforesaid, the TIF plan shall include a detailed projection of the costs thereof and a betterment schedule for the defrayal of such costs; provided, further, that the TIF plan shall provide that no costs of such public constructions shall be recovered through betterments or special assessments imposed on any party which has not executed an agreement in accordance with the provisions of paragraph (v); and provided, further, that in the case of private construction as aforesaid, the TIF plan shall include the types of industrial and commercial developments which are projected to occur within such TIF zone, with documentary evidence of the level of commitment therefor, including but not limited to architectural plans and specifications as required by said regulations;

(iii) authorizes tax increment exemptions from property taxes, in accordance with the provisions of clause Fifty-first of section five of chapter fifty-nine, for a specified term not to exceed twenty years, for any parcel of real property which is located in the TIF zone and for which an agreement has been executed with the owner thereof in accordance with the provisions of paragraph (v); provided, however, that the TIF plan shall specify the level of such exemptions expressed as an exemption percentage, not to exceed one hundred percent to be used in calculating the exemption under clause Fifty-first of said section five of said chapter fifty-nine; provided, further, that such exemptions shall be calculated for each said parcel as provided in said clause Fifty-first using an adjustment factor for each fiscal year of the specified term equal to the total assessed value of all parcels of commercial and industrial real estate in the municipality in which the TIF zone is located, divided the total assessed value of all parcels of commercial and industrial real estate in such city or town in the fiscal year immediately prior to the fiscal year in which the parcel first became eligible for such exemption pursuant to the provisions of this paragraph.

(iv) establishes a maximum percentage of the costs of any public construction, referenced in paragraph (ii) and initiated subsequent to the adoption of the TIF plan, that can be recovered through betterments or special assessments against any parcel of real property eligible for tax increment exemptions from property taxes pursuant to paragraph (iii) during the period of such parcel's eligibility for exemption from annual property taxes pursuant to clause fifty-first of section five of chapter fifty-nine, notwithstanding the provisions of chapter eighty or any other general or special law authorizing the imposition of betterments or special assessments;

(v) includes executed agreements between such city or town and each owner of a parcel of real property which is located in such TIF zone; provided, however, that each such agreement shall include: (1) all material representations of the parties which served as the basis for the descriptions contained in the TIF plan in accordance with the provisions of paragraph (ii); (2) a detailed recitation of the tax increment exemptions and the maximum percentage of the cost of public improvements that can be recovered through betterments or special assessments regarding such parcel of real property pursuant to paragraphs (iii) and (iv); (3) a detailed recitation of all other benefits and responsibilities inuring to and assumed by the parties to such agreement; and (4) a provision that such agreement shall be binding upon subsequent owners of such parcel of real property;

(vi) delegates to one board, agency or officer of the city or town the authority to execute agreements in accordance with the provisions of paragraph (v); and

(vii) is certified as an approved TIF plan by the economic assistance coordinating council established by section three B of chapter twenty-three A pursuant to regulations adopted by said council; provided, however, that the economic assistance coordinating council shall find, based on the information submitted in support of the TIF plan by the city or town and such additional investigation as the economic assistance coordinating council shall make, and incorporate in its minutes, that the plan is consistent with the requirements of this section and will further the public purpose of encouraging increased industrial and commercial activity in the commonwealth; provided, further, that a city or town may at any time revoke its designation of a TIF zone and, as a consequence of such revocation, shall immediately cease the execution of any additional agreements pursuant to paragraph (v); provided, further, such revocation shall not affect agreements relative to property tax exemptions and limitations on betterments and special assessments pursuant to said paragraph (v) which were executed prior thereto; and provided, further, that the board, agency or officer of the city or town authorized pursuant to paragraph (vi) to execute agreements shall forward to the board of assessors a copy of each such agreement, together with a list of the parcels included therein.

SECTION 13. Section 5 of chapter 40I of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out clause (p) and inserting in place thereof the following two clauses:-

(p) to establish a technology extension service program providing technical information service and technical assistance to existing Massachusetts companies, especially manufacturers, in the following areas: (1) technology investment and modernization; (2) market identification and technology management; (3) materials usage and planning; (4) business management and maximization of the firms productivity; and (5) strategies for work force development and quality. The Bay State Center for Applied Technology located within the Bay State Skills Corporation shall conduct outreach to designated industrial sectors to select and encourage companies to seek the assistance of the technology extension service program. Said outreach shall be coordinated with the Massachusetts Small Business Development Center or local development offices.

The technology extension service program shall be partially funded through a fee for

service program, the share of the cost to private sector firms shall be determined by the following formula: (i) firms in Phase I of said program, a thirty percent share of the total costs; and (ii) firms in Phase II of said program, a fifty percent share of the total costs. For the purposes of this clause, the term "Phase I" shall mean the first three visits to the technology extension service by a private sector firm and the term "Phase II" shall mean the fourth and subsequent visits to the technology extension service by a private sector firm;

(q) to do any and all things necessary or convenient to carry out the purposes of this chapter.

SECTION 14. Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by adding the following clause:-

Fifty-first, the value of a parcel of real property which is included within an executed agreement under the provisions of paragraph (v) of section fifty-nine of chapter forty, together with all personal property situated on such parcel; provided, however, that taxes on property eligible for exemption under this clause shall be assessed only on that portion of the value of the property that is not exempt pursuant to the provisions of section fifty-nine of chapter forty; provided, further, that such exemption shall be for a term no longer than the period specified therefor in such agreement; provided, further, that the amount of the exemption under this clause for any parcel shall be the exemption percentage adopted under paragraph (iii) of said section fifty-nine of said chapter forty multiplied by the amount by which the parcel's value exceeds the product of its assessed value for the last fiscal year before it became eligible for exemption under this clause multiplied by the adjustment factor determined in accordance with said section fifty-nine of said chapter forty. Taxes on property eligible for exemption under this clause shall be assessed only on that portion of the value of the property that is not exempt hereunder.

SECTION 15. Paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as so appearing, is hereby amended by adding the following subparagraph:-

(10) An amount equal to ten percent of the cost of renovating any abandoned building within an economic opportunity area as determined by the economic assistance coordinating council established by section three B of chapter twenty-three A.

SECTION 16. Section 6 of said chapter 62, as so appearing, is hereby amended by adding the following subsection:-

(g)(1) A credit shall be allowed against the tax liability imposed by this chapter, up to an amount equal to fifty percent of such liability in any taxable year, an amount equal to five percent of the cost of any property that (i) would qualify for the credit allowed by section thirty-one A of chapter sixty-three if the property were purchased by a manufacturing corporation or a business corporation engaged primarily in research and development and (ii) is used exclusively in a certified project within the economic opportunity area as defined in section three A of chapter twenty-three A. If such property is disposed of or ceases to be in qualified use within the meaning of said section thirty-one A or if such property ceases to be used exclusively in such a certified project within such an economic opportunity area before the end of its useful life, the recapture provisions of subsection (e) of said section thirty-one A shall apply and an amount determined thereunder shall be added to the tax

imposed by this chapter.

(2) Any taxpayer entitled to a credit under this subsection for any taxable year may carry over and apply to the tax for any one or more of the next succeeding ten taxable years, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year; provided, however, that in no event shall the taxpayer apply the credit to the tax for any taxable year beginning more than five years after the certified project or economic opportunity area ceases to qualify as such under the provisions of chapter twenty-three A.

(3) For purposes of this subsection, the commissioner of revenue may aggregate the activities of all entities, whether or not incorporated, under common control as defined in subsection (f) of section forty-one of the Code.

(4) The commissioner of revenue shall promulgate such rules and regulations necessary to implement the provisions of this subsection. Such rules and regulations may provide for the adjustment of prices and elimination of transactions between related taxpayers to ensure that all amounts upon which the credit is based reasonably reflect fair market value. In addition, such rules and regulations shall include provisions to prevent the generation of multiple credits with respect to the same property.

SECTION 17. Section 31A of chapter 63 of the General Laws, as so appearing, is hereby amended by adding the following five paragraphs:-

(i) A manufacturing corporation, or a business corporation engaged primarily in research and development, which has been deemed to be such under section thirty-eight C or forty-two B, or a corporation primarily engaged in agriculture or commercial fishing, shall be allowed a credit as hereinafter provided against its excise due under this chapter. The amount of such credit shall be three percent of the cost or other basis for federal income tax purposes of qualifying tangible property acquired, constructed, reconstructed, or erected during the taxable year, after deduction therefrom of any federally authorized tax credit taken with respect to such property. Qualifying property shall be tangible personal property and other tangible property including buildings and structural components of buildings acquired by purchase, as defined under section one hundred and seventy-nine (d) of the Federal Internal Revenue Code as amended and in effect for the taxable year is not taxable under chapter sixty A; used by the corporation in the commonwealth; situated in the commonwealth on the last day of the taxable year; and which (1) is depreciable under section one hundred and sixty-seven of said Code and has a useful life of four years or more, or (2) is considered recovery property under section one hundred and sixty-eight of said Code.

(j) A corporation renting or leasing tangible property otherwise qualifying for the credit under this section from a regional business development corporation or authority authorized under chapter forty D or a regional business development corporation organized as a non-profit corporation under any special act shall be deemed to have acquired such property by purchase as defined under Sec. 179(d) of the Federal Internal Revenue Code, as amended and in effect for the taxable year, for the purposes of this section and shall be eligible for the credit under paragraph (a). The amount of such credit shall be three percent of the value of qualifying property leased and placed in qualified use during the taxable year. Such value shall be the cost of such property to the regional business development

corporation and the books and records of such corporation shall for the purposes of this section be open to the commissioner for inspection. For the purposes of this section a termination or cessation of such rental or lease for any reason other than a transfer of ownership of such property to the lessee shall be considered a disposition of such property. No further credit shall be allowed to such lessee or any successor corporation, as the case may be, on account of such property in the event of successive rentals or lease, replacement, alteration or change of the property rented or leased; transfer of ownership of such property to the lessee; or the merger, consolidation or other reorganization of such lessee.

(k) The provisions of paragraphs (a) and (f) shall not be available for the taxable years ending on or after December thirty-first, nineteen hundred and ninety-three but shall be available for the taxable years beginning on or after January first, nineteen hundred and ninety-six.

(l) The provisions of paragraphs (i) and (j) shall be available only for the taxable years ending on or after December thirty-first, nineteen hundred and ninety-three, but shall not be available for taxable years beginning on or after January first, nineteen hundred and ninety-six; provided, however, that a corporation shall not be eligible for said credit for more than three taxable years.

(m) For the purposes of this section, the provisions of paragraphs (b), (c), (d), (e), (g), and (h) shall apply to paragraphs (i) and (j) as appropriate.

SECTION 18. Said chapter 63 is hereby further amended by inserting after section 38M, as so appearing, the following two sections:-

Section 38N. (a) A corporation subject to tax under this chapter which participates in a certified project as defined in section three A of chapter twenty-three A, may take a credit against the excise imposed by this chapter in an amount equal to five percent of the cost of any property that qualifies for the credit allowed by section thirty-one A if such property is used exclusively in a certified project within the economic opportunity area as defined in said section three A of said chapter twenty-three A. The credit allowed under this section may be taken by an eligible corporation; provided, however, that neither credit allowed by said section thirty-one A or by section thirty-one H is taken by such corporation. For purposes of this paragraph, the corporation need not be a manufacturing corporation or a business corporation engaged primarily in research and development if such property is disposed of or ceases to be in qualified use within the meaning of section thirty-one A or if such property ceases to be used exclusively in a certified project within an economic opportunity area before the end of its useful life the recapture provisions of subsection (e) of section thirty-one A shall apply.

(b) The credit allowed by this section shall be subject to the provision of section thirty-two C.

(c) In the case of a corporation that is subject to a minimum excise under any provision of this chapter, the amount of the credit allowed by this section shall not reduce the excise to an amount less than such minimum excise.

(d) 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 ten taxable

years, the portion, as reduced from year to year, of those credits which were not allowed by paragraph (c) or which exceed the excise for the taxable year; provided, however, that in no event shall the corporation apply the credit to its excise for any taxable year beginning more than five years after the certified project or economic opportunity area ceases to qualify as such under the provisions of chapter twenty-three A.

(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 separately determined excise attributable to that member, subject to the limitations of paragraph (c). A member corporation with an excess 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 limitation of said paragraph (c). Unused, unexpired credits generated by member corporations 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) For purposes of this section, the commissioner of revenue may aggregate the activities of all corporations that are members of a controlled group of corporations and, in addition, may aggregate the activities of all entities, whether or not incorporated, under common control as defined in subsection (f) of section forty-one of the Code.

(g) The commissioner of revenue shall promulgate such rules and regulations as are necessary to implement the provisions of this section. Such rules and regulations may provide the adjustment of intercompany prices and elimination of intercompany transactions to ensure that all amounts upon which the credit is based reasonably reflect fair market value. In addition, such rules and regulations shall include provisions to prevent the generation of multiple credits with respect to the same property.

Section 38 O. A corporation whose excise under this chapter is based on net income may, in determining such net income, deduct an amount equal to ten percent of the cost of renovating any abandoned building located within an economic opportunity area as determined by the economic assistance coordinating council established by section three B of chapter twenty-three A.

SECTION 19. The General Laws are hereby amended by inserting after chapter 78 the following chapter:-

CHAPTER 78A.

YOUTH CONSERVATION AND SERVICE CORPS.

Section 1. As used in this chapter the following words shall have the following meanings, unless the context clearly requires otherwise:

"Commission", the Massachusetts community service commission established by executive order No. 314 dated August ninth, nineteen hundred and ninety-one.

"Corps", youth conservation and service corps, established by section two.

"Members", unless otherwise defined by the Commission, individuals sixteen to twenty-five years of age who are participating in the corps.

"Sponsor", an organization authorized to operate a corps program under this chapter.

Section 2. (a) There is hereby established within the commission a youth

conservation and service corps. The commission shall administer the corps in cooperation with the Massachusetts department of employment and training and the Massachusetts executive office of environmental affairs.

(b) The corps shall offer full-time, productive employment that provides measurable and visible community benefits in a natural resource or human service setting that gives participants a mix of work experience, basic and life skills, education, training, and support services.

(c) It shall be a main objective of the corps sponsors to assist members during and after their participation in the corps in preparing for and obtaining gainful employment or additional job training or education.

(d) It shall be a main objective of the corps sponsors to work with regional employment boards to obtain commitments from interested private sector employers to participate in the training and work preparation of corps members and to hire members who have successfully completed the program.

Section 3. The corps may include the following activities:

(a) conservation, rehabilitation, and the improvement of wildlife habitat, parks, and recreational areas;

(b) urban and rural revitalization, historical and cultural site preservation, and reforestation of both urban and rural areas;

(c) fish culture, wildlife habitat maintenance and improvement, and other fishery assistance;

(d) road and trail maintenance and improvement;

(e) wetlands protection and pollution control;

(f) insect, disease, rodent, and fire prevention and control;

(g) improvement of abandoned railroad beds and rights-of-way;

(h) energy conservation projects, renewable resource enhancement, and recovery of biomass;

(i) reclamation and improvement of strip-mined land;

(j) forestry, nursery, and cultural operations;

(k) making public facilities accessible to individuals with disabilities;

(l) housing construction, rehabilitation, renovation, weatherization and repair for the purpose of providing: affordable housing for low-income and homeless individuals, older adults and senior citizens; day care facilities; recreational center facilities; and other community facilities;

(m) energy conservation;

(n) activities that focus on drug and alcohol abuse education, prevention and treatment; and

(o) other related, conservation, educational, social, health, and environmental projects that provide substantial community benefits.

Section 4. In addition to other requirements established by the commission, a proposal to provide corps services under this chapter shall demonstrate that it will:

(a) provide corps members with marketable skills commensurate with their age and

experience;

(b) enhance basic skills development, self-confidence and self-esteem, leadership skills, and life skills of participants;

(c) provide long-term benefits to the public;

(d) be labor intensive and involve youth operating in crews;

(e) instill the importance of a strong work ethic; and

(f) enhance corps members' ability to earn a living or continue their education, and contribute significantly to their communities.

Section 5. (a) In making funding decisions under this chapter the commission shall give priority to qualified projects that have a substantial commitment from private sector employers to hire corps members who have successfully completed the program.

(b) The regional employment boards shall work cooperatively with the sponsor of a project to recruit and obtain commitments from private sector employers to hire corps members who have successfully completed the program.

Section 6. In addition to other requirements established by the commission, the corps shall:

(a) require members without a high school diploma to enroll in a program to attain a general equivalency diploma;

(b) require sponsors to provide pre-service and in-service training, along with general education that increases members academic, vocational, and social skills;

(c) comply with federal, state, and local health and safety standards;

(d) have the endorsement of the regional employment board chair representing the geographic area where the members serve;

(e) require sponsors to provide career and educational guidance and training;

(f) demonstrate that special-needs populations have been offered the opportunity to enroll in corps programs;

(g) not allow corps funds to be used to supplant or replace paid employees; and

(h) take steps to insure that no member or member applicant is discriminated against because of the individual's race, color, religious creed, ancestry, sex, national origin, sexual preference, or disability.

Section 7. The commission shall annually file with clerks of the senate and the house of representatives on or before January first, a report of the corps activities. Said report shall include, but not be limited to:

(1) a financial statement summarizing its expenditures and available funds;

(2) the number of projects and proposed corps placements submitted to it and the number approved;

(3) the number of members entering the corps and the number completing or substantially completing the project;

(4) a narrative of approved projects and a summary of the conservation work completed; and

(5) the race, age, sex, and geographic area of the corps members.

SECTION 20. Clause (a) of section 1 of chapter 151A of the General Laws, as most

recently amended by section 6 of chapter 26 of the acts of 1992, is hereby further amended by striking out, in lines 1 and 2, the words "January first" and inserting in place thereof the following words:- October third.

SECTION 21. Paragraph (3) of subsection (r) of said section 1 of said chapter 151A, as amended by section 4 of chapter 118 of the acts of 1992, is hereby further amended by striking out clause (3) and inserting in place thereof the following clause:-

(3) as termination, severance or dismissal pay, or as payment in lieu of dismissal notice, whether or not notice is required, or as payment for vacation allowance during a period of regular employment; provided, however, that for the purposes of this chapter, "remuneration" shall not include any payments made pursuant to subsections (b) and (c) of section one hundred and eighty-three, and subsection (b) of section one hundred and eighty-four of chapter one hundred and forty-nine, nor shall it include payment for unused vacation or sick leave, or the payment of such termination, severance or dismissal pay, or payment in lieu of dismissal notice, made to the employee in a lump sum in connection with a plant closing, nor shall this clause affect the application of subsection (d) of section twenty-nine.

For the purposes of this clause, "plant closing" shall mean a permanent cessation or reduction of business at a facility of at least fifty employees which results or will result as determined by the commissioner in the permanent separation of at least fifty percent of the employees of a facility or facilities.

SECTION 22. Section 2 of chapter 167F of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 301, the word "and".

SECTION 22A. Said section 2 of said chapter 167F, as so appearing, is hereby further amended by striking out, in lines 312 and 313, the word "commonwealth." and inserting in place thereof the following words:- commonwealth; and.

30. To participate in the small business capital access program created under section fifty-seven of chapter twenty-three A and to make the loans and create the reserve and take any and all other actions as may be necessary or appropriate for participating in such program.

SECTION 23. Section 1 of chapter 212 of the acts of 1975, as amended by section 1 of chapter 130 of the acts of 1987, is hereby further amended by adding the following paragraph:-

It is also the purpose of the government land bank to aid businesses which develop emerging technologies and technology facilities but face obstacles in obtaining private financing. The General Court finds that the development and support of emerging technology industries creates substantial employment opportunities and is vital to the commonwealth's economic competitiveness and future prosperity.

SECTION 24. Clause (j) of section 4 of said chapter 212, as most recently amended by section 7 of chapter 130 of the acts of 1987, is hereby further amended by inserting after the word "bank", in line 6, the following words:- and then outstanding.

SECTION 25. Clause (k) of said section 4 of said chapter 212, as most recently amended by section 61 of chapter 287 of the acts of 1989, is hereby further amended by striking out subclause (3), and inserting in place thereof the following subclause:-

(3) lands declared decadent, substandard or blighted open areas by the bank, which lands shall include, but not be limited to areas that are of such a character that they are in essence detrimental to the safety, health, morals, welfare or sound growth of the community in which they are situated fluctuations in the real estate market, a substantial change in business and economic conditions or practices or the high-risk nature of newly emerging businesses and technologies have rendered the sale or efficient use of existing, new or renovated buildings or facilities thereon impractical without the aids provided herein, or because of an abandonment or cessation of a previous use thereon or the abandonment or cessation of work on improvements, facilities or buildings begun thereon but not feasible to complete or sell without the aids provided herein, or because of the inability of certain businesses and emerging technologies to receive private financing due to the high-risk nature of these businesses and technologies or due to changes in business and economic conditions, or because of any combination of foregoing reasons or other conditions not being remedied by the ordinary operations of private enterprise, hereinafter called blighted lands; and.

SECTION 26. Section 8A of said chapter 212, as most recently amended by section 141 of chapter 164 of the acts of 1988, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

To provide for the acquisition, holding, protection, maintenance or use of lands as provided by this act, and to provide for making loans, loan guarantees and grants as provided by this act, to provide for personnel and administrative costs of the bank, and to refinance notes issued as provided in this act, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth to an amount not exceeding, in the aggregate, the sum of fifty million dollars;.

SECTION 27. Said chapter 212 is hereby further amended by inserting after section 8B, inserted by section 11 of chapter 130 of the acts of 1987, the following two sections:-

Section 8C. (a) There is hereby created and placed within the bank the Emerging Technology Fund, referred to in this section and section eight D as the Fund, to which shall be credited any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited thereto, such additional funds as are subject to the direction and control of the bank, any pension funds, federal grants or loans or private investment capital which may properly be applied in furtherance of the objectives of the Fund, any proceeds from the sale of qualified investments secured or held by the Fund, any fees and charges imposed relative to the making of qualified investments, as the same shall be defined by the advisory committee created pursuant to section eight D and pursuant to the rules and regulations adopted by the bank, secured or held by the Fund, and any other monies which may be available to the bank for the purposes of the Fund from any other source or sources. The bank shall hold the Fund in an account or accounts separate from other funds or accounts.

(b) The bank shall invest and reinvest the Fund and the income thereof, except as hereinafter provided, only as follows:

(1) in the making of qualified investments, as the same shall be defined by the

advisory committee created pursuant to section eight D and pursuant to the rules and regulations adopted by said advisory committee;

(2) in defraying the ordinary and necessary expenses of administration and operation associated with the Fund;

(3) in the investment of any funds not required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth;

(4) for the payment of binding obligations associated with such qualified investments which are secured by the Fund as the same become payable; and

(5) for the payment of principal or interest on qualified investments secured by the Fund or the payment of any redemption premium required to be paid when such qualified, investments are redeemed prior to maturity; provided, however, that monies in the Fund shall not be withdrawn at any time in such an amount as would reduce the amount of the Fund to less than the minimum requirement thereof established by resolution of the advisory committee created pursuant to section eight D, except for the purpose of paying binding obligations associated with qualified investments which are secured by the Fund as the same become payable and for which other monies of the bank are not available.

(c) The Fund shall be held and applied by the bank to make qualified investments designed to advance the following public purposes:

(1) to stimulate increased financing for new manufacturing, research and development and related facilities in the commonwealth by leveraging private financing for highly, productive state-of-the-art facilities, which will lead to increased and more rewarding employment opportunities for the citizens hereof: and

(2) to make matching grants to universities and public instrumentalities to induce the federal government and industry to fund advanced research and development activities in new and emerging technologies and new application of existing technologies in the commonwealth, and to thereby serve to increase and strengthen the commercial and industrial base of the commonwealth and the economic development and employment opportunities related thereto.

The bank shall make no such qualified investment pursuant to clause (1) of subsection (b) unless the bank finds that, to the extent possible, said qualified investment is such that a definite benefit to the economy of the commonwealth may reasonably be expected therefrom. In addition, the bank shall make no such qualified investment pursuant to said clause (1) of said subsection (b) unless such qualified investment is in conformity with rules and regulations approved in advance by the advisory committee, established pursuant to section eight D, and adopted by the bank, unless such qualified investment is recommended to the board of directors by the advisory committee.

Said rules and regulations shall prescribe the terms and conditions attaching to investments which are to constitute qualified investments, which may include, without limitation, loans, guarantees, loan insurance or reinsurance, equity investments, grants made only pursuant to clause (2) of subsection (c); or other financing or credit enhancing devices, as made by the bank directly or on its own behalf or in conjunction with other public

instrumentalities, or private institutions, or the federal government, provided further, that said rules and regulations shall provide that each such qualified investment made pursuant to clause (1) of said subsection (c) shall involve a transaction with the participation of at least two at-risk private parties.

Said rules and regulations shall, in addition, set forth the terms, procedures, standards and conditions which the bank shall employ to identify qualified applications, process applications, make investment determinations, safeguard the Fund, advance the objective of increasing employment opportunities for the citizens of the commonwealth, oversee the progress of qualified investments, and secure the participation of other public instrumentalities, private institutions, or the federal government in such qualified investments, provided, that said rules and regulations shall provide that each recipient of a qualified investment shall be required to pay a fee as a condition of such receipt, which fee may take the form of points, an interest rate premium or a contribution of warrants or other form of equity to the Fund as prescribed by said advisory committee; and provided, further, that said rules and regulations shall provide for negotiated agreements between the bank and each recipient of a qualified investment regarding the terms and conditions by which the Fund's support thereof could be reduced or withdrawn.

(d) The bank may solicit investments by private institutions or investors in the activities of the Fund and may reach agreements with such private institutions or investors regarding the terms of any such investments including, without limitation, the rights of such investors to participate in the income or appropriation of the Fund. In furtherance of the objective of securing investments by private institutions or investors in the activities of the Fund as set forth in the preceding sentence, the bank shall, on or before the date one year after the first qualified investment is approved by the bank, submit to the secretary of economic affairs a detailed proposal relative to the creation of a separate investment entity which allows for the commingling of the resources of the Fund with the maximum participation by such private institutions or investors in a manner which is consistent with the public purpose of the Fund and under terms and conditions calculated to protect and preserve the assets of the Fund; provided, however, that if the creation or operation of such a separate entity as proposed by the bank would require additional or clarifying amendments to the enabling act of the bank, said proposal shall include proposed statutory language with regard thereto.

(e) Copies of the approved rules and regulations, and any modifications thereto, shall be submitted to the chairpersons of the house and senate committees on ways and means and the clerks of the house of representatives and senate.

(f) Qualified investment transactions undertaken by the bank pursuant to the provisions of this section shall not, except as specified in this chapter, be subject to the provisions of chapter one hundred and seventy-five of the General Laws, or any successor thereto, and shall be payable solely from the Emerging Technology Fund established by this section and shall not constitute a debt or pledge of the faith and credit of the commonwealth or of any subdivision thereof.

(g) The bank shall not at any time make expenditure from or commitment of the assets of the Fund, including, without limitation, the making of qualified investments secured

by the Fund, if following the making of said qualified investment, the amount of the Fund shall be less than the minimum requirement established by the advisory committee pursuant to section eight D, unless the bank, at the time of making of such qualified investment, deposits in the Fund from the proceeds thereof or from any fees and charges imposed relative to the making of qualified investments, or otherwise, an amount which, together with the amount in the Fund, shall not be less than the minimum requirement; provided, however, that at no time shall the minimum requirement of the Fund established by the advisory committee be less than the greater of (i) the maximum amount of principal and interest becoming due in the current and succeeding fiscal year of the bank on all outstanding bonds and other obligations which are secured by the Fund or (ii) thirty percent of the aggregate amount of the Fund's outstanding liabilities and obligations under the qualified investments.

(h) In order to assure the maintenance of the Fund at the minimum requirement established by the advisory committee, the governor shall annually request of the general court that there shall annually be appropriated and paid to the bank for deposit in the Fund such sum, if any, as shall be certified by the chairman of the advisory committee to the governor as necessary to restore or maintain the Fund at such minimum amount provided, that the maximum amount of such appropriations should not exceed forty-five million dollars.

The chairman of the advisory committee shall annually, on or before October thirtieth, make and deliver to the secretary for administration and finance his certificate stating the amount, if any, required to restore or maintain the Fund at the amount aforesaid and an appropriation for the amount so stated, if any, shall be requested of the general court by the governor to be paid to the bank during the then current fiscal year of the commonwealth; provided, however, that while it is the present intention of the general court to appropriate the amounts as so requested, the general court at the time of any such request shall be under no obligation to appropriate any such amount.

Said secretary acting on behalf of the commonwealth shall enter into an agreement with the bank memorializing the foregoing commitment by providing that the commonwealth shall provide contract assistance to the Fund as aforesaid in the maximum aggregate amount of forty-five million dollars. The bank may pledge such agreement and the rights of the bank to receive amounts thereunder as security for the payment of obligations of the Funds. Such agreement shall contain such provisions as are necessary to ensure that such agreement does not constitute a general obligation of the commonwealth for which the faith and credit of the commonwealth may be pledged.

Section 8D. (a) There is hereby created an advisory committee relative to the Fund consisting of the secretary of economic affairs and the secretary for administration and finance, and three other persons, one to be appointed by the governor and two to be appointed by the board of the bank; provided, however, that said secretary of economic affairs and said secretary for administration and finance may designate another person from time to time to act in his place for a particular purpose, including the right to attend and vote at a meeting of the advisory committee; provided, however, that at least one member of the advisory committee shall have knowledge of financing of emerging technology companies, and one member shall have advanced scientific knowledge related to an emerging technology or

technologies.

Each appointed member of the advisory committee shall serve for a term of three years and thereafter until such member's successor is appointed; provided, however, that of those initially appointed, one shall serve for a term of one year, one shall serve for a term of two years, and one shall serve for a term of three years. Any person appointed to fill a vacancy on the advisory committee shall be appointed in a like manner and shall be eligible for reappointment. Any member of the advisory committee appointed by the governor may be removed by the governor for cause. Any member of the advisory committee appointed by the board of the bank may be removed by the board for cause. The advisory committee is encouraged to award, with the consent of the bank, one or more contracts with regard to the management of the Fund, which may provide performance-based incentives with regard to such management.

(b) The members shall elect annually a chairman and vice chairman and shall adopt by-laws governing the affairs of the advisory committee. Three members of the advisory committee shall constitute a quorum and the affirmative vote of a majority of the members present and eligible to vote at a meeting shall be necessary for any action to be taken by the advisory committee; provided, however, that the written approval of the secretary for administration and finance shall be necessary for any expenditure from or commitment of the assets of the Fund; and, provided further, that except as set forth in the preceding clause, no vacancy in the membership of the advisory committee shall impair the right of a quorum to exercise the powers of the advisory committee.

The members shall serve without compensation, but each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties. The advisory committee shall meet at least twelve times in each year and shall have final authority over the activities of the Fund. The bank shall provide such staff and supporting assistance as deemed appropriate by the board of directors of the bank to enable the advisory committee to discharge its duties in a manner consistent with its public purpose as set forth in section eight C. The provisions of subsections (d), (f) to (i), inclusive, and (l) of section thirty-one of chapter twenty-three A of the General Laws shall apply as well to the members and affairs of the board of directors of the bank and of the advisory committee created pursuant to this section.

SECTION 28. Item 2200-7880 of section 2D of chapter 199 of the acts of 1987 is hereby amended by striking out, in line 2, the words "in Westborough".

SECTION 29. Section 55 of chapter 118 of the acts of 1992 is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:- Section four of this act shall only be applicable to claims filed on or after March seventh, nineteen hundred and ninety-three. Section nine of this act shall only be applicable to claims filed on or after September sixth, nineteen hundred and ninety-two.

SECTION 30. Section 137 of chapter 133 of the acts of 1992 is hereby amended by striking out, in lines 15 and 16, the words "the corporate officers of any such organization or business or the sole proprietor" and inserting in place thereof the following words:- the executive director or chief operating officer of any such non-profit organization, or the chief

operation officer, treasurer and clerk or sole proprietor of any such profit motivated or existing business.

SECTION 31. Said chapter 133 is hereby further amended by inserting after section 137 the following section:-

Section 137A. (a) There is hereby created within the urban initiative fund, as established by section one hundred and thirty-seven, a commonwealth microloan demonstration project, hereinafter referred to as CMDP.

(b) For the purposes of the CMDP, "intermediary" shall mean a private entity, a non-profit entity or a non-profit community development corporation that applies under the program to make microloans not in excess of forty thousand dollars to assist minority, low-income, and female business owners in the commonwealth.

(c) The purposes of the CMDP shall be to:

(1) assist female, low-income, and minority entrepreneurs, business owners, and other individuals located anywhere in the commonwealth who possess the capability to operated successful business concerns;

(2) assist small business concerns in those areas suffering from a lack of credit due to economic downturns; and

(3) establish a micro loan demonstration program to:

(i) make grants to eligible intermediaries that will provide small-scale loans to start-up, newly established, or growing small businesses for working capital or the acquisition of materials, supplies, or equipment;

(ii) make grants to eligible intermediaries that will provide intensive marketing, management, and technical assistance to assist low-income entrepreneurs and other low-income individuals in obtaining private sector financing for their businesses, with or without loan guarantees.

(d) An intermediary shall be eligible to receive grants under this section if it:

(1) meets the definition of intermediary specified in this section;

(2) has experience in making micro loans to start-up, newly established, or growing small business concerns and providing, as an integral part of its micro loan program, intensive marketing, management and technical assistance to its borrowers or grantees, as applicable.

(e) As part of its application for a grant, each intermediary shall submit a description to the Community Development Finance Corporation, hereinafter referred to as CDFC of:

(1) the type of business to be assisted;

(2) the size and range of loans to be made;

(3) the geographic area to be served and its economic and unemployment characteristics;

(4) the status of small business concerns in the area to be served and an analysis of their credit and technical assistance needs;

(5) any marketing, management, and technical assistance to be provided in connection with a loan made under this subsection;

(6) the local economic credit markets, including costs associated with obtaining

credit locally;

(7) the qualifications of the applicant to carry out the purpose of this subsection; and

(8) any plan to involve private sector lenders in assisting selected small business concerns.

(f) As a condition of any grant made to an intermediary under this section, the CDFC shall require the intermediary to contribute not less than fifteen percent of the grant amount for marketing, management and technical assistance in cash from non-state sources, and not less than fifteen percent of the grant amount for business loans in cash from non-state sources.

(g) Each intermediary that operates a micro loan program under this section shall maintain a micro loan portfolio with an average loan size of not more than fifteen thousand dollars.

(h) The CDFC shall include in its annual report required by this section a summary of its activities in support of micro lending in the commonwealth.

(i) Said annual report shall include, but not be limited to:

(1) the numbers and locations of the intermediaries funded to conduct micro loan programs;

(2) the amounts of each loan and each grant to intermediaries;

(3) a description of the matching contributions of each intermediary;

(4) the numbers and amounts of micro loans made by the intermediaries to small businesses;

(5) the repayment history of each intermediary;

(6) a description of the loan portfolio of each intermediary including the extent to which it provides micro loans to small business concerns in rural areas; and

(7) any recommendations for legislative changes that would improve program operations.

SECTION 32. The Massachusetts quasi-public corporation planning council, established in section fifty-six of chapter twenty-three A of the General Laws, shall not later than one year from the effective date of this act file a report with the clerks of the house of representatives and the senate describing: (i) the person named to represent each corporation on said planning council; (ii) the results of said council's review to determine the location of the regional offices to be established; and (iii) the coordination policy of said council.

SECTION 33. The University of Massachusetts, hereinafter referred to as the "university", shall establish three emerging technology centers in the commonwealth for the purpose of encouraging existing Massachusetts corporations to take better advantage of new technological approaches to manufacturing and service delivery, and to encourage the establishment of new businesses to develop and utilize such new technologies. Each center shall be created to assist a particular sector within the economy, and shall be located in an area which shall be convenient to businesses operating in that sector. Each center shall be established through a competitive application process at the sole discretion of the university which shall determine, within the scope and purpose of this section, the process for the submission and evaluation of applications. Only not-for-profit corporations established

pursuant to chapter one hundred and eighty of the General Laws shall be permitted to apply, and the board of directors of such corporations shall include individuals who are active in the sector for which each center is to be established, which directors shall be drawn from business, institutions of higher learning, the sciences, and such other fields as may be helpful to carrying forward the purposes of each center. Each center shall be permitted to accept funds from the commonwealth, other instrumentalities of government, and private individuals and corporations, as long as a full accounting of said receipts and all expenditures shall annually be submitted to the university for its review. Each center shall develop an annual plan, which shall be submitted to the university for its review and approval, which may include direct research activities by center staff; contracted research activities; publication of materials; convening of meetings and conferences; establishment of model manufacturing processes; testing of equipment and procedures; cooperative ventures with other corporations and institutions for the development, testing, and evaluation of new technologies; joint ventures with individual corporations or with several corporations in which, if determined to be necessary and appropriate by the university, the results of which ventures may be retained as the proprietary information of the individual corporation or corporations; and other such activities as shall be necessary for the successful completion of the aforesaid activities and for the implementation of the purposes of this section. The university shall ensure that state funding provided for the operation of the centers shall be matched on at least a dollar for dollar basis by funding from other institutions, corporations, individuals, or any other governmental entity.

SECTION 34. Chapter 40I of the General Laws is hereby amended by inserting after section 7E the following section:-

Section 7F. (a) As used in this section the following terms shall, unless the context clearly requires otherwise have the following meanings:-

"Manufacturing network", a group of five or more private sector firms engaged in trade which work cooperatively to improve competitiveness; the network may also include industry associations and universities.

"Trade", firms that sell their goods or services into markets for which national or international competition exists.

(b) The Bay State Skills Corporation, hereinafter referred to as "the corporation," shall support the creation and development of manufacturing networks to enhance the quality of Massachusetts manufactured products and improve the national and international competitiveness of Massachusetts manufacturing firms.

The corporation shall provide manufacturing network grants based on criteria established by its board. The corporation shall not grant, in any fiscal year, more than fifteen percent of funds appropriated for manufacturing networks to any one network. State funds for each network shall be matched in at least an equal amount by the members of the network, provided however that up to seventy-five percent of the matching funds may be in the form of in-kind contributions, which may include personnel and shall be included in the report required by subsection (c).

The corporation shall assist manufacturing networks to:

(1) share, develop and finance improvements and innovation in manufacturing technology;

(2) improve productivity, including but not limited to, total quality management, statistical quality control and just-in-time production;

(3) enhance work force development and employee training;

(4) access new export markets;

(5) improve work organization and management practices, including but not limited to increasing front-line employee responsibility and participation;

(6) convert from military- to civilian-based production;

(7) meet environmental standards or regulations;

(8) reduce employee health care costs and improve workplace safety; and

(9) engage in other related activities.

(c) The Bay State Skills Corporation shall annually file with the clerks of the senate and the house of representatives on or before January first, a report of its activities in support of manufacturing networks in the commonwealth. Said report shall include, but not be limited to: (1) a financial statement summarizing the corporation activities involving manufacturing networks; (2) the number and types of manufacturers assisted and a description of the assistance provided; and (3) legislative recommendations to enhance the competitiveness of Massachusetts manufacturers.

(d) Said corporation shall work cooperatively with the University of Massachusetts and Industrial Services Program.

SECTION 35. The department of revenue is hereby authorized and directed to investigate and study the impact of the tax credits authorized pursuant to this act upon the state and local economy and the revenues of state and local government. The study shall determine the amount of increased business investment attributable to such tax credits, the additional jobs resulting directly or indirectly from such investments, the gross and net impact on state and local tax revenues, and the adjustments in expenditures on the state and local level resulting directly or indirectly from these tax credits. Said department shall consult with the special commission established pursuant to section three of chapter two hundred and eighteen of the acts of nineteen hundred and ninety-two in the design and execution of the study as well as in the drafting of its report. Said special commission is hereby authorized to continue to meet and consult with said department for the purposes of this study after the date when it is otherwise scheduled to expire. Said department shall report the results of its investigation and study, together with recommendations and drafts of legislation, if any, necessary to carry out such recommendations by filing the same with the clerk of the senate on or before December thirty-first, nineteen hundred and ninety-five.

SECTION 36. There hereby is established a joint government industry task force on innovation and strategic planning. Said task force shall study strategic planning in Massachusetts including without limitation: (a) an analysis of the current world economy and its impact on the economy of Massachusetts; (b) an analysis of each sector and region of the Massachusetts economy to evaluate their strengths and possible areas for improvement; (c) development of a blueprint of state support for critical and emerging

industries; (d) an evaluation and proposal to improve the efficiency and effectiveness of state economic development agencies and quasi-public authorities; and (e) to determine the feasibility of participation in the National Institute of Standards and Technology programs.

Said task force shall also 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, as 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 business at a competitive disadvantage with businesses in other states.

The strategic plan shall be guided by the following principles: (a) economic development programs should focus predominantly on efforts to aid new business creation in Massachusetts and to strengthen existing Massachusetts businesses; (b) economic development should involve a partnership of government, private business, local communities, education and labor; and (c) economic development and environmental protection are compatible objectives. Said task force shall have the power and authority to hire staff or to engage the services of experts.

Said task force shall consist of two members of the senate, one of whom shall be the chairman of the commerce and labor committee, two members of the house of representatives, one of whom shall be the chairman of the commerce and labor committee, the governor or his designee, the secretary of the executive office of economic affairs, the secretary of environmental affairs, the secretary of the executive office of labor, and nine persons to be appointed by the governor who shall be 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, one of whom shall be a representative of the financial service industry, two members of organized labor, one of whom shall be an economist who shall have expertise in the area of local, state, and federal economies, two of whom shall be individuals who teach at educational institutions, one of whom shall be selected by the Association of Independent Colleges and Universities of Massachusetts, and one of whom shall teach at a public institution and who shall be selected by the Higher Education Coordinating Council, the executive directors of the Bay State Skills Corporation, the Massachusetts Industrial Finance Agency, the Community Development Finance Corporation, the Massachusetts Office of Business Development, and the Massachusetts Technology Development Corporation; and one representative appointed by the Massachusetts Association of Community Development Corporations.

Said task force shall, on or before January first, nineteen hundred and ninety-four, file a report identifying the types of statutes and regulations previously listed with the house and senate committees on ways and means. Said report shall include a recommended course of action for each statute of regulation identified. Said report shall include recommendations for legislative reforms and regulations for regulatory reform.

SECTION 37. There is hereby established a special commission to study the

economic impact of the absence of a sales tax in the state of New Hampshire on the area of the commonwealth known as the Merrimack valley.

Members of said commission shall be comprised of the house and senate chairmen of the taxation committee or their designees, the secretary of economic affairs or his designee, the presidents of the five Merrimack valley chambers of commerce or their designees, the executive director of the Merrimack valley planning commission or his designee, the executive director of the lower Merrimack valley regional employment board or his designee, and the president of the joint labor council of greater-Lawrence and greater-Haverhill or his designee. The state legislative delegation from the Merrimack valley shall be ex-officio members of said commission.

Said commission shall hold a series of hearings in the Merrimack valley area to elicit ideas and establish a plan to address the problems and concerns of the businesses and consumers of the Merrimack valley as a consequence of the proximity to the border of the state of New Hampshire and the lack of a sales tax therein. Said commission shall submit a report, including any recommendations for legislation together with any remedies to enhance and develop the economic stability of the area known as the Merrimack valley, to the clerk of the house and the clerk of the senate by the first Wednesday in May, nineteen hundred and ninety-three.

SECTION 38. The Community Development Finance Corporation is hereby ordered to conduct the necessary study and investigation to ensure the preparation and submission of applications to the United States Department of Housing and Urban Development for the capitalization and operation of two community investment banks in Massachusetts, in accordance with Title VIII of the Housing and Community Development Act of 1992, or any legislation in succession thereto. The banks so authorized shall be depository institutions which shall target investment activities in economically depressed neighborhoods or municipalities for the purpose of arresting the process of disinvestment and encouraging rehabilitation, job creation, and capital improvement, with an emphasis on assisting low and moderate income residents. Each bank shall be capitalized with a combination of private funds, federal assistance, and state funds, subject to appropriation. If federal funds for this purpose are not appropriated by January first, nineteen hundred and ninety-four, the corporation shall make recommendations to the legislature within one month after such date regarding means to ensure the capitalization of said banks without federal assistance.

SECTION 39. (a) In order to promote, develop and revitalize the fishing industry in Massachusetts and identify future growth potential of the commonwealth's coastal waters, the department of fisheries, wildlife and environmental law enforcement, hereinafter "the department," shall complete a strategic plan for the future of the industry.

(b) The strategic plan shall investigate and make recommendations on a strategy for the commonwealth to fully develop aquaculture, fish farming, species enhancement, fisheries management, and industry protection and development.

(c) The department shall seek input from the executive office of economic affairs, the marine studies programs at the University of Massachusetts at Dartmouth and the

University of Massachusetts at Boston, the Massachusetts Maritime Academy, and the Woods Hole Oceanographic Institute. The department will also seek the participation of other academic institutions and relevant organizations, and representatives of the fishing industry, including but not limited to, representatives from New Bedford and Gloucester.

(d) The department shall report to the general court the results of its investigation and its strategic plan, together with drafts of legislation necessary to put the strategic plan's 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-four.

SECTION 40. There shall be established within the executive office of environmental affairs a Forum for Innovative and Alternative Technologies. Said Forum shall be chaired by and appointed by the secretary of environmental affairs and shall consist of the secretary of environmental affairs or his designee, the secretary of economic affairs or his designee, the commissioner of the department of environmental protection, the house and senate chairs of the joint committee on natural resources or their designees, three representatives of the environmental business council, two representatives of the environmental community, and a representative of the Boston chamber of commerce. The purpose of said Forum shall be to review developing technologies in the fields of environmental protection or environmental cleanup. The review shall be for the purpose of determining the viability of the technology.

The Forum shall examine the viability and costs relative to a research and development credit of five percent to emerging and established envirotech companies for technologies which have been reviewed and approved by said Forum. Said Forum shall examine the viability and costs of a corporate tax credit of five percent to envirotech companies for five years after being permitted and operational. Said Forum shall report their findings to the joint committee on taxation and the house and senate committees on ways and means no later than September first, nineteen hundred and ninety-three.

SECTION 41. The Forum for Innovative and Alternative Technologies established by section forty shall conduct an investigation and study into the advisability, benefits, and costs of establishing a five percent corporate excise credit for the investment in pollution control technologies by corporations in the commonwealth and a five percent corporate excise credit for corporations in the commonwealth that are engaged in the manufacturing of pollution control technologies. Said Forum shall report its findings to the house and senate committees on ways and means no later than September first, nineteen hundred and ninety-three.

SECTION 42. Chapter 133 of the acts of 1992 is hereby amended by inserting after section 596 the following section:-

Section 596A. The provisions of sections four hundred and eight and four hundred and nine shall take effect on January fifth, ninteen hundred and ninety-three.

SECTION 43. The department of revenue shall prepare a study of the credit allowed under section seventeen. The study shall evaluate and compare the revenue cost and effectiveness of these credits. The department shall report the actual tax revenue cost of the investment credits given in this section and as utilized by eligible corporations. Further, the

study shall report the actual number of corporations that utilize the credit and the number of corporations that are potentially eligible to claim the credit. Further, the study shall evaluate and report the effectiveness of the Massachusetts investment tax credit allowed under this section as a means of creating jobs within the commonwealth. The department shall present the results of this study to the joint committee on taxation no later than November thirty, nineteen hundred and ninety-six.

SECTION 44. Notwithstanding the provisions of any general or special law to the contrary any proceeds up to fifteen million dollars received from bonds or other debt issued after the effective date of this act, pursuant to clause (j) of section four of chapter two hundred and twelve of the acts of nineteen hundred and seventy-five, shall be deposited in the emerging technologies fund as established by section eight C of said chapter two hundred and twelve, inserted by section twenty-seven of this act.

SECTION 45. Section forty-two shall take effect as of July first, nineteen hundred and ninety-two.

SECTION 46. Sections fifteen, sixteen and eighteen shall apply to tax years commencing on or after January first, nineteen hundred and ninety-three.

SECTION 47. Clause (3) of paragraph (3) of subsection (r) of section 1 of chapter 151A of the General Laws, as appearing in section twenty-one of this act, shall only be applicable to those claims filed on or after March seventh, nineteen hundred and ninety-three.

SECTION 48. Section twenty-nine of this act shall take effect as of September sixth, nineteen hundred and ninety-two.

SECTION 49. Section forty-seven shall take effect as of March seventh, nineteen hundred and ninety-three.

SECTION 50. This act shall take effect upon its passage.

Approved March 9, 1993.

Chapter 20. AN ACT RELATIVE TO CERTAIN LIBRARIES IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately make funds available to certain libraries, 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 153 of the acts of 1992 is hereby amended by striking out section 63 and inserting in place thereof the following section:-

Section 63. Notwithstanding the provisions of section nineteen A of chapter seventy-eight of the General Laws or any other general or special law to the contrary, for fiscal years nineteen hundred and ninety-three, nineteen hundred and ninety-four, and

nineteen hundred and ninety-five, the board of library commissioners shall certify as eligible to receive financial aid from the commonwealth pursuant to said section nineteen A and the state treasurer shall pay to any city or town which as of January first, nineteen hundred and ninety-three is under receivership and any city or town, which in order to secure financial stability there has been established in accordance with law a finance control board as of January first, nineteen hundred and ninety-three, which shall include as members, without limitation, the secretary of administration and finance or his designee, the commissioner of revenue or his designee and the director of accounts or his designee, a sum of money in an amount not less than fifty cents for each resident in such city or town, plus an amount equal to any additional monies which would be available to such city or town under the provisions of paragraphs (3) and (4) of said section nineteen A of said chapter seventy-eight if such city or town were eligible thereunder; provided, however, that such city or town shall not be required to appropriate any minimum sum of money for such year or any preceding years and notwithstanding the failure of such city or town to comply with any requirement or standard set forth in said chapter seventy-eight or in any other general or special law or in any rule or regulation promulgated pursuant thereto or established by said board of library commissioners and no such city or town shall be required to obtain any waiver of any such requirements or standards.

Approved March 11, 1993.

Chapter 21. AN ACT RELATIVE TO THE EXCHANGE OF CERTAIN LAND BY THE COMMONWEALTH AND THE TOWN OF FRAMINGHAM.

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, the commissioner of the division of capital planning and operations is hereby authorized to convey a certain parcel of land located in the town of Framingham to the town of Framingham. Said land contains 35.5467 acres, more or less, as shown on a plan entitled "Plan of Land in Framingham, Massachusetts owned by the Commonwealth of Massachusetts, scale 1"=8', dated February 20, 1980, survey, by MacCarthy and Sullivan Engineering, Joseph R. Sullivan, Registered Land Surveyor". Said parcel was acquired by the commonwealth under the provisions of section one of chapter four hundred and nineteen of the acts of nineteen hundred and eighty-five.

SECTION 2. Said commissioner shall not effect the conveyance set forth in section one unless and until the town of Framingham conveys, by deed, the following two parcels of land located in said town to the commonwealth.

Parcel one, containing six acres, is situated on Western Avenue and is bounded on the west by Western Avenue, to the north by land set forth in section one to a point along Course Brook, to the east by land owned by the town of Framingham described herein as parcel two and to the south by the Framingham-Sherborn town line. Said parcel is the parcel

conveyed to the town of Framingham under the provisions of section two of chapter four hundred and nineteen of the acts of nineteen hundred and eighty-five.

Parcel two, containing twenty-nine acres, more or less, is situated on Merchant Road and is bounded on the west by land described herein as parcel one, to the north along Course Brook and land set forth in section one and by land owned by the commonwealth and formerly used by the Massachusetts Correctional Institution, Framingham, to the east by Merchant Road, and to the southeast by the property line of Hodder Cottage including the land consisting of three acres, more or less, owned by the commonwealth, and to the south by the Framingham-Sherborn town line. Said parcel is the parcel conveyed to the town of Framingham under the provisions of section three of chapter four hundred and nineteen of the acts of nineteen hundred and eighty-five.

SECTION 3. 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, but subject to the provisions of section seven of chapter four hundred and nineteen of the acts of nineteen hundred and eighty-five and section four A of chapter thirty-three of the General Laws, the commissioner of the division of capital planning and operations is hereby authorized and directed to transfer the care and control of a certain parcel of state-owned land and buildings thereon, as described herein, to the National Lancers, a unit of the organized militia of the commonwealth established by sections four and four A of said chapter thirty-three, for a period of ninety-nine years, for the purpose of providing said National Lancers suitable stable facilities, pasture and grazing lands and drill areas.

Said land and buildings are bounded and described as follows:-

All state-owned land and buildings thereon, except those exempted and described herein, bounded at the south by the Framingham-Sherborn town line, at the west by Merchant road and Western avenue, at the north by Leland street, and at the east by a boundary line extending from said Leland street to said Framingham-Sherborn town line as shown on the Assessors Plan of the Town of Framingham, sheet 181, blocks 413-414, as compiled by the Works Progress Administration of Massachusetts, dated January fourteenth, nineteen hundred and fifty-five and on file in said assessors office, or any amendments thereto.

Said land shall not include any and all state-owned land leased to the Town of Framingham as authorized, and described therein, by section six of chapter four hundred and nineteen of the acts of nineteen hundred and eighty-five, and presently being used as a town snow dump.

Said land shall not include the land and building thereon at number three Merchant road, commonly known as Wilson hall, presently being used as the Framingham Detox Center and occupied by the South Middlesex Alcohol Services.

In the event that said land ceases to be used at any time for the purposes described herein, said land shall revert to the care and control of the division of capital planning and operations and any further disposition of said land and buildings thereon shall be subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws.

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

Approved March 15, 1993.

Chapter 22. 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 made 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 from the date of issuance in the calendar year nineteen hundred and ninety-three, provided, however, that all such notes shall be payable by June thirtieth, nineteen hundred and ninety-six, as recommended by the governor, in a message to the general court dated January twelfth, nineteen hundred and ninety-three in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

Approved March 15, 1993.

Chapter 23. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT EASEMENTS OVER CERTAIN PARK LAND IN THE TOWN OF HOLBROOK.

Be it enacted, etc., as follows:

SECTION 1. The commissioner 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 access and utility easements located in the town of Holbrook to an individual or entity, subject to the requirements of sections two to four, inclusive, and to such terms and conditions as the commissioner may prescribe in consultation with the department of environmental management, said easements being described as follows:

Said emergency access and utility easements being over land owned by the commonwealth, under the care and control of the division of forest and parks, as shown as proposed roadway easement area of 3043 + S.F. upon Lot A shown on a plan entitled "Easement Plan, Plan of Land, Holbrook, Mass., Lot A Pine Street", dated November 13, 1987; scale 1" 40'; drawn by John Levreault, Levreault Engineering, Holbrook, Mass. 02343 and on file with the division of capital planning and operations and to be recorded with said conveyance of easement interests.

SECTION 2. No deed conveying by or on behalf of the commonwealth easements

described in section one shall be valid unless such deed provides that said easements shall be used for the purpose of emergency access to George street in the town of Holbrook and the installation, construction and maintenance of utilities by the town of Holbrook.

SECTION 3. If the use 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 capital planning and operations may prescribe.

SECTION 4. The recipient of the easements described in section one shall assume the costs of any appraisals, surveys, and other expenses as deemed necessary by the commissioner of capital planning and operations for the granting of such easements.

Approved March 16, 1993.

Chapter 24. AN ACT ESTABLISHING A SICK LEAVE BANK FOR A CERTAIN EMPLOYEE OF THE DEPARTMENT OF EDUCATION.

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 department of education, 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, rule or regulation to the contrary, the department of education is hereby authorized and directed to establish a sick leave bank for Lawrence Witty, an employee of said department. Each employee of the department of education may voluntarily contribute one or more of his sick, personal or vacation days to said sick leave bank for use by said Lawrence Witty.

SECTION 2. This act shall take effect as of February twenty-sixth, nineteen hundred and ninety-three.

The foregoing was laid before the Governor on the fourth day of March, 1993 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him with his objections thereto within that time.

Chapter 25. AN ACT ESTABLISHING A DEPARTMENT OF FINANCE IN THE TOWN OF BROOKLINE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law, bylaw or rule or regulation to the contrary, there is hereby established in the town of Brookline a

department of finance, hereinafter referred to as "the department", which shall be responsible for the overall management and administration of the town's financial and administrative support services, subject to the policies of the board of selectmen and the direction of the town administrator.

SECTION 2. It is the intention of this act to consolidate all of the fiscal and financially related activities and functions of the town into a single department in order to attain efficiencies and economies of scale, to reduce or eliminate duplication and overlapping of services, responsibilities and functions, and to improve the communication and coordination between and among the various offices and agencies of the town. It is the further inten-tion of this act that the director of finance, hereinafter described, shall be authorized to assign responsibilities and functions between and among personnel within the department, permanently or, from time to time, without regard to the lines of responsibilities which have previously been associated with the several offices herein consolidated.

SECTION 3. The department shall assume and be responsible for the present functions and statutory duties of the offices of comptroller, treasurer/collector, purchasing, assess-ing and information services. Said functions shall include, but not be limited to, the following:

i. coordination of all financial services and activities of the town;

ii. maintenance of all accounting records and other financial statements for the town;

iii. payment of all financial obligations on behalf of the town;

iv. investment of town funds and management of debt;

v. receipt of all funds due the town from any source;

vi. maintenance of the system of property valuation;

vii. rendering of advice, assistance, guidance and recommendations to all town offices and agencies in any financial or fiscal affairs;

viii. monitoring throughout the fiscal year the expenditure of funds by town offices and agencies;

ix. general supervision of the purchase and procurement of all goods, services, materials, supplies and equipment by the town;

x. general supervision of all data processing functions, activities and equipment of town offices and agencies; and

xi. such other activities as may be assigned by the town administrator, with the approval of the board of selectmen.

SECTION 4. A. There shall be a director of finance, hereinafter referred to as "the director", appointed by the board of selectmen in accordance with the provisions of chapter two hundred and seventy of the acts of nineteen hundred and eighty-five. Such appointment shall be made annually for a term of one year commencing July first until the appointment and qualification of a successor.

B. The director shall be a person especially fitted by education, training and experience to perform the duties and exercise the powers of the office.

C. The director shall be responsible for the effective operation and coordination of operations within the department, including the assessing, purchasing, procurement, account-

ing, tax and associated collecting and treasury functions, and the development and maintenance functions of information services. Said director shall be responsible for all of the fiscal and financial affairs of the town. Said director shall exercise the responsibilities of the office in accordance with policies adopted by the board of selectmen and in accordance with all laws, statutes, bylaws, rules and regulations and in accordance with generally accepted governmental financial practices. Said director shall be cognizant of the statutory responsibilities and duties of the board of assessors and the statutory duties and responsibilities of all of the divisions and officers within said department and shall consult with such divisions and officers to ensure that these duties and responsibilities are properly exercised and discharged. Said director shall make recommendations to the town administrator concerning the appointment and removal of the comptroller, treasurer/collector, chief procurement officer, chief assessor, and manager of information services.

Each division head shall appoint and may remove all personnel within the division, subject to the approval of the director.

The director shall exercise administrative control and direction of the department. Said director shall be responsible to and shall report to the town administrator. The board of selectmen may appoint the director to serve as the head of any one division.

In addition to supervising and directing the effective functioning of the divisions of treasury, accounts, purchasing, assessing and information services, the director shall have the following specific powers and duties:

i. to assign and reassign all personnel within the department, including reassigning personnel between divisions;

ii. to be responsible for the efficient coordination and implementation of the town's financial functions and to advise the town administrator and board of selectmen of issues requiring their attention;

iii. to direct and oversee the accounting and auditing functions, including those set forth in sections fifty to sixty-one, inclusive, of chapter forty-one of the General Laws and to issue monthly reports to the board of selectmen, the town administrator, the school committee, the school superintendent and all department heads on the status of expenditures, revenues and financial policy;

iv. to process and record all departmental payrolls;

v. to review all invoices and payments to ensure that all expenditures are made in accordance with approved budgets and applicable laws;

vi. to coordinate, for all town offices and agencies, the purchase, lease or disposal of all goods, supplies or items pursuant to the provisions of chapter thirty B of the General Laws;

vii. to maintain a full and complete inventory of town property;

viii. to assist the town administrator in the preparation of the annual financial plan;

ix. to be responsible for the preparation of the department's annual budget and annual town report, the expenditures of said department, and the administration of the town's personnel rules for said department;

x. to oversee and coordinate the data processing operations and systems of the town

in accordance with the directives and priorities of the board of selectmen, the town administrator and the town administrator's information services steering committee;

xi. to oversee the maintenance of assessments for all property in the town and the issuance of property tax and motor vehicle excise tax bills;

xii. to coordinate and oversee the collection, custody, investment and disbursement of all town funds;

xiii. to assist the town's independent auditor in conducting the town's annual audit by providing all the required financial records;

xiv. to administer the town's casualty and liability insurance program; and

xv. to perform such other duties as assigned by the board of selectmen or town administrator.

SECTION 5. The department of finance shall consist of the following divisions:

A. The division of accounts shall perform the auditing and accounting functions for the town, including those set forth in sections fifty to sixty-one, inclusive of chapter forty-one of the General Laws. The comptroller, shall be in charge of the division. Said comptroller shall be responsible to and shall report to the director. The division of accounts shall be responsible for the following:

i. the maintenance of accounts for all financial transactions of the town;

ii. the preaudit of all purchase orders, receipts and disbursements;

iii. the preparation of payrolls;

iv. the preparation of warrants for the town administrator's approval;

v. the preparation of monthly and annual financial reports on the status of departmental expenditures and revenues;

vi. the maintenance of centralized grant and contract files; and

vii. the performance of such other duties as prescribed by law or as may be assigned by the director.

B. The division of treasury shall be under the management and control of the treasurer/collector, who shall be appointed by the board of selectmen in accordance with the provisions of chapter two hundred and seventy of the acts of nineteen hundred and eighty-five. The treasurer/collector shall be responsible to and shall report to the director. The division of treasury shall be responsible for the following:

i. billing and collection of all taxes, special assessments, utility bills and other revenues due the town;

ii. custody and maintenance of all investments and town funds;

iii. responsibility for all borrowings and implementation of an effective cash management program;

iv. the rendering of timely reports to the comptroller on all receipts and disbursements and reconciliation of all accounts at least monthly; and

v. performance of such other duties as prescribed by law or as may be assigned by the director.

C. The division of assessing shall be under the management and control of the chief assessor, who shall be appointed by the board of selectmen in accordance with the provisions

of chapter two hundred and seventy of the acts of nineteen hundred and eighty-five. There shall be a board of assessors, also appointed by the board of selectmen, which shall perform and discharge all of the duties and responsibilities assigned to assessors by law. The chief assessor shall be a member of and serve as the chairperson of said board of assessors. Said board of assessors shall exercise independent authority in the performance of its statutory duties and the establishment of assessing policies. The chief assessor shall be responsible for the proper administration of the office and shall ensure that all statutory and assigned duties and responsibilities are properly exercised. Said chief assessor shall be responsible to and shall report to the director. The division of assessing shall be responsible for the following:

i. establishing the valuation of all real and personal property;

ii. preparing and issuing commitments for property taxes and motor vehicle excises for collection by the treasurer/collector;

iii. preparing bills and issuing commitments for payments in lieu of taxes from projects undertaken pursuant to the provisions of chapter one hundred and twenty-one A of the General Laws and the Brookline housing authority, for collection by the treasurer/collector;

iv. acting on abatement and exemption applications and representing the town at the appellate tax board; and

v. performing such other duties as prescribed by law or as may be assigned by the director.

D. The division of purchasing shall be under the management and control of the chief procurement officer, who shall be appointed by the board of selectmen in accordance with the provisions of chapter two hundred and seventy of the acts of nineteen hundred and eighty-five. The chief procurement officer shall be responsible to and shall report to the director. The division of purchasing shall be responsible for the following:

i. procuring supplies and services and dispose of personal property in accordance with the provisions of chapter thirty B of the General Laws;

ii. establishing standards and specifications relative to any items of purchase, which shall be binding upon the departments;

iii. maintaining a central stores system;

iv. coordinating the town's casualty and liability insurance program;

v. providing support services, including staffing when so designated, for the board of selectmen's insurance advisory committee;

vi. providing support services, including staffing when so designated, for the emergency medical services committee;

vii. maintaining a current inventory of certain town property and equipment;

viii. requiring an officer or department head to furnish information necessary for the operation of the division of purchasing; and

ix. performing such other duties as prescribed by law or as may be assigned by the director.

E. The division of information services shall be under the management and control of the manager of information services, who shall be appointed by the board of selectmen

in accordance with the provisions of chapter two hundred and seventy of the acts of nineteen hundred and eighty-five. The manager of information services shall be responsible to and shall report to the director. The division of information services shall be responsible for the following:

i. providing and coordinating computer and information services for all departments;

ii. providing computer support services to all departments;

iii. developing new or enhanced programs to improve the efficiency of information processing;

iv. advising appropriate town officials on technological advances, new procedures or organizational changes that will improve the operations of the town; and

v. performing such other duties as may be prescribed by law or as may be assigned by the director.

The town administrator shall appoint an information services steering committee consisting of the heads of the major user departments, or their designees, which shall provide guidance to, and establish priorities for, the division of information services. The town administrator, or his designee, shall serve as chairperson of said committee.

SECTION 6. (A) This act shall take effect on July first, nineteen hundred and ninety-three, except as it applies to the appointment of the treasurer/collector.

The provisions of this act providing for the appointment of the treasurer/collector shall be placed on the ballot for approval of the following question, on a ballot, by a majority of the persons voting thereon in Brookline:

"Shall the provisions of an act providing for the appointment of Treasurer/Collector in the Town of Brookline be accepted?"

Upon the approval of said question, the term of office of the present treasurer/ collector shall expire and the office shall be filled by appointment by the board of selectmen. The position of treasurer/collector shall be subject to all other applicable requirements and provisions of this act.

Any person holding any office or position in a town agency affected by the provisions of this act shall continue in such office or position, subject to further assignment, order of the director or expiration of the current term of office. All such officers and employees serving in such town agencies shall be continued in the service of the town, subject to the foregoing, without loss of pay or benefit to which they might otherwise have been entitled. Positions within the department shall not be subject to the civil service law; provided, however, except that existing employees within the department with civil service status shall retain such civil service status.

(B) The town, by bylaw, may establish additional requirements and standards for the department of finance and may modify and amend the organization and structure of said department; provided, however, that all such modifications and amendments are consistent with the provisions and purposes set forth in sections two and three of this act or the provisions of any act relative thereto.

Approved March 25, 1993.

Chapter 26. AN ACT MAKING AN APPROPRIATION FOR THE STATE RACING COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. To provide supplemental funds for the costs of the state racing commission, the sum set forth in section two is hereby appropriated from the General Fund for the purposes and subject to the conditions specified in chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two, including the fund designation of said chapter one hundred and thirty-three, and subject to the provisions of law regulating the disbursements of public funds. The sum so appropriated is in addition to any amounts available for said purpose.

SECTION 2.

Item

EXECUTIVE OFFICE OF CONSUMER AFFAIRS.

State Racing Commission.

9210-0001 845,000

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

Approved March 25, 1993.

Chapter 27. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF DOUGLAS.

Be it enacted, etc., as follows:

SECTION 1. Any holder of an elective office in the town of Douglas may be recalled therefrom by the qualified voters of said town as herein provided.

SECTION 2. Any qualified two hundred voters of the town of Douglas 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 for recall. Said town clerk shall thereupon deliver to said voters making the affidavit sufficient number of copies of printed recall petition blanks demanding such recall, printed forms of which he shall make available. The blanks shall be issued by the town clerk with his signature and the official seal attached thereto. They shall be dated, shall be addressed to the selectmen and shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought, the office held by said person, 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 recorded book to be kept in the office of the town clerk. The recall petition shall be returned and filed with the town clerk within thirty days after the filing of the affidavit and shall have been signed by at least twenty percent of the voters 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 registrars of voters in the town, and the registrars shall forthwith certify thereon the number of signatures which are names of qualified voters of 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 without delay, and the selectmen shall forthwith give written notice of the receipt of the notice 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 days nor more than seventy-five days after the date of the town clerk's certificate that a sufficient petition be 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 ordered, the 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 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 the law relating to elections, unless otherwise provided in section seven.

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 the 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 and office held)

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 proposition shall appear the word "candidates", the directions 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 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 votes on the question is in the negative, the ballots for candidates need not be counted.

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 subject 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 two years after such recall or such resignation.

SECTION 9. In acting on a home-rule charter on any date subsequent to the effective date of this act, the town meeting may: (*a*) include sections one to eight, inclusive, as part of the charter; or (*b*) amend said sections one to eight in any way it chooses and include amended said sections one to eight as part of the charter; or (*c*) exclude said sections one to eight from the charter.

SECTION 10. This act shall take effect upon its passage.

Approved March 26, 1993.

Chapter 28. AN ACT RELATIVE TO SAVINGS BANK LIFE INSURANCE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately clarify the liability of the Savings Bank Life Insurance Company of Massachusetts, 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 499 of the acts of 1990 is hereby amended by inserting after section 20 the following section:-

Section 20A. All policies and contracts subject to chapter one hundred and seventy-eight A of the General Laws shall be eligible for coverage in Massachusetts Life and Health Insurance Guaranty Association created pursuant to subsection (6) of section one hundred and forty-six B of chapter one hundred and seventy-five of the General Laws. The Savings Bank Life Insurance Company of Massachusetts shall be a member of said association as of January first, nineteen hundred and ninety-two and shall not be assessed in any manner for insolvencies or impairments of member insurers occurring prior to January first, nineteen hundred and ninety-two. For insolvencies or impairments of member insurers occurring on or after January first, nineteen hundred and ninety-two, assessments against The Savings Bank Life Insurance Company of Massachusetts shall be computed in accordance with the provisions of subsection (9) of said section one hundred and forty-six B of said chapter one hundred and seventy-five.

SECTION 2. Any amounts paid by or assessed to The Savings Bank Life Insurance Company of Massachusetts as Class B assessments under section one hundred and forty-six B of chapter one hundred and seventy-five of the General Laws in connection with insolvencies or impairments of member insurers occurring prior to January first, nineteen hundred and ninety-two shall be returned to said company or rescinded.

SECTION 3. The provisions of section one shall take effect as of January first, nineteen hundred and ninety-two.

Approved March 26, 1993.

Chapter 29. AN ACT ESTABLISHING A SICK LEAVE BANK FOR AN EMPLOYEE OF THE TAUNTON STATE HOSPITAL.

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 department of mental health, Unit 7 at the Taunton state hospital, 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, rule or regulation to the contrary, the department of mental health is hereby authorized and directed to establish a sick leave bank for registered nurse supervisor, Elizabeth J. Deal, Unit 7, Taunton state hospital in said department. Any employee of said Taunton state hospital, Unit 7, may voluntarily contribute one or more of his vacation, sick or personal days to said sick leave bank for use by said Elizabeth J. Deal.

The foregoing was laid before the Governor on the eighth day of March, 1993 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him with his objections thereto within that time.

Chapter 30. AN ACT AUTHORIZING THE CITY OF BEVERLY TO AMORTIZE THE REVENUE DEFICIT OVER A PERIOD OF THREE YEARS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the city of Beverly is hereby authorized to capitalize certain sums, the amortization amount, and fund the amortization amount over a period starting with fiscal year nineteen hundred and ninety-three and not exceeding three years, except as provided in this act. Unless determined otherwise pursuant to the provisions of this act, the amortization amount shall be the projected revenue deficit of five million, four hundred seventy-six thousand and fifty-five dollars, notwithstanding that the undesignated fund balance deficit is seven million, eight hundred twenty-three thousand, nine hundred dollars. At such time as the commissioner of revenue certifies that no further amortization as provided for herein is necessary as a result of the full funding and elimination of the amortization amount, all powers, rights, duties, obligations and requirements arising exclusively pursuant to the provisions of this act

shall expire; provided, however, that the aforementioned amortization amount may be increased or decreased by said city of Beverly, with the approval of the commissioner of revenue, based upon financial information reported and certified by the city's independent certified public accounting firm. For fiscal year nineteen hundred and ninety-three, and fully subject to the provisions and limitations of section twenty-one C of chapter fifty-nine of the General Laws, the board of assessors of said city of Beverly, may, subject to the approval of the commissioner of revenue, deduct such portion of the amortization amount as the commissioner approves as consistent with the terms, requirements and purposes of the remedial plan provided for herein from the amount to be assessed pursuant to section twenty-three of said chapter fifty-nine. Under the conditions imposed herein, the assessors of said city of Beverly may similarly deduct for fiscal year nineteen hundred and ninety-four such portion of the amortization amount as the commissioner of revenue approves from the amount to be assessed for that fiscal year pursuant to said section twenty-three of said chapter fifty-nine. The deductions as are herein authorized for the fiscal years nineteen hundred and ninety-three and nineteen hundred and ninety-four shall be permissible only to the extent that said commissioner of revenue determines and approves in each of those fiscal years that such deduction is necessary and appropriate to achieving and maintaining fiscal stability in said city of Beverly.

As a condition of any amortization under authority of this act, said city of Beverly shall develop and adopt by vote of the board of aldermen with the approval of the mayor a three year remedial plan, acceptable to the commissioner of revenue, for implementing budgetary and fiscal initiatives to eliminate financial deficits and the recurrence thereof and restore fiscal stability in said city of Beverly. The plan shall contain a schedule of budgetary and operational actions and establish financial objectives and timetables to eliminate deficits and produce balanced budgets, and shall also include initiatives that will result in (*a*) improved budgetary and expenditure controls; (*b*) timely and supportable projections of anticipated revenues of all city departments and municipal enterprises for the ensuing fiscal year for use in the annual budget process; (*c*) monthly reporting by the city auditor/finance director for all city departments, boards and commissions of all receipts and expenditures of the month. Such reports shall include a comparison of actual expenditures to projected expenditures for the month, and actual receipts for the month to projected receipts for the month and actual receipts of the same month of the prior fiscal year; (*d*) quarterly reports of staffing levels and personnel changes for all city departments, including a summary of reductions in force, appointments to existing positions, new positions created, appointments to such new positions, and such other personnel expense information as the commissioner of revenue shall determine is relevant to achieving and maintaining fiscal stability in the city; (*e*) quarterly reports projecting personnel requirements and expenses for all city departments, boards and commissions for the ensuing fiscal quarter and the remainder of the then current fiscal year; (f) timely departmental financial reporting, prompt closure of the city's annual accounting records and issuance of annual financial statements, and the submission of the schedule A, so-called, and city balance sheet of the prior fiscal year to the commissioner of revenue on or before December fifteenth of each year; (*g*) procedures or programs for the

improved collection of delinquent taxes, excises, user fees and other municipal accounts receivable. All statements, reports, summaries or other financial information produced pursuant to the foregoing requirements shall be submitted to the mayor, board of aldermen and the city auditor/finance director, and upon a request therefor to the commissioner of revenue.

In the event that the remedial plan adopted by said city of Beverly fails to receive the commissioner of revenue's approval, or a plan approved by the commissioner is not adhered to, whether in whole or in part, or its financial objectives or goals are not achieved, such failure in and of itself shall be a sufficient basis for the commissioner to deny or suspend approval of any amortization or deduction authorized under this act. Notwithstanding the foregoing, an approved and accepted remedial plan may be altered, amended or changed by said city of Beverly provided that said commissioner of revenue approves each alteration, amendment or change.

Except as is expressly provided for herein, this act shall not authorize or permit any alteration in the maintenance of said city of Beverly's accounts nor in the procedures whereby the assessors annually determine the amount of taxes to be assessed.

The commissioner of revenue is further authorized to require, as a condition of his annual approval of the amortization and deductions as are provided for herein, that the city of Beverly:

(*a*) submit for said commissioner's review a copy of the proposed annual budget document as well as any supplemental appropriation orders as may from time to time be made. The commissioner may further require that the city of Beverly incorporate in such annual budget document and supplemental appropriation orders such specific expenditure, revenue or other financial information as he deems reasonable or useful to ensure a balanced annual budget and promote fiscal stability in said city of Beverly.

(*b*) submit to said commissioner within three days of its enactment, or such longer time period as is approved by said commissioner, a certified copy of the annual appropriation order, together with an annual revenue budget for the year and a statement of all expenditures and liabilities for the year that will not be raised within the annual appro-priation order. The aforementioned annual revenue budget and statement of expenditures and liabilities shall be in such form and detail as is prescribed by said commissioner and shall be approved by the mayor and by vote of the board of aldermen of the city. Said city of Beverly shall submit with the annual appropriation order a detailed summary, with such specificity as said commissioner may require, of all personnel positions authorized or funded by the annual appropriation order.

(*c*) during fiscal years nineteen hundred and ninety-four and nineteen hundred and ninety-five, by action of the city auditor/finance director, produce within thirty days of the conclusion of each month or such other time period as the commissioner deems appropriate, a report comparing the projected and budgeted revenues and appropriations for such month to actual receipts and expenditures for such month. Each such monthly report shall be in the form and detail prescribed by said commissioner, shall be certified by the city auditor/finance director, and shall be submitted to the mayor and board of aldermen. Within three days of a request therefor, a copy of such report shall be transmitted by said city

auditor/finance director to said commissioner of revenue.

SECTION 2. In the event that the commissioner of revenue determines that as a result of unanticipated or extraordinary developments the city of Beverly will not be able to implement all the initiatives, actions and proposals included in the approved remedial plan, eliminate all accrued deficits, and achieve fiscal stability within the three year remedial period without impairing the ability of the city to continue to provide essential public safety and other fundamental governmental services, said commissioner may, upon such terms and conditions as he deems appropriate, allow for the extension of the remedial plan and amortization period as provided for in this act for a period not to exceed one year. In the event that the remedial plan and amortization period is extended, all provisions of this act and powers, duties, rights, obligations and requirements arising thereunder shall, so far as apt, remain fully effective for the period of the extension.

SECTION 3. The city of Beverly shall submit to the commissioner of revenue, in accordance with the schedule prescribed below, a copy of an annual audit report completed by an independent certified public accounting firm selected by said city of Beverly and approved by said commissioner: for fiscal year nineteen hundred and ninety-two, within four-teen days of the effective date of this act or such other date as is approved by said commis-sioner; for fiscal year nineteen hundred and ninety-three, and fiscal years thereafter that are included within the approved remedial plan provided for in this act or a duly approved exten-sion thereof, by December fifteenth immediately succeeding the conclusion of the fiscal year. Such annual audit report shall include such statements, reports and analysis as said commis-sioner may prescribe. For cause shown, the commissioner of revenue may extend the afore-mentioned deadlines. The failure of said city of Beverly to timely submit the aforementioned annual audit reports shall be sufficient cause for the commissioner to deny or suspend approval of any deduction or continued amortization as is authorized by this act.

SECTION 4. In each fiscal year, commencing with fiscal year nineteen hundred and ninety-three, the board of aldermen of the city of Beverly, within sixty days of the issuance of the final audit report for the preceding fiscal year completed in accordance with the provisions of section three of this act, shall conduct a public hearing on the findings and recommendations of the independent auditor. The mayor of said city of Beverly, the city auditor/finance director, a representative of the independent auditor and such other financial officers or city officials as the board of aldermen shall require shall attend such public hearing.

Within thirty days of the issuance of the aforementioned audit report, said city auditor/finance director shall make available and maintain for public inspection in the office of said city auditor/finance director copies of the aforementioned audit report. Within the same thirty day period, said city auditor/finance director shall provide copies of the aforementioned audit report to the city clerk. If provided for by city ordinance, said city auditor/finance director shall make copies of such audit report available for public distribution for such charge as is prescribed by such ordinance.

SECTION 5. During the term of the approved remedial plan as provided for in this act, or a duly authorized extension thereof, no personnel appointment, re-appointment, re-

classification, transfer, promotion, replacement, substitution or other employment action by the city of Beverly after the adoption of the annual budget shall become effective until approved by the board of aldermen and ratified by the commissioner of revenue; or in the case of any of the aforementioned employment actions relating to a position under the authority and control of the school committee, until approved by the school committee and ratified by said commissioner. As a condition of any such ratification, said commissioner may require such information and documentation as he shall deem appropriate to demonstrate that ade-quate financial resources are available to fund such appointment, re-appointment, re-clas-sification, transfer, promotion, replacement, substitution or other employment action and the application of such financial resources will not impair the ability of the city to implement the approved remedial plan, eliminate deficits and restore fiscal stability in said city of Beverly.

SECTION 6. The city of Beverly, in or with respect to fiscal years nineteen hundred and ninety-three, nineteen hundred and ninety-four or nineteen hundred and ninety-five, shall issue no temporary loan in anticipation of taxes or revenue under authority of section four of chapter forty-four of the General Laws or any other similar provision of special law without prior written approval of the commissioner of revenue.

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

Approved March 31, 1993.

Chapter 31. AN ACT AUTHORIZING THE TOWN OF MASHPEE TO CONVEY A CERTAIN PARCEL OF CONSERVATION LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of Mashpee is hereby authorized to convey a certain parcel of conservation land to Russell Peters. Said parcel is shown as Map 13 Block 3 on the 1992 Mashpee assessors' maps.

SECTION 2. In consideration of the conveyance authorized in section one, Russell Peters shall convey a certain parcel of land to the town of Mashpee. Said parcel is shown as Map 36 Block 53 on the 1992 Mashpee assessors' maps.

Approved April 13, 1993.

Chapter 32. AN ACT ESTABLISHING A FUNDING SCHEDULE FOR THE CONTRIBUTORY RETIREMENT SYSTEM OF THE CITY OF ATTLEBORO.

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 contributory retirement system of

the city of Attleboro, said contributory 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; provided, however, that notwithstanding such acceptance of said section twenty-two D, said contributory 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-one as the required payments into the pension fund of the contributory retirement system of the city of Attleboro for the fiscal year commencing July first, nineteen hundred and ninety-two, 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 March fifteenth, nineteen hundred and ninety-three and the resulting revised appropriation shall be issued by said actuary no later than March thirtieth, nineteen hundred and ninety-three.

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

Approved April 13, 1993.

Chapter 33. AN ACT AUTHORIZING THE CITY OF CHELSEA TO USE CERTAIN PARK AND RECREATION LAND AS AN ELEMENTARY AND SECONDARY SCHOOL CAMPUS AND PROVIDING FOR THE TRANSFER OF REAL PROPERTY AT CARTER STREET PLAYGROUND IN THE CITY OF CHELSEA TO THE CITY OF CHELSEA.

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 to the city of Chelsea, for no consideration, and said city of Chelsea is hereby authorized to accept, a parcel of land with the buildings and improvements thereon situated in said city of Chelsea, currently used for recreation and park purposes, and bounded and described as follows:

SOUTHEASTERLY by Carter Street along a 190 feet radius curve, 42.60 feet;

EASTERLY by lands now or formerly of Commonwealth of Massachusetts, 121.30 feet;

EASTERLY by lands now or formerly of Commonwealth of Massachusetts, 164.22 feet;

SOUTHEASTERLY by lands now or formerly of Commonwealth of Massachusetts, 72.00 feet;

NORTHERLY by lands now or formerly of City of Chelsea, 265 feet, more or less;

SOUTHWESTERLY by lands now or formerly of City of Chelsea, 430 feet, more or less.

Together with a right of way extending from Carter Street, being on the now or formerly existing bituminous concrete driveway and walkway, commencing west of the now or formerly existing field house and locker building on Carter Street, 175 feet southeasterly of Orange Street, and thence running

NORTHWESTERLY and being 15 feet and 25 feet in width, shown shaded from points A to B on the plan hereinafter mentioned, 315 feet, more or less, thence running

SOUTHWESTERLY and being 10 feet in width, shown shaded from points B to C on said plan, 150 feet, more or less.

The parcel of land described in this section was conveyed by a deed recorded in the Suffolk county registry of deeds in Book 8094, Page 519 and is shown on a plan recorded therewith.

The parcel of land described in this section shall be conveyed to said city of Chelsea for the construction and use of elementary and secondary educational facilities, facilities for community programs and activities, and recreational uses. Ancillary uses of the property may include parking and circulation, support facilities, and replacement park land.

If said city of Chelsea does not commence construction of a school building or buildings on the parcel of land described in this section within five years after the effective date of this act, said parcel of land and the improvements thereon shall revert to the commonwealth, at the option of the commissioner of the division of capital planning and operations.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the city of Chelsea is hereby authorized to change the use, as provided hereinafter, of a parcel of land located in and owned by said city of Chelsea, currently used for recreation and park purposes, and bounded and described as follows:

Bounded by Carter street, Everett avenue, Revere Beach Parkway, and Orange street, which parcel was taken by said city of Chelsea through the powers and authority of the board of park commissioners of said city of Chelsea in eighteen hundred and ninety-seven for playground purposes, and which parcel is more particularly described in an instrument of taking recorded in the Suffolk county registry of deeds in Book 2452, Page 348, exclusive of *(i)* the parcel of land described in section one of this act, and *(ii)* a northwesterly portion of the parcel, which portion was reserved by the commonwealth by and through the Massachusetts department of public works and is described in a State Highway Layout re-

corded in the Suffolk county registry of deeds in Book 7028, Page 503.

Said city of Chelsea is hereby authorized to use the parcel for the construction and use of elementary and secondary educational facilities, facilities for community programs and activities, and recreational uses. Ancillary uses of the parcel may include parking and circulation, support facilities, and replacement park land.

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

Approved April 13, 1993.

Chapter 34. AN ACT AUTHORIZING THE GRANTING OF CERTAIN EASEMENTS IN THE TOWN OF HARVARD.

Be it enacted, etc., as follows:

The town of Harvard, acting through its board of selectmen, is hereby authorized to grant certain easements in certain park land in said town of Harvard, in perpetuity, for the purpose of allowing vehicle and pedestrian right of access to the land of the following owners, their heirs, successors and assigns: Robert and Susan Wasserman, First Congregational Unitarian Church, Inc., William A. Lybrand and Drew K. Conger, William J. Salter and Kathryn E. Hewett, Ruth S. Nicholson and William J. Milne, David Craig, Edward F. and Bernadette S. Dillard, David J. and Paula C. Brown, Stephen R. and Madeline Monaghan, Stephen J. Darby, Jr. and Marjorie Darby, Michele F. and Daniel G. Page, Patricia M. Hatch and Fay Carrozza and John Hudson Martin, Jr., said easements being shown on a plan entitled "Plan of Easements Harvard Common Harvard, Massachusetts", dated December, nineteen hundred and ninety-two, and on file in the office of the town clerk in said town.

Approved April 13, 1993.

Chapter 35. AN ACT AUTHORIZING THE CITY OF CHICOPEE TO REFUND CERTAIN TEMPORARY LOANS.

Be it enacted, etc., as follows:

SECTION 1. Section 4 of chapter 378 of the acts of 1984, as amended by section 1 of chapter 46 of the acts of 1990, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- Each such loan shall be payable within ten years from its date, and temporary notes issued under this section for a shorter period of time may be refunded by the issue of other temporary notes maturing within ten years from the date of the original notes; provided, however, that the final principal payment on bonds issued to refund the temporary loan shall be made not later than twenty years from the date of the original notes.

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

Approved April 23, 1993.

Chapter 36. AN ACT RELATIVE TO PROCEDURES FOR CITY BUDGETS IN THE CURRENT YEAR.

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-four.

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-three, the mayor shall not have submitted to the city council the annual budget for the fiscal year ending June thirtieth, nineteen hundred and ninety-four, the city council shall, upon its own initiative, prepare such annual budget by June thirtieth, nineteen hundred and ninety-three, and such budget preparation shall be where applicable subject to the provisions governing the annual budget of the mayor.

SECTION 3. Notwithstanding the provisions of said section thirty-two of said chapter forty-four or any other general or special law to the contrary, commencing July first, nineteen hundred and ninety-three and ending September thirtieth, nineteen hundred and ninety-three, 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 three months if said city has not approved an operating budget for the fiscal year ending June thirtieth, nineteen hundred and ninety-four, because of circumstances beyond its control.

Emergency Letter: April 28, 1993 @ 5:00P.M. Approved April 28, 1993.

Chapter 37. AN ACT DESIGNATING A CERTAIN SECTION OF STATE HIGHWAY ROUTE 122 IN THE CITY OF WORCESTER AS JEWISH WAR VETERANS MEMORIAL HIGHWAY.

Be it enacted, etc., as follows:

The portion of state highway Route 122 which runs west for two miles from Tatnuck

square in the city of Worcester shall be designated and known as the Jewish War Veterans Memorial Highway in recognition of the contribution to the nation and the commonwealth rendered by Jewish veterans.

The department of highways shall erect suitable markers bearing such designation in compliance with the standards of said department.

Approved April 29, 1993.

Chapter 38. AN ACT VALIDATING THE ACTS AND PROCEEDINGS OF THE SPECIAL TOWN MEETING HELD IN THE TOWN OF NORTHBOROUGH ON NOVEMBER NINTH, NINETEEN HUNDRED AND NINETY-TWO.

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 Northborough at its special town meeting held on November ninth, nineteen hundred and ninety-two 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 May 7, 1993.

Chapter 39. AN ACT AUTHORIZING THE COMMISSIONER OF THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE CERTAIN CONSERVATION LAND OWNED BY THE LAWRENCE REDEVELOPMENT AUTHORITY FOR CONSTRUCTION OF A COURTHOUSE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of sections forty E to forty K, inclusive, of chapter seven of the General Laws and pursuant to the provisions of Article 97 of the Amendments to the Massachusetts Constitution, the commissioner of the division of capital planning and operations is hereby authorized to acquire for nominal consideration certain real property located in the city of Lawrence for construction of a courthouse. Said land is described as follows: A certain parcel of land with the buildings thereon situated in Lawrence, Essex County, Massachusetts and bounded: Northerly by Methuen Street; Easterly by Appleton Street; Southerly by the northerly line of Canal Street; and Westerly by Lawrence Street. Together with the right to use the sidewalks and the street in said Canal Street abutting the aforesaid parcel of land for all the usual purposes of a highway and also

the right to use the railway spur track in said Canal Street between Appleton Street and Canal Street and adjacent to and nearest to the building on the above described premises.

SECTION 2. Use of said parcel shall be restricted to courthouse purposes. In the event that construction of a courthouse has not commenced within five years of conveyance, or if the use for the aforesaid purpose ceases at any time, the property shall revert to the Lawrence Redevelopment Authority to be used in accordance with the provisions of chapter five hundred and twelve of the acts of nineteen hundred and eighty, and this act shall be null and void.

SECTION 3. The Lawrence Redevelopment Authority is hereby authorized and directed to convey the real property described in section one to the commonwealth for the construction of a courthouse.

SECTION 4. The department of environmental management is hereby directed to authorize the release of any agreements entered into between the Lawrence Redevelopment Authority and the department of environmental management pursuant to chapter five hundred and twelve of the acts of nineteen hundred and eighty, said agreement being chapter 512-21 of 1980, as dated February 5, 1985 and as amended on August 5, 1986 and again on January 12, 1988. The department of environmental management shall condition such release upon whether the commonwealth's acquisition and use of said parcel is in accordance with the provisions described in section two of this act.

SECTION 5. The commonwealth of Massachusetts shall provide the department of environmental management with design plans of the exterior of the courthouse and related landscaping for review. The purpose of such review is to ensure that the design of said facility is compatible with the adjacent Lawrence Heritage State Park and Canal Street restoration.

SECTION 6. This act shall take effect upon its passage.

Approved May 7, 1993.

Chapter 40. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY CERTAIN PARCELS OF LAND IN THE TOWN OF NORTH READING TO THE TOWN.

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 and upon its acceptance by the town, certain parcels of land located in the town of North Reading, to the town of North Reading, presently under the care and control of the department of mental retardation, subject to the requirements of sections two to four, inclusive, and to such additional terms and conditions as said commissioner may prescribe

in consultation with the department of mental retardation. Said parcels are described as follows:

PARCEL A

Beginning at the most Northeast corner of the hereinafter described parcel of land at a concrete bound on the Southerly sideline of Lowell Road, said point being also the most Northwest lot corner of land of Robert A. Steeves, the line runs,

S 2° 26'40" E for a distance of 387.44 feet by land of aforesaid Robert A. Steeves and land of Joseph & Kevin Murphy, Trustees of the Lowell Road Realty Trust to an iron pipe, thence the line continues;

S 22°02'00" E for a distance of 332.44 feet still by land of the Lowell Road Realty Trust to an angle point, thence the line turns and runs;

S 65°50'40" W for a distance of 386.27 feet still by land of the Lowell Road Realty Trust to an iron pipe at an angle point, thence the line turns and runs;

S 31°25'40" W for a distance of 173.07 feet still by land of the Lowell Road Realty Trust to an angle point, thence the line turns and runs;

N 21°43'00" W for a distance of 856.52 feet by land of the Commonwealth of Massachusetts to an angle point, thence the line continues;

N 43°19'00" W for a distance of 175.50 feet still by other land of the Commonwealth to an angle point, thence the line continues;

N 83°51'00" E for a distance of 326.96 feet still by the land of the Commonwealth to the Southerly sideline of Lowell Road, thence the line turns and runs;

Southeasterly for a distance of 59.08 feet by the sideline of Lowell Road along a curve to the right having a radius of 373.53 feet to a stone bound, thence the line continues;

Southeasterly for a distance of 141.01 feet still by the sideline of Lowell Road along a curve to the left having a radius of 346.63 feet to a stone bound, thence the line continues;

S 87°54'30" E for a distance of 114.50 feet still by the Southerly sideline of Lowell Road to the point of beginning.

The above described parcel of land contains 10.98 Acres and intended to be the Easterly portion of land belonging to the Commonwealth of Massachusetts and being a part of Parcel 9 as shown on the Town of North Reading's Assessor Map 14.

PARCEL B

Beginning at the most Southwest corner of the hereinafter described parcel of land at a concrete bound, said point being also the most Southwest corner of land of the grantor and at land of Robert Cory, the line runs,

N 18°41'04" W for a distance of 475.43 feet by land of Robert Cory to a point, thence the line turns and runs

Southeasterly for a distance of 216.06 feet by land of the Commonwealth of Massachusetts along a curve to the left having a radius of 10,623.45 feet to a point, thence the line continues;

S 75°44'35" E for a distance of 270 feet more or less still by land of the Commonwealth of Massachusetts to the centerline of Martins Brook at other land of the Town of North Reading, thence the line turns and runs;

Southwesterly for a distance of 420 feet more or less along the centerline of Martins Brook by land of the Town of North Reading to a point at land of aforesaid Robert Cory, thence the line turns and runs;

S 64°30'30" W for a distance of 63 feet more or less by land of said Robert Cory to a drill hole in a boulder, thence the line turns and runs;

S 88°12'48" W for a distance of 134.27 feet still by land of Robert Cory to the point of beginning.

The above described parcel of land contains 3 acres more or less and is intended to be the Southwest portion of land belonging to the Commonwealth of Massachusetts and being a part of Parcel 9 as shown on the Town of North Reading's Assessor Map 14.

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 Parcel A shall be used for municipal recreational purposes and that Parcel B shall be used for watershed protection.

SECTION 3. The town of North Reading shall assume the costs of appraisals, surveys and other expenses as deemed necessary by the commissioner of the division of capital planning and operations for the conveyance of this property.

SECTION 4. In the event that Parcels A and B as described in section one are not used for municipal recreational purposes and watershed protection, respectively, within five years of the effective date of this act, or if the town of North Reading ceases to use either parcel for such purpose at any time thereafter, title to said parcel shall revert to the commonwealth upon such terms and conditions as the commissioner of the division of capital planning and operations may determine.

Approved May 12, 1993.

Chapter 41. AN ACT RELATIVE TO THE DESIGNATION OF CERTAIN ELECTED OFFICIALS OF THE TOWN OF FAIRHAVEN AS TOWN MEETING MEMBERS AT LARGE.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 3 of chapter 285 of the acts of 1930 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any representative town meeting held under the provisions of this act, except as otherwise provided herein, shall be limited to the voters elected under section two, together with the following, designated town meeting members at large; namely, any member of the general court of the commonwealth who is a resident of the town, the moderator, the town clerk, the members of the board of selectmen, the members of the board of health, the members of the school committee, the members of the planning board, the members of the board of public works, the commissioners of trust funds, the elected members of the housing authority, the chairman of the finance committee, and the tree warden.

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

Approved May 12, 1993.

Chapter 42. AN ACT AUTHORIZING THE TOWN OF WINTHROP TO GRANT EASEMENTS OVER CERTAIN PARK AND RECREATION LAND IN THE TOWN OF WINTHROP TO THE MASSACHUSETTS WATER RESOURCES AUTHORITY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the board of selectmen of the town of Winthrop, acting for and on behalf of said town, is hereby authorized and directed to grant, for nominal consideration, seven permanent easements in certain parcels of land in said town, acquired by said town for park and recreational purposes, to the Massachusetts Water Resources Authority for the purposes of installing, maintaining and operating sections of a regional water supply pipeline, which when completed will provide water service to the wastewater treatment facility being constructed on Deer Island in the city of Boston to service the needs of the Boston metropolitan area sewerage system.

The first such permanent easement is shown as Parcel No. 10 on a plan entitled "Massachusetts Water Resources Authority, Deer Island Overland Utilities, Winthrop, Mass.," Drawing Nos. W-7 and W-8, Scale 1" = 40', dated September eighth, nineteen hundred and eighty-nine, prepared by Hydraulic & Water Resources Engineers, Inc., being bounded and described as follows:

Beginning at a point on the southerly side of Petrel Street, a private way, approximately 87.78 feet from the intersection of said Petrel Street and Shirley Street, a public way;

Thence continuing S 09° 36' 04" W a distance of 37.59 feet by land now or formerly of Zita Q. Quigley;

Thence turning S 12° 07' 56" W a distance of 40.02 feet by land now or formerly of Eleanor L. Bannon;

Thence turning S 10° 42' 05" W a distance of 40.00 feet by land now or formerly of Carol A. MacIsaac;

Thence turning S 10°16' 20" W a distance of 23.71 feet by land now or formerly of John J. Kearney and Alice G. Kearney;

Thence turning S 82° 28' 34" E a distance of 20.05 feet to a point;

Thence turning N 11° 37' 13" E a distance of 299.55 feet to a point;

Thence turning N 16° 50' 28" E a distance of 700.18 feet to a point;

Thence turning N 71° 06' 25" W a distance of 20.21 feet to a point;

Thence turning S 16° 50' 28" W a distance of 701.83 feet to a point;

Thence turning S 11° 56' 20" W a distance of 127.55 feet to a point;

Thence turning S 09° 36' 04" W a distance of 33.16 feet to the point of beginning.

Containing an area of 20,232 square feet, more or less, according to said plan.

Said permanent easement being over land of the town of Winthrop, described in certificate of title no. 2433 dated June fourteenth, nineteen hundred and nine and filed with the Suffolk registry district of the land court and an order of taking of the town of Winthrop dated July tenth, eighteen hundred and eighty-nine recorded with the Suffolk county registry of deeds in Book 1886, Page 385.

The second such permanent easement is shown as Parcel No. 8 on a plan entitled "Massachusetts Water Resources Authority, Deer Island Overland Utilities, Winthrop, Mass.," Drawing No. W-6, Scale 1" = 40', dated September eighth, nineteen hundred and eighty-nine, prepared by Hydraulic & Water Resources Engineers, Inc., being bounded and described as follows:

Beginning at a point on land of the Town of Winthrop by land now or formerly of John J. Kearney and Alice G. Kearney having the coordinates N 497144.26 / E 743133.29 as shown on said plan, and continuing S 10° 16' 20" W a distance of 16.29 feet;

Thence turning and running S 03° 29' 27" W a distance of 394.60 feet to a point at the intersection of Brewster Avenue and Nerious Street, both private ways;

Thence turning and running S 77° 50' 51" E a distance of 20.05 feet to a point on the center line of the seawall presently located on land of the Town of Winthrop as shown on said plan;

Thence turning and running N 03° 25' 40" E a distance of 412.20 feet to a point on the center line of said seawall having the coordinates N 497141.69 / E 743153.17 as shown on said plan;

Thence turning and running N 82° 28' 34" W a distance of 20.05 feet to the point of beginning.

Containing 8,230 square feet, more or less, according to said plan.

Said permanent easement being over land of the town of Winthrop, described in certificate of title no. 45664 dated June twenty-seventh, nineteen hundred and forty-five and filed with the Suffolk county registry district of the land court.

The third such permanent easement is shown as Parcel No. 9B on a plan entitled "Massachusetts Water Resources Authority, Deer Island Overland Utilities, Winthrop, Mass.," Drawing No. W-6, Scale 1" = 40', dated September eighth, nineteen hundred and eighty-nine, prepared by Hydraulic & Water Resources Engineers, Inc., being bounded and described as follows:

Beginning at a point on the easterly side of Brewster Avenue, a private way, as shown on said plan and running N 03° 42' 24" E a distance of 276.08 feet to a point;

Thence turning and running S 00° 40' 34" E a distance of 399.44 feet along the center line of the seawall located on land of the Town of Winthrop as shown on said plan;

Thence turning and running S 86° 03' 26" W a distance of 7.61 feet to a point;

Thence turning and running N 06° 18' 20" W a distance of 126.62 feet to the point of beginning.

Containing 4,440 square feet, more or less, according to said plan.

Said permanent easement being over land of the town of Winthrop, described in certificate of title no. 45664 dated June twenty-seventh, nineteen hundred and forty-five and filed with the Suffolk Registry district of the land court.

The fourth such permanent easement is shown as Parcel No. 12A on a plan entitled "Massachusetts Water Resources Authority, Deer Island Overland Utilities, Winthrop, Mass.," Drawing No. W-8, Scale 1" = 40', dated September eighth, nineteen hundred and eighty-nine, prepared by Hydraulic & Water Resources Engineers, Inc., being bounded and described as follows:

Beginning at a point on the easterly side of Shirley Street, a public way, approximately 218.82 feet from the intersection of said Shirley Street and Terrace Avenue and continuing S 25° 47' 48" E a distance of 21.82 feet to a point on said Shirley Street;

Thence turning and running S 19° 43' 09" W a distance of 53.84 feet to a point;

Thence turning and running S 26° 45' 21" E a distance of 13.99 feet to a point;

Thence turning and running S 20° 57' 01" W a distance of 18.91 feet to a point;

Thence turning and running S 71° 06' 25" E a distance of 20.01 feet to a point;

Thence turning and running N 20° 57' 01" E a distance of 97.09 feet to a point;

Thence turning and running N 69° 51' 43" W a distance of 47.40 feet to the point of beginning.

Containing 2,878 square feet, more or less, according to said plan.

Said permanent easement being over land of the town of Winthrop, described in an order of taking of the town of Winthrop dated July tenth, eighteen hundred and eighty-nine recorded with Suffolk deeds in Book 1886, Page 385.

The fifth such permanent easement is shown as Parcel No. 6 on a plan entitled "Massachusetts Water Resources Authority, Deer Island Overland Utilities, Winthrop, Mass.," Drawing No. W-5, Scale 1" = 40', dated September eighth, nineteen hundred and eighty-nine, prepared by Hydraulic & Water Resources Engineers, Inc., being bounded and described as follows:

Beginning at a point on the easterly side of Brewster Avenue, a private way, having the coordinates N 496143.08 / E 743121.99 and continuing S 07< 12' 34" E a distance of 299.88 feet to a point;

Thence turning and running S 15° 01' 40" E a distance of 73.95 feet to a point;

Thence turning and running southwesterly by land now or formerly of Jeremiah Green, a distance of 8.25 feet to a point;

Thence turning and running N 15° 01' 40" W a distance of 78.80 feet to a point;

Thence turning and running N 06° 18' 20" W a distance of 300.73 feet to a point;

Thence turning and running N 86° 03' 26" E a distance of 7.61 feet to the point of beginning.

Containing 7,300 square feet, more or less, according to said plan.

Said permanent easement being over land of the town of Winthrop as described in certificate of title no. 45664 dated June twenty-seventh, nineteen hundred and forty-five and filed with the Suffolk county registry district of the land court.

The sixth such permanent easement is shown as Parcel No. 22 on a plan entitled

"Massachusetts Water Resources Authority, Deer Island Overland Utilities, Winthrop, Mass.," Drawing No. W-18, Scale 1" = 40', dated September eighth, nineteen hundred and eighty-nine, prepared by Hydraulic & Water Resource Engineers, Inc., being bounded and described as follows:

Beginning at a point on the northerly side of Kennedy Road, a public way, at coordinates N 505252.84 / E 740122.29 as shown on said plan and continuing N 27° 36' 23" E a distance of 498.74 feet to a point;

Thence turning and running N 46° 40' 16" W a distance of 273.27 feet to a point;

Thence turning and running N 59° 10' 15" W a distance of 51.21 feet to a point;

Thence turning and running N 43° 19' 28" E a distance of 36.07 feet to a point;

Thence turning and running S 46° 40' 16" E a distance of 336.56 feet to a point;

Thence turning and running S 27° 36' 23" W a distance of 518.24 feet to a point on the westerly side of said Kennedy Road;

Thence turning and running N 64° 28' 34" W a distance of 19.97 feet to the point of beginning.

Containing 17,052 square feet, more or less, according to said plan.

Said permanent water easement being over land of the town of Winthrop, described in deeds recorded in Suffolk county registry of deeds, Book 8139, Page 299 and Book 10457, Page 293.

The seventh such permanent easement is shown as Parcel No. 22A on a plan entitled "Massachusetts Water Resources Authority, Deer Island Overland Utilities, Winthrop, Mass.," Drawing No. W-19, Scale 1" = 40', dated September eighth, nineteen hundred and eighty-nine, prepared by Hydraulic & Water Resource Engineers, Inc., being bounded and described as follows:

Beginning at a point at land of the Town of Winthrop having the coordinates N 505911.80 / E 740114.32, as shown on said plan and running N 59< 10' 15" W a distance of 36.34 feet to a point;

Thence turning and running N 24° 58' 27" W a distance of 206.20 feet to a point;

Thence turning and running S 45° 21' 09" E a distance of 58.67 feet to a point;

Thence turning and running S 24° 58' 27" E a distance of 96.45 feet to a point;

Thence turning and running S 46° 40' 16" E a distance of 80.00 feet to a point;

Thence turning and running S 43° 19' 28" W a distance of 36.07 feet to the point of beginning.

Containing 6,174 square feet, more or less, according to said plan.

Said permanent easement being over land of the town of Winthrop, described in deeds recorded in Suffolk county registry of deeds, Book 8139, Page 299 and Book 10457, Page 293.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the board of selectmen of said town of Winthrop, acting for and on behalf of said town, is hereby authorized and directed to grant, for nominal consideration, four temporary easements in certain parcels of land in said town, acquired by said town for park and recreational purposes, to the Massachusetts Water Resources Authority for the purposes of

using and occupying said temporary easements for the passage of workers and vehicles, the transportation of machinery and materials and for depositing machinery, dirt, tools and other materials so deposited thereon in connection with installing, maintaining and operating sections of a regional water supply pipeline, which when completed will provide water service to the wastewater treatment facility being constructed on Deer Island in the city of Boston to service the needs of the Boston metropolitan area sewerage system; provided, however, that such temporary easements shall expire not later than four years from the date of recording of an instrument granting such easements.

The first such temporary easement is shown as Parcel No. T-6 on a plan entitled "Massachusetts Water Resources Authority, Deer Island Overland Utilities, Winthrop, Mass.," Drawing No. W-5, Scale 1" = 40', dated September eighth, nineteen hundred and eighty-nine, prepared by Hydraulic & Water Resources Engineers, Inc., to be filed with the Suffolk registry district of the land court and to be recorded with Suffolk deeds herewith, being bounded and described as follows:

Beginning at a point on the center line of the seawall located on said Parcel No. T-6 as shown on said plan and having the coordinates N 496143.08 / E 743121.99 and running S 07° 12' 34" E a distance of 299.88 feet to a point;

Thence turning and running S 15° 01' 40" E a distance of 73.95 feet to a point;

Thence turning and running southwesterly by land now or formerly of Jeremiah Green, a distance of 23.58 feet to a point;

Thence turning and running N 15° 01' 40" W a distance of 59.10 feet to a point;

Thence turning and running N 07° 12' 34" W a distance of 297.34 feet to a point;

Thence turning and running S 86° 03' 26" W a distance of 20.03 feet to the point of beginning.

Containing 7,300 square feet, more or less, according to said plan.

Said temporary easement being over land of the town of Winthrop, described in certificate of title no. 45664 dated June twenty-seventh, nineteen hundred and forty-five filed with Suffolk registry district of the land court.

The second temporary easement is located in Winthrop, Suffolk County, Massachusetts, being shown as Parcel No. T-7 on a plan entitled "Massachusetts Water Resources Authority, Deer Island Overland Utilities, Winthrop, Mass.," Drawing Nos. W-6, Scale 1" = 40', dated September eighth, nineteen hundred and eighty-nine, prepared by Hydraulic & Water Resources Engineers, Inc., Waltham, Mass., to be filed with the Suffolk registry district of the land court and to be recorded with Suffolk county registry of deeds herewith, being further bounded and described as follows:

Beginning at a point on the center line of the sea wall located on said Parcel No. T-7 as shown on said plan and having the coordinates N 497141.64 / E 743153.17 and running S 03° 25' 40" W a distance of 600.21 feet to a point;

Thence turning and running S 00° 40' 34" E a distance of 399.44 feet to a point;

Thence turning and running N 86° 03' 26" E a distance of 20.03 feet to a point;

Thence turning and running N 00° 40' 34" W a distance of 397.57 feet to a point;

Thence turning and running N 03° 25' 40" E a distance of 598.08 feet to a point;

Thence turning and running N 82° 28' 34" W a distance of 20.05 feet to the point of beginning.

Containing 19,990 square feet, more or less, according to said plan.

Said temporary easement being over land of the town of Winthrop, described in certificate of title no. 45664 dated June twenty-seventh, nineteen hundred and forty-five filed with Suffolk registry district of the land court.

The third such temporary easement is shown as Parcel No. T-8 on a plan entitled "Massachusetts Water Resources Authority, Deer Island Overland Utilities, Winthrop, Mass.," Drawing No. W-7, Scale 1" = 40', dated September eighth, nineteen hundred and eighty-nine, prepared by Hydraulic & Water Resources Engineers, Inc., to be filed with the Suffolk registry district of the land court and to be recorded with Suffolk county registry of deeds herewith, being further bounded and described as follows:

Beginning at a point on the center line of the sea wall located on said Parcel No. T-8 as shown on said plan and having the coordinates N 498098.73 / E 743435.29 and running N 71° 06' 25" W a distance of 20.21 feet to a point;

Thence turning and running S 16° 50' 28" W a distance of 700.18 feet to a point;

Thence turning and running S 11° 37' 13" W a distance of 299.55 feet to a point;

Thence turning and running S 82° 28' 34" E a distance of 20.05 feet to a point;

Thence turning and running N 11° 37' 13" E a distance of 297.22 feet to a point;

Thence turning and running N 16° 50' 28" E a distance of 698.54 feet to the point of beginning.

Containing 19.952 square feet, more or less, according to said plan.

Said temporary easement being over land of the town of Winthrop, described in certificate of title no. 2433 dated June fourteenth, nineteen hundred and nine filed with Suffolk registry district of the land court and an order of taking dated July tenth, eighteen hundred and eighty-nine recorded with Suffolk county registry of Deeds, Book 1886, Page 385.

The fourth such temporary easement is shown as Parcel No. T-10 on a plan entitled "Massachusetts Water Resources Authority, Deer Island Overland Utilities, Winthrop, Mass.," Drawing No. W-8, Scale 1" = 40', dated September eighth, nineteen hundred and eighty-nine, prepared by Hydraulic & Water Resources Engineers, Inc., to be filed with the Suffolk registry district of the land court and to be recorded with Suffolk county registry of deeds herewith, being bounded and described as follows:

Beginning at a point 40.02 feet from the easterly side of Shirley Street having the coordinates N 498098.73 / E 743435.29 as shown on said plan and running N 71< 06' 25" W a distance of 20.01 feet to a point;

Thence turning and running N 20° 57' 01" E a distance of 97.09 feet to a point;

Thence turning and running S 69° 51' 43" E a distance of 20.00 feet to a point;

Thence turning and running S 20° 57' 01" W a distance of 96.62 feet to the point of beginning.

Containing 1,937 square feet, according to said plan.

Said temporary easement being over land of the town of Winthrop, described in an

order of taking dated July tenth, eighteen hundred and eighty-nine recorded with Suffolk county registry of deeds, Book 1886, Page 385.

SECTION 3. The configuration of each of the easements described in this act shall be as shown on the applicable plan of land referred to in sections one and two as such plan is later revised, if necessary, and recorded with the Suffolk county registry of deeds. In the event that the description of any of the easements referred to in this act is inconsistent with such easements as shown upon the plan so recorded, then said plan of record and any subsequent plan of record shall control as to the accuracy and correctness of such description; provided, however, that the easement described in said revised plans are within the limits of the bounds described in said sections one and two.

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

Approved May 12, 1993.

Chapter 43. AN ACT AUTHORIZING THE TOWN OF PLYMOUTH TO LEASE CERTAIN PARCELS OF LAND.

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 pertaining to bidding to the contrary and without seeking any further bids or proposals, the town of Plymouth is hereby authorized to execute and deliver in the name of and on behalf of said town one or more instruments to lease or extend existing leases and options to purchase certain parcels of land located at the Plymouth Town Wharf in said town of Plymouth to the current tenants thereof, their successors and assigns who have made or will make improvements to any of said parcels of land, such as erecting buildings or improving existing structures. Any such leases shall be for periods not to exceed twenty years and may be extended for consecutive ten year terms; provided, however, that any such extension shall be subject to the approval of the board of selectmen. The amount charged to such tenants by said town for the rental or purchase options shall be based upon the fair market value of such town owned land, without regard to the value of the buildings and other improvements thereon made by such tenants.

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

Approved May 12, 1993.

Chapter 44. AN ACT AUTHORIZING THE TOWN OF WALPOLE TO PARTICIPATE IN CERTAIN LAND TRANSACTIONS FOR RECREATIONAL PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of sections thirty-eight A½ to thirty-eight O, inclusive, of chapter seven, section thirty-nine M of chapter thirty, chapter thirty B and sections forty-four A to forty-four M, inclusive, of chapter one hundred and forty-nine of the General Laws, the town of Walpole is hereby authorized, upon such terms and conditions as the board of selectmen shall deem appropriate, to accept the conveyance from Omega Associates of two parcels of land in the town of Walpole, said parcels being shown as assessors parcel A08-0803 and D07-0742 on a plan of land in the assessors office in the said town of Walpole.

SECTION 2. Notwithstanding the provisions of sections thirty-eight A½ to thirty-eight O, inclusive, of chapter seven, section thirty-nine M of chapter thirty, chapter thirty B and sections forty-four A to forty-four M, inclusive, of chapter one hundred and forty-nine of the General Laws, the conservation commission of the town of Walpole is hereby authorized, upon such terms and conditions as said commission deems appropriate, subject to the approval of the board of selectmen, to accept the conveyance from Omega Associates of seven parcels of land, said parcels being shown as parcels, D08-0816-5, C14-1405-1, D01-0194, C13-1307-28B, C13-1307-1-A, C1307-1-6-3 and C13-1307-1-4 on a plan entitled "Plan of Land dated September 2, 1992", prepared by John R. Anderson and Associates and is on file with the town clerk.

SECTION 3. Notwithstanding the provisions of sections thirty-eight A½ to thirty-eight O, inclusive, of chapter seven, section thirty-nine M of chapter thirty, chapter thirty B and sections forty-four A to forty-four M, inclusive, of chapter one hundred and forty-nine of the General Laws, the town of Walpole is hereby authorized, upon such terms and conditions as the board of selectmen shall deem appropriate, to accept the grant of the following two easements:

(1) an easement from Omega Associates and Anna Bird along Bird Pond in said town and shown on a plan by Kimball Chase/Coler and Colantonio, Inc. dated October 17, 1987 and known as assessor parcels d207-1, a-404-1, d209-a and the Bird drive southerly sidewalk to Washington Street; and

(2) an easement from Seabeam Instruments, Inc. consisting of a twenty foot wide access easement along Bird Pond and shown as parcel D-209 on a plan entitled "Rezoning plan of land in Walpole, MA, dated August 31, 1992" prepared by John R. Anderson & Associates.

SECTION 4. Notwithstanding the provisions of sections thirty-eight A½ to thirty-eight O, inclusive, of chapter seven, section thirty-nine M of chapter thirty, chapter thirty B and sections forty-four A to forty-four M, inclusive, of chapter one hundred and forty-nine of the General Laws, the town of Walpole is hereby authorized to convey to Omega Associates, upon such terms and conditions as the board of selectmen shall deem appropriate, a certain parcel of land being shown on the above-referenced plan as parcel D208-3 containing seventeen acres, more or less, which land is currently being held for conservation purposes.

SECTION 5. Notwithstanding the provisions of sections thirty-eight A½ to thirty-eight O, inclusive, of chapter seven, section thirty-nine M of chapter thirty, chapter

thirty B and sections forty-four A to forty-four M, inclusive, of chapter one hundred and forty-nine of the General Laws, the town of Walpole is hereby authorized, to enter into an agreement with the Youth Soccer Association of the town of Walpole and Omega Associates, upon such terms and conditions as the board of selectmen shall deem appropriate, for the lease and use of all of a portion of a certain parcel of land shown as Parcel A08-0803 on a plan known as "Exhibit B plan of recreation and conservation uses", for recreation purposes, said land to be leased for the consideration of one dollar annually for a period of up to twenty years, said lease to be renewable every five years; provided, however, that any improvements to said land made pursuant to such agreement shall be paid by the said Youth Soccer Association and Omega Associates.

SECTION 6. This act shall take effect upon its passage.

Approved May 12, 1993.

Chapter 45. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MAURICE J. O'BRIEN, AN EMPLOYEE OF THE MIDDLE DISTRICT, DISTRICT ATTORNEY'S OFFICE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately establish a sick leave bank for Maurice J. O'Brien, an employee of the Middle district, district attorney's office, 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, rule or regulation to the contrary, the Middle district, district attorney's office is hereby authorized and directed to establish a sick leave bank for Maurice J. O'Brien, an employee of said office. Any employee of the Middle district, district attorney's office may voluntarily contribute one or more of his sick, personal or vacation days to said sick leave bank for use by said Maurice J. O'Brien.

The foregoing was laid before the Governor on the fourth day of May, 1992 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him with his objections thereto within that time.

Chapter 46. AN ACT PROVIDING FOR A CAPITAL EXPENDITURE FOR THE TOWN OF HOLLISTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Holliston is hereby authorized to create and maintain a special fund to

be known as the Capital Expenditure Fund, which shall be kept separate and apart from all other monies of said town by the town treasurer. Said treasurer shall be the custodian of the Capital Expenditure Fund and may deposit the proceeds or invest the same in accordance with the provisions of sections fifty-four and fifty-five of chapter forty-four of the General Laws. Any interest or income shall be added to and become a part of the Capital Expenditure Fund.

Said town of Holliston may appropriate in any year an amount not exceeding five percent of the amount raised in the preceding fiscal year by taxation of real estate and tangible personal property into the Capital Expenditure Fund by a majority vote at an annual or special town meeting. The aggregate amount in the Capital Expenditure Fund at any time shall not exceed one percent of the equalized valuation of said town of Holliston as defined in section one of said chapter forty-four.

Said town of Holliston may appropriate money from the Capital Expenditure Fund by a two-thirds vote at an annual or special town meeting for any purpose for which the town would be authorized to borrow money under sections seven or eight of said chapter forty-four.

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

Approved May 17, 1993.

Chapter 47. AN ACT RELATIVE TO INDIGENT PATIENT PROGRAMS.

Be it enacted, etc., as follows:

SECTION 1. Subsection (b) of section 9 of chapter 94C of the General Laws, as most recently amended by section 4 of chapter 10 of the acts of 1992, is hereby further amended by striking out the last two paragraphs and inserting in place thereof 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 that is provided free of charge by the manufacturer as part of an indigent patient program or for use as samples if such prescription medications are: (1) dispensed to the patient by a professional authorized to dispense controlled substances pursuant to this section; (2) dispensed in the package provided by the manufacturer; and (3) provided at no charge to the patient.

The department shall promulgate rules and regulations governing the dispensing of medication pursuant to this section. Said rules and regulations shall include, but need not be limited to, the types and amounts of medications that can be dispensed, and the appropriate safeguards for the labeling and dispensing of such medications.

SECTION 2. The rules and regulations governing the dispensing of medications pursuant to subsection (b) of section nine of chapter ninety-four C of the General Laws shall be promulgated and shall be effective no later than October first, nineteen hundred and ninety-three. The department of public health shall establish a program of notification to inform physicians of said rules and regulations. No medication shall be dispensed as part

of an indigent patient program under authority of this act until October first, nineteen hundred and ninety-three or until said rules and regulations take effect, whichever occurs first. The department shall make a detailed written report to the committee on health care regarding the status and implementation of said rules and regulations and the program of notification no later than September fifteenth, nineteen hundred and ninety-three.

Approved May 17, 1993.

Chapter 48. AN ACT RELATIVE TO CERTAIN CONSERVATION LAND IN THE TOWN OF HOLLISTON.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Holliston is hereby authorized to use two certain parcels of land located in said town for the purposes of active and passive recreation. Said parcels are presently under the care, custody and control of the Holliston conservation commission held for the purpose of promoting and developing material resources and protecting watershed resources under the provisions of section eight C of chapter forty of the General Laws. Such active and passive recreational purposes shall be in addition to the aforementioned purposes.

Said parcels are described as follows: Parcel one is described in a deed dated September twenty-sixth, nineteen hundred and fifty-seven recorded in the Middlesex county registry of deeds southern district Book 9056, Page 121. Parcel two is described in a document entitled "Town of Holliston, Order of Taking" dated September twenty-ninth, nineteen hundred and seventy-five recorded in said Middlesex county registry of deeds southern district in book 12869, page 392.

Approved May 18, 1993.

Chapter 49. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF BUCKLAND.

Be it enacted, etc., as follows:

SECTION 1. Any person who holds an elected office in the town of Buckland, with more than six months remaining in the term of that office on the date of the filing of a recall affidavit may be recalled from office by the registered voters of said town of Buckland, in the manner herein provided.

SECTION 2. Fifty or more voters of the town of Buckland may file with the clerk of said town, an affidavit containing the name of the officer whose recall is being sought, along with a statement of the grounds of removal. Said clerk of said town shall provide to the voters, petition blanks demanding such recall, printed forms of which shall be kept available by said clerk. Such petition blanks may be completed either by writing or

typewriting, shall be addressed to the board of selectmen, shall contain the names of the voters who filed the affidavit and the grounds for recall as stated in such affidavit; they shall demand the election of a successor to that office; and shall be dated and signed by said clerk. A copy of such petition shall be kept on file in the office of said clerk in a record book maintained for such purpose.

The recall petitions shall be returned and filed in the office of said clerk within fourteen days following the date upon which said clerk issued such petitions; they shall contain the signatures of at least ten percent of the total number of voters duly recorded on the registration list of said clerk as of the most recent preceding town election.

Said clerk shall, within forty-eight hours following such filing, submit said petitions to the registrars of voters who shall, within five days, certify thereon the number of signatures which in fact are names of voters of said town.

SECTION 3. If the recall petitions shall be certified by the registrars of voters to contain the sufficient number of voter signatures, the clerk of the town of Buckland shall forthwith submit such petitions to the board of selectmen. Upon its receipt of the certified petitions, said board of selectmen shall, within forty-eight hours, give written notice of said recall petitions and the certification thereof to the person whose recall is being sought.

If the officer sought to be recalled does not resign his office within five days following the delivery of 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 certification of the sufficiency of the petition by the registrars of voters; provided, however, that if another town election is to occur within one hundred days after the date of said certification, said board of selectmen may, at their discretion, postpone the holding of said recall election until the date of such 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; provided, however, that only the ballots for new candidates shall be counted.

SECTION 4. No officer whose recall is sought may 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 said election shall be in accordance with the provisions of law relative 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 is held. If not recalled in such election, the incumbent shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided therein.

If the incumbent officer is recalled he shall be deemed removed upon the qualification of a successor who shall hold office for the remainder of the unexpired term; provided, however, that if the successor fails to qualify within five days after receiving notification of election, the incumbent nevertheless shall thereupon be deemed removed and such office shall remain vacant for the remainder of the unexpired term.

SECTION 6. All 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 all candidates arranged alphabetically by surname.

If a majority of the votes cast upon the question of recall are 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 are in the negative, the ballots for the candidates need not be counted unless the incumbent officer has previously resigned from office pursuant to section three.

SECTION 7. No recall petition shall be filed against an officer within six months of the assumption of his office. In the case of an officer who has been subjected to a recall election and was not recalled thereby, no subsequent recall petition shall be filed against such officer until at least six months after the date of the election at which such initial recall was voted upon.

SECTION 8. No person who has been recalled from an office or who has resigned from an office while recall proceedings were pending, shall be appointed to any town office within twelve months after such recall or resignation.

SECTION 9. This act shall take effect upon its passage.

Approved May 19, 1993.

Chapter 50. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND NINETY-THREE 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, the sums set forth in section two are hereby appropriated for the several purposes and subject to the conditions specified in chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two, including fund designations in said chapter one hundred and thirty-three, and subject to the provisions of law regulating the disbursement of public funds, and the conditions pertaining to appropriations in said chapter one hundred and thirty-three for the fiscal year ending June thirtieth, nineteen hundred and ninety-three. The sums so appropriated shall be in addition to any amounts available for said purposes.

SECTION 2.

DISTRICT ATTORNEYS.

Item		
0340-0800		$25,000
0340-0890		$6,500

SECRETARY OF THE COMMONWEALTH.

0511-0000		$200,000
0521-0000		$20,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Department of Procurement and General Services.

1104-1000		$120,353

Department of Personnel Administration.

1108-1002		$230,580
1108-1003		$52,902

Public Employee Retirement Administration.

1108-6100		$270,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Metropolitan District Commission.

2444-9005		$300,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Massachusetts Commission for the Blind.

4110-1010		$300,000

Massachusetts Rehabilitation Commission.

4120-3000		$75,000

Office of the Commissioner of Veterans' Services.

4170-0250		$250,000

Soldiers' Home in Massachusetts.

4180-0100		$280,000

Soldiers' Home in Holyoke.

4190-0100		$462,000

Department of Public Welfare.

4403-2100		$4,400,000
4406-3000		$6,400,000

Department of Public Health.

4540-0900		$5,294,760

Department of Social Services.

4800-0015		$676,756

4800-0020		$663,629
4800-0041		$4,035,775
4800-0150		$440,484
4800-1100		$401,716
	Department of Mental Health.	
5046-0000		$400,000
5051-0100		$1,965,000
5095-0000		$10,985,737
	Department of Mental Retardation.	
5930-1000		$9,663,633

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

	Department of Highways.	
6030-7201		$19,051,414

EXECUTIVE OFFICE FOR EDUCATION.

	Office of the Secretary.	
7005-1000		$2,500,000
	Department of Education.	
7010-0005		$500,000
7052-0006		$166,683

EXECUTIVE OFFICE OF PUBLIC SAFETY.

	Department of State Police.	
8100-0000		$5,453,893
8100-0400		$4,500,000
	Bureau of Special Investigations.	
8312-1000		$323,350
	Military Division.	
8700-0001		$460,000
8800-0001		$187,083
	Department of Correction.	
8900-0001		$9,228,790
8900-0004		$2,189,421
	Department of Youth Services.	
8970-0004		$1,407,309
8970-0006		215,909
8970-0010		$142,463

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth herein shall be appropriated from the General Fund, unless specifically designated otherwise, and shall be for the several purposes and subject

to the conditions specified herein and subject to the provisions of law regulating the disbursement of public funds, for the fiscal year ending June thirtieth, nineteen hundred and ninety-three. The sums so appropriated shall be in addition to any amounts available for said purposes.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Office of Dispute Resolution.

1100-1103 For the office of dispute resolution; provided, however, that the office shall generate at least four hundred seventy-six 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 provided to such entities by said office of dispute resolutions $76,000

Department of Revenue.

1233-2000 For reimbursing cities and towns for abatements granted pursuant to clauses Seventeenth, Twenty-second A, Twenty-second B, Twenty-second C, Twenty-second E, and Thirty-seventh of section five of chapter fifty-nine of the General Laws; provided, however, that no less than ten thousand one hundred thirty-three dollars of the amount appropriated herein shall be used to fund the remaining fiscal year nineteen hundred and ninety-two reimbursements $10,133

Local Aid Fund 100.0%

Reserves.

1599-0093 For contract assistance to the Water Pollution Abatement Trust for debt service obligations of the trust, in accordance with the provisions of section six A of chapter twenty-nine C of the General Laws, as amended in section twelve of chapter two hundred and three of the acts of nineteen hundred and ninety-two $1,290,895

Local Aid Fund 100.0%

1599-2200 For a reserve to fund grants to counties to provide for the continued operation of jails, courthouses, and other county activities; provided, however, that funds appropriated herein shall be distributed to the counties in accordance with schedules prepared by the county government finance review board; provided further, that, notwithstanding the provisions of any general or special law to the contrary, funds distributed shall be paid to the county treasurer who shall place said funds within the county treasury in the manner prescribed by

said county government finance review board; provided further, that any payments made pursuant to this item shall be deemed to offset insufficient state appropriations to the respective counties for other purposes; provided further, that, notwithstanding the provisions of any general or special law to the contrary, funds distributed to the counties from this appropriation shall be expended in such amounts, in such manner and for such purposes as said county government finance review board shall prescribe, to include but not be limited to, satisfying corrections maintenance of effort requirements, payment of debt service and prevention of deficits; provided further, that reasonable expenses incurred for the purposes of addressing unforeseen emergencies in the county corrections system may be paid from this item; and, provided further, that such payments for said emergencies shall be subject to review and approval of said county government finance review board $25,000,000

Local Aid Fund 100%

1599-3384 For a reserve for the payment of certain court judgments, 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-three or a prior fiscal year and which derive from causes of action initiated in said fiscal year; and for the payment of claims pursuant to section thirty-nine of chapter one hundred and thirty-one of the General Laws; provided, however, that the comptroller is hereby authorized to charge all such payments to this item $10,128,293

1599-5095 For a reserve for one-time, non-recurring costs associated with the treatment of mentally retarded adults within facilities operated by the department of mental retardation, including, but not limited to, early retirement employee buy-out costs, so-called, and equipment purchases; provided, that the secretary of administration and finance may allocate funds from this item to other items of appropriation $9,619,902

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Department of Environmental Management.

2100-3010 For seasonal employees of the department of environmental management's recreation program $599,730

Local Aid Fund 90.0%

Highway Fund 10.0%

2100-3015 For the purpose of implementing the recommendations of the special commission on the safety of Purgatory Chasm Reservation established pursuant to section one hundred and fifty-five of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two $8,924

Local Aid Fund 100.0%

Metropolitan District Commission.

2444-9000 For the purpose of snow and ice control on metropolitan district commission roadways and parkways $875,490

Highway Fund 100.0%

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Soldiers' Home in Massachusetts.

4180-1100 The soldiers' home in Massachusetts located in the city of Chelsea may expend revenues up to a maximum of forty-eight thousand dollars for facility maintenance and patient care, including personnel costs; provided, however, that sixty percent of all revenues generated pursuant to section two of chapter ninety of the General Laws, as appearing in the 1990 Official Edition, through the purchase of license plates with the designation of VETERAN by eligible veterans of the commonwealth, upon compensating the registry of motor vehicles for the cost associated with said license plates, shall be deposited into and for the purposes of this retained revenue account of the soldiers' home in Chelsea, Massachusetts $48,000

Soldiers' Home in Holyoke.

4190-1100 The soldiers' home in Holyoke may expend revenues up to a maximum of thirty-two thousand dollars for facility maintenance and patient care, including personnel costs; provided, however, that forty percent of all revenues generated pursuant to section two of chapter ninety of the General Laws, as appearing in the 1990 Official Edition, through the purchase of license plates with the designation of VETERAN by eligible veterans of the commonwealth, upon compensating the registry of motor vehicles for the costs associated with said license plates, shall be deposited into and for the purposes of this retained revenue account of the Holyoke soldiers' home $32,000

Department of Public Welfare.

4402-5002 The department of public welfare may expend for purposes of the medical assistance program an amount not to exceed seventy-five million dollars from the monies received from collections of any prior year expenditures from liens, estate

recoveries, third party liability resources, and from donations, intergovernmental transfers, and pharmaceutical manufacturers' rebates or other collections subject to the approval of the department; provided, however, that federal reimbursements claimed against donation may be expended without further appropriation $25,000,000

4402-5003 For a reserve for payment of the medicaid deficiency pursuant to the provisions of section three of this act for the fiscal year ending June thirtieth, nineteen hundred and ninety-three . $114,106,000

4402-5004 For medicaid payments to the municipal acute care hospitals participating in the intergovernmental transfer program established pursuant to P.L. 102-234, federal regulations promulgated thereunder, the Medicaid state plan and the terms and conditions of any original contract with the department for such payments; provided, however, that funds may be expended from this item for any such payments owed during fiscal years nineteen hundred and ninety-two and nineteen hundred and ninety-three; provided, however, that an accounting of such payments shall be reported to the house and senate committees on ways and means not later than June fifteenth, nineteen hundred and ninety-three; and, provided further, that all revenues generated by said program, including intergovernmental transfer payments and federal financial participation, shall be credited to theGeneral Fund .. $24,000,000

4402-5200 For the payment of expenses incurred in prior fiscal years for nursing home retrospective settlements, chapter four hundred and ten sole community providers, so-called, hospital settlements, rate adjustments and appeals, and for costs incurred in such years for the purposes of complying with the provisions of Public Law 89-97, Title XIX, and, in addition, for the payment of expenses for the current fiscal year for nursing homes that have a negotiated rate contract with the department of public welfare pursuant to section four B of chapter one hundred and eighteen E of the General Laws; provided, that expenditures from this item shall be made only for the purposes expressly stated herein; and provided further, that the department shall report to the house and senate committee on ways and means a full accounting of said expenditures by fiscal year, provider type and category of assistance not later than December first, nineteen hundred and ninety-two $3,894,000

Department of Public Health.

4500-1010 For the purposes of a tobacco control program; provided, how-

ever, that the department is authorized to expend funds for a media campaign on the dangers of cigarette smoking and other forms of tobacco use, which may include public transit advertising; provided, further, that not more than one million dollars shall be paid from this item to the department of education for comprehensive school health education programs, including information relating to the hazards of tobacco use; provided, further, that not more than five million dollars shall be paid from this item to the executive office of public safety to administer a discretionary grant program for city and town drug awareness and resistance education programs, to be known as D.A.R.E. programs, which shall include information about the health risks of cigarette smoking and shall include the participation of local and state police officers, subject to the supervision of and standards established by the department of public health $20,000,000

Health Protection Fund 100.0%

4510-0616 To establish and maintain a drug registration and monitoring program; provided, however, that the department of public health may expend an amount not to exceed two hundred thousand dollars from revenues received from a fee charged to registered practitioners, including physicians, dentists, veterinarians and podiatrists, for controlled substance registrations $200,000

4513-1012 The commissioner of the department of public health may expend an amount not to exceed fourteen million two hundred thou-sand dollars from revenues received from the infant formula price enhancement system, hereby authorized, for the purpose of increasing the caseload of the WIC programs .. $1,200,000

4590-0900 The public health hospitals may expend an amount not to exceed fifty-four million, two hundred seventy-seven thousand, two hundred thirty-two dollars from revenues collected subject to the approval of the commissioner of public health; provided, however, that such revenues may be expended for the purpose of hospital related costs, including personnel, capital expenditures and motor vehicle replacement; 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 payment amounts not to exceed the lower of this author-ization or the most recent revenue estimate as reported in the state accounting system; provided further, that, notwithstand-ing any general or special law to the contrary, the Rutland heights hospital, Lakeville 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, the western Massachusetts hospital shall reimburse the General Fund for a portion of its employee benefit ex-penses, according to a schedule submitted by the commission-er 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 this hospital $509,000

Department of Mental Health.

5049-0000 For forensic mental health services; provided, that not less than five hundred and nine thousand, seven hundred and sixteen dollars shall be expended for the purposes of treatment costs incurred by the department at its Bridgewater treatment unit; provided further, that not less than two hundred and thirty-one thousand, nine hundred and sixty-three dollars shall be expended for a system to track forensic mental health clients within the department; and provided further, that not less than ninety-eight thousand, three hundred and fifty dollars shall be expended for forensic mental health services within the county corrections system. $840,029

Department of Mental Retardation.

5920-5000 For the turning twenty-two component of the community services program of the department; provided, that the costs of this program shall not exceed five million, six hundred thousand dollars in fiscal yearnineteen hundred and ninety-four . $1,400,000

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Department of Highways.

6030-7202 For the cleaning of catch basins, located on state highways; provided, however, that no funds shall be expended from this line item for catch basins located in Essex county, currently under private maintenance contract $1,800,000

Highway Fund 100.0%

EXECUTIVE OFFICE FOR EDUCATION.

Department of Education.

7051-0015 For the administration of the emergency food assistance program $230,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Department of State Police.

8100-0056 For the training and related costs of not more than two hundred police cadets $1,285,262
Highway Fund 85.0%
General Fund 15.0%

Department of Corrections

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 six million eight hundred thousand dollars for the support of the program, including the costs of materials, supplies, equipment, maintenance of facilities and compensation of employees $1,800,000

SECTION 2B. To provide for certain unanticipated intragovernmental chargebacks and to meet certain requirements of law, the sums set forth herein shall be appropriated for the several purposes and subject to the conditions specified in chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two, including fund designations of said chapter one hundred and thirty-three and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in said chapter one hundred and thirty-three for the fiscal year ending June thirtieth, nineteen hundred and ninety-three. The sums so appropriated shall be in addition to any amounts available for said purposes.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Executive Office.

Item
1100-1111 ..... $15,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Division of Environmental Law Enforcement.

2350-0102 ..... $50,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Department of State Police.

8100-0002 ..... $843,000

SECTION 3. Section 9 of chapter 3 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in lines 19 and 20, the words "and the senate chairman and the house chairman on the committee of taxation" and inserting in place thereof the following words:- , the senate chairman and the house chairman of the committee on taxation, and the senate chairman and house chairman of the committee on science and technology.

SECTION 4. Chapter 6 of the General Laws is hereby amended by striking out section 48, as amended by section 3 of chapter 23 of the acts of 1992, and inserting in place thereof the following section:-

Section 48. There shall be a commission to be known as the state racing commission, to consist of a commissioner and two associate commissioners to be appointed by the governor and serve coterminous with him. Not more than two of such members shall be of the same political party. The commissioner shall serve as chairman, and shall devote his full time during business hours to his official duties.

Each member shall hold office until the appointment and qualifications of his successor. The governor may remove any member for cause and shall fill any vacancy for the unexpired term. Whenever any action by the commission is required to be in writing, such writing shall be sufficient when signed by the commission chairman. The commission shall make an annual report in January of each year to the general court.

The positions of commissioner and associate commissioners 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. The members shall also receive their necessary expenses incurred in the discharge of their official duties.

The commission may employ an auditor, state racing commission, who shall be a certified public accountant or have a Master of Business Administration degree with five or more years experience in state accounting or state auditing, who shall devote full time during normal business hours to the duties of the position and who shall be exempt from the provisions of section nine A of said chapter thirty and of chapter thirty-one. The auditor, state racing commission, shall serve at the pleasure of the commission which shall determine his salary in accordance with the provisions of said chapter thirty.

The commission may appoint the following positions: a secretary, state racing commission, a fiscal officer III, other assistants, a director of racing operations who shall devote full time to the supervision of commission officials and employees at the tracks. The commission may also appoint the following positions which shall be exempt from the provisions of chapter thirty-one: auditors IV, a business management specialist, one accountant II, accountants I, chemists III, chemists II, chemists I, clerks IV, clerks III, clerks II, typists I, bookkeepers I, stenographers II, one laboratory supervisor II, laboratory technicians I, one veterinary health officer I, one supervisor of licenses and registrations, state racing commission, one racing inspector II, racing inspectors I, administrative assistants II and one special assistant to the commissioner. The commission may employ at least one racing inspector I and one accountant I at each racing performance live or simulcast to insure the integrity of racing.

SECTION 5. Section 3 of said chapter 29, as appearing in the 1990 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following two paragraphs:-

Every officer having charge of any state agency which receives a periodic appropriation from the commonwealth, including all periodic appropriations to be met from state revenues shall, within sixty days of the passage of the general appropriations act, submit to the budget director and to the senate and house committees on ways and means a comprehensive first financial plan for the current fiscal year. Said first financial plan shall report spending and revenue collection in conformance with the account structure and program format established by the general appropriations act and shall include the following:

(1) statements showing the amounts expended, by account and by subsidiary, for the preceding fiscal year;

(2) statements showing, by account and by subsidiary, the amount appropriated for the current fiscal year;

(3) any planned interchanges between subsidiary accounts prescribed in accordance with section twenty-seven for the current fiscal year;

(4) statements showing total estimated spending, by account and by subsidiary, for the current fiscal year, including estimates of deficiencies and overdrafts, if any; provided, however, that said officer shall submit to the budget director and the senate and house committees on ways and means, with his financial plans, detailed management plans designed to reduce or eliminate the need for deficiencies or overdrafts; and, provided further, that, to the extent said management plans do not identify reasonable means to eliminate the need for deficiencies or overdrafts, the governor shall, within thirty days of receiving said management plans, file a supplemental budget request recommending funding levels to address such deficiencies or overdrafts;

(5) statements showing estimates, by account and by subsidiary, of the amounts required for ordinary maintenance during the ensuing fiscal year, with an explanation of any increased appropriations recommended and with citations of statutes relating thereto together with a statement indicating the priorities assigned to each program by such officer;

(6) statements showing, by revenue account, the amount of revenues collected during the preceding fiscal year, the estimate of revenues to be collected during the current fiscal year, and the estimate of revenues to be collected from the same or any additional sources in the ensuing fiscal year, with recommendations as to any changes in the management, practices, rules, regulations or laws governing such state agency which would effect an increase in revenue from operations, fees, taxes or other sources or which would facilitate the collection thereof;

(7) such other information on expenditures, revenues, activities, output measures or performance measures of any such state agency as may be required by rule or regulation of the commissioner, and any other information, including the priorities assigned to each program by such officer, required at any time by the budget director, or prescribed by the general court in the general appropriations act or any supplemental appropriation acts;

(8) a statement showing, by account and by collective bargaining unit, the number of permanent, temporary and part-time positions authorized for the state agency in his charge and the volume of work performed in the preceding fiscal year, and justifying his request for permanent, temporary and part-time positions in the ensuing fiscal year in relation to the volume of work expected to be performed by such state agency.

Within thirty days of the submission of the governor's annual budget recommendation made pursuant to section seven H, each such officer shall submit to the budget director and the senate and house committees on ways and means a revised financial plan for the current fiscal year. Said revised financial plan shall report spending and revenue collection for the current fiscal year through the end of the second quarter in conformance with the account structure and program format established by the general appropriations act and shall include the following:

(1) statements showing the amounts expended through the end of the second quarter, by account and by subsidiary;

(2) any planned interchanges between subsidiary accounts prescribed in accordance with section twenty-seven for the remainder of the current fiscal year;

(3) statements showing the status of the implementation of management plans developed to reduce or eliminate deficiencies or overdrafts identified in the preparation of the first financial plans;

(4) statements showing total estimated spending, by account and by subsidiary, for the current fiscal year, including revised estimates of deficiencies and overdrafts, if any;

(5) statements showing, by revenue account, the revenues collected through the end of the second quarter and a revised estimate, if necessary, of total revenues to be collected during the current fiscal year.

SECTION 6. Said chapter 29 is hereby further amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. Every officer having charge of any state agency who, in his annual reports or otherwise, recommends or petitions for the expenditure of money by the commonwealth from any source of revenue, including expenditures to be met by assessments or from bond revenues or trust funds, for any purpose not covered by the estimates to be submitted under section three shall, within sixty days of the passage of the general appropriations act, submit detailed estimates thereof to the budget director and to the senate and house committees on ways and means, together with any other information required by said budget director or prescribed by the general court in the general appropriations act or any supplemental appropriation acts. Such estimates and other information relating to such state agency, before being submitted to the budget director, shall first be submitted to the appropriate secretary, if any, on or before a date set by him, but in no case later than sixty days after the passage of the general appropriations act; provided, however, that said secretary shall review the same and make such additions thereto, deletions therefrom and modifications therein as he deems appropriate; and, provided, further, that prior to making any additions, deletions, or modifications, said secretary shall conduct public hearings, for which he shall give five days' public notice prior thereto, on all items for which he shall submit to the governor a

recommendation for an appropriation of one million dollars or more.

All copies of such statements and information relative to the expenditures from bond revenues shall be submitted to the commissioner of capital planning and operations on or before the aforementioned date. Said commissioner shall evaluate them as to the priority, necessity and feasibility of the requests contained therein in relation to the long range capital facilities development plans, capital facilities development plans, and capital facilities projects contained therein, as defined by section thirty-nine A of chapter seven. Said commissioner shall submit his evaluation to the officer providing such estimates and information, to the appropriate secretary, budget director and senate and house committees on ways and means.

SECTION 7. Said chapter 29 is hereby further amended by striking out section 5F, as so appearing, and inserting in place thereof the following two sections:-

Section 5F. Every officer having charge of any state agency which receives a periodic appropriation from the commonwealth shall, within sixty days of the passage of the general appropriations act and at such other times as may be specified by the commissioner, submit to the budget director and to the senate and house committees on ways and means a department financial plan for the current fiscal year in accordance with the provisions of section three.

The budget director shall provide to the comptroller and the senate and house committees on ways and means information from department financial plans for the purpose of developing estimates of monthly cash flow and for the purpose of preparing monthly reports of planned and actual expenditure and planned and actual revenue for each major state program, department and executive or other constitutional office.

Section 5G. Every officer having charge of any state agency which receives a periodic or other appropriation from the commonwealth shall, on a quarterly basis, submit to the budget director and to the senate and house committees on ways and means a report comparing actual spending rates and revenue collection rates to those rates projected in the financial plans submitted pursuant to this chapter. Said reports shall include statements showing spending and revenue information in conformance with the account and program format established by the general appropriations act. Within thirty days after the receipt of such reports, the budget director shall classify each agency as being at a low, medium or high risk of exceeding spending levels authorized in the general appropriations act or any supplemental appropriations act. The budget director shall recommend to the commissioner and the governor a corrective action plan for each agency found to be at a medium or high risk of exceeding authorized spending levels as defined herein so as to ensure that every agency receiving a periodic or other appropriation from the commonwealth complies with the provisions of this chapter.

Every such officer shall revise financial plans submitted pursuant to this chapter if actual spending rates or revenue collection rates indicate that financial plans submitted pursuant to section three no longer accurately reflect total estimated spending or revenue collections. Revisions to said financial plans shall be submitted to the budget director and to the senate and house committees on ways and means together with a corrective action plan

to reduce or eliminate such deficiencies and overdrafts; provided, however, that to the extent that such corrective action plans do not provide a reasonable means to reduce or eliminate deficiencies or overdrafts, the governor shall with thirty days submit a request for supplemental appropriations for each such agency.

SECTION 8. The first paragraph of section 6 of chapter 29 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following sentence:- The budget recommendations of the governor shall assume that appropriation amounts recommended in the operating budget for a fiscal year will be sufficient to meet the obligations for the entire fiscal year and that no additional amounts shall be necessary to meet obligations of either a supplementary or deficiency nature, except in accordance with the provisions of section seven N.

SECTION 9. Said chapter 29 is hereby further amended by inserting after section 7M the following section:-

Section 7N. All appropriations contained in the fiscal year operating budget as signed into law by the governor or passed notwithstanding his objections thereto shall constitute the total operating budget amounts which shall be available for any program or purpose. The governor may request additional appropriations of a supplementary or deficiency nature; provided, however, that if the additional amount requested would cause the total amount appropriated in any item to exceed the amount originally recommended by him in his budget recommendations pursuant to section seven H, or the amount to which he reduced such item in his veto message, so called, he shall submit with each such request a full and complete explanation of why the need for an additional appropriation in excess of his original recommendation or such reduced amount could not have been foreseen at the time his budget recommendations were submitted or at the time of such veto message; and, if the additional amount requested is for a new item of appropriation, he shall submit with each such request a full and complete explanation of why such appropriation is immediately necessary and cannot be delayed until the subsequent fiscal year's budget.

SECTION 10. The first paragraph of section 9B of said chapter 29, as appearing in the 1990 Official Edition, is hereby amended by inserting after the third sentence the following sentence:- The amounts allotted shall be consistent with the financial plans required by sections three, four, five F and five G.

SECTION 11. Section 27 of said chapter 29, as most recently amended by section 344 of chapter 133 of the acts of 1992, is hereby further amended by inserting after the second sentence the following sentence:- No such subsidiary account may be increased or decreased by the interchange of funds with any other such subsidiary account, without ten days' prior notice to the house and senate committees on ways and means, nor shall any new subsidiary account be established.

SECTION 12. Section 29 of said chapter 29, 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:- Any subsidiary account set up as prescribed in the schedules referred to in section twenty-seven, on the books of any department, office, commission or institution, receiving an appropriation from the commonwealth, may be increased or

decreased by the interchange with any other such subsidiary account within the same appropriation account by the officer in charge of such department, office, commission or institution upon his certification to the budget director that such interchange is required to meet unforeseen emergencies where funds are otherwise not available to protect the public interest, and, in the case of a department, office, commission or institution within any executive office established by chapter six A and seven, upon the prior written approval of the secretary having charge of such executive office and with ten days' prior notice to the house and senate committees on ways and means. No new subsidiary account shall be established.

SECTION 13. Section 45 of chapter 30 of the General Laws, as so appearing, is hereby amended by inserting after the word "commonwealth", in line 3, the following words:- ; provided, however, that said office and position classification plan and said pay plan shall be filed with the house committee on ways and means as part of the annual appropriation request filed by the governor, pursuant to section seven H of chapter twenty-nine.

SECTION 14. Said section 45 of said chapter 30 is hereby further amended by striking out paragraph (4), as amended by section 349 of chapter 133 of the acts of 1992, and inserting in place thereof the following paragraph:-

(4) Each appropriation act, as filed by the governor and as enacted by the general court, shall contain, in each item of appropriation, subject to the provisions of this chapter, a specific number of authorized and funded positions, as defined in section twenty-nine of chapter twenty-nine. No authorization to establish, allocate, reallocate, transfer, or reclassify any permanent, temporary, seasonal, or excess quota position subject to the classification and pay plans provided for in this section shall be effected, unless and until the personnel administrator gives ten days' prior notice to the house and senate committees on ways and means.

SECTION 15. Paragraph (c) of section 9 of chapter 40N of the General Laws, as appearing in section 2 of chapter 343 of the acts of 1992, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Such schedule shall provide for the metering of, and charging for, water and sewer services provided to all consumers in the municipality, including the municipality, the commonwealth and all independent agencies and authorities of the municipality and the commonwealth, and any exemptions from such charges provided to the commonwealth or the municipality under any general or special law, are hereby declared inapplicable as of the date such schedule shall be in force; provided, however, that no betterment or special assessment shall be made by a water and sewer commission under the authority of chapters forty, eighty, eighty-three or any other provision of law against property owned by the commonwealth or any municipality of the commonwealth, or any political subdivisions thereof.

SECTION 16. Paragraph (d) of said section 9 of said chapter 40N, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

In addition to the other enforcement powers and remedies provided in this chapter, if any fees, rates, rents, assessments or other charges billed by the commission against any premises which are connected with the water works system or sewer works system remain unpaid for a period of more than sixty days from the due date thereof, and following such

period notice and demand have been posted on such premises and have been given to the owner of said premises, by registered or certified mail addressed to said premises and to the address of said owner as shown on the records of the assessor of the city or town and to occupants of said premises by mail, to pay the same within fifteen days from the date of mailing of said notice, and such fees, rates, rents, assessments or other charges remain unpaid, the commission shall have the power and is hereby authorized to shut off the supply of water to said premises until said fees, rates, rents, assessments or other charges are paid, together with interest thereon at the applicable rate and the standard charge of the commission for restoring water service to said premises.

SECTION 17. Chapter 44 of the General Laws is hereby amended by adding the following section:-

Section 72. Notwithstanding the provision of any general or special law to the contrary, cities, towns, or regional school districts may receive federal funds for services which are medically necessary and which are otherwise reimbursable under the program of medical care and assistance established under chapter one hundred and eighteen E pursuant to policies, procedures, and criteria established by the department of public welfare; provided, however, that the city, town, or regional school district, or any school committee therein, is responsible or assumes responsibility, along with the department of education, for payment of the full state share of the cost of such services under said program for medical care and assistance. Such federal reimbursement shall be distributed as follows: (1) one-half of the federal reimbursement received by the commonwealth which is attributable to services which are reimbursable medical services provided to students who are in residential special education programs pursuant to the provisions of chapter seventy-one B shall be returned to the city, town, or regional school district responsible or assuming responsibility for the costs of such services; (2) one-half of the federal reimbursement received by the commonwealth and attributable to services which are reimbursable medical services provided to students who are in residential special education programs pursuant to the provision of chapter seventy-one B shall be received by the commonwealth and deposited into the General Fund; and (3) one hundred percent of the federal reimbursement for all other reimbursable medical services shall be returned to the city, town, or regional school district responsible or assuming responsibility for the costs of such services. Said cities, towns, or regional school districts shall provide to the department of public welfare such information as the department of public welfare determines is necessary to receive appropriate federal reimbursement under this section on such forms and at such intervals as may be required by said department. Notwithstanding the provisions of any general or special law to the contrary, any funds received by a city, town, or regional school district pursuant to the provisions of this section shall be considered unrestricted revenue of the city, town, or regional school district.

SECTION 18. Subsection (b) of section 2 of chapter 62 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "association", in line 87, the following words:- or banking partnership.

SECTION 19. The first paragraph of section 5 of chapter 71B of the General Laws

is hereby amended by striking out the first sentence, as amended by section 150 of chapter 286 of the acts of 1992, and inserting in place thereof the following sentence:- Any school committee which provides or arranges for the provision of special education pursuant to the provisions of section three shall pay for such special education personnel, materials and equipment, tuition, room and board, transportation, rent and consultant services as are necessary for the provision of special education; provided, however, that the school committee shall not be obligated to pay for health care goods or services to the extent that such goods or services constitute medically necessary treatment for disease, illness, injury, or bodily dysfunction which would be covered by a third party payor but for a school-aged child's eligibility for such goods and services under this chapter; provided, further, that the determination of medical necessity shall be made by the third party payor under its standard program of utilization review, that the school-aged child with special needs or his parent or guardian if he is a minor shall have the right to freedom of choice in the selection of the provider of health care goods and services, and that the provider of health care goods and services does not have a direct or indirect financial relationship to the school committee; and provided, further, 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 except as provided under section seventy-two of chapter forty-four.

SECTION 20. Section 33 of chapter 90 of the General Laws is hereby amended by striking out the last paragraph, as amended by section 449 of chapter 133 of the acts of 1992, and inserting in place thereof the following paragraph:-

For the reinstatement of any license or right to operate a motor vehicle which has been suspended or revoked under the provisions of paragraphs (a), (e) and (f) of section twenty-two, twenty-two F, twenty-three, twenty-four, except as otherwise provided below, section twenty-four B, twenty-four D, twenty-four G, twenty-four L, or thirty-four J, and section twenty-eight of chapter two hundred and sixty-six, the fee shall be three hundred dollars. The fee for reinstatement following a revocation pursuant to subparagraph (2) of paragraph (c) of subdivision (1) of section twenty-four shall be five hundred dollars and the fee for such reinstatement following a revocation pursuant to subparagraphs (3) and (3 ½) of said paragraph (c) of said subdivision (1) of section twenty-four shall be one thousand dollars. The fee for reinstatement of any license or right to operate a motor vehicle which has been suspended or revoked under any other general or special law of the commonwealth shall be fifty dollars; provided, however, the fee for the reinstatement for suspensions and revocations pursuant to paragraph (c) of section twenty-two shall be commensurate with the fee established for the corresponding Massachusetts offense resulting in suspension or revocation pursuant to the General Laws.

SECTION 21. The first sentence of section 108 of chapter 92 of the General Laws, as amended by section 4 of chapter 36 of the acts of 1992, is hereby further amended by inserting after the word "watersheds", in line 3, the following words:- and the watershed system.

SECTION 22. The second paragraph of section 17A of chapter 118F of the General

Laws, as amended by section 478 of chapter 133 of the acts of 1992, is hereby further amended by striking out clause (iii) and inserting in place thereof the following clause:-

(iii) to fund a universal immunization program administered by the department of public health.

SECTION 23. Section 51A of chapter 119 of the General Laws is hereby amended by striking out, in line 55, the word "serious",- and by inserting after the word "him", in line 56, as appearing in the 1990 Official Edition, the following words:- which causes harm or substantial risk of harm to the child's health or welfare.

SECTION 24. The second paragraph of section 8 of chapter 218 of the General Laws, as appearing in section 5 of chapter 12 of the acts of 1993, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Each clerk appointed prior to January first, nineteen hundred and ninety-three under the authority of this section and serving continuously thereafter shall be entitled to thirty days vacation and thirty days sick leave in each calendar year.

SECTION 25. Section 20 of chapter 584 of the acts of 1987, as amended by section 398 of chapter 177 of the acts of 1990, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

From the amount authorized by this section, the department shall expend twenty-five million dollars for the purposes set forth in paragraph *(a)* and shall expend ten million dollars for the purposes set forth in paragraphs (*b*) to (*e*), inclusive; provided, however, that of the said thirty-five million dollars, up to five million dollars may be distributed as grants to any municipality or public body for the implementation and maintenance of a regional recycling plan, approved by the department, for multi-material collection and processing of recyclable materials.

SECTION 26. Section 2 of chapter 585 of the acts of 1987 is hereby amended by inserting after the word "generating", in line 3, the following word:- , transmission.

SECTION 27. Said section 2 of said chapter 585 is hereby further amended by inserting after the word "by", in line 4, the following words:- or otherwise benefiting.

SECTION 28. The last sentence of section 269 of chapter 138 of the acts of 1991 is hereby amended by striking out the words "nineteen hundred and ninety-two", inserted by section 7 of chapter 3 of the acts of 1992, and inserting in place thereof the following words:- nineteen hundred and ninety-three.

SECTION 29. Paragraph (*i*) of section 114 of chapter 412 of the acts of 1991 is hereby amended by inserting after the word "fifty E", in line 4, the following words:- ; provided, however, that, notwithstanding any provisions of this chapter to the contrary, all subject matter relating to wages, hours, standards of productivity or performance, and any other terms or conditions of employment shall be subject to the provisions 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.

SECTION 30. Item 3745-1000 of section 2A of chapter 3 of the acts of 1992 is hereby amended by inserting after the word "thereto", in line 10, the following words:- ; provided, further, that two million dollars shall be available for the one and two person pro-

gram, so-called, for elders and families whose income is in excess of one hundred and fifty percent of the federal poverty level, but not more than one hundred and seventy-five percent of said level, and for a program of supplemental energy assistance for low income elders and families to be administered in accordance with said Low Income Home Energy Assistance Act of nineteen hundred and eighty-one, as amended; and provided further, that, notwithstanding the provisions of any general or special law, or provisions of this item to the contrary, funds expended for said one and two person program and for said program of supplemental energy assistance for low income elders and families shall not be subject to federal reimbursement.

SECTION 31. Section 17 of chapter 36 of the acts of 1992 is hereby amended by striking out, in line 3, the third time it appears, the word "or" and inserting in place thereof the following words:- residential and.

SECTION 32. Item 0321-1510 of section 2 of chapter 133 of the acts of 1992 is hereby amended by inserting after the word "Laws", in line 3, the following words:- ; provided, however, that not more than fifty-four thousand dollars may be expended from this item for the cost of data processing temporary services.

SECTION 33. Item 0330-0100 of said section 2 of said chapter 133 is hereby amended by inserting after the word "justices", in line 1, the first time it appears, the following words:- and recall justices.

SECTION 34. Item 4800-0017 of said section 2 of said chapter 133 is hereby amended by striking out, in line 8, the word "eighty" and inserting in place thereof the following words:- one hundred and twenty.

SECTION 35. Item 5047-4000 of said section 2 of said chapter 133 is hereby amended by striking out the wording and inserting in place thereof the following:-

For inpatient, residential, and community programs for children with mental illness.

SECTION 36. Item 7052-0006 in said section 2 of said chapter 133 is hereby amended by inserting after the word "item", in line 7, the following words:- provided that the amount of one hundred sixty-six thousand six hundred and eighty-three dollars shall be reimbursed to the South Shore Technical High School for a lease obligation with the town of Abington.

SECTION 37. Item 7100-0200 of said section 2 of said chapter 133 is hereby amended by inserting after the word "Amherst", in line 50, the following words:- ; provided further, that the university of Massachusetts at Amherst is hereby authorized and directed to expend an amount not to exceed fifty-eight thousand dollars for the purposes of funding the collective bargaining costs of employees of the county cooperative extension program who are compensated from the Smith-Lever Grant, so-called; provided further, that the university is hereby authorized and directed to transfer expenses in an amount not to exceed fifty-eight thousand dollars to non-appropriated funds for the purposes of paying said collective bargaining costs.

SECTION 38. Said item 7100-0200 of said section 2 of said chapter 133 is hereby further amended by inserting after the word "positions", in line 54, the following words:- ; and provided, further, that, notwithstanding the provisions of any general or special law to

the contrary, the university of Massachusetts at Dartmouth is hereby authorized to expend up to one hundred and sixty-one thousand one hundred and seventeen dollars from this item for the payment of an arbitration award to members of the SMU Faculty Federation Local 1895 for contractual education needs.

SECTION 39. Item 4513-9021 of section 2A of said chapter 133 is hereby amended by striking out the wording and inserting in place thereof the following:-

For the purposes of a federally funded grant entitled "program for infants and toddlers with handicaps"; provided, however, that no more than two hundred and ten thousand dollars may be expended from this item for prior year state funded early intervention transportation claims.

SECTION 40. Section 2B of said chapter 133 is hereby amended by striking out item 7053-2101.

SECTION 41. Said section 2B of said chapter 133 is hereby further amended by striking out item 8900-0011.

SECTION 42. Said section 2B of said chapter 133 is hereby further amended by inserting after item 8900-0011 the following item:-

8900-0012 For the costs of products produced by the prison industries and farm program and for the costs of services provided by inmates, including moving, auto repair, culinary, and renovation and construction services; provided, however, that the cost for such renovation and construction services shall not exceed the amount established by the department of procurement and general services; provided further, that such revenues may also be expended for materials, supplies, equipment, maintenance of facilities and compensation of employees and for the inmate employment and training program $6,400,000

SECTION 43. Said chapter 133 is hereby further amended by striking out section 22 and inserting in place thereof the following section:-

Section 22. For the fiscal year beginning July first, nineteen hundred and ninety-two, the officers responsible for the medical care and assistance division of the department of public welfare, the department of medical security, the department of mental retardation, the higher education coordinating council, and the executive office of labor, shall submit directly to the secretary of administration and finance, the house and senate committees on ways and means, not less than twenty-one days after the end of each fiscal quarter, a report detailing by program objectives and performance measure, the performance of the programs for which they are responsible; provided, however, that the mission statements for each said agency shall not be construed as giving rise to enforceable legal rights to any party, but are to serve as internal management tools for gauging the achievement of objectives.

SECTION 44. Section 140 of said chapter 133 is hereby amended by adding the following paragraph:-

For purposes of this section the term "utility companies" shall mean any electric or gas company, as defined in section one of chapter one hundred and sixty-four of the General

Laws, municipal lighting plants including, but not limited to, municipal corporations, lighting boards and departments, and other persons, firms, associations, and private corporations or any combination thereof, which during the calendar year nineteen hundred and ninety-two or any year thereafter sold electricity or gas to any residential, commercial, or industrial custo-mers in the commonwealth; provided, however, that any small power producer or cogenerator qualifying under the public utility regulatory policies act shall not be subject to the provision of this section.

SECTION 45. Section 2 of chapter 153 of the acts of 1992 is hereby amended by striking out item 4170-0420 and inserting in place thereof the following item:-

4170-0420 For bonus payments to Gulf War veterans; provided, that notwithstanding the provisions of any general or special law to the contrary, said bonus payment to Gulf War veterans shall be made to those persons who were called to active service under Title X of the United States Code during the period of August second, nineteen hundred and ninety to April tenth, nineteen hundred and ninety-one, including a reservist or member of the national guard, upon discharge from active service, and to any regular service personnel who served during such period in the war zone and contiguous waters; provided, however, that said bonus payments be made pursuant to regulations promulgated by the office of the commissioner of veterans services at 108 CMR 11:00 through 11:05 . . . $1,786,408

SECTION 46. Section 2B of said chapter 153 is hereby amended by striking out item 4170-0420 and inserting in place thereof the following item:-

4170-0420 . . . . . $1,786,408

SECTION 47. Paragraph V of said section 2B of said chapter 153 is hereby amended by inserting after item 7490-8751 the following item:-

7511-8751.

SECTION 48. Said paragraph V of said section 2B of said chapter 153 is hereby further amended by inserting after item 7511-8752 the following four items:-

7511-8801 7511-8802 7511-8841 7511-8842.

SECTION 49. Item 1599-3904 of section 2 of chapter 248 of the acts of 1992 is hereby amended by striking out, in line 16, the word "ninety-two" and inserting in place thereof the following word:- ninety-three,- and by inserting after the word "means", in line 30, the following words:- provided, further, that the comptroller shall, no later than August first, nineteen hundred and ninety-three, provide to the senate and house committees on ways and means a detailed statement showing the actual allocation of funds from this item to other items of appropriation, and shall certify that said allocation complies with the provisions of this item.

SECTION 50. Item 1599-3720 of section 2 of chapter 267 of the acts of 1992 is hereby amended by inserting after the word "ninety-one", in line 36, the following words:- ; provided, further, that the secretary of administration and finance 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-three such amounts as are necessary to meet the cost of said salary adjustments for said fiscal year where the amounts otherwise available are insufficient for the purpose; provided further, that the comptroller shall, no later than August first, nineteen hundred and ninety-three, provide to the senate and house committees on ways and means a detailed statement showing the actual allocation of funds from this item to other items of appropriation, and shall certify that said allocation complies with the provisions of this item.

SECTION 51. Item 1599-3721 of said section 2 of said chapter 267 is hereby amended by inserting after the word "Regents", in line 87, the following words:- ; provided, further, that the secretary of administration and finance 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-three such amounts as are necessary to meet the cost of said salary adjustments for said fiscal year where the amounts otherwise available are insufficient for the purpose; and, provided, further, that the comptroller shall, no later than August first, nineteen hundred and ninety-three, provide to the senate and house committees on ways and means a detailed statement showing the actual allocation of funds from this item to other items of appropriation, and shall certify that said allocation complies with the provisions of this item.

SECTION 52. Item 1599-3722 of said section 2 of said chapter 267 is hereby amended by inserting after the words "AFL-CIO/CLC", in line 18, the following words:- ; provided, further, that the secretary of administration and finance 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-three such amounts as are necessary to meet the cost of said salary adjustments for said fiscal year where the amounts otherwise available are insufficient for the purpose; and, provided further, that the comptroller shall, no later than August first, nineteen hundred and ninety-three, provide to the senate and house committees on ways and means a detailed statement showing the actual allocation of funds from this item to other items of appropriation, and shall certify that said allocation complies with the provisions of this item.

SECTION 53. Item 1599-3723 of said section 2 of said chapter 267 is hereby amended by inserting after the word "ninety-two", in line 25, the following words:- ; provided, further, that the secretary of administration and finance 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-three such amounts as are necessary to meet the cost of said salary adjustments for said fiscal year where the amounts otherwise available are insufficient for the purpose; provided further, that the comptroller shall, no later than August first, nineteen hundred and ninety-three, provide to the senate and house committees on ways and means a detailed statement showing the actual allocation of funds from this item to other items of appropriation, and shall certify that said allocation complies with the provisions of this item.

SECTION 54. Item 1599-3724 of said section 2 of said chapter 267 is hereby

amended by inserting after the word "ninety", in line 25, the following words:- ; provided, further, that the secretary of administration and finance 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-three such amounts as are necessary to meet the cost of said salary adjustments for said fiscal year where the amounts otherwise available are insufficient for the purpose; provided further, that the comptroller shall, no later than August first, nineteen hundred and ninety-three, provide to the senate and house committees on ways and means a detailed statement showing the actual allocation of funds from this item to other items of appropriation, and shall certify that said allocation complies with the provisions of this item.

SECTION 55. Item 9222-7800 of section 2A of chapter 289 of the acts of 1992 is hereby amended by striking out, in line 6, the word "eight B" and inserting in place thereof the following word:- eight J.

SECTION 56. The third paragraph of chapter 13 of the acts of 1993 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Said parcel is to be conveyed together with a right to use so much of the 100 foot wide right of way shown on said plan, in common with the commonwealth which is necessary for the reasonable use of and access and egress to and from said parcel and Federal Furnace Road, so-called, a public way.

SECTION 57. The last paragraph of section 37 of chapter 19 of the acts of 1993 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Said commission shall submit a report, including any recommendations for legislation together with any remedies to enhance and develop the economic stability of the area known as the Merrimack Valley, to the clerks of the house of representatives and senate on or before the first Wednesday in October, nineteen hundred and ninety-three.

SECTION 58. Notwithstanding the provisions of any general or special law to the contrary, expenditures from item 4402-5003 in section two A of this act shall be made pursuant to this section. An amount not to exceed one hundred fourteen million, one hundred and six thousand dollars shall be expended from said item for claims incurred in the fiscal year ending June thirtieth, nineteen hundred and ninety-three; provided, that funds available in item 4402-4100 of section two of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two in excess of claims adjudicated as of June first, nineteen hundred and ninety-three may be transferred to items 4402-4200 and 4402-4300 of said section two of said chapter one hundred and thirty-three for the payment of claims incurred in said fiscal year; provided, that prior to said transfer, notice of the amount to be transferred shall be forwarded to the house and senate committees on ways and means; provided further, that not later than July twenty-third, nineteen hundred and ninety-three, the medical care and assistance program in the department of public welfare shall submit to the house and senate committees on ways and means the reconciliation of MMIS payments, so called, to MMARS items of appropriation, so called, for said fiscal year pursuant to the provisions of section ninety of chapter one hundred and thirty-three, notwithstanding the prior failure to comply with said section's reporting deadline; and provided further, that the

comptroller is hereby authorized and directed to withhold advances and expenditures from said item until such time as the budget director files with the house and senate committees on ways and means a revised and current balance sheet for said fiscal year that reflects total expenditures, including deficiencies funded by this act, and total revenues, including revenues associated with this act.

SECTION 59. Notwithstanding the provisions of section five D of chapter twenty-nine of the General Laws, or any other general or special law to the contrary, during fiscal year nineteen hundred and ninety-three, the first fifteen million seven hundred and seventy-six thousand, four hundred and fifty-nine dollars in fringe benefit charges which are applicable to the tuition retention fund established by section one hundred and nineteen of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two, and which are based on the fringe benefit rate established by the secretary of administration and finance in accordance with said section five D, shall not be transferred to the General Fund and shall remain available for expenditure by the university in accordance with the provisions of said section one hundred and nineteen.

SECTION 60. Notwithstanding the provisions of any general or special law to the contrary, in the event of a disaster as defined by regulations promulgated by the department of public welfare, the department of public welfare is hereby authorized to make payments for disaster assistance from item 4403-2100 of section two of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two; provided, however, that for the purposes of this section, disaster assistance shall be defined as payments for advance rent, security deposits, food, clothing and household supplies; and provided, further, that said department is hereby authorized to pay such disaster assistance retroactive to July first, nineteen hundred and ninety-two.

SECTION 61. Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the department of public health is hereby authorized and directed to review all existing encumbrances and pre-encumbrances in items 4510-0100, 4510-0710, and 4516-1000 of section two of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two. Said commissioner shall compare current spending rates for each subsidiary account within said items to spending rates in each of the two previous fiscal years to determine whether said items will revert funding in any of the lower subsidiaries, so-called, at the close of the current fiscal year; provided, that said commissioner shall, upon completion of such review, reduce encumbrances or pre-encumbrances where possible for the purposes of covering salary costs to be charged to said items; provided further, that said commissioner shall, within thirty days of the effective date of this act, submit to the executive office of health and human services, the budget bureau, the executive office for administration and finance, and the senate and house committees on ways and means a detailed report which describes the methodology used for the review of said items and delineates those encumbrances which shall be reduced or liquidated; and, provided further, that said commissioner shall certify in writing that every responsible effort has been made to reduce or eliminate the need for unnecessary spending in said items.

SECTION 62. Notwithstanding the provisions of any general or special law to the

contrary, the comptroller is hereby authorized and directed to transfer funds from item 1108-5230 of section two of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two to the items of appropriation listed below. The funds so transferred shall be for the purposes of and subject to the conditions established in items 1108-5200 and 1108-5220 of section two of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two.

1108-5200 ..... $15,000,000
1108-5220 ..... $1,100,000

SECTION 63. Notwithstanding the provisions of any general or special law to the contrary, the department of mental health, the division of medical care and assistance in the department of public welfare, hereinafter referred to as the division, 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 paid for low income care costs at those mental health facilities determined to be disproportionate share hospitals in accordance with requirements and implementing regulations of Title XIX of the Social Security Act. Said appropriate action may include, but not be limited to, the establishment of a separate account within the uncompensated care trust fund, established by section seventeen of chapter one hundred and eighteen F of the General Laws, for the purpose of making disproportionate share adjustment payments to such qualifying mental health facilities pursuant to relevant rate setting commission regulations and the related Title XIX state plan amendment submitted by the division to the health care financing administration in December, nineteen hundred and ninety-two. The division or the department of mental health may expend amounts transferred to it from said separate account within the Uncompensated Care Trust Fund without further appropriation. Any federal funds obtained as a result of actions taken pursuant to this section shall be deposited in the General Fund. 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 for the proper accounting and expenditure of funds pursuant to this section.

SECTION 64. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized, if directed by the secretary of administration and finance with the approval of the governor, to transfer funds from items 0411-1000, 1100-1100 and 1201-0100 of section two of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two to the items of appropriation listed below, in amounts not to exceed the total of the amounts listed below. The funds so transferred shall be for the purposes of, and subject to the conditions established in items 1100-1103, 1108-3000 and 1110-1000 of section two of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two.

1100-1103 ..... $74,000
1108-3000 ..... $170,000
1110-1000 ..... $64,574

SECTION 65. Notwithstanding the provision of any general or special law to the

contrary, the comptroller is hereby authorized, if directed by the secretary of consumer affairs and business regulation with the approval of the governor, to transfer funds from items 0411-1000 and 9200-0100 to the item of appropriation listed below, in amounts not to exceed the amount listed below. The funds so transferred shall be for the purposes of and subject to the conditions established in item 9215-0001 of section two of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two.

9215-0001 ..... $11,240

SECTION 66. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized, if directed by the secretary of health and human services with the approval of the governor, to transfer funds from items 0411-1000, and 4000-0100 of section two of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two, to the items of appropriation listed below, in amounts not to exceed the total of the amounts listed below. The funds so transferred shall be for the purposes of, and subject to the conditions established in items 4510-0100, 4510-0710, 4516-1000 and 8970-0001 of section two of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two.

4510-0100 ..... $74,000
4510-0710 ..... $63,000
4516-1000 ..... $103,000
8970-0001 ..... $136,788

SECTION 67. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized, if directed by the secretary of health and human services with the approval of the governor, to transfer funds from items 0411-1000, 4000-0100 and 5011-0100 of section two of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two to the item of appropriation listed below, in amounts not to exceed the amount listed below. The funds so transferred shall be for the purposes of, and subject to the conditions established in item 5049-0000 of section two of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two.

5049-0000 ..... $241,446

SECTION 68. Notwithstanding the provisions of any general or special law to the contrary, the chief executive officers of any department, board, commission, agency or institution receiving any funds appropriated in section two and section two A of this act shall acknowledge the following statement prior to the expenditure of said funds. The comptroller is hereby authorized and directed to withhold the allocation of all available funds from the central office of said department, board, commission, agency or institution until the secretary of administration and finance certifies a receipt of said statement, which certifications and statements shall be forwarded to the house and senate committees on ways and means.

ACKNOWLEDGEMENT OF CHAPTER 29 PROVISIONS REGARDING STATE FINANCE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS

The undersigned, as a condition of employment with the Commonwealth of Massachusetts, do hereby acknowledge the following namely:

(1) I have read and understand the provisions of chapter 29, specifically sections 26 and 66 which state as follows:

Section 26. Expenses of offices and departments for compensation of officers, members and employees and for other purposes shall not exceed the appropriation made therefor by the general court or the allotments made therefor by the governor. No obligation incurred by any officer or servant of the commonwealth for any purpose in excess of the appropriation or allotment for such purpose for the office, department or institution which he represents, shall impose any liability upon the commonwealth nor shall any liability be imposed upon the commonwealth under a subsequent appropriation by any ongoing commitment against a current year appropriation.

Section 66. Any officer or employee who knowingly violates, authorizes or directs another officer or employee to violate any provision of this chapter, or any rule or regulation promulgated thereunder, or any other provision of law relating to the incurring of liability or expenditure of public funds, 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.

(2) This document shall be filed with the Secretary for Administration and Finance and with the House Committee on Ways and Means.

(3) I understand that no supplemental funds for fiscal year nineteen hundred and ninety-three will be disbursed until this document is executed and filed pursuant to the preceding sentence.

_____

NAME
TITLE
DEPARTMENT

COMMONWEALTH OF MASSACHUSETTS

Suffolk,ss May , 1993

Then personally appeared the above-named_____and acknowledged the foregoing to be his/her free act and deed before me.

_____

Notary Public
My Commission Expires:

SECTION 69. Notwithstanding the provisions of section two W of chapter twenty-nine of the General Laws, inserted by section four of chapter two hundred and three

of the acts of nineteen hundred and ninety-two, amounts credited to the Water Pollution Abatement Projects Administration Fund shall be expended without further appropriation until June thirtieth, nineteen hundred and ninety-three.

SECTION 70. Notwithstanding the provisions of any general or special law to the contrary, any privately owned cogeneration facility located in the city of Springfield shall be exempt from local property taxation; provided, however, that said exemption shall be allowed only for a period of twenty-five years; and provided further, that such facility shall be so exempt only if the owner thereof has entered into an agreement with the mayor and board of assessors of the city of Springfield to: (1) forego obtaining manufacturing corporation classification and local property taxation exemption pursuant to subparagraph three of the sixteenth clause of section five of chapter fifty-nine of the General Laws, and (2) make a payment in lieu of taxes. Any such payment in lieu of taxes shall be greater than the local property tax and manufacturing equipment excise tax that the facility would pay as a manufacturing corporation so classified. For the purpose of this section, cogeneration facility shall mean any and all real property, including land, and any and all personal property used in the production of electricity and steam in a single production process.

SECTION 71. Notwithstanding the provisions of any general or special law to the contrary, any city, town or regional school district from which aid pursuant to chapter seventy of the General Laws was deducted to pay tuition for students attending schools in another community pursuant to section twelve B of chapter seventy-six of the General Laws in the school year beginning in September of nineteen hundred and ninety-two, which has not already done so, may submit an application for reimbursement to the executive office of education and shall be eligible for reimbursement subject to appropriation.

SECTION 72. Notwithstanding the provisions of section ten of chapter twenty-two C of the General Laws or any other general or special law to the contrary, or the rules and regulations regulating the maximum age requirements for appointment to the state police force, Carolyn Sygiel, a police officer at the University of Massachusetts at Boston, and Barbara Skrycki, a police officer in the town of Marshfield, shall be transferred to the state police force; provided however, that said Carolyn Sygiel and Barbara Skrycki have successfully complied with and passed all phases of the state police examination process and meet all other requirements of enlistment.

SECTION 73. The secretary of the executive office of health and human services shall convene a task force to develop a plan to meet the needs of children, adolescents and young adults, ages birth through twenty-two years, who have mental illness or emotional disturbance or are at risk of mental illness or emotional disturbance. Said task force shall be responsible for developing a plan to address the needs of all children, adolescents and young adults in need of mental health services, both in-patient and out-patient, with an emphasis on the development of community-based and family-based services. Said task force shall also be responsible for addressing in its plan the following issues: the impact of the mental health managed care program on services for children, adolescents, young adults and their families; the impact of the closing of the Gaebler Children's Center; the needs of children identified as environmentally at-risk through the Early Intervention Program; and

the needs of homeless children, adolescents and young adults and their families.

Said task force shall be chaired by the secretary and shall include, but not be limited to, representatives with clinical expertise and field experience from: the department of mental health, the department of social services, the department of public health, the department of youth services, the department of public welfare (homeless services), the department of education, the office for children and medicaid; Mass. League of Neighborhood Health Centers; a child welfare specialist; a forensic mental health specialist; two public school guidance counselors and student support staff; a local public health/mental health official; an early intervention specialist; a specialist in the area of "transition age" services, ages eighteen to twenty-two years, any academic from each of the following: medical school, school of public health and school of social work; two parents; a representative from the Parent Professional Advocacy League; the Department of Mental Health's Professional Advisory Committee on Child and Adolescent Mental Health; a representative from the Alliance for the Mentally Ill; a representative from the Mental Health Corporations of Massachusetts; a representative from the Massachusetts Association of Health Maintenance Organizations; a representative from the Massachusetts Association of Private Psychiatric Hospitals; a representative from the New England Council of Child and Adolescent Psychiatry.

Said task force shall identify the population in need of services; develop recommendations for state policy and programs; specify the details of a plan for interagency coordination between and among the various public and private providers of services; and develop a budget and financing plan in order to implement the recommendations of the committee.

Said task force shall also consider the findings of the Task Force on Mental Health Services for Children and Youth as presented in their final report of March, nineteen hundred and eighty-seven and shall submit its plan to the house and senate committees on ways and means, the joint committee on human services and elderly affairs and the special subcommittee on foster care thereof, and the legislative children's caucus no later than April first, nineteen hundred and ninety-four.

SECTION 74. Sections forty-five to forty-eight, inclusive, shall take effect as of June thirtieth, nineteen hundred and ninety-two.

SECTION 75. Sections thirty-two to forty-four, inclusive, shall take effect as of July first, nineteen hundred and ninety-two.

SECTION 76. Section eighteen shall apply to taxable years commencing on or after January first, nineteen hundred and ninety-three.

SECTION 77. Section twenty-four shall take effect as of February twelfth, nineteen hundred and ninety-three.

SECTION 78. The remainder of this act shall take effect upon its passage.

This bill was returned on May 20, 1993 by the Governor to the House of Representatives in which said bill originated with his objections to Sections: 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 24, 29, 61, 68, 72 and 73. The remainder of the bill approved May 20, 1993.

Chapter 51. AN ACT EXEMPTING THE POSITION OF POLICE CHIEF IN THE TOWN OF NORWELL 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 Norwell 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 person holding the position of chief of police in the town of Norwell on the effective date of this act.

Approved May 21, 1993.

Chapter 52. AN ACT PROVIDING FOR THE EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES FACILITY CONSOLIDATIONS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to facilitate the consolidation of facilities under the control of the executive office of health and human services, 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. To provide for a program of facility consolidation, including the study, design, construction, reconstruction, renovation, and improvement to various state institutions and properties, and for the purchase of certain property, including furnishings, equipment, and renovations to such property consistent with the recommendations of the governor's special commission on the consolidation of health and human services institutional facilities, hereinafter called the special commission, the sums set forth in section two of this act, for the several purposes and subject to the conditions in this act, are hereby made available, subject to the provisions of law regulating the disbursement of public funds and the approval thereof. Any capital expenditure authorized by this act shall be exempt from the provisions of sections twenty-five C to twenty-five G, inclusive, of chapter one hundred and eleven of the General Laws or any other general or special law requiring determination of need. The secretary of health and human services shall submit to the house and senate committees on ways and means a report, on or before February first of each year, a multi-year spending plan summarizing the expenditures on each item of authorization and the status of all such projects authorized by section two of this act.

SECTION 2.
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Item

4000-8200 For state financial assistance to implement the recommendations of the special commission in the form of loans for the development of community-based housing for the mentally ill and mentally retarded; provided, that said loan program shall be administered by the department of community affairs within the executive office of communities and development through contracts with authorities which shall be limited to housing authorities and redevelopment authorities duly organized and existing in accordance with chapter one hundred and twenty-one B of the General Laws, community development corporations duly organized and existing in accordance with chapter forty F of the General Laws, the Massachusetts Housing Finance Agency, a body politic and corporate entity established by chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, as amended, the Massachusetts community economic development assistance corporation (CEDAC), a body politic and corporate entity established by chapter forty H of the General Laws, and the Massachusetts Government Land Bank, a body politic and corporate entity established by chapter two hundred and twelve of the acts of nineteen hundred and seventy-five; provided, that said loan issuing authorities may develop or finance said community-based housing, or may enter into subcontracts with non-profit organizations established pursuant to chapter one hundred and eighty of the General Laws or organizations in which such non-profit corporations have a controlling financial or managerial interest; provided further, that loans issued pursuant to this item shall be subject to the following provisions: (1) said loans shall be limited to not more than thirty percent of the financing of the total development costs; (2) said loans shall only be issued for a community-based housing project contingent on the title to said real property reverting to the commonwealth when said loan becomes due and payable except as provided by section three; (3) said loans shall only be issued when any contract or agreement for the use of said property for the purposes of such community-based housing provides for the recording of a restriction, for the benefit of the said departments, running with the land, that the land be used for the purpose of providing community

based housing for the mentally ill, or mentally retarded and related uses; unless and until the balance of the principal and interest for said loan is repaid in full and is released from such restriction as provided pursuant to section three of this act; (4) said loans shall be issued for a term of up to thirty years during which time repayment may be deferred by the loan issuing authority unless at the end of any fiscal year, cash collections from all sources in connection with a community-based housing project, except for contributions, donations, or grant monies, exceed one hundred and five percent of cash expenditures on behalf of said project, including debt service, operating expenses, and capital reserves, in which event such excess cash shall be paid to the commonwealth within forty- five days of the end of said fiscal year, payable first to interest due hereunder and thereafter to principal advanced pursuant to said loan; provided, that if on the date said loans become due and payable to the commonwealth an outstanding balance exists, said loans may be extended for a period not to exceed ten years for the purpose of repaying the outstanding principal and interest on said loans; (5) interest rates for said loans shall be fixed at a rate, to be determined by the secretary for communities and development in consultation with the treas-urer of the commonwealth, that shall be equal to the rate anticipated to be that paid by the commonwealth for bonds issued pursuant to section six of this act; which financing shall not exceed terms of thirty years; (6) expenditures from this item shall not be made for the purpose of refinancing out-standing mortgage loans for community-based housing in existence prior to the effective date of this act; except for community-based housing purchased or developed in accordance with the governor's special commission for former residents of the Belchertown state school and the Norfolk Street Project located in the city of Cambridge; (7) community-based housing projects developed pursuant to this act shall not be refinanced during the term of any loan issued pursuant to this item unless and until the balance of the principal and interest for such loan is repaid in full at the time of such refinancing; provided, that said community-based housing projects may be refinanced if such refinancing would result in a reduction of costs paid by the commonwealth; provided further, that any such refinanced loan shall be due and payable on a date no later than the date on

which the original loan was due and payable, except in accordance with subsection (4) of this item, or is necessary to effect extra-ordinary repairs or maintenance to be approved by the commissioners of capital planning and operations, and mental retardation, or mental health, as appropriate, and the house and senate committees on ways and means; (8) said loans shall be provided only for projects conforming to the provisions of this act; and (9) said loans shall be issued in accordance with a facilities consolidation plan prepared by the secretary of health and human services, reviewed and approved by the secretary of communities and development and filed with the secretary for administration and finance and the house and senate committees on ways and means; provided, that no expenditures shall be made pursuant to this item without the prior approval of the secretary for administration and finance; provided further, that not more than ten million dollars may be expended from this item for a pilot program of community-based housing loans to serve mentally ill homeless individuals in the current or former care of said department of mental health; provided further, that in implementing said pilot program, said department shall take due consideration of a balanced geographic plan when establishing community-based residences; provided further, that said housing services made available pursuant to such loans shall not be construed as a right or an entitlement for any individual or class of persons to the benefits of said pilot program; provided that eligibility for said pilot program shall be established by regulations promulgated by the said department. The executive office of communities and development is hereby authorized and directed to promulgate emergency regulations pursuant to section two of chapter thirty A of the General Laws for the implementation of the community-based housing loan program and the mentally ill homeless pilot loan program authorized by this item, consistent with the facilities consolidation plan prepared by the secretary of health and human services and after consultation with said secretary and the commissioner of thedivision of capital planning and operations $50,000,000

Department of Public Health.

4530-8100 For the commonwealth's contribution for certain leasehold improvements at the Worcester city hospital campus including, demolition, renovation, new construction, and the acquisition

of equipment related to the delivery of primary and urgent care services and related ancillary services on said campus; provided, that said expenditure shall be limited to the terms and conditions established by vote of the acute hospital conversion board on November sixth, nineteen hundred and ninety-two for the purpose of preserving non-acute health care services in said city and pursuant to a memorandum of understanding relative to the said hospital entered into on December fifth, nineteen hundred and ninety-one by the executive office of health and human services, the university of Massachusetts medical center, the Worcester health and hospitals authority and the family health and social service center, incorporated $4,100,000

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, the division of capital planning and operations acting on behalf of the department of mental health and the department of mental retardation is hereby authorized to enter into thirty year lease-purchase agreements for the provision of community-based housing for clients of the said departments and pursuant to the recommendations of the special commission referred to in section one. Any such lease-purchase agreements shall be for a period of thirty years, with the option to extend such agreements for up to an additional ten years. Such agreements shall be entered into with the owners of such residences and provide for the transfer of title to the commonwealth upon the expiration of said agreements; provided, that said transfer of title shall not be required when mortgage amortization expenses for such residences are not paid directly or indirectly through reimbursements or rates paid by the commonwealth on behalf of clients of the said departments. Said agreements may be negotiated for a lesser period of time provided that said commissioner of capital planning and operations, in consultation with the applicable department, determines that the amortization of the lease-purchase agreement for a shorter period of time would be as cost-effective as a thirty year agreement.

Said lease-purchase agreements shall further require that the owners of properties which are the subject of such agreements impose restrictions on such properties, for the benefit of the said departments, running with the land, that restrict the use of said land to the purpose of providing housing or services to the mentally ill or mentally retarded and related uses; provided, that each such restriction shall be recorded in the registry of deeds or the registry district of the land court of the county in which the affected real property is located. Said restriction shall only be released when *(a)* a written determination by the secretary of health and human services, the secretary of administration and finance and the commissioner of the department on whose behalf said division originally entered into said agreement is recorded stating that there is no longer a need to maintain and use such real property for the purpose of providing such housing or services and that any outstanding principal or interest due to the commonwealth pursuant to the community-based housing loan attached to said real property has been paid in full; or *(b)* in the event of foreclosure on said property by a

primary mortgagee, said secretary certifies the inability to find another purchaser or manager for said property capable of maintaining the restricted use of the property; provided, that failure by said secretary to find another purchaser or manager for said property capable of maintaining the restricted use of the property within sixty days of foreclosure shall constitute automatic certification of the inability to find said purchaser or manager, and shall release said land use restriction.

The commissioners of the said departments, in consultation with the secretary of communities and development, may recommend to the division the extension of a thirty year lease-purchase agreement for up to ten years in order to satisfy repayment of any community-based housing loan issued pursuant to the provisions of item 4000-8200 of section two of this act. The said commissioners may further recommend that at the time for title reversion to the commonwealth, said title may be transferred to the provider of housing or other services at a community-based residence provided said provider agrees to maintain the restriction on use of the real property provided by this section and agrees not to sell or lease said real property to another owner or occupant or for another purpose.

The process for entering into such thirty year lease-purchase agreements shall be consistent with the recommendations of the special commission and shall comply with the provisions of sections forty G, forty H, and forty J of chapter seven of the General Laws and requirements established by this act. Any community-based housing services procured pursuant to this section shall meet all applicable state and federal health and safety laws and regulations.

Any agreement for the provision of community-based housing not consistent with the requirements of this section shall be for a term not to exceed five years, consistent with law governing the selection of and contracting for such services; and may not require the inclusion of title reversion and restrictive use provisions.

Notwithstanding the provisions of any general or special law to the contrary, until such time as the commonwealth acquires title, the construction, development, financing, management and leasing of said community-based residences, and any contract for construction and design services for or relating to the construction, development or leasing of said community-based residences shall be exempt from the provisions of section thirty-eight ½ to thirty-eight O, inclusive, of chapter seven, section thirty-nine M of chapter thirty and sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine of the General Laws.

SECTION 4. If any provisions of this act would preclude the use of federal funds that will assist in meeting the goals of the said program, the secretary of communities and development is hereby authorized to modify, waive or negotiate such modifications to said rules as may be required to allow the use of said federal funds; provided, however, that the interests of the commonwealth remain protected; and provided, further, that in no event, shall the term exceed a maximum of forty years for any loan issued pursuant to this act for which such modification or waiver may be allowed.

SECTION 5. Requests for proposals issued by the division of capital planning and operations pursuant to this act shall be subject to the underwriting and competitive selection

regulations as may be required by the agencies participating in this process; provided, however, that sixty-five percent of all proposals approved statewide for projects of the department of mental retardation for inclusion under this section shall require new construction for the development of community-based housing and that thirty-five percent of such approved applications shall require the acquisition and rehabilitation of existing structures; provided, further, that twenty percent of all proposals approved statewide for projects of the department of mental health for inclusion under this act shall require new construction for the development of community-based housing and that eighty percent of such approved applications shall require the acquisition and rehabilitation of existing structures. In no event shall the needs of the client be compromised by the aforementioned selection criteria nor shall the cost of the selected application be uncompetitive with other proposals under consideration. The executive office of communities and development and the executive office of health and human services shall jointly submit to the house and senate committees on ways and means on a quarterly basis, reports detailing all financial activities, including, but not limited to, loan agreements, expenditures, encumbrances, debt issuances, and debt service due pursuant to item 4000-8200 of section two of this act.

SECTION 6. The commissioner of the department of mental health is hereby authorized to lease, purchase or otherwise contract for inpatient bed capacity from such private and public hospitals as may respond to a request for proposals and at such rates as may be negotiated by the department. The commissioner may seek to affiliate with and operate under the license of such hospitals. Any such lease, purchase, contract or affiliation agreement shall be consistent with the recommendations of the special commission. The conversion of any such inpatient bed capacity from an existing use to a use established pursuant to an agreement with the commissioner shall be exempt from the provisions of sections twenty-five C to twenty-five G, inclusive, of chapter one hundred and eleven of the General Laws or any other general or special law requiring a determination of need, so-called; provided, however, that said conversion shall not result in a net increase in bed capacity in a health service area of the commonwealth; and provided, further, that the costs and revenues generated by the operation of such capacity pursuant to such lease, purchase, contracts or affiliation agreement shall be treated as if a determination of need had been granted for the purposes of establishing rates and charges under chapter six A of the General Laws. For the purpose of calculating the hospital maximum allowable cost and gross patient service revenues under said chapter six A, the costs of staffing such units shall be treated as a cost to the hospital.

SECTION 7. 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 up to thirty years to an individual or entity, a parcel of land not exceeding three and forty-six one hundredths acres in size to be identified by said commissioner within the boundaries of the Danvers State Hospital.

Said lease shall be in accordance with such terms and conditions as the commissioner shall prescribe; provided, however, that the property shall be used primarily for the purpose of providing alcohol detoxification programs for the department of public health, and that

all interests in said property shall revert to the commonwealth in the event that said property ceases to be used for such purpose.

SECTION 8. To meet the expenditures necessary in carrying out the provisions of section two of this act, 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, not exceeding fifty-four million one hundred thousand dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Human Services Consolidation Capital Outlay Loan, Act of 1993, and shall be issued for a maximum term of 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 no later than June thirtieth, two thousand and nineteen. 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 be general obligations of the commonwealth.

SECTION 9. 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 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 term, 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. All interest and payments on account of principal of such obligations shall be payable from the General Fund.

SECTION 10. Section 35 of chapter 75 of the General Laws is hereby amended by adding the following paragraph:-

The trustees are hereby authorized to acquire, lease, operate or affiliate with, to the extent said relationship is determined by said trustees to be in the best interests of or to further the educational mission of the medical school or the teaching hospital, satellite clinics, physicians offices, ambulatory care centers, mental health programs or facilities, health care facilities, outpatient diagnostic or treatment centers, home health care programs, long term care facilities, rehabilitation facilities, clinical laboratories, fitness centers and similar health care or related programs or facilities; provided, that said relationship shall be subject only to such other state or local authority as may be required pursuant to any general or special law governing such non-governmental health care institutions, facilities or program.

This bill was returned on May 21, 1993 by the Governor to the House of Representatives where said bill originated with his objections to Section 10. The remainder of the bill approved May 21, 1993.

Chapter 53. AN ACT FURTHER REGULATING THE INCORPORATION OF THE AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE.

Be it enacted, etc., as follows:

SECTION 1. Chapter 74 of the acts of 1874 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. Joseph Henry of Washington, Benjamin Peirce of Cambridge, James D. Dana of New Haven, James Hall of Albany, Alexis Caswell of Providence, Stephen Alexander of Princeton, Isaac Lea of Philadelphia, F. A. P. Barnard of New York, John S. Newberry of Cleveland, B. A. Gould of Cambridge, F. Sterry Hunt of Boston, Asa Gray of Cambridge, J. Lawrence Smith of Louisville, Joseph Lovering of Cambridge and John LeConte of Philadelphia, their associates, the officers and members of the association, known as the "American Association for the Advancement of Science", and their successors, are hereby made a corporation by the name of the "American Association for the Advancement of Science". Said corporation is organized and shall be operated exclusively for charitable, scientific, literary, and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended, including but not limited to the following purposes: *(a)* to further the work of scientists, to facilitate cooperation among them, to foster scientific freedom and responsibility, to improve the effectiveness of science in the promotion of human welfare, to advance education in science, and to increase public understanding and appreciation of the importance and promise of the methods of science in human progress; and *(b)* to engage in joint programs and activities and share facilities, with other tax-exempt, charitable, scientific, literary, and educational organizations with a view toward achieving economies of scale, programmatic synergies, and overall enhancement and promotion of the charitable, scientific, literary, and educational purposes of said corporation and such other tax-exempt organizations.

Said corporation shall have all the powers and privileges and be subject to the restrictions, duties, and liabilities set forth in the General Laws which now or hereafter may be in force and applicable to such corporation, including without limitation the power to engage in any lawful activity in furtherance of its purposes and each of the powers which may be authorized to a corporation under section six of chapter one hundred and eighty of the General Laws.

SECTION 2. Said chapter 74 is hereby further amended by inserting after section 3 the following section:-

Section 3A. No part of the assets or net earnings of said corporation, current or accumulated, shall inure to the benefit of or be distributable as dividends or otherwise to the directors, officers, or employees of said corporation or to other private persons, except that said corporation is authorized and empowered to pay reasonable compensation for services actually rendered and to make payments and distributions to further its charitable, scientific, literary, and educational purposes.

No director, officer, employee, member of a committee, person connected with said corporation, or any other private individual shall be entitled to or shall share in the distribu-

tion of the corporate assets upon the said corporation's dissolution. Upon dissolution or winding up of said corporation's affairs, whether voluntary or involuntary, all of its assets then remaining in the hands of the board of directors shall, after paying or making provision for payment of all of said corporation's liabilities, be distributed, transferred, conveyed, delivered, and paid over only to educational, scientific, literary, or charitable organizations that are exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and which are not private foundations within the meaning of section 509(a) of the Internal Revenue Code of 1986, as amended, on whatever terms and conditions and in whatever amounts the board of directors may determine, for use exclusively for educational, scientific, literary, or charitable purposes, except that no distribution shall be made to organizations testing for public safety.

No substantial part of the activities of said corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, and said corporation shall not participate or intervene in, including the publication or distribution of statements, political campaigns on behalf of or in opposition to any candidate for public office, whether by publishing or distributing statements or otherwise.

Section 3. This act shall take effect upon its passage.

Approved May 26, 1993.

Chapter 54. AN ACT AUTHORIZING THE CITY OF PITTSFIELD TO CONVEY AN EASEMENT IN CERTAIN PARK LAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section three of chapter seven hundred and fifty-nine of the acts of nineteen hundred and seventy-nine, and chapter thirty B of the General Laws, the city of Pittsfield is hereby authorized to convey an easement to Hillcrest Hospital, its successors and assigns, in certain land in said city acquired for park and school purposes, bounded and described as follows:

Southerly by land of Hillcrest Hospital 400.00 feet;
Easterly by the westerly line of Valentine Road 100.00 feet;
Northerly by land of the City of Pittsfield 400.00 feet;
Westerly by land of the City of Pittsfield 100.00 feet.

The above described land is a portion of the land deeded by the commonwealth to the city of Pittsfield by deed dated February 11, 1992 and recorded in the Land Court Records at the Berkshire Middle District Registry of Deeds as Document Number 23882 noted on Certificate of Title Number 6207 recorded in Registration Book 28, Page 167.

The above described land is further shown and described on a plan entitled "Plan of Land in Pittsfield" dated February 19, 1993, prepared by Kelly, Granger, Parsons & Associates, Inc., to be placed on file with the Planning Board of the City of Pittsfield.

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

Approved May 26, 1993.

Chapter 55. AN ACT DESIGNATING A CERTAIN INTERSECTION IN THE TOWN OF GRAFTON AS THE DELISLE-GOULET POST 2 AMERICAN LEGION SQUARE.

Be it enacted, etc., as follows:

The intersection of state highway Route 140, also known as Worcester street and state highway Route 122, also known as Providence road, in the town of Grafton shall be designated and known as the Delisle-Goulet Post 2 American Legion square. The department of highways shall erect a suitable marker bearing said designation in compliance with the standards of said department.

Approved May 27, 1993.

Chapter 56. AN ACT EXEMPTING CERTAIN POSITIONS IN THE TOWN OF BILLERICA FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The clerical positions in the offices of the conservation commission, the veterans department, the town accountant department, and the personnel board in the town of Billerica 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 May 27, 1993.

Chapter 57. AN ACT ESTABLISHING A SICK LEAVE BANK FOR CHARLES J. McPHERSON, AN EMPLOYEE OF THE DEPARTMENT OF HIGHWAYS.

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 department of highways, 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, rule or regulation to the contrary, the department of highways is hereby authorized and directed to establish a sick leave bank for Charles J. McPherson, an employee of said department. Any employee of said department may voluntarily contribute one or more of his sick, personal or vacation days to said sick leave bank for use by said Charles J. McPherson.

The foregoing was laid before the Governor on the nineteenth day of May, 1993 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him with his objections thereto within that time.

Chapter 58. AN ACT RELATIVE TO THE RETIREMENT AND HEALTH INSURANCE BENEFITS OF PART-TIME ELECTED OFFICIALS IN THE TOWN OF ADAMS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter thirty-two or chapter thirty-two B of the General Laws or any other general or special law to the contrary, an elected official of the town of Adams who receives regular annual compensation which is less than five thousand dollars shall not be eligible for the benefits provided under said chapter thirty-two or chapter thirty-two B.

SECTION 2. The provisions of section one shall not impair the retirement or health insurance benefits of a person currently serving as an elected official in the town of Adams during his present term of office. In the event of re-election to said office, or election to any other office in said town of Adams with annual compensation of less than five thousand dollars said person shall not be entitled to benefits under chapter thirty-two or chapter thirty-two B of the General Laws.

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

Approved June 2, 1993.

Chapter 59. AN ACT DESIGNATING A CERTAIN MONUMENT AS THE OFFICIAL STATE MONUMENT FOR VETERANS OF THE SOUTHWEST ASIA WAR.

Be it enacted, etc., as follows:

Chapter 2 of the General Laws is hereby amended by inserting after section 36 the following section:-

Section 37. The memorial to be constructed in the city of Worcester by the Desert Calm Committee, Inc. shall be the official state monument for the veterans of the Southwest Asia War.

Approved June 2, 1993.

Chapter 60. AN ACT AUTHORIZING THE CITY OF SPRINGFIELD TO CONVEY CERTAIN LAND LOCATED ON BERKSHIRE AVENUE TO GREATER SPRINGFIELD HABITAT FOR HUMANITY, INC.

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 city of Springfield, acting by and through its mayor, with the approval of the city council, is hereby authorized to convey a certain parcel of vacant land presently under the care and control of the board of fire commissioners of said city to the Greater Springfield Habitat for Humanity, Inc. Said parcel of land is shown as parcel 180 on the assessor's map of said city.

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

Approved June 8, 1993.

Chapter 61. AN ACT AUTHORIZING THE TOWN OF MIDDLEBOROUGH TO CONVEY A CERTAIN PARCEL OF CONSERVATION LAND.

Be it enacted, etc., as follows:

The town of Middleborough is hereby authorized to sell or exchange and convey a certain parcel of conservation land located in said town and shown as Lot 47 on assessors map R78; provided, however, that the proceeds received from sale shall be used for the purchase of conservation land and any land received in exchange shall be used for conservation purposes.

Approved June 8, 1993.

Chapter 62. AN ACT VALIDATING ANY APPROPRIATION APPROVED AT THE TOWN OF ASHBURNHAM ANNUAL TOWN MEETING HELD ON APRIL THIRD, NINETEEN HUNDRED AND NINETY-THREE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, any appropriation approved at the annual town meeting in the town of Ashburnham held on April third, nineteen hundred and ninety-three and required to be submitted to the voters pursuant to paragraph (*m*) of 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 seventy days after the date of said town meeting.

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

Approved June 7, 1993.

Chapter 63. AN ACT RELATIVE TO THE OFFICE OF THE MAYOR IN THE CITY OF LAWRENCE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of paragraph (a) of subsection 11 of section four of chapter four hundred and twenty-five of the acts of nineteen hundred and eighty-three, or any general or special law to the contrary, if a vacancy in the office of mayor of the city of Lawrence occurs in the year nineteen hundred and ninety-three the clerk of the council shall forthwith call a special meeting of the city council and the city council shall then elect by majority vote, one of its members to serve as mayor. If the city council shall fail to elect one of its members within fourteen days following the date of the meeting called by the clerk of the council the president of the city council shall become the mayor. Upon the election and qualification of any member of the city council as mayor pursuant to this act his office of councilor shall remain vacant.

The member so elected to serve as mayor shall have all the powers of the mayor and shall serve until the date of the certification of the results of the next regular city election. The person elected at said regular city election to the office of mayor shall forthwith be sworn and shall, in addition to the term for which he was elected, serve for the balance of the then unexpired term of the mayor. During the time that any member of the city council serves as mayor pursuant to this section his office of councilor shall remain vacant until the election and qualification of the mayor at the November second, nineteen hundred and ninety-three election, at which time he will return to his seat on the city council.

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

Approved June 10, 1993.

Chapter 64. AN ACT AUTHORIZING THE TOWN OF SAUGUS TO ISSUE AN ALL ALCOHOLIC BEVERAGE CLUB LICENSE TO THE SAUGUS ITALIAN AMERICAN CLUB 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 of the town of Saugus is hereby authorized to issue a club license for the sale of all alcoholic beverages to be drunk on the premises to the Saugus Italian American Club Inc. under the provisions of section twelve of said chapter one hundred and thirty-eight, except for section seventeen.

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

Approved June 10, 1993.

Chapter 65. AN ACT RELATIVE TO THE TAXATION OF CERTAIN PROPERTY IN THE TOWN OF AGAWAM.

Be it enacted, etc., as follows:

SECTION 1. The real property owned by WestMass Area Development Corporation shall not be subject to taxation by the city known as the town of Agawam until December thirty-first, nineteen hundred and ninety-seven or until such property is sold, leased, rented or otherwise disposed of, whichever occurs first; provided, however, that the WestMass Area Development Corporation shall record in the Hampden county registry of deeds the existing protective restrictions for the Agawam regional industrial park on all the real property owned by it.

SECTION 2. The town of Agawam is hereby authorized by vote of the town council with the concurrence of the mayor to continue the exemption from taxation for real property owned by WestMass Area Development Corporation until December thirty-first, two thousand and two or until such property is sold, leased, rented or otherwise disposed of, whichever is first, but in no event shall said continuation be granted unless the extension of the existing Bowles road in the Agawam regional industrial park is constructed by WestMass Area Development Corporation or the commonwealth from the present layout terminus of said road approximately one thousand six hundred and sixty feet to Garden street at the Route fifty-seven east bound on-ramp.

SECTION 3. The provisions of this act shall take effect as of January first, nineteen hundred and ninety-three.

Approved June 10, 1993.

Chapter 66. AN ACT RELATIVE TO TOWN MEETINGS IN THE TOWN OF DARTMOUTH.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 3 of chapter 26 of the acts of 1927 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any representative town meeting held under the provisions of this act, except as otherwise provided herein, shall be limited to the voters elected under section two, with the following, designated as town meeting members at large; namely, any member of the general court of the commonwealth from the town, the selectmen, the moderator, the town clerk, the chairmen of the trustees of the public library, the chairman of the planning board, the chairman of the school board, the chairman of the board of assessors, the chairman of the board of health, the board of public works and the chairman of the finance committee.

SECTION 2. Section 4 of said chapter 26 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Nomination of candidates for town meeting members to be elected under this act shall be made by nomination papers

signed by not less than twenty voters of the precinct in which the candidate resides and filed with the town clerk at least thirty-five days before the election; provided, however, that any town meeting member may become a candidate for re-election by giving written notice thereof to the town clerk at least thirty-five days before the election.

Approved June 10, 1993.

Chapter 67. AN ACT RELATIVE TO THE USE OF LANDS ABUTTING ROUTE 2 IN THE TOWNS OF LINCOLN AND CONCORD.

Be it enacted, etc., as follows:

Section one of chapter four hundred and two of the acts of nineteen hundred and fifty-two is hereby repealed.

Approved June 10, 1993.

Chapter 68. AN ACT AUTHORIZING THE TOWN OF AMESBURY TO PAY OR PROVIDE FOR CERTAIN COSTS RELATED TO THE SALE, TRANSFER OR CLOSURE OF THE AMESBURY HOSPITAL.

Be it enacted, etc., as follows:

SECTION 1. The town of Amesbury is hereby authorized to borrow, upon the approval of the board of selectmen, at one time or from time to time, and as provided for herein, such sum as the commissioner of revenue shall approve as related to the sale or closure of the Amesbury hospital and to issue therefor bonds or notes of the town of Amesbury. Upon the order of the board of selectmen, the proceeds of such bonds or notes shall be used to pay costs, expenses and liabilities, or to defray deficits relating to or otherwise resulting from the operations, sale, transfer or closure of the Amesbury hospital.

Bonds or notes issued under authority of this act may be in such form, and include such terms and conditions, as the commissioner of revenue shall approve and shall be general obligation bonds or notes of the town of Amesbury. Bonds or notes issued under authority of this act shall be eligible to be issued as qualified bonds pursuant to chapter forty-four A of the General Laws. The maturity of any bond or note issued under authority of this act shall not be after June thirtieth of the year two thousand and three. The maturities of each issue of bonds or notes authorized under authority of this act may, if approved by the town officers authorized to issue said bonds or notes and the commissioner of revenue, be arranged so that for each issue the amounts payable in the several years for principal and interest combined are as nearly equal as practicable in the opinion of the officers authorized to issue said bonds or notes.

No bond or note shall issue under authority of this act, nor shall any expenditure or

application of the proceeds of any bond or note issued under authority of this act be made, unless approved by the commissioner of revenue as related to the operations, transfer, sale or closure of the Amesbury hospital and necessary to promote and ensure the fiscal stability of the town of Amesbury.

SECTION 2. If at any time the town of Amesbury has not issued bonds or notes under authority of this act, the town, by action of the board of selectmen, may, with the approval of the commissioner of revenue, and subject to such terms, conditions and requirements as the commissioner may impose, capitalize expenses and liabilities resulting from the operations, transfer, sale or closure of the Amesbury hospital, hereinafter the amortization amount, and fund the amortization amount over a term not to exceed ten years. Amounts to be raised in each fiscal year under authority of this section shall not be less than one-tenth of the total amortization amount, and amortization in any fiscal year shall be permissible only to the extent that the commissioner of revenue determines and approves with respect to such year that such amortization is necessary and appropriate to achieving and maintaining fiscal stability in the town of Amesbury.

SECTION 3. Indebtedness incurred under the provisions of this act shall not be included in determining the statutory limit of indebtedness of the town of Amesbury under section ten of chapter forty-four of the General Laws but, except as provided for herein, shall otherwise be subject to the provisions of said chapter forty-four.

SECTION 4. Notwithstanding the provisions of section sixty-three of chapter forty-four of the General Laws or any other general or special law to the contrary, the town of Amesbury, upon the approval of the board of selectmen and without further appropriation, is hereby authorized to expend, with the approval of the commissioner of revenue, the proceeds from the transfer or sale of the real estate, personal property or other assets of the Amesbury hospital for any costs, expenses, liabilities or deficits resulting directly or indirectly from the operations, transfer, sale or closure of the Amesbury hospital.

SECTION 5. During the term of any bond or note authorized under authority of this act, or during the period of any amortization of any amounts related to the operations, transfer, sale or closure of the Amesbury hospital as provided for in this act, the town of Amesbury shall issue no temporary loan in anticipation of taxes or revenue under authority of section four of chapter forty-four of the General Laws or any other similar provision of special law without prior written approval of the commissioner of revenue.

SECTION 6. This act shall take effect upon its passage.

Approved June 14, 1993.

Chapter 69. AN ACT RELATIVE TO PROPERTY TAX BILLS IN THE TOWN OF READING.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Reading is hereby authorized to incorporate the two million four hundred thousand dollars property tax override voted by the town on March twenty-third, nineteen hundred and ninety-three into the preliminary tax commitment for fiscal year nineteen hundred and ninety-four.

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

Approved June 16, 1993.

Chapter 70. AN ACT RELATIVE TO THE TRI-COUNTY REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the commissioner of education shall in fiscal years nineteen hundred and ninety-four and nineteen hundred and ninety-five, respectively, certify and, subject to appropriation, the state treasurer shall pay, in accordance with sections twelve to fifteen, inclusive, of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight, to the Tri-County Regional Vocational Technical School District, the sum of eight hundred and twenty-two thousand dollars, in accordance with the school construction grant on account of approved school project number 1960; provided, however, that to the extent that any audit of said project's expenses by the bureau of school facilities and management services in the department of education reveals any overpayment to said district on account of said project, the amount of any such overpayment shall be repaid to the commonwealth by said district, through the deduction of one-tenth of any such amount from total state educational assistance annually provided for such district, until any such amount has been repaid in full. The district shall not be liable for the payment of interest on any such amount found owing to the commonwealth.

Approved June 16, 1993.

Chapter 71. AN ACT ESTABLISHING THE EDUCATION REFORM ACT OF 1993.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide immediately for the improvement of public education in 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 last paragraph of section 25 of chapter 10 of the General Laws,

added by section 2 of chapter 461 of the acts of 1991, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Revenue from the lotteries for the arts shall be distributed in accordance with the provisions of section fifty-seven; provided, however, that the comptroller shall transfer in April of each year six hundred thousand dollars therefrom to the children's trust fund established in section fifty.

SECTION 2. Chapter 15 of the General Laws is hereby amended by striking out section 1F, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 1F. The board of education shall by a two-thirds vote of all its members appoint a commissioner of education, in this chapter called the commissioner, and may in its discretion by majority vote of all its members remove him. He shall be the secretary to the board, its chief executive officer and the chief state school officer for elementary and secondary education. 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.

SECTION 3. Said chapter 15 is hereby further amended by striking out section 1G, as most recently amended by section 1 of chapter 414 of the acts of 1992, and inserting in place thereof the following section:-

Section 1G. There shall be established advisory councils to the board in the following areas: early childhood education; life management skills and home economics; educational personnel; fine arts education; gifted and talented education; math and science education; racial imbalance; parent and community education and involvement; special education; bilingual education; technology education; vocational-technical education; global education; and comprehensive interdisciplinary health education and human service programs.

The members of these councils shall serve without compensation but may be reimbursed subject to appropriation for expenses necessarily and reasonably incurred in the performance of their responsibilities. Each council shall be composed of members who shall be recommended by the commissioner and appointed by the board and who shall not, by virtue of their membership, be deemed state employees under chapter two hundred and sixty-eight A. Members shall be appointed for a term of three years. No member shall serve for more than two consecutive terms. The members serving on such councils may be school committee members, school superintendents, professional educators, parents or students. A reasonable balance of members representing business, labor, civic, educational, parental and professional groups shall be maintained. Members serving on such councils shall represent a reasonable geographic balance.

The members of the council on education personnel shall have demonstrated scholarship, creativity, or distinguished service in education, and shall be broadly representative of all areas of public education.

The members of the council on technology education shall have demonstrated scholarship or creativity in, or distinguished service to technology education, and shall be broadly represented in all areas of technology education in the comprehensive school.

The council on global education shall include the directors of each of the bay state

centers for global education.

The members of the council on math and science education shall have demonstrated scholarship or creativity in, or distinguished service to science or mathematics, and shall be broadly representative of all areas of science and mathematics.

The advisory council on early childhood education shall include a member representing private early childhood education providers.

There shall be twelve voting members of the advisory council for special education, six of whom shall be parents of children with special needs. The commissioners of the departments of mental health, mental retardation, public health and public welfare shall each appoint a representative to serve as ex officio members of the advisory council for special education. At all times the makeup of the advisory council for special education shall comply with requirements of federal law. There shall be twelve voting members of the advisory council for bilingual education, six of whom shall be parents of bilingual students.

The advisory council for comprehensive interdisciplinary health education and human service programs shall consist of at least fifteen, but shall not exceed thirty, members who represent school counseling professionals, health home economics educators, child and adolescent health service providers, teachers, parents, high school students, school administrators and officials, and the departments of welfare, public health, mental health, youth services, social services, the office for children, a suicide prevention specialist, a substance abuse specialist, a youth programming expert and a member of the clergy.

The duties of the advisory council on vocational-technical education shall be performed by the state council on vocational education as constituted under federal vocational-technical education law. The state council on vocational-technical education shall also advise the board on school to work policies. The board may appoint up to three additional members to this council and such members' responsibilities shall be limited to duties required under this statute only.

The commissioner, with the approval of the board, shall appoint the chair of each council. The commissioner or his designee shall serve as the secretary to each council.

Each council shall make other programmatic recommendations as it deems necessary to fulfill the goals established by the board.

The commissioner, with the approval of the board, may establish such other advisory groups as deemed necessary to assist in developing educational plans or programs to advance the purposes of the department.

SECTION 4. Section one H of said chapter fifteen is hereby repealed.

SECTION 5. Section one K of said chapter fifteen is hereby repealed.

SECTION 6. Sections one M to one Q, inclusive, of said chapter fifteen are hereby repealed.

SECTION 7. Sections one S and one T of said chapter fifteen are hereby repealed.

SECTION 8. Section four A of said chapter fifteen is hereby repealed.

SECTION 9. Sections six B and six C of said chapter fifteen are hereby repealed.

SECTION 10. Sections forty-six to fifty-one, inclusive, of said chapter fifteen are

hereby repealed.

SECTION 11. Section fifty-three of said chapter fifteen is hereby repealed.

SECTION 12. Section fifty-six of said chapter fifteen is hereby repealed.

SECTION 13. Sections sixty-one and sixty-two of said chapter fifteen are hereby repealed.

SECTION 14. Chapter 15A of the General Laws is hereby amended by striking out section 2, as appearing in section 7 of chapter 142 of the acts of 1991, and inserting in place thereof the following section:-

Section 2. There shall be an advisory committee on education policy, hereinafter called the committee, consisting of the executive committees of the board of education and the higher education coordinating council. The committee shall have the following powers and duties:

(a) to study and report on issues common to higher education and to public early childhood, elementary, secondary, or vocational-technical schools;

(b) to serve as a forum for discussion between the lay boards responsible for overseeing public education in the commonwealth;

(c) to serve as a public forum for discussion of general education goals for the commonwealth;

(d) to develop goals for a coordinated system from early childhood through higher education at the university level, and make recommendations to appropriate boards or groups relative to such;

(e) to build public support and understanding of education;

(f) to encourage and facilitate partnerships between and among public early childhood, elementary, secondary, and vocational-technical schools with institutions of higher learning;

(g) to articulate, through study and discussions, 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 governor, the general court, and the secretary of education, relative to any issue within its purview; and,

(k) to encourage contributions and grants to schools from businesses, foundations, or any other viable and appropriate funding source.

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 be chaired by the secretary of education.

The committee shall meet at least four times annually and at other times at the call

of the chairman of the board of education, the chairman of the higher education coordinating council, or the secretary of education.

SECTION 15. The second paragraph of section 3 of said chapter 15A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- 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 advisory committee on educational policy and by serving on the board of education and the higher education coordinating council.

SECTION 16. Said section 3 of said chapter 15A is hereby further amended by striking out the third paragraph, as amended by section 209 of chapter 133 of the acts of 1992, and inserting in place thereof the following paragraph:-

The secretary shall have the following powers and duties:

(a) to serve as the governor's advisor on educational issues and represent the interests of education in the governor's cabinet, and report to the governor on the activities of public education from early childhood through the university level;

(b) to analyze the present and future goals, needs and requirements of public education in the commonwealth and recommend to the board of education and the higher education coordinating council comprehensive goals necessary to achieve a well-coordinated system of high achievement in public education in the commonwealth;

(c) to serve as a voting member of the board of education and the higher education coordinating council, and as a member of the executive committee of each of these bodies;

(d) to seek, accept, establish and administer grants, gifts, awards, and trusts for public education from foundations, corporations, individuals, and federal agencies, and develop guidelines as needed for the disbursement of such funds in accordance with applicable law and pursuant to the terms of the grant, gift, award or trust; provided, however, that these powers shall exist concurrently with similar powers exercised by the board of education and the higher education coordinating council;

(e) to articulate the need for public support of education and to assist in building that support;

(f) to receive and review requests for state appropriations from the board of education and higher education coordinating council, and forward said requests along with such recommendations as he deems appropriate to the secretary of administration and finance and the senate and house committees on ways and means;

(g) to prepare an annual master plan for public education;

(h) to release to the public annually, on September first, a report on the condition of public early childhood, primary and secondary schools in the commonwealth, based on the department of education school and district profiles and the assessment results required by section one I of chapter sixty-nine, and on the condition of higher education in the commonwealth;

(i) to promulgate rules and regulations appropriate to fulfilling the responsibilities of the executive office.

SECTION 17. Said chapter 15A is hereby further amended by inserting after

section 3 the following section:-

Section 3A. A statewide educational technology plan, to be known as Massachusetts education-on-line, shall be developed by the Massachusetts corporation for educational telecommunication, hereinafter referred to as MCET. Said educational technology plan shall incorporate the following goals:

(a) the implementation and integration of technology into teaching and learning in public schools, including, but not limited to, the establishment of a statewide telecommunications and technology link among public college and university campuses and school districts through the use of computer and communications technology;

(b) the facilitation of the implementation of a statewide professional development plan for teachers, principals, and superintendents using distance learning in coordination with the commissioner of education; and,

(c) the increased involvement of parents, guardians, mentors or other volunteers with their students' education by utilization of distance learning.

For the purposes of this section, said educational technology plan shall be broadly construed to include, but not be limited to, programs, courses, and capital expenditures including computer hardware and software, networks, television, satellite transmissions, fiber optics cable, calculators and video and audio tapes. Subject to appropriation, MCET may provide grants to universities, colleges, schools and school districts for the purposes of purchasing the equipment and other materials necessary for the implementation of said educational technology plan. The MCET executive director, in consultation with the secretary of education, may establish such advisory groups or committees as he deems necessary for the development and implementation of said educational technology plan.

SECTION 18. The first paragraph of section 4 of said chapter 15A is hereby amended by striking out the first sentence, as amended by section 1 of chapter 222 of the acts of 1991, and inserting in place thereof the following three sentences:- The higher education coordinating council, hereinafter referred to as the council, shall be composed of eleven voting members, consisting of the secretary of education, ex officio, and ten members appointed by the governor, reflecting regional geographic representation, one of whom shall be a student currently enrolled in a state-funded institution of higher education. The commissioner of education shall serve as a nonvoting member. The secretary shall serve as a voting member of the board but shall not serve as chairperson of the board.

SECTION 19. The second paragraph of said section 4 of said chapter 15A, as amended by section 2 of said chapter 222, is hereby further amended by striking out the last sentence and inserting in place thereof the following three sentences:- The chairperson of the council, who shall be appointed by the governor, shall notify the governor and the secretary whenever such vacancy exists. Six members, exclusive of the commissioner, shall constitute a quorum, and the affirmative vote of six members shall be necessary for any action taken by the council. The council shall have an executive committee and such other committees as the council may from time to time establish.

SECTION 20. Section 6 of said chapter 15A, as appearing in section 7 of chapter 142 of the acts of 1991, is hereby amended by striking out the first paragraph and

inserting in place thereof the following paragraph:-

The council shall, upon its formation, and whenever a vacancy may occur, by a two-thirds vote of all its voting members appoint a chancellor of the system of public higher education, hereinafter called the chancellor, and may in its discretion by a majority vote of all its members remove him. He shall be the secretary to the council and its chief executive officer and the chief school officer for higher education. The chancellor shall be responsible for carrying out the policies established by the council.

SECTION 21. The first paragraph of section 15 of said chapter 15A, as so appearing, is hereby amended by adding the following sentence:- Said statement shall also be transmitted to the secretary of education.

SECTION 22. Said chapter 15A is hereby further amended by inserting after section 19 the following section:-

Section 19A. There shall be a student loan repayment program known as the attracting excellence to teaching program, for the purpose of encouraging outstanding students to teach in the public schools of the commonwealth by providing financial assistance for the repayment of qualified education loans, as defined below. The program shall be administered by the secretary of education in accordance with guidelines promulgated by the higher education coordinating council. The program shall be subject to appropriation.

The term "qualified education loan" shall mean any indebtedness including interest on such indebtedness incurred to pay tuition or other direct expenses incurred in connection with the pursuit of an undergraduate or graduate degree by an applicant, but shall not include loans made by any person related to the applicant.

The council shall promulgate guidelines governing the attracting excellence to teaching program. These guidelines shall include the following provisions:

(1) eligibility for the program shall be limited to persons who have graduated in the top quarter of their undergraduate classes, as certified by the institution attended by the applicant;

(2) eligibility shall be limited to persons entering the teaching profession after July first, nineteen hundred and ninety-four;

(3) the commonwealth shall repay a participating teacher's student loan at a rate not to exceed one hundred and fifty dollars per month for a period not to exceed forty-eight months;

(4) repayment shall be made to the participating teacher annually upon the presentation by the participating teacher of satisfactory evidence of payments under the loan;

(5) payments by the commonwealth shall cover only loan payments made by the participating teacher in the months during which the participating teacher teaches in public school in the commonwealth;

(6) the program may or may not be limited to teachers who teach in school districts designated by the board of education;

(7) the program shall set forth an affirmative action policy and specific annual affirmative action goals. The council shall annually publish a report detailing its efforts to publicize the loan repayment program in order to advance the goals of this affirmative action

policy and its success in meeting those goals.

Expenses for administration of the program may be retained in an interest bearing trust fund to be established by the secretary and expended for the costs of administering the pro-gram without further appropriation, and any funds remaining in the trust fund at the termina-tion of the program shall be returned to the General Fund.

SECTION 23. Said chapter 15A is hereby further amended by adding the following section:-

Section 39. A qualified student enrolled in a public secondary school may enroll as a student in Massachusetts public institutions of higher education. The student shall earn both secondary school and college credits. Students may enroll either full time or for individual courses. The secretary in consultation with the council and the board of education, shall define which students may qualify for this program, establish criteria for admission, and otherwise administer this program.

SECTION 24. Section 27C of chapter 29 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following subsection:-

(h) This section shall apply to regional school districts and educational collaboratives organized pursuant to section four E of chapter forty, to the same extent as it applies to cities and towns. A regional school district may accept a law, rule or regulation by vote of its school committee, and an educational collaborative by vote of its board of directors.

SECTION 25. Said chapter 29 is hereby further amended by inserting after section 31D the following section:-

Section 31E. Notwithstanding any general or special law to the contrary, a state employee, during working hours and at such times as are approved by his supervisor and in accordance with regulations promulgated hereunder, may, without loss of salary, provide voluntary services at a public elementary, secondary or vocational-technical school to assist the improvement of a student's or school's educational program; provided, however, that said voluntary services do not exceed seven hours per week. There shall be no requirement that the employee have a child as a student in the school or school district. Said services shall not be compensated by a school.

SECTION 26. Section 3C of chapter 60 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the first three paragraphs and inserting in place thereof the following three paragraphs:-

Any city or town which accepts the provisions of this section or has previously accepted chapter one hundred and ninety-four of the acts of nineteen hundred and eighty-six is hereby authorized, subject to the approval of the commissioner, to design and designate a place on its municipal tax bills, or the motor vehicle excise tax bills, or to mail with such tax bills a separate form, whereby the taxpayers of said city or town can voluntarily check off, donate and pledge an amount not less than one dollar or such other designated amount which shall increase the amount otherwise due, and to establish a city or town scholarship fund, the purpose of which shall be to provide educational financial aid to deserving city and town residents in accordance with this section and to establish a city or town educational fund, the purpose of which shall be to provide supplemental educational funding for local

educational needs.

Any amounts donated to the scholarship fund or educational fund shall be deposited into a special account in the general treasury and shall be in the custody of the treasurer. The treasurer shall invest said funds at the direction of the officer, board, commission, committee or other agency of the city or town who or which is otherwise authorized and required to invest trust funds of the city or town and subject to the same limitations applicable to trust fund investments, except as otherwise specified herein. Interest earned upon such fund shall remain therewith and shall be used for the purpose of said fund without further appropriation.

In any city or town establishing a scholarship fund, there shall be a scholarship committee and educational fund committee to consist of the superintendent of the city or town schools or designee thereof, and no fewer than four residents of the city or town appointed by the board of selectmen to a term of three years. The scholarship committee or educational fund committee shall select the recipients of and amounts of financial aid from the scholarship fund and educational fund and shall be guided by any criteria established by the scholarship committee or educational fund committee subject to any ordinance or by-law and further subject to the following criteria:

(a) The recipients of financial aid must be residents of the city or town at the time the financial aid is first awarded and have been accepted to pursue education beyond the secondary school level at an institution deemed accredited by the committee.

(b) The committee shall take into consideration each recipients financial need, character, scholastic record and involvement in community work as well as extracurricular school activities.

SECTION 27. Chapter 69 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. It is hereby declared to be a paramount goal of the commonwealth to provide a public education system of sufficient quality to extend to all children the opportunity to reach their full potential and to lead lives as participants in the political and social life of the commonwealth and as contributors to its economy. It is therefore the intent of this title to ensure: (1) that each public school classroom provides the conditions for all pupils to engage fully in learning as an inherently meaningful and enjoyable activity without threats to their sense of security or self-esteem, (2) a consistent commitment of resources sufficient to provide a high quality public education to every child, (3) a deliberate process for establishing and achieving specific educational performance goals for every child, and (4) an effective mechanism for monitoring progress toward those goals and for holding educators accountable for their achievement.

SECTION 28. Said chapter 69 is hereby further amended by striking out section 1A, as so appearing, and inserting in place thereof the following section:-

Section 1A. There shall be a department of education, hereinafter called the department, which shall be under the supervision and management of a commissioner of education, hereinafter called the commissioner. Said commissioner shall be appointed pursuant to section one of chapter fifteen and shall devote full time to the duties of the office.

The commissioner, with the approval of the board of education, hereinafter called the

board, shall establish such bureaus and other offices and employ such staff and consultants as may be necessary for the proper and efficient administration of the department.

The commissioner shall propose a budget to the board; said budget shall reflect the goals and objectives of the board. Upon approval by the board, the commissioner shall submit the department's budgetary proposals simultaneously to the house and senate committees on ways and means, the joint committee on education, arts and humanities, and to the secretary of education, who shall review and transmit said budget to the secretary of administration and finance.

The commissioner shall analyze the present and future goals, needs and requirements of public early childhood, elementary, secondary and vocational-technical education in the commonwealth and recommend to the board comprehensive means to achieve a well-coordinated system of high achievement in public education in the commonwealth.

The commissioner shall prepare a five year master plan for public early childhood, elementary, secondary, and vocational-technical education in the commonwealth. The master plan shall include, but not be limited to, enrollment projections, utilization of existing facilities, promotion of research, programmatic excellence, community service activities and community school activities, recommendations for the construction or acquisition of new facilities, program distribution and the need for program revision, including the termination of absolute or unnecessarily duplicative programs. Said master plan along with an annual progress report shall reflect the goals and standards established by the board.

The commissioner shall receive reports, undertake research, and facilitate coordination among and between school districts.

The commissioner shall assist school districts in the development of school based management systems. Such assistance shall focus on the implementation of participatory management systems involving all school based professionals, parents, and on the secondary level, students.

The commissioner shall encourage and facilitate the adoption of regional districts to improve the delivery of a quality public education in an economical manner. The commissioner shall encourage and facilitate the use of existing, or the formation of new, educational collaboratives to foster interdistrict cost effective purchasing, management collaboration, sharing of resources and other multipurpose educational activities.

The commissioner shall facilitate partnerships of public early childhood, elementary, secondary and vocational-technical schools with civic, conservation, business, cultural and labor organizations, and with institutions of higher education particularly through the development of regional teacher centers and the expansion of the Bay State centers for global education, to enhance educational programs.

The commissioner shall assess the effectiveness and monitor the improvement of the public schools in each district, including charter schools.

The commissioner shall assess current programs of alternative education and shall develop a statewide action plan to expand and improve the delivery of alternative education programs.

The commissioner shall recommend, to the board, changes necessary to the

competency determination as appropriate to reflect evolving notions of vocational education.

The commissioner shall appoint independent fact-finding teams to assess the reasons for a school or school district's under-performance under sections one J and one K, and shall assess the prospects for school district improvement. The commissioner shall also supervise the receiver of a school district declared to be chronically under-performing under said sections one J and one K, and shall provide technical assistance to a school or school district deemed under-performing or chronically under-performing pursuant to said sections one J and one K.

The commissioner shall initiate the process for selecting a list of impartial arbitrators as provided in sections thirty-eight, forty-one and forty-two of chapter seventy-one and, upon receipt of a request for review pursuant thereto, the commissioner shall provide the names of three arbitrators as provided therein.

SECTION 29. Said chapter 69 is hereby further amended by inserting after section 1A the following eleven sections:-

Section 1B. The board shall establish policies relative to the education of students in public early childhood, elementary, secondary and vocational-technical schools. The board shall be the state agency responsible for the administration of vocational education and the supervision of the administration thereof by local educational agencies.

For the purposes of this section the term "local educational agency" shall mean any agency which has administrative control and direction of a vocational education program funded in whole or in part by federal funds.

The board shall establish standards for certifying all teachers, principals, and administrators in public early childhood, elementary, secondary and vocational-technical schools, as provided in and subject to section thirty-eight G of chapter seventy-one.

The board shall promote the implementation of participatory management systems involving school based personnel and school councils.

The board shall provide technical assistance, curriculum, materials, consultants, support services and other services to schools and school districts, to encourage programs for gifted and talented students.

The board shall publish profiles of each public elementary and secondary school and school district in the commonwealth, providing information concerning student achievement of performance goals, school spending, special programs, curriculum offerings, qualifications of teaching staff, and other information which may be pertinent to teachers, parents, students, and elected officials regarding the performance of said schools and school districts. These profiles shall be in a form readily comprehensible by the general public and shall permit meaningful comparisons among individual schools and school districts. The board also shall identify those schools and school districts that are particularly successful in improving the performance of the students whom they serve and shall undertake to analyze and publish the strategies employed by such schools and districts for the purpose of recognizing the efforts of the educators involved and of encouraging the replication, where appropriate, of their successful strategies. In producing said profiles and review of successful strategies, the board shall have access to all information gathered by the secretary of education and the

joint committee on education of the general court, which may be relevant to the production of said profiles and review. The board shall release its report annually on or before the thirtieth day of June, and shall make said report available to the public.

The board may withhold state and federal funds from school committees which fail to comply with the provisions of law relative to the operation of the public schools or any regulation of said board authorized in this section.

The board shall see to it that all school committees comply with all laws relating to the operation of the public schools and in the event of noncompliance the commissioner of education shall refer all such cases to the attorney general for appropriate action to obtain compliance.

The board shall establish the standards for the recognition of high achievement by students and school districts.

The board shall establish the process and standards for declaring a school or school district to be "under-performing" or "chronically under-performing" in accordance with the provisions of this chapter.

The board shall review and approve federal grant applications for public early childhood, elementary, secondary and vocational-technical schools and may develop guidelines as needed for the disbursement of such funds in accordance with law. The board shall be the approving authority for all federal educational grants and programs to be undertaken by public early childhood, elementary, secondary and vocational-technical schools in the commonwealth. The board shall be the state education agency for purposes of federal law.

The board shall establish guidelines for establishing systems of personnel evaluation, including teacher performance standards. Public school districts in the commonwealth shall be encouraged to develop programs and standards which provide for a more rigorous and comprehensive evaluation process. Said guidelines shall be reviewed at least every other school year.

The board shall seek, accept, establish and administer grants, gifts, awards, and trusts for public early childhood, elementary, secondary and vocational-technical education from foundations, corporations, individuals and federal agencies, and develop guidelines as needed for the disbursement of such funds in accordance with applicable law and pursuant to the terms of the grant, gift, award or trust.

The board shall establish the criteria to define areas with a high number of low-income children for purposes of the school breakfast program, the early childhood program and any other program focused on low-income children.

The board shall establish minimum standards for all public early childhood, elementary, secondary and vocational-technical school buildings, subject to the provisions of the state building code. The board shall establish standards to ensure that every student shall attend classes in a safe environment.

The board shall, in coordination with local school districts, improve the management and efficiency of public early childhood, elementary, secondary and vocational-technical schools and school districts.

The board shall encourage the collaboration between local school districts, vocational-technical school districts, and regional employment boards to prepare students for the employment needs of the region.

The board shall establish a policy to ensure that, so far as practical, school districts distribute financial resources equitably among all schools in the district.

The board shall establish maximum pupil-teacher ratios for classes in public elementary and secondary schools.

The board shall establish the permissible and mandatory ages for school attendance and shall consider the advisability of raising the minimum age for attendance in the first grade to the national average age for such attendance.

The board shall carry out its responsibilities with a view toward increasing the accountability and effectiveness of public early childhood, elementary, secondary and vocational-technical schools and school districts for the performance of the students they serve.

The board shall establish such other policies as it deems necessary to fulfill the purposes of this chapter and chapters fifteen, seventy, seventy-one A, seventy-one B, and seventy-four. In accordance with the provisions of chapter thirty A, the board may promulgate regulations as necessary to fulfill said purposes. Said regulations shall be promulgated so as to encourage innovation, flexibility and accountability in schools and school districts.

The board shall establish an executive committee and such other committees as it may from time to time deem necessary.

Section 1C. The board shall establish minimum nutritional standards for all school food services in all public early childhood, elementary, secondary, and vocational-technical schools. The board shall require all public schools to make lunches available to children. Standards and regulations of the board promulgated pursuant to this paragraph shall be adopted in the following manner. A copy of such regulations and standards shall be filed by the board with the clerk of the house of representatives and of the senate who shall refer such regulations and standards to the joint committee on education, arts and humanities of the general court for review. Within thirty days after such filing, said committee shall hold a public hearing on the regulations and standards, shall issue a report, and file a copy thereof with the board of education. The board shall adopt final regulations and standards making such revisions in the interim regulations and standards as it deems appropriate in view of such report and shall forthwith file a copy of the regulations and standards with chairpersons of said committee of the general court and not earlier than thirty days after the date of such filing, the board shall file the final regulations and standards with the state secretary and the said regulations shall thereupon take effect.

The board shall further require all public schools which draw their attendance from areas with a high number of needy children, as defined by the board, to make school breakfast programs available to children, and to operate such programs in accordance with the federal laws and regulations pertaining to school breakfast programs. Such breakfast programs shall be made available to children who do not qualify for free or reduced price breakfast under federal income eligibility guidelines at a price to each such child which is

not less than the cost to the school of making such breakfast available to such child. The commonwealth shall reimburse each city or town required by this paragraph to make school breakfast programs available to children who qualify for free or reduced price meals pursuant to federal income eligibility guidelines, at a uniform rate determined pursuant to the following paragraph, which rate shall provide for the payment by the commonwealth of the reasonable costs of making breakfast available to such children, reduced by the amount of revenue received by the city or town from federal reimbursements or any other source with respect to the provision of such breakfasts. The department shall make said reimbursements in accordance with the same schedule as federal reimbursements are made to the city or town with respect to such breakfast programs.

The secretary for administration and finance shall convene a working committee made up of his own designee, a designee of the Massachusetts school committee association and a designee of the Massachusetts school business managers association, a designee of the commissioner of education and a designee of the local government advisory committee to establish guidelines for the purposes of reimbursing cities and towns for the reasonable costs associated with the implementation of school breakfast programs pursuant to the preceding paragraph. Such guidelines shall be filed by the working committee with the clerk of the house of representatives and senate only upon approval of said committee. Reimbursements of costs made pursuant to such guidelines shall constitute complete satisfaction of the obligation of the commonwealth to assume such costs pursuant to any general or special law.

Section 1D. The board shall establish a set of statewide educational goals for all public elementary and secondary schools in the commonwealth.

The board shall direct the commissioner to institute a process to develop academic standards for the core subjects of mathematics, science and technology, history and social science, English, foreign languages and the arts. The standards shall cover grades kindergarten through twelve and shall clearly set forth the skills, competencies and knowledge expected to be possessed by all students at the conclusion of individual grades or clusters of grades. The standards shall be formulated so as to set high expectations of student performance and to provide clear and specific examples that embody and reflect these high expectations, and shall be constructed with due regard to the work and recommendations of national organizations, to the best of similar efforts in other states, and to the level of skills, competencies and knowledge possessed by typical students in the most educationally advanced nations. The skills, competencies and knowledge set forth in the standards shall be expressed in terms which lend themselves to objective measurement, define the performance outcomes expected of both students directly entering the workforce and of students pursuing higher education, and facilitate comparisons with students of other states and other nations.

The standards shall provide for instruction in at least the major principles of the Declaration of Independence, the United States Constitution, and the Federalist Papers. They shall be designed to inculcate respect for the cultural, ethnic and racial diversity of the commonwealth and for the contributions made by diverse cultural, ethnic and racial groups to the life of the commonwealth. The standards may provide for instruction in the funda-

mentals of the history of the commonwealth as well as the history of working people and the labor movement in the United States. The standards may provide for instruction in the issues of nutrition, physical education, AIDS education, violence prevention, and drug, alcohol and tobacco abuse prevention. The board may also include the teaching of family life skills, financial management and consumer skills, and basic career exploration and employ-ability skills. The board may also include in the standards a fundamental knowledge of technology education and computer science and keyboarding skills; the major principles of environmental science and environmental protection; and an awareness of global education and geography. The board may set standards for student community service-learning activities and programs. The board may also institute a process for drawing up additional standards in other areas of education.

Academic standards shall be designed to avoid perpetuating gender, cultural, ethnic or racial stereotypes. The academic standards shall reflect sensitivity to different learning styles and impediments to learning. The board shall develop procedures for updating, improving or refining standards, but shall ensure that the high quality of the standards is maintained. A copy of said standards shall be submitted to the joint committee on education, arts, and humanities at least sixty days prior to taking effect. The standards shall also include criteria for three determinations or certificates as follows:

(i) The "competency determination" shall be based on the academic standards and curriculum frameworks for tenth graders in the areas of mathematics, science and technology, history and social science, and English, and shall represent a determination that a particular student has demonstrated mastery of a common core of skills, competencies and knowledge in these areas, as measured by the assessment instruments described in section one I. Satisfaction of the requirements of the competency determination shall be a condition for high school graduation. If the particular student's assessment results for the tenth grade do not demonstrate the required level of competency, the student shall have the right to participate in the assessment program the following year or years. Students who fail to satisfy the requirements of the competency determination may be eligible to receive an educational assistance plan designed within the confines of the foundation budget to impart the skills, competencies and knowledge required to attain the required level of mastery. The parent, guardian or person acting as parent of the student shall have the opportunity to review the remedial plan with the student's teachers. Nothing in this section shall be construed to provide a parent, guardian, person acting as a parent or student with an entitlement to contest the proposed plan or with a cause of action for educational malpractice if the student fails to obtain a competency determination.

(ii) The "certificate of mastery" shall be based upon a determination that the recipient has demonstrated mastery of a comprehensive body of skills, competencies and knowledge comparable to that possessed by accomplished graduates of high school or equivalent programs in the most advanced education systems in the world. The criteria for a certificate of mastery may incorporate a number of factors which may include, but not be limited to, any of the following: high school graduation standards, superior performance on advanced placement tests administered by the educational testing service, and demonstrated

excellence in areas not reflected by the state's assessment instruments, such as artistic or literary achievement. Eligibility for potential receipt of a certificate of mastery shall extend to all secondary students residing in the commonwealth.

(iii) The "certificate of occupational proficiency" shall be awarded to students who successfully complete a comprehensive education and training program in a particular trade or professional skill area and shall reflect a determination that the recipient has demonstrated mastery of a core of skills, competencies and knowledge comparable to that possessed by students of equivalent age entering the particular trade or profession from the most educationally advanced education systems in the world. No student may receive said certificate of occupational proficiency without also having acquired a competency determination.

Nothing in this chapter shall prohibit a student from beginning a program of vocational education before achieving a determination of competency. Such vocational education may begin at grade nine, ten or eleven. No provision of law shall prohibit concurrent pursuit of a competency determination and vocational learning. There shall be no cause of action for a parent, guardian or student who fails to obtain a competency determination, a certificate of mastery or a certificate of occupational proficiency.

Subject to appropriation, the board shall establish a grant program which shall award grants to school districts for the costs associated with establishing advanced placement courses. The board shall promulgate regulations defining the standards of eligibility and other implementation guidelines.

Subject to appropriation, the board shall establish an advanced placement test fee grant program which shall award grants to school districts for the reimbursement of application fees for students based on financial need in order to assist students with paying the fee for advanced placement tests. The board shall promulgate regulations defining the standards of eligibility and other implementation guidelines for this program.

Section 1E. The board shall direct the commissioner to institute a process for drawing up curriculum frameworks for the core subjects covered by the academic standards provided in section one D. The curriculum frameworks shall present broad pedagogical approaches and strategies for assisting students in the development of the skills, competencies and knowledge called for by these standards. The process for drawing up and revising the frameworks shall be open and consultative, and may include but need not be limited to classroom teachers, parents, faculty of schools of education, and leading college and university figures in both subject matter disciplines and pedagogy. In drawing up curriculum frameworks, those involved shall look to curriculum frameworks, model curricula, content standards, attainment targets, courses of study and instruction materials in existence or in the process of being developed in the United States and throughout the world, and shall actively explore collaborative development efforts with other projects, including but not limited to the national New Standards Project. The curriculum frameworks shall provide sufficient detail to guide and inform processes for the education, professional development, certification and evaluation of both active and aspiring teachers. They shall provide sufficient detail to guide the promulgation of student assessment instruments. They shall be constructed to guide and assist teachers, administrators, publishers, software

developers and other interested parties in the development and selection of curricula, textbooks, technology and other instructional materials, and in the design of pedagogical approaches and techniques for early childhood programs and elementary, secondary and vocational-technical schools. The board may review and recommend instructional materials which it judges to be compatible with the curriculum frameworks.

Frameworks shall be designed to avoid perpetuating gender, cultural, ethnic or racial stereotypes. The frameworks shall reflect sensitivity to different learning styles and impediments to learning. The board shall develop procedures for updating, improving or refining said curriculum frameworks. A copy of said frameworks shall be submitted to the joint committee on education, arts and humanities at least sixty days prior to taking effect.

Section 1F. The board shall set standards for vocational-technical education and programs for school-to-work transition. The board shall give particular emphasis for setting standards for the integration of academic and vocational education and to the progress in educating students for all aspects of a chosen industry.

The board shall assess progress in the areas of integration of academic and vocational education, and education for all aspects of an industry by assessing curriculum plans, staffing patterns, and other factors the board deems pertinent to said assessment.

The board shall, subject to appropriation, establish demonstration grants to develop alternative education program models. Said grants shall be awarded to public or public/private entities in an effort to design programs for students who may be identified as having difficulty achieving a certificate of initial mastery, and which assist students in achieving said certificate or moving directly into the work force.

The board shall, subject to appropriation, establish a grant program to create job compacts for communities to coordinate summer and after school employment opportunities for students. Eligible districts shall demonstrate private sector participation in the compact which helps to provide work opportunities for students.

The board shall, with the assistance of the higher education coordinating council and subject to appropriation, establish grants for technology preparation programs. Said grants shall be available to all public secondary schools in the commonwealth and public institutions of higher education for the purposes of improving collaboration between secondary and post-secondary technology programs.

The board shall, with the assistance of the higher education coordinating council and subject to appropriation, establish four demonstration grants to consortia of vocational schools, comprehensive secondary schools, and community colleges to promote further collaboration between grades nine through twelve and higher education institutions.

Section 1G. The board shall establish the minimum length for a school day and the minimum number of days in the school year.

Section 1H. Notwithstanding any general or special law to the contrary, the department, in coordination with other state agencies, shall develop a comprehensive system, subject to appropriation, for the delivery of adult basic education and literacy services that will ensure opportunities leading to universal basic adult literacy and better employment opportunities. Said system shall be designed to strengthen, enhance, and where needed, to

create intensive community based literacy programs for AFDC recipients and other unemployed and marginally employed adults who need a foundation of basic skills to qualify for further education, job training and employment. These trainees shall include parents of young child-ren who need strong basic skills to move their families out of poverty and raise the education-al aspirations of their children.

Said system shall also include instruction for immigrants, migrants, and refugees who need English language and literacy skills to function effectively at home and in the workplace. Instruction to the aforesaid populations will emphasize instruction at the lowest grade levels.

Said system shall further include instruction for young persons, aged sixteen through twenty-four, who have dropped out of school without sufficient skills to qualify for employment. Instruction shall be designed with emphasis on linking education with vocational training and supported work.

The department shall distribute grants, subject to appropriation, to provide comprehensive literacy services, including support services, in the context of adults' daily lives in their communities, including, but not limited to, public housing, schools, the work place, correctional institutions, community-based organizations, community colleges, libraries, and in social and cultural organizations.

The department shall endeavor to develop the following objectives: (1) a full continuum of services that take an adult from the lowest level of literacy or English language proficiency through high school completion leading to advanced education and training; (2) a network of self-trained, full-time adult literacy and English as a second language professional instructors, qualified to provide high quality effective services; (3) a strong documentation and evaluation capacity that will enable the state to determine what methods of instruction and what means of service delivery are most effective in educating adults; and (4) coordinated accountability mechanisms that simplify existing reporting and refunding processes.

Section 1I. The board shall adopt a system for evaluating on an annual basis the performance of both public school districts and individual public schools. With respect to individual schools, the system shall include instruments designed to assess the extent to which schools and districts succeed in improving or fail to improve student performance, as defined by student acquisition of the skills, competencies and knowledge called for by the academic standards and embodied in the curriculum frameworks established by the board pursuant to sections one D and one E in the areas of mathematics, science and technology, history and social science, English, foreign languages and the arts, as well as by other gauges of student learning judged by the board to be relevant and meaningful to students, parents, teachers, administrators, and taxpayers.

The system shall be designed both to measure outcomes and results regarding student performance, and to improve the effectiveness of curriculum and instruction. In its design and application, the system shall strike a balance among considerations of accuracy, fairness, expense and administration. The system shall employ a variety of assessment instruments on either a comprehensive or statistically valid sampling basis. Such instruments shall be

criterion referenced, assessing whether students are meeting the academic standards described in this chapter. As much as is practicable, especially in the case of students whose performance is difficult to assess using conventional methods, such instruments shall include consideration of work samples, projects and portfolios, and shall facilitate authentic and direct gauges of student performance. Such instruments shall provide the means to compare student performance among the various school systems and communities in the commonwealth, and between students in other states and in other nations, especially those nations which compete with the commonwealth for employment and economic opportunities. The board shall take all appropriate action to bring about and continue the commonwealth's participation in the assessment activities of the National Assessment of Educational Progress and in the development of standards and assessments by the New Standards Program.

In addition, comprehensive diagnostic assessment of individual students shall be conducted at least in the fourth, eighth and tenth grades. Said diagnostic assessments shall identify academic achievement levels of all students in order to inform teachers, parents, administrators and the students themselves, as to individual academic performance. The board shall develop procedures for updating, improving or refining the assessment system.

The assessment instruments shall be designed to avoid gender, cultural, ethnic or racial stereotypes and shall recognize sensitivity to different learning styles and impediments to learning. The system shall take into account on a nondiscriminatory basis the cultural and language diversity of students in the commonwealth and the particular circumstances of students with special needs. Said system shall comply with federal requirements for accommodating children with special needs. All potential English proficient students from language groups in which programs of transitional bilingual education are offered under chapter seventy-one A shall also be allowed opportunities for assessment of their performance in the language which best allows them to demonstrate educational achievement and mastery. For the purposes of this section, a "potential English proficient student" shall be defined as a student who is not able to perform ordinary class work in English; provided, however, that no student shall be allowed to be tested in a language other than English for longer than three consecutive years.

The commissioner is authorized and directed to gather information, including the information specified herein and such other information as the board shall require, for the purposes of evaluating individual public schools, school districts, and the efficacy and equity of state and federal mandated programs. All information filed pursuant to this section shall be filed in the manner and form prescribed by the department.

Each school district shall maintain individual records on every student and employee. Each student record shall contain a unique and confidential identification number, basic demographic information, program and course information, and such other information as the department shall determine necessary. Said records shall conform to parameters established by the department.

Each school district shall file a report with the department every year by a date and in a format determined by the board. Said report shall include, but not be limited to, the following:

(a) an outline of the curriculum and graduation requirements of the district;
(b) pupil/teacher ratios and class size policy and practice;
(c) teacher and administrator evaluation procedures;
(d) statistics, policies, and procedures relative to truancy and dropouts;
(e) statistics, policies, and procedures relative to expulsions and in-school and out-of-school suspensions;
(f) percent of school-age children attending public schools;
(g) racial composition of teaching and administrative staff;
(h) enrollment and average daily attendance;
(i) the annual budgets and expenditures for both the district and the individual schools in the district.

Each school district shall file a description of the following instructional procedures and programs with the department every year:
(a) art and music programs;
(b) technology education;
(c) programs for gifted and talented students;
(d) adult education programs;
(e) library and media facilities;
(f) condition of instructional materials including textbooks, workbooks, audio-visual materials, and laboratory materials;
(g) types and condition of computers and computer software;
(h) basic skills remediation programs;
(i) drug, tobacco and alcohol abuse programs;
(i) technology education;
(j) multi-cultural education training for students and teachers; and
(k) global education.

Each school district shall furnish to the department in a timely manner such additional information as the department shall request.

Each school district required to provide a program in transitional bilingual education pursuant to chapter seventy-one A shall file the following information with the department every year:
(a) the type or types of transitional bilingual education programs provided;
(b) with regard to children of limited English speaking ability (i) the number enrolled in each type of transitional bilingual education program; (ii) the number enrolled in English as a second language courses who are not enrolled in a program in transitional bilingual education; (iii) the results of basic skills, curriculum assessment, achievement and language proficiency testing, whether administered in English or in the native language; (iv) the absentee, suspension, expulsion, dropout and promotion rates;
(c) the number of students each year who have enrolled in institutions of higher education and were formerly enrolled in a program in transitional bilingual education;
(d) the academic progress in regular education of students who have completed a program in transitional bilingual education;

(e) for each child of limited English speaking ability receiving special education, the number of years in the school district prior to special education evaluation and the movement in special education programs by program prototype;

(f) the number of limited English proficient students enrolled in programs of occupational/vocational education;

(g) the name, national origin, native language, certificates held, language proficiency, grade levels and subjects taught by each bilingual or English as a second language (ESL) teacher, bilingual aides or paraprofessionals, bilingual guidance or adjustment counselors, and bilingual school psychologists;

(h) the per pupil expenditures for each full time equivalent (FTE) bilingual program student;

(i) the sources and amounts of all funds expended on bilingual program students, broken down by local, state and federal sources and whether any such funds expended supplanted, rather than supplemented, the local school district obligation; the participation of parents through parent advisory councils; and

(j) whether there were any complaints filed with any federal or state court or administrative agency, since the program's inception, concerning the compliance with federal or state minimum legal requirements, the disposition of each such complaint, and the monitor-ing and evaluation of any such agreement or court order relative to such complaint.

Said information shall be filed in the form of the total for the school district as well as categorized by school, grade and language.

Section 1J. The board shall establish regulations defining when a school or school district has chronically failed to improve the educational program provided to students served by the school or district. Such regulations shall be consistent with the goals and standards adopted by the board and the basis for the determination of chronic failure shall include, but not be limited to, the evaluations performed pursuant to section one I. The regulations adopted by the board shall take into account the turnover of students in particular schools and districts.

Schools that have consistently failed to improve the academic performance of their students shall be deemed under-performing, in accordance with the board's regulations. Upon determination that a school is under-performing, the commissioner shall immediately appoint an independent fact-finding team which shall forthwith assess the reasons for the under-performance and the prospects for improvement and report its findings to the commissioner and the district in which the school is located no later than ninety days from the date of its appointment. No more than six months after the determination that a school is under-performing, the district in which the school is located shall present to the board a remedial plan that shall set forth specific goals for improvement, specific means for attaining such goals, and a timetable, not to exceed twenty-four months, for carrying out the plan. The district shall implement said remedial plan, with such changes or amendments as the board shall direct. During the period of implementation, the commissioner shall provide to the school technical assistance for the improvement of the educational program provided to the students served therein.

If the school fails to demonstrate significant improvement as dictated by its remedial plan within twenty-four months after the approval of its remedial plan, the board may declare the school to be chronically under-performing. Upon a determination that a school is chronically under-performing, the following steps may be taken:

(1) The principal of the school shall be immediately removed and shall not be assigned to the school for the following school year unless the board finds that the principal did not play a significant role in the under-performance of the school;

(2) The superintendent may designate a new principal for the school. Any principal of a chronically under-performing school shall have such extraordinary powers, including the power to dismiss, in accordance with paragraph (4), any teacher or other employee assigned to the school without regard to the procedures set forth under sections forty-one and forty-two of chapter seventy-one or the provisions of any collective bargaining agreement. Such dismissed teachers shall otherwise retain such rights as may be provided under law or any applicable collective bargaining agreement, except that they shall not have the right to displace any teacher in any other school;

(3) In order to recruit and retain talented personnel, the commissioner may make available funds, subject to appropriation, to permit the superintendent during the period of remediation to increase the salary of any principal or teacher assigned to the school by not more than one percent for every ten percent of the enrollment of the chronically under-performing school comprised of low-income students, as that term is used in chapter seventy;

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

(5) Such other actions determined by the board of education, to be reasonably calculated to increase the number of students attending the school who satisfy the student performance standards.

A principal appointed to a chronically under-performing school may dismiss a teacher with professional teacher status for good cause, provided that the teacher has received five school days written notice of the decision to terminate. The teacher with professional teacher status may seek review of a termination decision within five school days after receiving notice of his termination by filing a petition for expedited arbitration with the commissioner. An arbitrator shall be selected according to the procedures set forth in section forty-two of chapter seventy-one. In reviewing dismissal decisions, the arbitrator shall consider the chronic under-performance of the school to the degree that such under-performance is not due to factors beyond the control of the teacher, and the arbitrator shall consider any report from the fact-finding team that evaluates the teacher's performance. The arbitrator's decision shall be issued within ten school days from the completion of the hearing.

Section 1K. Upon a determination by the board pursuant to regulations adopted by the board that a school district has consistently failed to improve the performance of students attending school in the district, the commissioner shall appoint an independent fact-finding team to assess the reasons for the under-performance and the prospects for improvement.

Upon review of the conclusions of the fact-finding team, the board may declare the district chronically under-performing. Following such a declaration, the board shall designate a receiver for the district with all the powers of the superintendent and school committee. The receiver shall report directly to the commissioner.

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

At any time after the imposition under this section or section one J of extraordinary measures at any school or of a receiver for any district, the school committee of the affected district, acting on the recommendation of the superintendent, may petition the commissioner for a determination whether such measures or receivership should be modified or eliminated and whether the school or school district is no longer chronically under-performing. A school district may seek review by the board of any adverse determination. The determination of the board shall be subject to judicial review in accordance with the provisions of section fourteen of chapter thirty A.

Section 1L. Subject to appropriation, the board shall establish a comprehensive interdisciplinary health education and human service discretionary grant program. Funds for this program may be appropriated from the Health Protection Fund established by section two T of chapter twenty-nine. Comprehensive interdisciplinary health education and human service programs shall include, but not be limited to, planning and coordination activities, curriculum development, in-service training components for all school staff, in-service education, instruction, school counseling services, health service delivery, promotion of knowledge of child development and appropriate care, effective parenting skills for parents and adolescents, and parent education services which will promote improved home based learning, the prevention of substance abuse, tobacco use, family violence, child abuse and neglect, teenage pregnancy and eating disorders, AIDS and suicide, and promote sound health practices including nutritional health and emotional development, improved school counseling services, early intervention services for high risk students, peer counseling and education, incentives for participation by students of both sexes, and increased coordination

between schools, parents and existing community services, especially for those students most in need. As the primary educators of their children, parents shall play a substantial role in the design, development and implementation of programs and curriculum.

Instruction in health education shall include, but shall not be limited to, consumer health, ecology, community health, body structure and function safety, nutrition, fitness and body dynamics, dental health, emotional and character development, promotion of self-esteem skills, AIDS/HIV prevention education in accordance with policies or regulations of the board, and training in the administration of first aid, including cardiopulmonary resuscitation.

The board shall solicit proposals for comprehensive interdisciplinary health education and human service programs for students in grades kindergarten through twelve, inclusive. Applications shall include evidence of a district-wide needs assessment and planning processes, program objectives and activities, anticipated results, and evaluation plan, and proposed linkages with community health and human service agencies and existing school programs. Proposals which describe linkages with other health and human service agencies and existing programs under chapter one hundred and eighty-eight of the acts of nineteen hundred and eighty-five which provide matching funds from local, federal and private sources shall be given priority.

Each school committee shall appoint an advisory council consisting of parents, junior and senior high school students, teachers, school counseling professionals, health and home economic educators, health professionals, school administrators, and representatives of community or regional health or social service agencies and representatives of local religious organizations.

Funds may be granted to a school district to provide for program coordinators, in-service training and program materials. It shall not be the primary focus of programs to finance various school-based clinics.

If the board rejects a proposal of a school committee under this section, then the board shall provide the respective school committee with a written explanation for rejection. The written explanation for rejection shall state the reasons for the rejection and suggest recommendations for resubmission.

Programs and services provided by this program shall supplement, not supplant, programs and services provided under chapters seventy-one A, seventy-one B, and seventy-four. At least fifty percent of said funds shall be allocated to programs serving low-income sites, as determined by the board. No more than ten percent of said funds shall be allocated for state administration of the program.

Notwithstanding any general or special law to the contrary, any grant funds distributed under this program shall be deposited with the treasurer of the city, town or regional school district and held in a separate account and shall be expended by the school committee without further appropriation.

The board, through the department, shall administer the discretionary grant program, provide technical assistance to school districts, including information about model programs and agency services, provide for program review and evaluation, and, in consultation with

the members of the state advisory council, develop program guidelines for coordinated service delivery and shall establish standards against which programs may be judged for efficiency and effectiveness.

SECTION 30. Section three of said chapter sixty-nine is hereby repealed.

SECTION 31. Section thirty-five of said chapter sixty-nine is hereby repealed.

SECTION 32. The General Laws are hereby further amended by striking out chapter 70 and inserting in place thereof the following chapter:-

CHAPTER 70.

SCHOOL FUNDS AND STATE AID FOR PUBLIC SCHOOLS.

Section 1. It is the intention of the general court, subject to appropriation, to assure fair and adequate minimum per student funding for public schools in the commonwealth by defining a foundation budget and a standard of local funding effort applicable to every city and town in the commonwealth.

Section 2. As used in this chapter and in chapters fifteen, sixty-nine and seventy-one, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Adjusted property valuation", the equalized property valuation of the municipality multiplied by the most recent average annual per capita income for the municipality, divided by the average annual per capita income for the commonwealth for the same period, as reported by the United States bureau of census.

"Assumed tuitioned-out special education enrollment", one percent of the total foundation enrollment in a district, not counting vocational or pre-school enrollment.

"Assumed in-school special education enrollment", three and one-half percent of total foundation enrollment of a district not counting vocational or pre-school enrollment, plus four and one-half percent of vocational enrollment.

"Base aid", in any fiscal year, the total of base aid, minimum aid and foundation aid of the previous fiscal year. In fiscal year nineteen hundred and ninety-four, base aid shall be state school aid in fiscal year nineteen hundred and ninety-three; provided, however, that the amount of aid deemed to have been distributed in fiscal year nineteen hundred and ninety-three pursuant to section sixteen D of chapter seventy-one shall be adjusted to equal the amount that would have been distributed in fiscal year nineteen hundred and ninety-four in accordance with paragraph (e) of section sixteen D of said chapter seventy-one but for the provisions of this chapter and paragraph (f) of said section sixteen D of said chapter seventy-one; and provided, further, that, in determining base aid in the current fiscal year, the base aid amount of the previous fiscal year shall be adjusted by adding any amount that will be deducted in the current fiscal year pursuant to the provisions of section twelve B of chapter seventy-six for students that applied and were accepted at receiving districts during the prior fiscal year; provided, however, that the students identified in subsection (m) of said section twelve B of said chapter seventy-six, shall be deemed to have left during fiscal year nineteen hundred and ninety-three.

"Base year foundation budget", the sum of foundation base year payroll, foundation non-salary base year expenses, the professional development allotment, expanded program

allotment, extraordinary maintenance allotment, and book and equipment allotment. The base year foundation is the foundation budget for fiscal year nineteen hundred and ninety-three.

"Board", the board of education.

"Book and equipment allotment", the amounts allotted within a district's foundation budget for books and equipment in any fiscal year. The book and equipment allotment shall be the sum of:

(a) one hundred and twenty-five dollars multiplied by the sum of the foundation kindergarten enrollment and the foundation pre-school enrollment; plus

(b) two hundred and fifty dollars multiplied by the sum of the foundation elementary enrollment, the foundation bilingual enrollment and the foundation junior high/middle school enrollment; plus

(c) four hundred dollars multiplied by the foundation high school enrollment; plus

(d) seven hundred dollars multiplied by the foundation vocational enrollment; plus

(e) two hundred dollars multiplied by the assumed in-school special education enrollment.

"Commissioner", the commissioner of the department of education within the executive office of education.

"Department", the department of education within the executive office of education.

"District" or "School district", the school department of a city or town, and a regional school district.

"Enrollment categories", each student, including students enrolled in special education programs, and students attending a school in another district, pursuant to the provisions of section twelve B of chapter seventy-six, who resides in the district and who attends either a public school in that district or a school for which the district of residence pays tuition, shall be placed in one and only one of the following enrollment categories depending on the grade and program to which the student is assigned:

(A) "Bilingual enrollment", the number of students enrolled in transitional bilingual programs in a district.

(B) "Elementary enrollment", number of students enrolled in grades one through five and not enrolled in bilingual or vocational programs in a district.

(C) "High school enrollment", the number of students enrolled in grades nine through twelve and not enrolled in bilingual or vocational programs in a district.

(D) "Junior high/middle school enrollment", the number of students enrolled in grades six through eight and not enrolled in bilingual or vocational programs in a district.

(E) "Kindergarten enrollment", the number of students enrolled in kindergarten and not enrolled in bilingual or vocational programs in a district.

(F) "Pre-school enrollment", the number of students enrolled in pre-school programs run in connection with the special education program in a district. The foundation pre-school enrollment may not exceed twice the number of pre-school students enrolled under approved individual education plans.

(G) "Vocational enrollment", the number of students enrolled in vocational and

occupational education programs or an agricultural school in a district.

"Equalized property valuation", the annual equalized property valuation for a municipality as determined by the department of revenue pursuant to the provisions of sections nine, ten and ten C of chapter fifty-eight.

"Equity aid", aid amounts payable to municipalities in any fiscal year equal to the equity gap multiplied by the foundation aid percent.

"Equity gap", the positive difference, if any, between (1) the positive difference, if any, between the local contribution of the prior fiscal year and the gross standard of effort for that fiscal year and (2) the positive difference, if any, between the prior year net school spending and the prior year foundation budget amount. The equity gap shall be defined separately for each municipality's share of each district of which it is a member.

"Excess debt service amount", shall be the difference, if any, between (i) the municipality's share of long-term debt service in support of school construction and (ii) the statewide average of local share of long-term debt service in support of school construction, on a per pupil basis, multiplied by the foundation number of pupils in the town. For regional school districts, the excess debt service amount shall be allocated amongst member municipalities according to the provisions of the regional school district agreement. The excess debt service amount for a municipality shall be the sum of the municipality's share of excess debt service amounts for all of the regional districts of which it is a member.

"Expanded program allotment", the amount allotted within a district's foundation budget for providing expanded educational services for low-income students. The expanded program allotment shall be determined by multiplying the number of low-income elementary and middle school students in a district by the wage adjustment factor by three hundred and eighty dollars.

"Extraordinary maintenance allotment", the amount allotted within a district's foundation budget for extraordinary maintenance costs in any fiscal year. The extraordinary maintenance allotment shall be two thousand, two hundred dollars multiplied by the sum of the foundation teaching staff and the foundation support staff.

"Foundation aid", aid amounts payable to municipalities in any fiscal year equal to the foundation gap multiplied by the statewide foundation aid percent.

"Foundation aid percent", the result of dividing (1) the difference between the amount appropriated for the implementation of this chapter and the sum of the total base aid and total minimum aid by (2) the sum of the statewide foundation gap, the state overburden obligation, and the statewide equity gaps.

"Foundation assistants", the number of school assistants or aides allotted within a district's foundation budget in any fiscal year. The number of foundation assistants shall be the sum of:

(a) six thousandths multiplied by the sum of the foundation kindergarten enrollment and the foundation pre-school enrollment; plus

(b) twelve thousandths multiplied by the sum of the foundation elementary enrollment and the foundation bilingual enrollment; plus

(c) two thousandths multiplied by the foundation junior high/middle school

enrollment; plus

(d) eight ten-thousandths multiplied by the sum of the foundation high school enrollment and the foundation vocational enrollment; plus

(e) one hundred and twenty-five thousandths multiplied by the assumed in-school special education enrollment.

"Foundation athletic expenses", the amount allotted within a district's foundation budget for athletic expenses in any fiscal year. The foundation athletic expenses shall be the sum of:

(a) fifty dollars multiplied by the foundation junior high/middle school enrollment; plus

(b) two hundred dollars multiplied by the sum of the foundation high school enrollment and the foundation vocational enrollment.

"Foundation benefits", the amount allotted within a district's foundation budget for the purchase of employee benefits and other insurance in any fiscal year. The foundation benefits shall be the sum of the following:

(a) four thousand three hundred and twenty dollars multiplied by the wage adjustment factor multiplied by the sum of the foundation teaching staff, the foundation support staff, the foundation assistants, the foundation principals, the foundation clerical staff, the foundation health care staff, the foundation central office professional staff and the foundation custodial staff; plus

(b) four hundred and sixty dollars multiplied by the sum of the foundation teaching staff, the foundation support staff, the foundation assistants, the foundation principals, the foundation clerical staff, the foundation health care staff, the foundation central office professional staff and the foundation custodial staff; plus

(c) two hundred and thirty dollars multiplied by the foundation vocational staff.

"Foundation budget", the sum of the foundation payroll, foundation non-salary expenses, professional development allotment, expanded program allotment, extraordinary maintenance allotment, and book and equipment allotment. The base year for calculating the foundation budget shall be fiscal year nineteen hundred and ninety-three. The base year foundation budget shall be calculated according to the formulas in this section using foundation enrollment as described in this section. For fiscal years thereafter, the foundation budget shall be the base year foundation budget, as adjusted for enrollment and for inflation as set forth in section three of this chapter.

"Foundation central office professional staff", the number of professional staff allotted within a district's foundation budget in any fiscal year for central office duties. The foundation central office professional staff shall be the sum of:

(a) two thousandths multiplied by the total foundation enrollment; plus

(b) fifteen thousandths multiplied by the sum of assumed in-school special education enrollment and assumed tuitioned-out special education enrollment; plus

(c) twenty-five hundred-thousandths multiplied by the foundation vocational enrollment.

"Foundation clerical staff", the number of staff allotted within a district's foundation

budget in any fiscal year for clerical duties. The foundation clerical staff shall be the sum of:

(a) two hundred and seventy-five hundred-thousandths multiplied by the sum of the foundation kindergarten enrollment and the foundation pre-school enrollment; plus

(b) fifty-five ten-thousandths multiplied by the sum of the foundation elementary enrollment, the foundation bilingual enrollment, the foundation junior high/middle school enrollment, the foundation high school enrollment and the foundation vocational enrollment; plus

(c) two hundredths multiplied by the sum of the assumed in-school special education enrollment and the assumed tuitioned-out special education enrollment.

"Foundation custodial staff", the number of staff allotted within a district's foundation budget in any fiscal year for custodial duties. The foundation custodial staff shall be one-tenth multiplied by the sum of the foundation teaching staff and the foundation support staff.

"Foundation enrollment", the student enrollment of a district in any fiscal year. The foundation enrollment is defined as the sum of foundation elementary, junior high, senior high, bilingual, and vocational enrollment plus one-half the sum of foundation pre-school and kindergarten enrollment. By March first of each calendar year, the department shall certify the foundation enrollment for the next fiscal year as the actual enrollment as reported the previous October.

"Foundation extracurricular activity expenses", the amount allotted within a district's foundation budget for extracurricular activity expenses in any fiscal year. The foundation extracurricular activity expenses shall be the sum of:

(a) twenty-five dollars multiplied by the sum of the foundation elementary enrollment and the foundation bilingual enrollment; plus

(b) thirty-five dollars multiplied by the foundation junior high/middle school enrollment; plus

(c) forty-five dollars multiplied by the sum of the foundation high school enrollment and the foundation vocational enrollment.

"Foundation gap", the positive difference, if any, between (i) the foundation budget in any fiscal year and (ii) the sum of base aid, school choice reimbursement as defined in section twelve B of chapter seventy-six, federal impact aid, and the larger of (1) the prior year local contribution or (2) the standard of effort for that fiscal year. The foundation gap shall be calculated separately for each municipality's share of each district to which it belongs.

"Foundation health care staff", the number of staff allotted within a district's foundation budget to perform health care related duties in any fiscal year. The foundation health care staff shall be the sum of:

(a) one thousandths multiplied by the sum of the foundation kindergarten enrollment and the foundation pre-school enrollment; plus

(b) two thousandths multiplied by the sum of the foundation elementary enrollment and the foundation bilingual enrollment; plus

(c) fifteen ten-thousandths multiplied by the sum of the foundation junior high/

middle school enrollment, the foundation high school enrollment and the foundation vocational enrollment.

"Foundation miscellaneous expenses", the amount allotted within a district's foundation budget for miscellaneous activity expenses in any fiscal year. The foundation miscellaneous activity expenses shall be the sum of:

(a) four hundred dollars multiplied by the assumed in-school special education enrollment; plus

(b) seventy-five dollars multiplied by the total foundation enrollment; plus

(c) eleven hundred dollars multiplied by the foundation clerical staff.

"Foundation non-salary expenses", the sum of foundation athletic expenses, foundation extracurricular activity expenses, foundation utility and ordinary maintenance expenses, foundation benefits, foundation special education tuition, and foundation miscellaneous expenses.

"Foundation payroll", the amount allotted within a district's foundation budget for the teaching staff, support staff, assistants, principals, clerical staff, health care staff, central office professional staff, and custodial staff in any fiscal year. The foundation payroll shall be the wage adjustment factor multiplied by the sum of:

(a) thirty-eight thousand dollars multiplied by the sum of the foundation teaching staff and the foundation support staff; plus

(b) nine thousand dollars multiplied by the foundation assistants; plus

(c) sixty-two thousand dollars multiplied by the sum of (i) foundation principals, and (ii) one and fifteen-hundredths multiplied by the foundation central office professional staff; plus

(d) eighteen thousand five hundred dollars multiplied by the foundation clerical staff; plus

(e) twenty-five thousand dollars multiplied by the foundation health care staff; plus

(f) twenty-five thousand dollars multiplied by the foundation custodial staff.

"Foundation principals", the number of principals allotted within a district's foundation budget in any fiscal year. The foundation principals shall be the sum of:

(a) fifteen ten-thousandths multiplied by the sum of the foundation kindergarten enrollment and foundation pre-school enrollment; plus

(b) three thousandths multiplied by the sum of the foundation elementary enrollment and the foundation bilingual enrollment; plus

(c) thirty-five ten-thousandths multiplied by the foundation junior high/middle school enrollment; plus

(d) thirty-five ten-thousandths multiplied by the sum of the foundation high school enrollment and the foundation vocational enrollment.

"Foundation special education tuition", the amount allotted within a district's foundation budget for special education tuition in any fiscal year. The value shall be the product of thirteen thousand five hundred dollars and the assumed tuitioned-out special education enrollment.

"Foundation support staff", the number of staff allotted within a district's foundation

budget for support duties in any fiscal year. The foundation support staff shall be the sum of:

(a) seven hundred and twenty-five hundred-thousandths multiplied by the sum of the foundation kindergarten enrollment and the foundation pre-school enrollment; plus

(b) one hundred and forty-five ten-thousandths multiplied by the sum of the foundation elementary enrollment and the foundation bilingual enrollment; plus

(c) twenty-five thousandths multiplied by the foundation junior high/middle school enrollment; plus

(d) forty-two ten-thousandths multiplied by the sum of the foundation high school enrollment and the foundation vocational enrollment; plus

(e) seventy-six thousandths multiplied by the assumed in-school special education enrollment.

"Foundation teaching staff", the number of staff allotted within a district's foundation budget for teaching duties in any fiscal year. The foundation teaching staff, calculated using enrollments as defined in this section, shall be the sum of the following:

(a) the sum of the foundation kindergarten enrollment and the foundation pre-school enrollment divided by forty-four; plus

(b) the foundation elementary enrollment divided by twenty-two; plus

(c) the foundation junior high/middle school enrollment divided by twenty-five; plus

(d) the foundation high school enrollment divided by seventeen; plus

(e) the foundation bilingual enrollment divided by fifteen; plus

(f) the foundation vocational enrollment divided by ten; plus

(g) the assumed in-school special education enrollment divided by eight; plus

(h) three hundredths multiplied by the average number of low-income students attending schools in the district over the preceding two fiscal years.

"Foundation utility and ordinary maintenance expenses", the amount allotted within a district's foundation budget for utility and ordinary maintenance costs in any fiscal year. The foundation utility and ordinary maintenance expenses shall be three thousand three hundred dollars multiplied by the sum of:

(a) the sum of the foundation teaching staff and the foundation support staff; plus

(b) the foundation vocational enrollment divided by thirty.

"Foundation vocational staff", the number of teachers, support staff principals, clerical staff, health care staff and custodial staff assigned to a vocational school or program or an agricultural school allotted within a district's foundation budget in any fiscal year.

"General revenue sharing aid", the amount of assistance from the commonwealth to be received by a city or town in a fiscal year from the following local aid programs: (1) payments in lieu of taxes for state-owned lands distributed pursuant to section seventeen of chapter fifty-eight, (2) equity aid as defined in this section, (3) the distribution to cities and towns of the balance of the State Lottery Fund in accordance with the provisions of clause (c) of section thirty-five of chapter ten, and (4) additional assistance, so-called, as distributed pursuant to section eighteen E of chapter fifty-eight.

"Gross overburden amounts", are as follows: for municipalities with an adjusted

property valuation per pupil of equal to or less than ninety-five percent of the statewide average, the gross overburden amount shall be one hundred percent of the standard of effort gap. For municipalities with an adjusted property valuation per pupil greater than ninety-five percent of the state average but less than one hundred and twenty percent of the state average, the gross overburden amount shall be the standard of effort gap multiplied by the positive difference between one and one-half and the ratio of the municipality's adjusted property valuation per pupil to the amount of the state average adjusted property valuation per pupil. For municipalities with an adjusted property valuation per pupil equal to or greater than one hundred and twenty percent of the state average, the gross overburden amount shall be zero.

"Gross standard of effort", for a municipality in fiscal year nineteen hundred and ninety-four shall be ninety-four ten-thousandths times the adjusted property valuation, calculated using the nineteen hundred and ninety-two equalized property valuations as published by the department of revenue. In subsequent fiscal years, the gross standard of effort shall be the gross standard of effort of the previous fiscal year, increased by a percentage equal to the municipal revenue growth factor.

"Local contribution", the net school spending of a municipality in any fiscal year minus the sum of state school aid and federal impact aid, less equity aid, for that fiscal year as projected by the department of education; provided, however, in any city or town that deferred a portion of its teachers' salaries in the fiscal year ending June thirtieth, nineteen hundred and ninety-three or that had its regional school assessment reduced as a result of a deferral of teachers' salaries in a regional school district in said fiscal year, the local contribution for said fiscal year shall be reduced by the amount of such teachers' salary deferral and reduced regional school assessment, if any. The department shall publish tables allotting each municipality's local contribution in fiscal year nineteen hundred and ninety-three amongst the districts to which the municipality belongs.

"Low-income enrollment", the number of children attending school in a district regardless of residence or tuition-paying status, who are eligible for free or reduced cost lunches under eligibility guidelines promulgated by the federal government under 42 USC 1758. A low-income child or student is a child who meets these eligibility standards. In determining the total number of low-income students, the department shall use the preceding year's actual number of low-income elementary, middle school, high school, bilingual, and vocational students, and one-half the preceding year's actual number of low-income kindergarten and pre-school students.

"Minimum aid", the amount of minimum state school aid available to a municipality in any fiscal year, which shall be fifty dollars multiplied by the district foundation enrollment in fiscal year nineteen hundred and ninety-four, and twenty-five dollars multiplied by the district foundation enrollment every year thereafter until fiscal year two thousand and one.

"Minimum required local contribution", the sum of (i) the preliminary local contribution, and (ii) the foundation aid percent multiplied by the standard of effort gap in any fiscal year; provided, however, that for the purpose of this calculation, for any district that does not have a positive foundation gap, the standard of effort gap shall be deemed to be zero. This sum shall be reduced by the overburden aid amount, if any, and the excess

debt service amount, if any. The minimum required local contributions shall be calculated separately for each municipality's share of each district to which the municipality belongs.

"Municipal revenue growth factor", the increase in local general revenues calculated by subtracting one from the quotient calculated by dividing the sum of (1) the maximum levy limit for the fiscal year estimated by multiplying the levy limit of the prior fiscal year by a factor equal to one hundred and two and one-half percent plus the average of the percentage increases in the levy limit due to new growth over the last three available years as certified by the department of revenue, (2) the amount of general revenue sharing aid for the fiscal year, and (3) other recurring receipts not including user fees or other charges determined by the division of local services of the department of revenue to be associated with the provision of specific municipal services for the prior fiscal year by the sum of (1) the actual levy limit for the prior fiscal year, (2) the amount of general revenue sharing aid received for the prior fiscal year, and (3) other recurring receipts not including user fees or other charges determined by the division of local services of the department of revenue to be associated with the provision of specific municipal services, actually collected by the municipality for the fiscal year preceding the prior fiscal year; provided, however, that for the purposes of this calculation the levy limit shall exclude any amounts generated by overrides applicable to any year after fiscal year nineteen hundred and ninety-three; and provided, however, that in the absence of an actual levy limit for the prior fiscal year, the actual levy limit for the prior fiscal year shall be estimated by multiplying the actual levy limit of the fiscal year preceding the prior fiscal year by a factor equal to one hundred and two and one-half percent plus the average of the percentage increases in the levy limit due to new growth over the last three available years as certified by the department of revenue; provided, further that in the absence of an actual levy limit for the prior fiscal year, the maximum levy limit for the fiscal year shall be calculated by multiplying the estimated levy limit of the prior fiscal year by a factor equal to one hundred and two and one-half percent plus the average of the percentage increases in the levy limit due to new growth over the last three available years as certified by the department of revenue; provided, further, that said factor shall not be greater than the factor determined by subtracting one from the quotient calculated by dividing total state school aid for the current fiscal year by total state school aid for the prior fiscal year.

"Net school spending", the total amount spent for the support of public education, including teacher salary deferrals and tuition payments for children residing in the district who attend a school in another district or other approved facility, determined without regard to whether such amounts are regularly charged to school or non-school accounts by the municipality for accounting purposes; provided, however, that net school spending shall not include any spending for long term debt service, and shall not include spending for school lunches, or student transportation. Net school spending shall also not include tuition revenue or revenue from activity, admission, other charges or any other revenue attributable to public education. Such revenue will be made available to the school district which generated such revenue in addition to any financial resources made available by municipalities or state assistance. The department of education, in consultation with the department of revenue shall promulgate regulations to ensure a uniform method of determining which municipal

expenditures are appropriated for the support of public education and which revenues are attributable to public education in accordance with this section. The regulations shall include provisions for resolving disputes which may arise between municipal and school officials.

"Overburden aid", for each municipality is the gross overburden amount for that municipality multiplied by the foundation aid percent.

"Preliminary local contribution", for any municipality in which the local contribution in the prior fiscal year was less than the standard of effort, the local contribution of such prior year increased by a percentage equal to the municipal revenue growth factor. For any municipality in which the local contribution in the prior fiscal year was not less than the standard of effort, the preliminary local contribution shall be the standard of effort amount; provided, however, that for any district with a positive foundation gap, the preliminary local contribution shall not be less than the fiscal year nineteen hundred and ninety-three local contribution, except that said contribution may be reduced proportionately to any decrease in the total municipal budget.

"Professional development allotment", the amount allotted within a district's foundation budget for professional development in any fiscal year. The professional development allotment in any year shall be three percent multiplied by the amount allotted in that year in a district's foundation budget for foundation teaching staff payroll and the foundation support staff payroll.

"Standard of effort", for any year shall be the gross standard of effort for that year. The standard of effort for any municipality shall be allotted amongst the districts to which a municipality belongs according to each district's share of the total foundation budget for students from that municipality.

"Standard of effort gap", the positive difference in any fiscal year between the standard of effort in that fiscal year and the preliminary local contribution in that fiscal year. The standard of effort gap for a municipality shall be allocated amongst the districts to which a municipality belongs. If there is not positive difference, the standard of effort gap shall be zero.

"State overburden obligation", the sum of the gross overburden amounts for all municipalities.

"State school aid", all amounts appropriated by the commonwealth under this chapter, chapter seventy-one, and chapter seventy-four, all equal educational opportunity grants, and all per pupil grants included as part of state aid for fiscal year nineteen hundred and ninety-three except as provided in this chapter. It shall not include any state funding for transportation, for school building construction, for the METCO program or for other categorical grants such as school-to-work transitional grants. The department shall publish tables allotting each municipality's state school aid in fiscal year nineteen hundred and ninety-three amongst the school districts to which the municipality belongs. For municipalities where all students attend regional districts all state school aid shall be allocated amongst the regional districts. The aid received on behalf of students tuitioned out to other districts shall be allotted to the municipality or district paying tuition.

"Total foundation staff", the sum of the foundation teaching staff, foundation support

staff, foundation assistants, foundation principals, foundation clerical staff, foundation healthcare staff, foundation central office professional staff, and foundation custodial staff provided that no employee shall be counted as more than one full time equivalent.

"Wage adjustment factor", an adjusted difference between the average annual wage for all jobs in the labor market area in which a municipality is located and the average annual wage in the commonwealth. Average annual wage figures shall be published annually by the division of employment and training. The wage adjustment factor shall be the sum of one plus a fraction, the numerator of which shall be the product of one-third and the difference resulting from subtracting the average annual wage in the commonwealth from the average annual wage of the community; and the denominator of which shall be the average annual wage in the commonwealth.

For the purposes of this section, the average annual wage of the community shall be the sum of:

(a) eight-tenths multiplied by the average annual wage for all jobs in the labor market area in which the municipality is located; plus

(b) two-tenths multiplied by the average annual wage of the municipality; provided, however, that in any community in which the percent of total foundation enrollment represented by the low-income enrollment is greater than the total percent of low-income students in the state, the wage adjustment factor shall not be less than one.

Section 3. For the school district in each municipality, for each regional school district, and for each independent vocational school in the commonwealth, there is hereby established a foundation budget.

The board of education is authorized to adopt regulations furnishing interpretive guidelines for the determination of foundation budgets. Said regulations shall be filed with the house and senate committees on ways and means not less than thirty days before said regulations become effective.

Following fiscal year nineteen hundred and ninety-four, the foundation budget shall be calculated using foundation enrollments for the respective fiscal years as estimated by the department according to the procedures outlined in section two. The monetary factors used in calculating the foundation budget in these years shall be the monetary factors employed in section two to define the foundation payroll, foundation non-salary expenses, and the professional development allotment, expanded program allotment, extraordinary maintenance allotment, book and equipment allotment, multiplied by the ratio of the implicit price deflator for state and local government services as published by the United States department of commerce for the third quarter of the prior calendar year to the same deflator for the third quarter of nineteen hundred and ninety-two. For any fiscal year, the adjusted amounts shall not exceed those in the immediately preceding fiscal year by more than four and one-half percent.

Section 4. Not later than July first, nineteen hundred and ninety-four, and every three years thereafter, the governor shall appoint a foundation budget review commission to review the way in which foundation budgets are calculated and to make recommendations to the general court regarding such changes in the formula as may be appropriate. The

commission shall consist of fifteen members and shall be broadly representative of the racial and ethnic diversity of the commonwealth. Members shall receive no compensation for their services but may receive reimbursement for their reasonable expenses incurred in carrying out their responsibilities as members of the commission. The department shall furnish reasonable staff and other support for the work of the commission.

It shall not constitute a violation of chapter two hundred and sixty-eight A for any person employed by a school district in the commonwealth to serve on this commission or to participate in the commission deliberations that will or may have a financial impact on the district employing such person or on the rate at which such a person may be compensated. The commission may establish procedures to ensure that such persons not participate in commission deliberations that may either directly affect the school districts employing such persons or directly affect the rate at which such persons are compensated.

The commission's recommendations shall be filed with the clerks of the senate and house of representatives, who, with the approval of the president of the senate and the speaker of the house of representatives, shall refer such recommendations to appropriate committees of the general court. Within thirty days after such filing, the said committee shall hold a public hearing on the recommendations.

Section 5. Beginning in fiscal year nineteen hundred and ninety-four and for every fiscal year thereafter, the following shall apply to any municipality receiving overburden aid: the overburden aid amount for said municipality shall be reduced by an amount equal to seventy-five percent of any increase over the prior year in its lottery and additional assistance local aid.

Section 6. In addition to amounts appropriated for long-term debt service, school lunches, adult education, student transportation, and tuition revenue, each municipality in the commonwealth shall annually appropriate for the support of public schools in the municipality and in any regional school district to which the municipality belongs an amount equal to not less than the sum of the minimum required local contribution, federal impact aid, and all state school aid and grants for education but not including equity aid, for the fiscal year. Based on the amounts specified in section twelve, the allotments described in section thirteen, and the definitions and other provisions in this chapter, the commissioner shall estimate and report such amounts to each municipality and regional school district as early as possible, but no later than March first for the following fiscal year. The commissioner shall file with the house and senate committees on ways and means, not less than thirty days before said reports are transmitted to each municipality and regional school district, copies or a document reporting all of the information contained in said reports. Notwithstanding the terms of any regional school district agreements to the contrary, no new regional school district shall be required to submit a budget to its member municipalities before receiving the estimate by the commissioner concerning the amount of state school aid payable through the member municipalities to the regional school district for the following fiscal year. Notwithstanding the provisions of any regional school district agreement, each member municipality shall increase its contribution to the regional district each fiscal year by the amount indicated in that district's share of the municipality's minimum regional con-

tribution in that fiscal year. The district shall appropriate the sum of the minimum regional contributions of its member districts as well as all state school aid received on behalf of member municipalities. The district may choose to spend additional amounts; such decisions shall be made and such amounts charged to members according to the district's required agreement.

Section 7. If there is appropriated in any fiscal year a sum smaller than the amount of state school aid specified in section twelve, any school appropriations based on the commissioner's estimate shall be reduced without further action by the school committee, town meeting, or city council by an amount equal to the value that state school aid and minimum required local contribution for the district are below the amount estimated by the commissioner unless the district or the member municipalities take specific actions to the contrary. For the purposes of this section the amount of state school aid appropriated to a city or town shall be the amount appropriated by the annual appropriation act without regard to any deductions pursuant to subsection (f) of section twelve B of chapter seventy-six.

Section 8. Except as required by General Law, each school district may determine how to allocate any funds appropriated for the support of public schools without regard to the categories employed in calculating the foundation budget.

Section 9. School districts shall report each fiscal year to the commissioner of education on the amounts spent for extraordinary maintenance, extended programming, professional development, and books and instructional equipment. To the extent that the amounts spent for these purposes fall short of the allotments defined in this chapter, the superintendent shall explain the reasons for the shortfall.

School districts shall report each fiscal year to the commissioner of education on the amounts spent for administrative expenses. To the extent that the amounts spent for these purposes exceed the allotments defined in this chapter, the superintendent shall explain the reasons for the additional costs.

Section 10. Subject to appropriation, the amount of state aid to be paid to each municipality in each fiscal year under this chapter shall be the sum of the base aid, the overburden aid, minimum aid, foundation aid and equity aid to which the municipality may be entitled under the provisions of this chapter. The amount of aid paid to each district shall be identified separately for each municipality that is a member of the district.

Section 11. If in any fiscal year a district's actual expenditures for public education is less than the amount required to be appropriated for public education pursuant to this chapter, the difference, up to five percent of the amount required to be appropriated, shall be spent in the following fiscal year without affecting the amount of state school aid payable the following fiscal year; provided, however, that the amount required to be appropriated for public education in said following year shall be increased by said difference, up to five percent; provided, further, that the amount of state school aid for the following fiscal year shall be reduced by the amount said difference exceeds five percent of the amount required to be appropriated; provided, further, that in any year in which additional money is required to be appropriated pursuant to this section due to a spending deficiency in the prior year, if a district's actual expenditure for public education is less than the amount required to be appro-

priated, state school aid in the following year shall be reduced by the entire difference between said amounts. The board shall promulgate regulations to enforce the provisions of this section.

Section 12. (a) Subject to appropriation, beginning in fiscal year nineteen hundred and ninety-four and for all subsequent fiscal years, the amounts appropriated for state school aid in any given year shall be equal to the sum of the adjusted prior year amount and the education improvement amount.

(b) The adjusted prior year amount for state school aid shall be the amount of state aid appropriated in the previous fiscal year, multiplied by an annual adjustment factor equal to the ratio of (i) the implicit price deflator for state government services as published by the United States department of commerce for the third quarter of the prior year to (ii) the same deflator one year earlier; provided, however, that the annual adjustment factor utilized in fiscal year nineteen hundred and ninety-four shall be equal to one. In no case shall the annual adjustment factor exceed one hundred and four percent.

(c) The education improvement amount shall be an amount of additional state school aid as hereinafter described for the fiscal years nineteen hundred and ninety-four to two thousand, inclusive: in fiscal year nineteen hundred and ninety-four, an additional one hundred and forty million dollars; in fiscal year nineteen hundred and ninety-five, an additional one hundred and fifty million dollars; in fiscal year nineteen hundred and ninety-six, an additional one hundred and fifty million dollars; in fiscal year nineteen hundred and ninety-seven, an additional one hundred and fifty million dollars; in fiscal year nineteen hundred and ninety- eight, an additional one hundred and fifty million dollars; in fiscal year nineteen hundred and ninety-nine, an additional one hundred and eighty million dollars; and in fiscal year two thousand, an additional one hundred and eighty million dollars. The dollar amounts specified in this subsection shall be adjusted for inflation by multiplying the amounts for fiscal year nineteen hundred and ninety-five and subsequent years by the ratio of the value of the implicit price deflator for state government services in the third quarter of the prior calendar year to the value of that same deflator in the third quarter of nineteen hundred and ninety-three. In no case shall this adjustment factor be greater than what would be derived by a four percent annual adjustment compounded on a yearly basis.

Section 13. (a) The funds appropriated for state school aid shall be allocated among municipalities as set forth in this chapter. If said amount appropriated is less than the total base aid amount, each municipality's allotment of base aid shall be reduced by a constant amount per student that shall be determined by dividing the difference between the total base amount and said appropriation amount by the total foundation enrollment in the state.

(b) If the amount appropriated is more than the base amount, funds shall first be allocated to ensure that state school aid for each municipality equals the base aid amount.

(c) Any additional funds shall be allocated to cover minimum aid. If the amount appropriated for state school aid is insufficient to permit full funding of the base aid and minimum aid, funds in excess of the amount needed to fund base aid shall be allocated on a proportional basis reflecting the ratio of a particular municipality's minimum aid to the sum of minimum aid amounts of all municipalities for that fiscal year.

(d) All remaining funds shall be allocated to cover foundation aid, equity aid, and overburden aid.

(e) The allocation to each municipality that received foundation aid of more than the minimum aid amount above the base amount shall be reduced by an amount that is the lesser of (1) the minimum aid amount and (2) the positive difference, if any, between its foundation aid and minimum aid. The funds available from this reduction shall be allocated to all municipalities such that each one receives the same proportion of this aid as was received in paragraph (d). These increments shall be considered part of foundation aid, equity aid, and overburden aid.

Section 14. For any district in which fewer than twenty percent of the students scored below the state average on the assessment tests required by chapter sixty-nine, the city or town, or all cities and towns comprising a regional school district, may exempt the district from the provisions of this chapter by accepting this section in the manner prescribed by section four of chapter four. Any district so exempted shall continue to receive fiscal year nineteen hundred and ninety-three base aid, but shall not receive any additional state aid and shall not be required to meet the local obligation requirements of this chapter.

If, in any future year, a district so exempted fails to meet the assessment standards described above, or for any other reason is not exempt from this chapter, it shall, in that and future years, be subject to the same obligations and entitled to the same aid under this chapter in each year as districts that were never so exempted.

Section 15. This chapter shall apply to all cities, towns, and regional school districts, notwithstanding section twenty-seven C of chapter twenty-nine, and without regard to any acceptance or appropriation by a city, town or regional school district or to any appropriation by the general court.

SECTION 33. Chapter seventy A of the General Laws is hereby repealed.

SECTION 34. Section 16D of chapter 71 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following three subsections:-

(e) Notwithstanding the foregoing provisions of this section, for the fiscal year ending on June thirtieth, nineteen hundred and ninety-four, regional schools shall receive the same amount of state aid that they received in the fiscal year ending on June thirtieth, nineteen hundred and ninety-three; provided, however, that any regional school that received in the fiscal year ending on June thirtieth, nineteen hundred and ninety-three less than seventy-six percent of the amount of state aid that it would have been entitled to pursuant to the foregoing provisions of this section if the full amount had been appropriated for such state aid in said fiscal year nineteen hundred and ninety-three shall receive an additional state aid payment in fiscal year nineteen hundred and ninety-four such that the total state aid for each regional school pursuant to this section shall be no less than seventy-six percent of the amount of state aid that it would have been entitled to pursuant to the foregoing provisions of this section if the full amount had been appropriated for such state aid in said fiscal year nineteen hundred and ninety-three; provided, further, that any regional school district that is newly established pursuant to section fifteen subsequent to June thirtieth, nineteen hundred and ninety-two but prior to July first, nineteen hundred and ninety-three shall receive

seventy-six percent of the amount it would otherwise have been entitled to receive for fiscal year nineteen hundred and ninety-four expenses pursuant to the foregoing provisions of this section.

(f) For fiscal years nineteen hundred and ninety-four and subsequent fiscal years, the amount of state aid distributed as base aid pursuant to chapter seventy shall be deemed to be in full satisfaction of the provisions of subsection (e).

(g) Notwithstanding the foregoing provisions, regional bonus aid, but no other aid pursuant to this section, shall be paid to any regional school district formed after fiscal year nineteen hundred and ninety-three for the immediate five fiscal years following the establishment of said regional school district. Regional bonus aid shall be payable in an amount equal to fifty dollars per foundation enrollment, in the first fiscal year following the establishment of said regional school district; forty dollars per foundation enrollment in the second fiscal year following the establishment of said regional school district; thirty dollars per foundation enrollment in the third fiscal year following the establishment of said regional school district; twenty dollars per foundation enrollment in the fourth fiscal year following the establishment of said regional school district; and, ten dollars per foundation enrollment in the fifth fiscal year following the establishment of said regional school district.

SECTION 35. Said chapter 71 is hereby further amended by striking out section 37, as so appearing, and inserting in place thereof the following section:-

Section 37. The school committee in each city and town and each regional school district shall have the power to select and to terminate the superintendent, shall review and approve budgets for public education in the district, and shall establish educational goals and policies for the schools in the district consistent with the requirements of law and statewide goals and standards established by the board of education.

SECTION 36. Said chapter 71 is hereby further amended by striking out section 37H, as amended by section 430 of chapter 133 of the acts of 1992, and inserting in place thereof the following section:-

Section 37H. The superintendent of every school district shall publish the district's policies pertaining to the conduct of teachers and students. Said policies shall prohibit the use of any tobacco products within the school buildings, the school facilities or on the school grounds or on school buses by any individual, including school personnel. Copies of these policies shall be provided to any person upon request and without cost by the principal of every school within the district.

Each school district's policies pertaining to the conduct of students shall include the following: disciplinary proceedings, including procedures assuring due process; standards and procedures for suspension and expulsion of students; procedures pertaining to discipline of students with special needs; standards and procedures to assure school building security and safety of students and school personnel; and the disciplinary measures to be taken in cases involving the possession or use of illegal substances or weapons, the use of force, vandalism, or violation of other student's civil rights. Codes of discipline, as well as procedures used to develop such codes shall be filed with the department of education for informational purposes only.

In each school building containing the grades nine to twelve, inclusive, the principal, in consultation with the school council, shall prepare and distribute to each student a student handbook setting forth the rules pertaining to the conduct of students. The school council shall review the student handbook each spring to consider changes in disciplinary policy to take effect in September of the following school year, but may consider policy changes at any time. The annual review shall cover all areas of student conduct, including but not limited to those outlined in this section.

Notwithstanding any general or special law to the contrary, all student handbooks shall contain the following provisions:

(a) Any student who is found on school premises or at school-sponsored or school-related events, including athletic games, in possession of a dangerous weapon, including, but not limited to, a gun or a knife; or a controlled substance as defined in chapter ninety-four C, including, but not limited to, marijuana, cocaine, and heroin, may be subject to expulsion from the school or school district by the principal.

(b) Any student who assaults a principal, assistant principal, teacher, teacher's aide or other educational staff on school premises or at school-sponsored or school-related events, including athletic games, may be subject to expulsion from the school or school district by the principal.

(c) Any student who is charged with a violation of either paragraph (a) or (b) shall be notified in writing of an opportunity for a hearing; provided, however, that the student may have representation, along with the opportunity to present evidence and witnesses at said hearing before the principal.

After said hearing, a principal may, in his discretion, decide to suspend rather than expel a student who has been determined by the principal to have violated either paragraph (a) or (b); provided, however, that any principal who decides that said student should be suspended shall state in writing to the school committee his reasons for choosing the suspension instead of the expulsion as the most appropriate remedy. In this statement, the principal shall represent that, in his opinion, the continued presence of this student in the school will not pose a threat to the safety, security and welfare of the other students and staff in the school.

(d) Any student who has been expelled from a school district pursuant to these provisions shall have the right to appeal to the superintendent. The expelled student shall have ten days from the date of the expulsion in which to notify the superintendent of his appeal. The student has the right to counsel at a hearing before the superintendent. The subject matter of the appeal shall not be limited solely to a factual determination of whether the student has violated any provisions of this section.

(e) When a student is expelled under the provisions of this section and applies for admission to another school for acceptance, the superintendent of the sending school shall notify the superintendent of the receiving school of the reasons for the pupil's expulsion.

SECTION 37. Section 37L of said chapter 71, as appearing in the 1990 Official Edition, is hereby amended by adding the following three paragraphs:-

In addition, any school department personnel shall report in writing to their

immediate supervisor an incident involving a student's possession or use of a dangerous weapon on school premises at any time.

Supervisors who receive such a weapon report shall file it with the superintendent of said school, who shall file copies of said weapon report with the local chief of police, the department of social services, the office of student services or its equivalent in any school district, and the local school committee. Said superintendent, police chief, and representative from the department of social services, together with a representative from the office of student services or its equivalent, shall arrange an assessment of the student involved in said weapon report. Said student shall be referred to a counseling program; provided, however, that said counseling shall be in accordance with acceptable standards as set forth by the board of education. Upon completion of a counseling session, a follow-up assessment shall be made of said student by those involved in the initial assessment.

A student transferring into a local system must provide the new school system with a complete school record of the entering student. Said record shall include, but not be limited to, any incidents involving suspension or violation of criminal acts or any incident reports in which such student was charged with any suspended act.

SECTION 38. Section 38 of said chapter 71, as so appearing, is hereby amended by striking out the first and second paragraphs.

SECTION 39. The third paragraph of said section 38 of said chapter 71, as so appearing, is hereby amended by striking out, in line 33, the word "committee" and inserting in place thereof the following word:- district.

SECTION 40. Said section 38 of said chapter 71, as so appearing, is hereby further amended by striking out the fifth paragraph and inserting in place thereof the following two paragraphs:-

The superintendent, by means of comprehensive evaluation, shall cause the performance of all teachers, principals, and administrators within the school district to be evaluated using any principles of evaluation established by the board of education pursuant to section one B of chapter sixty-nine and by such consistent, supplemental performance standards as the school committee may require, including the extent to which students assigned to such teachers and administrators satisfy student academic standards or, in the case of a special education student, the individual education plan, and the successful implementation of professional development plans required under section thirty-eight Q; provided, however, that such principles and standards be consistent with the anti-discrimination requirements of chapter one hundred and fifty-two B. The superintendent shall require the evaluation of administrators and of teachers without professional teacher status every year and shall require the evaluation of teachers with professional teacher status at least once every two years. The procedures for conducting such evaluations, but not the requirement for such evaluations, shall be subject to the collective bargaining provisions of chapter one hundred and fifty E.

Performance standards for teachers and other school district employees shall be established by the school committee upon the recommendation of the superintendent, provided that where teachers are represented for collective bargaining purposes, all teacher

performance standards shall be determined as follows: The school committee and the collective bargaining representative shall undertake for a reasonable period of time to agree on teacher performance standards. Prior to said reasonable period of time, the school district shall seek a public hearing to comment on such standards. In the absence of an agreement, after such reasonable period, teacher performance standards shall be determined by binding interest arbitration. Either the school district or the teachers' collective bargaining representative may file a petition seeking arbitration with the commissioner of education. The commissioner shall forward to the parties a list of three arbitrators provided by the American Arbitration Association. The school committee and the collective bargaining representative within three days of receipt of the list from the commissioner of education shall have the right to strike one of the three arbitrators' names if they are unable to agree upon a single arbitrator from among the three. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association to be consistent with the provisions of this section. In reaching a decision, the arbitrator shall seek to advance the goals of encouraging innovation in teaching and of holding teachers accountable for improving student performance. The arbitrator shall consider the particular socioeconomic conditions of the student population of the school district. Both the parties and the arbitrator may adopt performance standards established by state or national organizations. The performance standards shall be incorporated into the applicable collective bargaining agreement; provided, however, that any subsequent modification of the performance standards shall be made pursuant to the procedures set forth in this section.

SECTION 41. Said chapter 71 is hereby further amended by striking out section 38G, as amended by chapter 151 of the acts of 1991, and inserting in place thereof the following section:-

Section 38G. (a) The board of education shall have authority to grant upon application provisional and standard certificates, as provided in this section, to teachers, guidance counselors and directors, school psychologists, school librarians, school nurses, audio-visual media specialists, unified media specialists, school business administrators, principals, supervisors, directors, assistant superintendents of schools and superintendents of schools. Any certificate issued by the board may be revoked for cause, pursuant to standards and procedures established by the board. The board shall promulgate regulations to carry out the provisions of this section; provided, however, that such regulations shall not require a masters degree as a condition precedent to the attainment of a standard certification in instruction; provided, further, that a masters degree may be required as a condition precedent to the attainment of a certificate of eligibility with advanced standing.

(b) To be eligible for a provisional certification, the candidate shall (1) hold a bachelor's degree in arts or sciences from an accredited college or university with a major course of study appropriate to the instructional field; (2) pass a test which shall consist of two parts: (A) a writing section which shall demonstrate the communication and literacy skills necessary for effective instruction and improved communication between school and parents; and (B) the subject matter knowledge necessary for the teaching specialization endorsement or the general subject matter knowledge for the elementary endorsement; and

(3) be of sound moral character. Candidates who complete the requirements in this paragraph shall be issued certificates of eligibility which will permit them to seek provisional employment in teaching positions requiring instructional certification.

(c) Certificates of eligibility with advanced standing shall be issued to all persons who meet the test requirement pursuant to subsection (b) and who have completed one of the following programs of teacher preparation: (1) a college program, graduate or undergraduate, approved by the department of education for the preparation of teachers; (2) a college preparation program included in the alternative certification reciprocity system of the National Association of State Directors of Teacher Education and Certification (NASDTEC); (3) an out-of-state teacher education program approved by the National Council for the Accreditation of Teacher Education (NCATE); or (4) an out-of-state teacher education program not approved by the NCATE or NASDTEC but approved by the board of education.

(d) To be eligible for the standard certificate in instructional fields, except as indicated in subsection (e), the candidate shall (1) possess a provisional certificate pursuant to paragraph (b); and (2) complete a state-approved district or private school training program pursuant to subsection (g) while employed provisionally in a position requiring the relevant endorsement to the instructional certificate.

(e) Candidates who hold standard instructional certificates shall be issued additional standard instructional endorsements where they meet provisional certification requirements without having to meet the requirements in subsection (d).

(f) A standard certification shall be issued for a term of five years. Teachers who have been granted permanent certificates prior to June first, nineteen hundred and ninety-three shall be granted standard instructional certificates by the board.

(g) Each public school district seeking to hire a provisional teacher shall submit a plan to the department of education and receive approval in accordance with the same procedures used for initial approval of collegiate preparation programs. No district shall be authorized to employ a provisional teacher unless it has submitted a plan and received the approval of the commissioner of education. The department of education shall issue a standard training program plan which districts may implement in lieu of developing an original plan.

Each plan shall describe the key elements of the proposed training program in accordance with guidelines established and published by the department of education. Districts shall show evidence of joint sponsorship of training programs with colleges or universities.

Each approved district training plan shall provide essential knowledge and skills to provisional teachers through the following phases of training: (1) a full-time seminar and practicum of no less than twenty days' duration which takes place prior to the time at which the provisional teacher takes the full responsibility for a classroom. The seminar and practicum shall provide the format instruction in the essential areas for professional study listed in subsection (h). It should introduce basic teaching skills through supervised teaching experiences with students. The seminar and practicum components of the experience shall

be integrated and shall include an orientation to the policies, organization and curriculum of the employing district. This requirement shall not apply to provisional teachers who are holders of certificates of eligibility with advanced standing; (2) a period of intensive on-the-job supervision beginning the first day on which the provisional teacher assumes full responsibility for a classroom and continuing for a period of at least ten weeks. During this time, the provisional teacher shall be visited and critiqued by members of a professional support team and shall be observed and formally evaluated at the end of ten weeks by the appropriately certified member of the team. At the end of the ten-week period, the provisional teacher shall receive a formal written progress report from the chairperson of the support team; and (3) an additional period of continued supervision and evaluation of no less than twenty weeks duration. During this period, the provisional teacher shall be visited and critiqued at least four times and shall be observed formally and evaluated at least twice. No more than two months shall pass without a formal observation. Opportunities shall be provided for the provisional teacher to observe the teaching of experienced colleagues.

(h) Approximately two hundred hours of formal instruction in the following topics shall be provided in all three phases of this program combined. This requirement shall not apply to provisional teachers who are holders of certificates of eligibility with advanced standing.

(1) Curriculum and the curriculum frameworks established by the board.

(2) Student development, student diversity and learning at all levels.

(3) The classroom, the school and the home.

(i) Training and supervision of provisional teachers in state-approved alternative programs shall be provided by a professional support team comprised of a school principal, a mentor teacher, a college faculty member and a curriculum supervisor. District schools which do not employ curriculum supervisors or have been unable to establish a relationship with a college or university shall provide for comparable expertise on the team. The school principal shall serve as the chairperson of the team.

(j) The department of education shall coordinate the training efforts of districts and shall establish regional programs for provisional teachers. The department shall also provide orientation programs for support team members.

(k) Provisional teachers shall be observed and evaluated by appropriately certified support team members. Evaluation of provisional teachers shall be shared by at least two, but no more than three members of the support team. The department of education shall devise standardized criteria and forms for a final comprehensive evaluation of each provisional teacher, conducted at the end of the provisional period by appropriately certified support team members.

(l) At the conclusion of the state-approved district training program, the chairperson of the support team shall prepare a comprehensive evaluation report of the provisional teacher's performance. This report shall be submitted by the chairperson directly to the department of education and shall contain a recommendation as to whether or not a standard certificate should be issued to the provisional teacher. The final comprehensive evaluation report on each provisional teacher shall be made on forms provided by the department of education.

Said report shall include one of the following recommendations: (1) Approved: recommends issuance of a standard certificate; (2) Insufficient: recommends that a standard certificate not be issued but that the candidate be allowed to seek entry on one more occasion in the future into a state-approved district training program; or (3) Disapproved: recommends that a standard certificate not be issued and that the candidate not be allowed to enter into a state-approved district training program.

The support team chairperson shall provide the provisional teacher with a copy of the provisional teacher's written evaluation report and certification recommendation before submitting it to the bureau of teacher preparation and certification.

If the provisional teacher disagrees with the chairperson's recommendation, the provisional teacher may, within fifteen days, submit to the chairperson written materials documenting the reasons why the provisional teacher believes standard certification should be awarded or a recommendation of insufficient granted. The chairperson shall forward all such documentation to the bureau of teacher certification along with the evaluation report and recommendation concerning certification. The provisional teacher may contest the unfavorable recommendation with the board of education.

Candidates who receive a recommendation of "disapproved" or two or more recommendations of "insufficient" may petition the board of education for approval of additional opportunities to seek provisional employment in districts other than those in which they received unfavorable recommendations. The candidate shall be responsible for demonstrating why he would be likely to succeed if granted the requested opportunity.

(m) All applications for certificates shall be accompanied by a fee to be determined annually by the commissioner of administration under the provisions of section three B of chapter seven. Said fees shall be established so as to allow the department's bureau of teacher certification to operate at no cost to the commonwealth.

No person shall be eligible for employment by a school committee as a teacher, principal, supervisor, director, guidance counselor and director, school psychologist, school nurse, school librarian, audio-visual media specialist, unified media specialist, school business administrator, superintendent of schools or assistant superintendent of schools unless he has been granted by the board a certificate with respect to the type of position for which he seeks employment; provided, however, that nothing herein shall be construed to prevent a school committee from prescribing additional qualifications; provided, further, that a school com-mittee may upon its request be exempt by the board for any one school year from the requirement in this section to employ certified personnel when compliance therewith would in the opinion of the board constitute a great hardship in securing teachers for the schools of a town. During the time that such a waiver is in effect, service of an employee of a school committee to whom the waiver applies shall not be counted as service in acquiring pro-fessional teacher status or other rights under section forty-one.

For the purposes of certifying provisional teachers, the board may approve programs at colleges or universities devoted to the preparation of teachers and other educational personnel. A college or university offering such an approved program shall certify to the board that a student has completed the program approved and shall provide the board with

a transcript of the record.

This section shall not apply to trade, vocational, temporary substitute teachers, exchange teachers, regionally licensed or certified teachers or to teaching or administrative interns; provided, however, that approval for the employment of such personnel shall be granted by the board under such rules and regulations as it may adopt. As used in this section, a "temporary substitute" shall be one employed for less than a school year to take the place of a regularly employed teacher who is absent by reason of illness or by reason of educational leave, maternity leave, military leave, sabbatical leave or other leave. As used in this section, a "teaching or administrative intern" shall be a student who has completed his student teaching requirements and seeks additional experience in teaching or administrative positions. As used in this section a "regionally licensed or certified teacher" shall be an applicant for a teacher's certificate in the commonwealth who has been granted a regional license or certificate by another state jurisdiction under terms of a contract entered into pursuant to chapter seven hundred and forty-eight of the acts of nineteen hundred and sixty-eight, the Interstate Agreement on Certification of Educational Personnel.

The board shall have authority from time to time to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of this section.

Except as otherwise specifically provided in this section, no rights of any employees of a school district under the provisions of this chapter shall be impaired by the provisions of this section.

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.

Anyone granted either a provisional or permanent certificate under this section or currently holding such certification shall be required to maintain the development of professional skills and the knowledge of subject matter pertinent to the areas of certification. Teachers who were authorized, permitted or approved under policies of the department of education to teach in a subject or area for which there was no certification standard before September first, nineteen hundred and eighty-two, shall acquire and maintain the development of the skills and training required of persons certified to teach in said subject or area after that date.

It shall be one of the objectives of all school districts' professional development plans to satisfy the professional development plan required of this section; provided, however, that this requirement shall not be construed to require that a school district or the commonwealth provide funding for the fulfillment of the professional development requirements of this section and section thirty-eight Q beyond the foundation budget.

The board shall establish policies and guidelines designating requirements for any continuing education units, in-service seminars, projects, courses and other activities which would be deemed sufficient to maintain the development of professional skills and the knowledge of subject matter pertinent to particular certificates. The board shall establish for

each certification area alternate methods for fulfilling the professional development requirement, at least one of which shall be provided at no cost to persons employed by a school district who are engaging in such activity for the purpose of satisfying the professional development requirements of this section. The board may also develop methods of assessing an individual's teaching skills and knowledge. In developing these policies, guidelines and assessment methods, the board shall obtain the input of teachers, administrators and educational experts. Such policies shall provide that a teacher who is to be employed in a position in an area of certification in which he is not currently employed, nor currently certified, but for which he held a certificate which had been valid within the three years immediately preceding the starting date of employment in this position, shall be given a reasonable period, as determined by the board, to fulfill a professional development plan which demonstrates his currency in the relevant subject matter knowledge, and requalifies him for certification in said area.

The board shall, in establishing said policies and criteria for professional development, give special consideration to the unique financial or time constraints these policies may require. The board may also develop methods of assessing an individual's teaching skills and knowledge. In developing these policies, guidelines and assessment methods, the board shall obtain the input of teachers, administrators and educational experts.

All permanent certificates shall have a term of five years and shall be renewable for additional terms of five years. All applications for renewal shall be accompanied by a fee to be determined annually by the secretary of administration under the provisions of section three B of chapter seven. Applicants for renewal shall submit documentation demonstrating their fulfillment of the professional development requirements established by the board for the certificates they seek to renew.

SECTION 42. Said chapter 71 is hereby further amended by inserting after section 38P the following section:-

Section 38Q. Every school district in the commonwealth shall adopt and implement a professional development plan for all principals, teachers and other professional staff employed by the district, to include the professional support teams established pursuant to section thirty-eight G, and annually shall update such plans and set forth a budget for professional development within the confines of the foundation budget. Said plan shall include training in the teaching of new curriculum frameworks and other skills required for the effective implementation of this act, including participatory decision making, and parent and community involvement. Said plan shall also include training for members of school councils, pursuant to section fifty-nine C. Said plan may include teacher training which addresses the effects of gender bias in the classroom.

The commissioner of education for the commonwealth shall prepare each year a plan for providing statewide assistance in the preparation and implementation of professional development plans. The commissioner shall consult with the secretary of education and the higher education coordinating council in developing said plan. This plan shall evaluate the feasibility of obtaining assistance from institutions of higher education and private service providers. The plan shall be submitted to the board of education for approval. A copy of

said plan shall be submitted to the joint committee on education, arts, and humanities of the general court.

SECTION 43. Section 41 of said chapter 71, as appearing in the 1990 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following three paragraphs:-

For the purposes of this section, a teacher, school librarian, school adjustment counsellor, or school psychologist who has served in the public schools of a school district for three consecutive years shall be considered a teacher, and shall be entitled to professional teacher status as provided in section forty-two. The superintendent of said district, upon the recommendation of the principal, may award such status to any teacher who has served in the principal's school for not less than one year or to a teacher who has obtained such status in any other public school district in the commonwealth. A teacher without professional teacher status shall be notified in writing on or before June fifteenth whenever such person is not to be employed for the following school year. Unless such notice is given as herein provided, a teacher without such status shall be deemed to be appointed for the following school year.

School principals, by whatever title their positions may be known, shall not be represented in collective bargaining. School principals may enter into individual employment contracts with the districts that employ them concerning the terms and conditions of their employment.

Except as provided herein, section forty-two shall not apply to school principals, assistant principals or department heads, although nothing in this section shall deny to any principal, assistant principal or department head any professional teacher status to which he shall otherwise be entitled. A principal, assistant principal, department head or other supervisor who has served in that position in the public schools of the district for three consecutive years shall not be dismissed or demoted except for good cause. Only a superintendent may dismiss a principal. A principal, assistant principal, department head or other supervisor shall not be dismissed unless he has been furnished with a written notice of intent to dismiss with an explanation of the grounds for the dismissal, and, if he so requests, has been given a reasonable opportunity within seven days after receiving such notice to review the decision with the superintendent at which meeting such employee may be represented by an attorney or other representative to present information pertaining to the basis for the decision and to such employee's status. A principal, assistant principal, department head or other supervisor may seek review of a dismissal or demotion decision by filing a petition with the commissioner for arbitration. Except as provided herein, the procedures for arbitration, and the time allowed for the arbitrator to issue a decision, shall be the same as that in section forty-two. The commissioner shall provide the parties with the names of three arbitrators who are members of the American Arbitration Association. The arbitrators shall be different from those developed pursuant to section forty-two. The parties each shall have the right to strike one of the three arbitrator's names if they are unable to agree upon a single arbitrator from amongst the three.

SECTION 44. Said chapter 71 is hereby further amended by striking out section 42,

as so appearing, and inserting in place thereof the following section:-

Section 42. A principal may dismiss or demote any teacher or other person assigned full-time to the school, subject to the review and approval of the superintendent; and subject to the provisions of this section, the superintendent may dismiss any employee of the school district. In the case of an employee whose duties require him to be assigned to more than one school, and in the case of teachers who teach in more than one school, those persons shall be considered to be under the supervision of the superintendent for all decisions relating to dismissal or demotion for cause.

A teacher who has been teaching in a school system for at least ninety calendar days shall not be dismissed unless he has been furnished with written notice of intent to dismiss and with an explanation of the grounds for the dismissal in sufficient detail to permit the teacher to respond and documents relating to the grounds for dismissal, and, if he so requests, has been given a reasonable opportunity within ten school days after receiving such written notice to review the decision with the principal or superintendent, as the case may be, and to present information pertaining to the basis for the decision and to the teacher's status. The teacher receiving such notice may be represented by an attorney or other representative at such a meeting with the principal or superintendent. Teachers without professional teacher status shall otherwise be deemed employees at will.

A teacher with professional teacher status, pursuant to section forty-one, shall not be dismissed except for inefficiency, incompetency, incapacity, conduct unbecoming a teacher, insubordination or failure on the part of the teacher to satisfy teacher performance standards developed pursuant to section thirty-eight of this chapter or other just cause.

A teacher with professional teacher status may seek review of a dismissal decision within thirty days after receiving notice of his dismissal by filing a petition for arbitration with the commissioner. The commissioner shall forward to the parties a list of three arbitrators provided by the American Arbitration Association. Each person on the list shall be accredited by the National Academy of Arbitrators. The parties each shall have the right to strike one of the three arbitrators' names if they are unable to agree upon a single arbitrator from amongst the three. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association to be consistent with the provisions of this section. The parties each shall have the right to strike one of the three arbitrators' names if they are unable to agree upon a single arbitrator from amongst the three. The board of education shall determine the process for selecting arbitrators for the pool. The fee for the arbitration shall be split equally between the two parties involved in the arbitration.

At the arbitral hearing, the teacher and the school district may be represented by an attorney or other representative, present evidence, and call witnesses and the school district shall have the burden of proof. In determining whether the district has proven grounds for dismissal consistent with this section, the arbitrator shall consider the best interests of the pupils in the district and the need for elevation of performance standards.

The arbitrator's decision shall be issued within one month from the completion of the arbitral hearing, unless all parties involved agree otherwise, and shall contain a detailed statement of the reasons for the decision. Upon a finding that the dismissal was improper

under the standards set forth in this section, the arbitrator may award back pay, benefits, reinstatement, and any other appropriate non-financial relief or any combination thereof. Under no circumstances shall the arbitrator award punitive, consequential, or nominal damages, or compensatory damages other than back pay, benefits or reinstatement. In the event the teacher is reinstated, the period between the dismissal and reinstatement shall be considered to be time served for purposes of employment. The arbitral decision shall be subject to judicial review as provided in chapter one hundred and fifty C. With the exception of other remedies provided by statute, the remedies provided hereunder shall be the exclusive remedies available to teachers for wrongful termination. The rules governing this arbitration procedure shall be the rules of the American Arbitration Association as pertains to arbitration.

Neither this section nor section forty-one shall affect the right of a superintendent to lay off teachers pursuant to reductions in force or reorganization resulting from declining enrollment or other budgetary reasons. No teacher with professional teacher status shall be laid off pursuant to a reduction in force or reorganization if there is a teacher without such status for whose position the covered employee is currently certified. No teacher with such status shall be displaced by a more senior teacher with such status in accordance with the terms of a collective bargaining agreement or otherwise unless the more senior teacher is currently qualified pursuant to section thirty-eight G for the junior teacher's position.

SECTION 45. Section forty-two A of said chapter seventy-one is hereby repealed.

SECTION 46. Said chapter 71 is hereby further amended by striking out section 42B, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 42B. The provisions of this chapter relating to school personnel granted certificates in accordance with section thirty-eight G shall apply to all such school personnel employed by regional school districts. Any such school personnel who have professional teacher status or other rights under section forty-one in a particular school district, whose positions are superseded by reasons of the establishment and operation of a regional school district, shall be employed with the same status by the regional school district.

All such school personnel employed by regional school districts shall initially be placed on the salary schedule of the district so that compensation to be paid to such school personnel shall not be less than the compensation received by such school personnel while previously employed with the same status.

Such school personnel shall also be given credit by the regional school district committee for all accumulated sick leave and accumulated sabbatical leave years of service while employed with such status and for terminal compensation due such school personnel on the termination of such service.

All such personnel without such status in a city or town in the district whose positions are superseded by reason of the establishment and operation of a regional school district shall be elected to serve in such district by the regional school district committee; provided, however, that there is an available position which such person is certified to fill. All such personnel employed by regional school district committees shall initially be placed

on the salary schedule of the regional school district so that the compensation paid to such school personnel shall not be less than the compensation received by such school personnel while previously employed by a local school committee. Such school personnel shall also be given credit by the regional school district committee for all accumulated sick leave, accumulated time towards service with such status, and accumulated sabbatical leave years of service, and for terminal compensation due such school personnel on the termination of such service.

Any employee subject to the provisions of chapter thirty-one, employed by the school committee of a town, whose position is superseded by reason of the establishment and operation of a regional school district shall be employed by the regional school district without loss of any civil service or other rights previously acquired by him.

This section shall also apply to all school personnel with such status of local trustees for vocational education, and any such school personnel whose positions are superseded by reason of the establishment and operation of a regional school district shall be employed by the regional school district with the same status.

Any such school personnel, employed by a regional school district, whose position is abolished or eliminated by reason of the disestablishment and discontinuance of the regional school district or the withdrawal of a member community from such district shall be employed by one of the withdrawing city or town school committees, and if any such personnel have such status, such personnel shall be employed by such city or town, school committee with the same status. In the event that there are not sufficient teaching positions available in the withdrawing city or town school systems, such personnel shall be offered the available positions for which they are currently certified in the order of their seniority in the regional school district. All such personnel so employed by a city or town school district shall initially be placed on the salary schedule of such city or town school district so that the compensation paid to such school personnel shall not be less than the compensation received by such school personnel while previously employed by the regional school district. Such school personnel also shall be given credit by the city or town school committee for all accumulated sick time, accumulated time towards service with such status, and accumulated sabbatical leave years of service, and for terminal compensation due such school personnel on the termination of such service.

SECTION 47. Said chapter 71 is hereby further amended by striking out section 42D, as so appearing, and inserting in place thereof the following section:-

Section 42D. The superintendent may suspend any employee of the school district subject to the provisions of this section. The principal of a school may suspend any teacher or other employee assigned to the school subject to the provisions of this section. Any employee shall have seven days written notice of the intent to suspend and the grounds upon which the suspension is to be imposed; provided, however, that the superintendent may, for good cause, require the immediate suspension of any employee, in which case the employee shall receive written notice of the immediate suspension and the cause therefor at the time the suspension is imposed. The employee shall be entitled (i) to review the decision to suspend with the superintendent or principal if said decision to suspend was made by the

principal; (ii) to be represented by counsel in such meetings; (iii) to provide information pertinent to the decision and to the employee's status.

No teacher or other employee shall be suspended for a period exceeding one month, except with the consent of the teacher or other employee, and no teacher or other employee shall receive compensation for any period of lawful suspension.

No teacher shall be interrogated prior to any notice given to him relative to the suspension unless the teacher or other employee is notified of his right to be represented by counsel during any such investigation. A suspended teacher or other employee may seek review of the suspension by following the arbitration procedures set forth in section forty-two. Nothing in this section shall be construed as limiting any provision of a collective bargaining agreement with respect to suspension of teachers or other employees.

SECTION 48. Said chapter 71 is hereby further amended by striking out section 43, as so appearing, and inserting in place thereof the following section:-

Section 43. The salary of no teacher employed with professional teacher status in any city or town except Boston shall be reduced without his consent except by a general salary revision affecting equally all teachers of the same salary grade in the town or except in connection with a reduction in status from full-time to part-time pursuant to a reduction in force resulting from declining enrollments or other budgetary reasons or pursuant to reorganizations for academic or budgetary reasons. Nothing in this section or in any other section of this chapter shall be construed to prevent a school district from entering into an individual annuity contract for such employee or from reducing the salary or compensation of such employee pursuant to such agreement for the purpose of such purchase as authorized by section thirty-seven B.

SECTION 49. Sections forty-three A and forty-three B of said chapter seventy-one are hereby repealed.

SECTION 50. Section 47A of said chapter 71, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 1, the word "committee" and inserting in place thereof the word:- superintendent.

SECTION 51. Said chapter 71 is hereby further amended by striking out section 48, as so appearing, and inserting in place thereof the following section:-

Section 48. The principal at each school, subject to the direction of the superintendent, shall, at the expense of the school district, purchase textbooks and other school supplies, and consistent with the district policy, shall loan them to the pupils attending such school free of charge. If instruction is given in the manual and domestic arts, the principal may so purchase and loan the necessary tools, implements and materials. The principal shall also, at like expense, procure such apparatus, reference books and other means of illustration, as may be needed. Said purchases shall be made in accordance with chapter thirty B and within the purchasing guidelines adopted by the municipality where such purchases are made if such guidelines exist.

SECTION 52. Section 59 of said chapter 71, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following four sentences:- A superintendent employed under this section or section sixty or sixty-three

shall manage the system in a fashion consistent with state law and the policy determinations of that school committee. Upon the recommendation of the superintendent, the school committee may also establish and appoint positions of assistant or associate superintendents, who shall report to the superintendent, and the school committee shall fix the compensation paid to such assistant or associate superintendents. The school committee shall approve or disapprove the hiring of said positions. Such approval by the school committee of the recommendation shall not be unreasonably withheld; provided, however, that upon the request of the superintendent the school committee shall provide an explanation of disapproval.

SECTION 53. Said chapter 71 is hereby further amended by striking out section 59B, as so appearing, and inserting in place thereof the following three sections:-

Section 59B. The superintendent of a school district shall appoint principals for each public school within the district at levels of compensation determined in accordance with policies established by the school committee. Principals employed under this section shall be the educational administrators and managers of their schools and shall supervise the operation and management of their schools and school property, subject to the supervision and direction of the superintendent. Principals employed under this section shall be responsible, consistent with district personnel policies and budgetary restrictions and subject to the approval of the superintendent, for hiring all teachers, instructional or administrative aides, and other personnel assigned to the school, and for terminating all such personnel, subject to review and prior approval by the superintendent and subject to the provisions of this chapter. This section shall not prevent one person from serving as the principal of two or more elementary schools or the use of teaching principals in such schools.

It shall be the responsibility of the principal in consultation with professional staff of the building to promote participatory decision making among all professional staff for the purpose of developing educational policy.

The school superintendent of a city or town or regional school district including vocational-technical schools, may also appoint administrators and other personnel not assigned to particular schools, at levels of compensation determined in accordance with policies established by the school committee.

Section 59C. At each public elementary, secondary and independent vocational school in the commonwealth there shall be a school council consisting of the school principal, who shall co-chair the council; parents of students attending the school who shall be selected by the parents of students attending such school who will be chosen in elections held by the local recognized parent teacher organization under the direction of the principal, or if none exists, chosen by a representative process approved by the school committee. Said parents shall have parity with professional personnel on the school councils; teachers who shall be selected by the teachers in such school; other persons, not parents or teachers of students at the school, drawn from such groups or entities as municipal government, business and labor organizations, institutions of higher education, human services agencies or other interested groups; and for schools containing any of the grades nine to twelve, at least one such student; provided, however, that not more that fifty percent of the council shall be non-school members. The principal, except as otherwise provided herein, shall have the

responsibility for defining the composition of and forming the group pursuant to a representative process approved by the superintendent and school committee and for convening the first meeting no later than forty days after the first day of school, at which meeting a co-chairman shall be selected. School councils should be broadly representative of the racial and ethnic diversity of the school building and community. For purposes of this paragraph the term "non-school members" shall mean those members of the council, other than parents, teachers, students and staff of the school.

Nothing contained in this section shall require a new school council to be formed if an existing school council fulfills the intent of this section, the parent and teacher members thereof were selected in a manner consistent with the provisions of this section and the membership thereof complies with the aforesaid fifty percent requirement.

Meetings of the school council shall be subject to the provisions of sections twenty-three A, twenty-three B and twenty-three C of chapter thirty-nine.

The school council shall meet regularly with the principal of the school and shall assist in the identification of the educational needs of the students attending the school, in the review of the annual school budget, and in the formulation of a school improvement plan, as provided below.

The principal of each school, in consultation with the school council established pursuant to this section shall adopt educational goals for the schools consistent with the goals and standards including the student performance standards, adopted by the board pursuant to section one D of chapter sixty-nine, and consistent with any educational policies established for the district, shall assess the needs of the school in light of those goals, and shall formulate a school improvement plan to advance such goals, to address such needs and to improve student performance. The plan shall include an assessment of the impact of class size on student performance, and shall consider student to teacher ratios and other factors and supportive adult resources, and may include a scheduled plan for reducing class size. The plan shall address professional development for the school's professional staff, the allocation of any professional development funds in the annual school budget, the enhancement of parental involvement in the life of the school, safety and discipline, the establishment of a welcoming school environment characterized by tolerance and respect for all groups, extracurricular activities, the development of means for meeting the diverse learning needs of as many children as possible, including children with special needs currently assigned to separate programs, within the regular education programs at the school, and such further subjects as the principal, in consultation with the school council, shall consider appropriate. In school districts with language minority student populations the professional development plan under this section shall specify how the plan will address the need for training and skills in second language acquisition and in working with culturally and linguistically diverse student populations. Each school improvement plan shall be submitted to the school committee for review and approval every year. If said school improvement plan is not reviewed by the school committee within thirty days of said school committee receiving said school improvement plan, the plan shall be deemed to have been approved.

Nothing contained in this section shall prevent the school committee from granting

a school council additional authority in the area of educational policy; provided, however, that school councils shall have no authority over matters which are subject to chapter one hundred and fifty E.

Section 59D. Superintendents and principals in every school district in the commonwealth shall pursue opportunities to establish school-community partnerships that may advance policy development, staff development, curriculum development, instructional enrichment and may provide material and financial support. The commissioner of education shall assist in and facilitate with the establishment of school-community partnerships. Subject to appropriation, the board shall establish a grant program to assist school districts in developing and implementing such partnerships.

SECTION 54. Section 67 of said chapter 71, as so appearing, is hereby amended by adding the following paragraph:-

A school district shall neither (i) employ a member of the immediate family of a superintendent, central office administrator, or school committee member, nor (ii) assign a member of the immediate family of the principal as an employee at the principal's school, unless written notice is given to the school committee of the proposal to employ or assign such person at least two weeks in advance of such person's employment or assignment. As used in this section, "immediate family" shall have the meaning assigned by subsection (e) of section one of chapter two hundred and sixty-eight A.

SECTION 55. Said chapter 71 is hereby further amended by adding the following section:-

Section 89. A charter school shall be a public school, operated under a charter granted by the secretary of education, which operates independently of any school committee and is managed by a board of trustees. The board of trustees of a charter school, upon receiving a charter from the secretary of education, shall be deemed to be public agents authorized by the commonwealth to supervise and control the charter school.

The purposes for establishing charter schools are: (1) to stimulate the development of innovative programs within public education; (2) to provide opportunities for innovative learning and assessments; (3) to provide parents and students with greater options in choosing schools within and outside their school districts; (4) to provide teachers with a vehicle for establishing schools with alternative, innovative methods of educational instruction and school structure and management; (5) to encourage performance-based educational programs and; (6) to hold teachers and school administrators accountable for students' educational outcomes.

Persons or entities eligible to submit an application to establish a charter school shall include, but not be limited to, a business or corporate entity, two or more certified teachers or ten or more parents. Said application may be filed in conjunction with a college, university, museum or other similar entity. Private and parochial schools shall not be eligible for charter school status.

The secretary of education shall establish the information needed in an application for the approval of a charter school; provided, however, that said application shall include the method for admission to a charter school. There shall be no application fee for admission

to a charter school.

Applications to establish a charter school shall be submitted each year by February fifteenth. The secretary of education shall review the applications no later than March fifteenth.

The secretary of education shall make the final determination on granting charter school status and may condition charters on the charter school's taking certain actions or maintaining certain conditions. No more than twenty-five charter schools shall be allowed to operate in the commonwealth at any time. Of these, no more than five shall be located in the city of Boston; no more than five shall be located in the city of Springfield; and no more than two shall be located in any other city or town. Under no circumstances shall the total number of students attending charter schools in the commonwealth be allowed to be greater than three-quarters of one percent of the total number of students attending public schools in the commonwealth.

A charter school established under a charter granted by the secretary shall be a body politic and corporate with all powers necessary or desirable for carrying out its charter program, including, but not limited to, the following:

(a) to adopt a name and corporate seal; provided, however, that any name selected must include the words "charter school";

(b) to sue and be sued, but only to the same extent and upon the same conditions that a town can be sued;

(c) to acquire real property, from public or private sources, by lease, lease with an option to purchase, or by gift, for use as a school facility;

(d) to receive and disburse funds for school purposes;

(e) to make contracts and leases for the procurement of services, equipment and supplies; provided, however, that if the board intends to procure substantially all educational services under contract with another person, the terms of such a contract must be approved by the secretary, either as part of the original charter or by way of an amendment thereto; provided, further, that the secretary shall not approve any such contract terms, the purpose or effect of which is to avoid the prohibition of this section against charter school status for private and parochial schools;

(f) to incur temporary debt in anticipation of receipt of funds;

(g) to solicit and accept any grants or gifts for school purposes;

(h) to have such other powers available to a business corporation formed under chapter one hundred and fifty-six B that are not inconsistent with this chapter.

Charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in the English language, and academic achievement. Charter schools may limit enrollment to specific grade levels or areas of focus of the school, such as mathematics, science or the arts.

A charter school may establish reasonable academic standards as a condition for eligibility for applicants. Preference for enrollment in a charter school shall be given to stud-

dents who reside in the city or town in which the charter school is located. If the total number of students who are eligible to attend and apply to a charter school and who reside in the city or town in which the charter school is located, or are siblings of students already attending said charter school is greater than the number of spaces available, then an admissions lottery shall be held to fill all of the spaces in that school from among said students. If there are more spaces available than eligible applicants from the city or town in which said charter school is located and who are siblings of current students, and more eligible applicants than spaces left available, then a lottery shall be held to determine which of said applicants shall be admitted. There shall be no tuition charge for students attending charter schools.

A student may withdraw from a charter school at any time and enroll in a public school where said student resides. A student may be expelled from a charter school based on criteria determined by the board of trustees, and approved by the secretary of education, with the advice of the principal and teachers.

A charter school may be located in part of an existing public school building, in space provided on a private work site, in a public building, or any other suitable location. A charter school may own, lease or rent its space.

A charter school shall operate in accordance with its charter and the provisions of law regulating other public schools; provided, however, that the provisions of sections forty-one and forty-two shall not apply to employees of charter schools. Charter schools shall comply with the provisions of chapters seventy-one A and seventy-one B; provided, however, that the fiscal responsibility of any special needs student currently enrolled in or determined to require a private day or residential school shall remain with the school district where the student resides.

Students in charter schools shall be required to meet the same performance standards, testing and portfolio requirements set by the board of education for students in other public schools.

The board of trustees, in consultation with the teachers, shall determine the school's curriculum and develop the school's annual budget.

Employees of charter schools shall be considered public employees for purposes of tort liability under chapter two hundred and fifty-eight and for collective bargaining purposes under chapter one hundred and fifty E. The board of trustees shall be considered the public employer for purposes of tort liability under said chapter two hundred and fifty-eight and for collective bargaining purposes under said chapter one hundred and fifty E. Teachers employed by a charter school shall be subject to the state teacher retirement system under chapter thirty-two and service in a charter school shall be "creditable service" within the meaning thereof.

Each local school district shall be required to grant a leave of absence to any teacher in the public schools system requesting such leave in order to teach in charter schools. A teacher may request a leave of absence for up to two years.

At the end of the two year period, the teacher may make a request to the superintendent that such leave be extended for an additional two years, and approval for said request shall not be unreasonably withheld or he may return to his former teaching position. At the

end of the fourth year, the teacher may either return to his former teaching position or, if he chooses to continue teaching at the charter school, resign from his school district position.

Notwithstanding section fifty-nine C, the internal form of governance of a charter school shall be determined by the school's charter.

A charter school shall comply with all applicable state and federal health and safety laws and regulations.

The children who reside in the school district in which the charter school is located shall be provided transportation to the charter school by the resident district's school committee on the same terms and conditions as transportation is provided to children attending local district schools. Students who do not reside in the district in which the charter school is located shall be eligible for transportation in accordance with section twelve B of chapter seventy-six.

Each charter school shall submit to the secretary, to each parent or guardian of its enrolled students, and to each parent or guardian contemplating enrollment in that charter school an annual report. The annual report shall be issued no later than August first of each year for the preceding school year. The annual report shall be in such form as may be prescribed by the secretary of education and shall include at least the following components:

(a) discussion of progress made toward the achievement of the goals set forth in the charter;

(b) a financial statement setting forth by appropriate categories, the revenue and expenditures for the year just ended.

Individuals or groups may complain to a charter school's board of trustees concerning any claimed violation of the provisions of this section by the school. If, after presenting their complaint to the trustees, the individuals or groups believe their complaint has not been adequately addressed, they may submit their complaint to the secretary of education who shall investigate such complaint and make a formal response.

A charter granted by the secretary of education shall be for five years. The secretary of education may revoke a school's charter if the school has not fulfilled any conditions imposed by the secretary of education in connection with the grant of the charter or the school has violated any provision of its charter. The secretary may place the charter school on a probationary status to allow the implementation of a remedial plan after which, if said plan is unsuccessful, the charter may be summarily revoked.

The secretary shall develop procedures and guidelines for revocation and renewal of a school's charter.

Notwithstanding the foregoing, no school building assistance funds, so-called, shall be awarded to a charter school for the purpose of constructing, reconstructing or improving said school.

Charter schools shall be funded as follows: If a student attending a charter school resides in a community with a positive foundation gap, the district of the city or town in which said student resides shall pay to the charter school an amount equal to the average cost per student in said district. If a student attending a charter school resides in a community that does not have a positive foundation gap pursuant to chapter seventy, the district of the

city or town in which said student resides shall pay to the charter school an amount equal to the lesser of: (i) the average cost per student in said district; and (2) the average cost per student in the district in which the charter school is located.

SECTION 56. Section 1 of chapter 74 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by adding the following definition:-

"Vocational-technical education", organized education programs offering sequences of courses designed to educate and prepare students for both employment and continuing academic and occupational preparation. Such programs shall integrate academic and vocational education and shall include competency based applied learning which contributes to an individual's academic knowledge, higher order reasoning, and problem solving skills, work attitudes, general employability skills and the occupational-specific skills necessary for economic independence as a productive and contributing member of society. Vocational-technical education shall also include applied technology education to be taught by personnel certified in technology education.

SECTION 57. Section 2 of said chapter 74, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The commissioner, under the direction of the state board, shall approve or disapprove vocational-technical programs in accordance with regulations published by the board; provided, however, that said regulations shall more heavily favor an outcome-oriented approach for approval of such programs over a quantitative approach which solely measures time spent on lab instruction; provided, further, that said regulations shall consider a program's intention to integrate vocational and academic instruction and to train students in all aspects of a chosen industry.

SECTION 58. Section eight of said chapter seventy-four is hereby repealed.

SECTION 59. Section twenty-one A of said chapter seventy-four is hereby repealed.

SECTION 60. Section 22E of said chapter 74, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 3, the words "at its discretion" and inserting in place thereof the following words:- with professional teacher status.

SECTION 61. Chapter 76 of the General Laws is hereby amended by striking out section 12B, as amended by section 23 of chapter 6 of the acts of 1991, and inserting in place thereof the following section:-

Section 12B. (a) As used in this section, the following terms shall have the following meanings:

"Above foundation reimbursement amount", (i) for fiscal year nineteen hundred and ninety-four, fifty percent of the net losses due to the provisions of this section; provided, however, that if the amount lost by said district pursuant to subsection (f) is greater than two percent of the total school budget of said district, the amount of said reimbursement shall be equal to seventy-five percent of the net losses due to the provisions of this section; (ii) for fiscal year nineteen hundred and ninety-five, twenty-five percent of the net losses due to the provisions of this section; (iii) for all fiscal years after nineteen hundred and ninety-five, zero.

"Receiving district", any city, town or regional school district within the commonwealth in which a child does not reside, but in which that child attends public school under the provisions of this section.

"Sending district", any city, town or regional school district within the commonwealth in which a child resides, but in which that child does not attend public school under the provisions of this section.

"State school choice limit", in fiscal year nineteen hundred and ninety-four, one percent of the total number of students attending public schools in the commonwealth; in fiscal year nineteen hundred and ninety-five, one and one-half percent of the total number of students attending public schools in the commonwealth; in fiscal year nineteen hundred and ninety-six, one and three-quarters percent of the total number of students attending public schools in the commonwealth; in fiscal year nineteen hundred and ninety-seven and thereafter, two percent of the total number of students attending public schools in the commonwealth; provided, however, that students enrolled under the program for the elimination of racial imbalance as provided in section twelve A shall not be counted toward these limits.

(b) Notwithstanding the provisions of section twelve, or any other special or general law to the contrary, any child may attend a public school, in a city or town where he does not reside; provided, however, that the receiving district shall be paid by the commonwealth a tuition rate as established in subsection (f).

(c) Not later than May first of every year, the school committee of each city, town or regional school district shall submit a report to the department stating:

(1) The capacity of each school in said city, town or regional school district for the following academic year.

(2) The number of students expected to attend each school in said city, town or regional school district in the following academic year.

(3) The number of students attending said school district under the terms of this section in the prior school year and the number of those students who are expected no longer to be attending said school district in the next school year.

(4) The number of additional seats therefore available to non-resident students reduced by the number of students enrolled under the program for the elimination of racial imbalance as provided in section twelve A, in said charter school or each school in said city, town or regional school district. The board may require every district to update this report in whatever manner is required to effectuate the objectives of this section.

(d) Each city, town or regional school district shall enroll non-resident students at the school of such non-resident student's choice; provided, however, that such receiving district has seats available as stated in said report; provided, however, that this obligation to enroll non-resident students shall not apply to a district for a school year in which its school committee, prior to June first, after a public hearing, adopts a resolution withdrawing from said obligation, for the school year beginning the following September. Any such resolution of a school committee shall state the reasons therefor, and such resolution with said reasons shall be filed with the department of education; provided, however, that said department shall have no power to review any such decision by a school committee. If the city, town

or regional school district operates an intra-district choice plan, non-resident students may apply for schools on the same basis as resident students, but the intra-district choice plan may give preference to resident students in assigning students to schools.

(e) Not later than the first day of July, each city, town or regional school district shall each year submit a non-resident attendance report to the board and to the state treasurer, certifying the number of non-resident applicants for each available seat in each school, the disposition of their applications, how many of said applicants will be attending the district in the next school year, the identity of the sending districts for those students, 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. The board may review said certification to determine that the amount of the individual tuition charged for each child is in accordance with the provisions of this section 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. In addition to the foregoing, all said districts shall, on October first and April first, report to the board and certify to the state treasurer accurate and up to date reports of all the information required in the non-resident attendance report. If the total number of students admitted to receiving districts pursuant to this section is greater than the state school choice limit, the board shall notify all districts that no more students may be accepted pursuant to this section.

(f) For each student enrolling in a receiving district, there shall be a school choice tuition amount. Said tuition amount shall be equal to seventy-five percent of the actual per pupil spending amount in the receiving district, but not more than five thousand dollars; provided, however, that for special education students whose tuition amount shall remain the expense per student for such type of education as is required by such non-resident student. The state treasurer is hereby authorized and directed to deduct said school choice tuition amount from the total education aid, as defined in chapter seventy, of said student's sending district, prior to the distribution of said aid. In the case of a child residing in a municipality which belongs to a regional school district, the school choice tuition amount shall be deducted from said chapter seventy education aid of the school district appropriate to the grade level of the child. If, in a single district, the total of all such deductions exceeds the total of said education aid, this excess amount shall be deducted from other aid appropriated to the city or town. If, in a single district, the total of all such deductions exceeds the total state aid appropriated, the commonwealth shall appropriate this excess amount; provided, however, that if said district has exempted itself from the provisions of chapter seventy by accepting section fourteen of said chapter, the commonwealth shall assess said district for said excess amount.

(g) The state treasurer is further directed to disburse to the receiving district an amount equal to each student's school choice tuition as defined in subsection (f).

(h) There shall be a parent information system established, maintained and developed by the board of education to disseminate to parents detailed and comparable information about each school system participating in the school choice program, so-called, which shall include, but not be limited to, information on special programs offered by the

school, philosophy of the school, number of spaces available, transportation plans, class sizes, teacher/student ratios, and data and information on school performance that indicate its quality. Said information shall include the school profiles, so-called, developed pursuant to section one B of chapter sixty-nine. The board may include information regarding regional choice initiatives as deemed appropriate. The system shall have as its primary goal to ensure that all parents have an equal opportunity to participate in the program of interdistrict choice. The board of education, when disseminating this information shall encourage the parent and student to make at least one visit to the school of choice as part of the application procedure.

(i) Subject to appropriation, the board of education shall develop and administer a school choice transportation reimbursement program for the purpose of providing reimbursement for the transportation of pupils enrolled under the provisions of this section. Pupils eligible for said reimbursement must be eligible to receive free or reduced cost lunches under eligibility guidelines promulgated by the federal government under 42 USC section 1758. The board may limit said reimbursement to a yearly amount. The types of transportation to be reimbursed pursuant to said program shall include, but need not be limited to, the following: (1) transportation by school buses provided by the sending or receiving district; (2) transportation provided by the parent or guardian of the child; (3) transportation provided by public transportation. All eligible pupils who attend a school district contiguous to the school district of residence of such pupil shall be eligible for said reimbursement. If cost-effective transportation alternatives exist for pupils who attend districts not contiguous to the school districts of residence of such pupil, the board may provide a transportation reimbursement. Said reimbursements may be paid to the district in which the pupil is enrolled, the district of residence of the student, or the parent, guardian or person acting as guardian of the student; provided, however, that said district or parent provide documentation of the transportation expenditure. The board of education shall promulgate regulations for the program to be placed on file with the joint committee on education, arts and humanities of the general court. The board of education shall disseminate information to parents and school systems detailing the availability of said transportation reimbursements. A full description of said school choice transportation reimbursement program shall be submitted to the house and senate committees on ways and means and shall not become effective until ninety days after said submission. Notwithstanding the second paragraph of section one, nothing in this section shall confer upon any student attending a private school any right to transportation or reimbursement therefor.

(j) School committees may establish terms for accepting non-resident students; provided, however, that if the number of non-resident students applying for acceptance to said district exceeds the number of available seats, said school committee shall select students for admission on a random basis; provided, further, that said school committee shall conduct said random selection twice: one time prior to July first and one time prior to November first; provided, further, that no school committee shall discriminate in the admission of any child on the basis of race, color, religious creed, national origin, sex, age, sexual orientation, ancestry, athletic performance, physical handicap, special need or academic

performance or proficiency in the English language. The Massachusetts commission against discrimination, established by section fifty-six of chapter six, shall have jurisdiction to enforce the provisions of this section; provided, however, that all students described in subsection (m) shall be entitled to remain in the receiving districts they are attending or have been accepted to attend. Any school committee that accepts non-resident students under the provisions of this section shall notify each district from which it has accepted a non-resident student of its acceptance of that student; provided, however, that a school committee may not publicly release the names of students leaving or entering a district under the provisions of this section.

(k) Any child accepted to attend a public school in a community other than the one in which he resides pursuant to this section shall be permitted to remain in that school system until his high school graduation, unless there is a lack of funding of the program as authorized by said sections.

(l) 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 or step-sibling of such child and any foster child residing in the home of such child.

(m) Any student who, pursuant to the provisions of this section, has been attending or has been admitted to attend a public school of a city or town in which he does not reside and for whom the commonwealth has been paying tuition or, in the case of a student recently admitted, would be required to pay tuition in the coming year, shall be deemed to be a student admitted pursuant to paragraph (j), and shall be subject to all of the provisions of this section; provided, however, that said students shall be allowed to remain in said school notwithstanding any determination of capacity or decision by the receiving district to withdraw made pursuant to this section.

(n) Subject to appropriation, any sending district for which the provisions of subsection (f) result in a reduction in state aid shall be eligible to apply for a school choice reimbursement from the commonwealth. If said sending district does not have a positive foundation gap, as defined in chapter seventy, the amount of said reimbursement shall be the above foundation reimbursement amount for that fiscal year. If said sending district does have a positive foundation gap, the amount of said reimbursement shall be equal to one hundred percent of the positive difference, if any, between (i) the amount transferred pursuant to subsection (f), and (ii) the product of the number of students leaving the sending district and the average per pupil expenditure in the sending district; provided, however, that if any district has exempted itself from the provisions of said chapter seventy by accepting section fourteen of said chapter seventy, the district shall be ineligible for a reimbursement under this subsection; provided, further, that if any district that does not have a positive foundation gap becomes a sending district for the first time in fiscal year nineteen hundred and ninety-five or any year thereafter, the reimbursement amount for that district in the first year that it is a sending district shall be the fiscal year nineteen hundred and ninety-four reimbursement amount; the reimbursement amount for that district in its second year as a

sending district shall be the fiscal year nineteen hundred and ninety-five reimbursement amount. Said reimbursement application shall be submitted to the department of education on or before October first of each year 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, however, that any community or regional school district that has a previously approved plan need not refile said plan; provided, further, that approval of said plan by said board shall act as a condition precedent to the distribution of said reimbursement to the applicant community or regional school district. Under no circumstances shall the total amount expended pursuant to subsections (h) and (i) and to reimburse sending districts, pursuant to this paragraph, be greater than twenty million dollars. If, in any year, the total amount that would be required to reimburse said cities at said rates would be greater than twenty million dollars, then the reimbursement rates shall be reduced proportionately to those rates at which the total cost does not exceed twenty million dollars.

(o) The commonwealth and the school committee of any town may accept funds from the federal government for the purposes of this section. Any amounts received by the school committee of any town from the federal government, from the commonwealth or from a charitable foundation or private institution shall be deposited with the treasurer of such town and held as a separate account, and may be expended by said school committee without further appropriation, notwithstanding the provisions of section fifty-three of chapter forty-four. Whenever such funds are received after the submission of the annual school budget, all or any portion thereof may be expended by the school committee without further appropriation, but shall be accounted for in the next annual school budget.

SECTION 62. The definition of "Employer" or "public employer" in section 1 of chapter 150E of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the second sentence the following two sentences:- For this purpose, the chief executive officer of a city or town shall participate and vote as a member of the city or town school committee; provided, however, that if there is no town manager or town administrator in a town, the chairman of the board of selectmen shall so participate and vote. In the case of a regional school district, said chief executive officers or chairmen of boards of selectmen, as the case may be, of the member cities and towns shall, in accordance with regulations to be promulgated by the board of education, elect one of their number to represent them pursuant to the requirements of this section.

SECTION 63. Section 3 of chapter 214 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

(14) Actions brought by the attorney general in the name of the commonwealth or by any ten citizens of a city or town to compel the city or town to appropriate for the support of public education the amounts that the city or town is required to appropriate for such purpose

by chapter seventy.

SECTION 64. Section seven of chapter four hundred and sixty-four of the acts of nineteen hundred and seventy-two is hereby repealed.

SECTION 65. Section eight of chapter eight hundred and forty-seven of the acts of nineteen hundred and seventy-three is hereby repealed.

SECTION 66. Section 4 of chapter 493 of the acts of 1991 is hereby amended by striking out the second sentence.

SECTION 67. This act shall apply to all cities, towns, and regional school districts, notwithstanding section twenty-seven C of chapter twenty-nine of the General Laws and without regard to any acceptance or appropriation by a city, town, or regional school district or to any appropriation by the general court.

SECTION 68. Subject to appropriation, in addition to the adjusted prior year amount specified in section twelve of chapter seventy of the General Laws the state appropriation for school aid and the educational purposes set forth in said chapter seventy shall be increased based on the following schedule. In fiscal year nineteen hundred and ninety-four, the appropriation shall increase one hundred and seventy-five million dollars. In fiscal year nineteen hundred and ninety-five, the appropriation shall increase an additional one hundred and eighty million dollars. In fiscal year nineteen hundred and ninety-six, the appropriation shall increase an additional one hundred and eighty million dollars. In fiscal year nineteen hundred and ninety-seven, the appropriation shall increase an additional one hundred and eighty million dollars. In fiscal year nineteen hundred and ninety-eight, the appropriation shall increase an additional one hundred and eighty million dollars. In fiscal year nineteen hundred and ninety-nine, the appropriation shall increase an additional one hundred and ninety million dollars. In fiscal year two thousand, the appropriation shall increase an additional one hundred and ninety million dollars. The dollar amounts specified in this paragraph shall be adjusted for inflation by multiplying the amounts for fiscal year nineteen hundred and ninety-five and subsequent years by the ratio of the value of the implicit price deflator for state government services in the third quarter of the prior calendar year to the value of that same deflator in the third quarter of nineteen hundred and ninety-three. In no case shall this adjustment factor be greater than what would be derived by a four percent annual adjustment compounded on a yearly basis.

Not later than March first, nineteen hundred and ninety-four, the department of education shall report to the house and senate committees on ways and means: (1) the amount of funds required to eliminate the foundation gap, as defined in section two of chapter seventy of the General Laws, for every school district in the commonwealth; (2) the funds thereafter remaining within the limits provided in this section; and (3) how said remaining funds may be used to reimburse all cities and towns for increases in education costs caused by inflation or to accelerate the rate at which foundation gaps are eliminated.

SECTION 69. Teachers' appeals of terminations that were commenced in the trial court before the effective date of this act may continue to proceed and be reviewed under the provisions of section forty-two of chapter seventy-one of the General Laws in effect prior to this act.

SECTION 70. There is hereby established a special commission to develop a plan to provide pre-kindergarten children ages three to four the opportunity to participate in a developmentally appropriate early childhood education program. Said commission shall include in its considerations existing programs such as public and private early childhood and head start programs. The minimum goal of said plan shall be to provide such opportunity to every child who satisfies the state eligibility standard at no cost to the child's family. The commission shall also consider in its deliberations *(i)* methods of providing every child in the commonwealth access to such opportunities and the feasibility and advisability of charging the families of "non-low-income" children a reasonable tuition for enrollment in a program; provided, however, sliding scale or other income based considerations shall be incorporated in any tuition available plan, *(ii)* methods of contracting with private early childhood providers including head start programs for services contemplated by this section, *(iii)* methods to provide statewide outreach to parents of pre-kindergarten children to assist them in providing quality learning opportunities for their children in the home as well as assisting parents to complete their own education, *(iv)* exploring the feasibility of providing the school district with the option of implementing a full day kindergarten, *(v)* requiring that teachers in such programs be certified; provided, however, that the commission shall give full consideration to the CDA and OFC certification requirements currently in place. Said commission shall include in its final and any interim reports the costs associated with implementation of its recommendations and the funding sources used to meet such costs as well as any recommendation on other funding mechanism for funding early childhood education in the commonwealth.

The members of the commission shall include the following members to be appointed by the governor: a representative of the executive office of human services, a representative of the board of education or the secretary of education, a representative of the office for children, a representative of the department of public welfare, a representative of the department of social services, a head start director as recommended by the Massachusetts Head Start Directors Association, a representative of private day care providers as recommended by the Massachusetts Association of Day Care Agencies, a head start parent as recommended by the Massachusetts Head Start Association, a parent with a child in private day care as recommended by the Parents United for Child Care, an early childhood education teacher; provided, however, that said teacher shall be CDA certified. Said commission shall issue its final plan to the board of education and the house and senate clerks no later than April thirtieth, nineteen hundred and ninety-four. Said plan shall be implemented by July first, nineteen hundred and ninety-five. The minimum goals shall be accomplished on or before July first, nineteen hundred and ninety-seven.

SECTION 71. The advisory council for comprehensive interdisciplinary health education and human service programs, established pursuant to section one G of chapter fifteen of the General Laws, shall be charged with conducting a survey of all school districts' health programs to include grade level, contents and time spent in said curriculum.

The advisory council shall be charged with conducting a survey of existing comprehensive health education programs inside and outside the commonwealth and study

future trends in health education and human services for public school students. The advisory council shall report its findings to the board by December thirty-first, nineteen hundred and ninety-three and each year thereafter the council shall develop a model program to be utilized by school districts for their own programs.

SECTION 72. Each school district in the commonwealth shall no later than September first, nineteen hundred and ninety-four submit to the board of education a plan to eliminate the general track, so-called, in all district schools. Said plan shall indicate what program options a school district may determine necessary to offer students in place of general track programming and may include, but not be limited to, the creation or expansion of the following:- techprep, 2+2 programs so-called, apprenticeships and worksite training, job corps type programs, alternative learning centers, vocational-occupational programs, and college preparation programs. Said plan may also include collaboration between school districts toward accomplishment of this goal. The commissioner shall, no later than December first, nineteen hundred and ninety-five, submit an action plan to the board and the general court to eliminate the general track, so-called, in all school districts in the commonwealth. The action plan shall be based on the plans submitted by school districts and shall include funding recommendations. The commissioner shall also provide technical assistance to school districts in the development of curricula to facilitate the elimination of the general track.

SECTION 73. The board of education shall conduct a study to determine the special education services which are being provided to students pursuant to chapter seventy-one B of the General Laws. The study shall report the number of children in the commonwealth who are receiving specific, individual services and shall identify the services and associated costs for individual students. Said study shall recommend the extent to which districts ought to be eligible for additional financial assistance for each special education student attending school, either public or private, within that district. Said study shall determine the extent to which special education monies are spent on health care services. Said study shall examine alternative methods of cost sharing for medical and other related services for the purpose of providing fiscal relief to local school districts. Said study shall evaluate the feasibility and likely effectiveness of utilizing state human service agencies in diverting children from out of home placements by involving a representative from an appropriate agency of the executive office of health and human services in any individual education meeting where it is likely that the child will be determined to need a placement outside of their local community. The results of said study shall be filed with the board of education and with the joint committee on education, arts and humanities on or before the last Wednesday in December, nineteen hundred and ninety-three.

SECTION 74. The governor shall appoint a special commission to study the effectiveness and implementation of bilingual education programs in the commonwealth. Said commission shall consist of ten members, one of whom shall be the secretary of education who shall serve as chairman, one of whom shall be a director of bilingual education from a college or university that trains bilingual education teachers, one of whom shall be a director of bilingual education from a large urban school system having bilingual

programs in several languages; one of whom shall be a person who trains teachers of English as a second language; three of whom shall be parents of children who have been in bilingual education programs representing three different language groups; and three of whom shall be representatives from outside the state or local educational system who have experience with the strengths and weaknesses of bilingual education programs in the commonwealth. Said commission's study shall include, but not be limited to, an examination of the current methodology, content, and quality of bilingual education, the length of time that students remain in bilingual programs, and the certification requirements of bilingual personnel. Said commission may analyze the information pertaining to bilingual education gathered by the department of education pursuant to section one I of chapter sixty-nine of the General Laws and shall submit a report along with any recommendation for what changes, if any, should be made to improve chapter seventy-one A of the General Laws. Said report shall be filed with the clerks of the house and senate and the joint committee on education, arts and humanities no later than December first, nineteen hundred and ninety-three.

SECTION 75. The department of education shall convene a working committee to devise and recommend more adequate and appropriate adult education funding mechanisms. The working committee shall include one representative from each of the following: the departments of education, public welfare, employment and training, the education and human services secretaries, the governor or lieutenant governor, two members from the education and ways and means committees selected by the senate president and speaker of the house, and not less than five representatives drawn from a diverse cross section of the adult basic education providers and advocacy groups. The working committee shall report its findings and recommend appropriate legislation not later than October fifteenth, nineteen hundred and ninety-three.

SECTION 76. There is hereby established as a public instrumentality of the commonwealth, a corporation for education excellence to be known as the Zacharias project. The corporation's board shall consist of nine members appointed by the governor and may include outstanding classroom teachers, textbook publishers, educational software innovators, members of government, and leading university and college scholars in English, mathematics, science, history-social science and foreign language. Nothing in this section shall preclude the corporation from working with the board of education or the secretary of education. It shall be the purpose of the corporation *(a)* to advance continual improvement in the quality of education in the public schools, (*b*) to strengthen the collaborative richness between world class university thinkers and school teachers, and (*c*) to bring in, from the outset, the commonwealth's private sector firms involved in curriculum and instructional materials, including textbook publishing and software design. The corporation shall (1) aid the effort to make the commonwealth's curricula, instructional materials, and teaching strategies equal to or better than those used in the most educationally advanced nations of the world, (2) review curricula, courses of study, textbooks, items of technology, and other instructional materials and teaching strategies drawn up beyond or within the commonwealth's borders and help adapt such material for use in the commonwealth's schools, (3) join with others to launch new initiatives that hold the promise of major progress for schools here

and around the nation and the world, and (4) to attract co-investors, co-collaborators, and purchasers from out-of-state.

SECTION 77. The provisions of sections one J and one K of chapter sixty-nine of the General Laws and sections forty-one, forty-two, and eighty-nine of chapter seventy-one of the General Laws shall not apply to employees subject to collective bargaining agreements executed prior to the effective date of this act insofar as such collective bargaining agreements are in conflict with said sections. Collective bargaining agreements effective after the date of this act shall be subject to the provisions of said sections.

SECTION 78. Subject to the approval of the board of education, the commissioner of education shall prepare a plan to carry out the policy of section thirty-eight Q of chapter seventy-one of the General Laws. Said plan shall be filed by June first, nineteen hundred and ninety-three with the governor and the general court.

SECTION 79. There shall be appointed no later than July first, nineteen hundred and ninety-three, an education reform review commission consisting of fifteen members, five of whom shall be appointed by the governor, one of whom shall be designated to chairman the commission by the governor; provided, however, that they shall not be employees of the executive branch; provided, further, that at least two of whom shall be parents of children attending public schools, one of whom shall be the president of the University of Massachusetts, who shall furnish reasonable staff support to the commission, one of whom shall be an educator at an institution of higher education who is knowledgeable in the field of public education and one of whom shall be selected by the Association of Independent Colleges and Universities of Massachusetts, one of whom shall be appointed by the president of the Massachusetts Association of School Committees, one of whom shall be a teacher selected by the Massachusetts Federation of Teachers, one of whom shall be a teacher selected by the Massachusetts Teachers Association, one of whom shall be a superintendent of schools selected by the Massachusetts Association of School Superintendents, one of whom shall be a principal selected by the Massachusetts Elementary School Principals' Association, two of whom shall be public school principals selected by the Massachusetts Secondary School Principals' Association; provided, however, that one of whom shall be a vocational-technical education administrator; and one of whom shall be a parent selected by the Massachusetts Parent Teacher Student Association.

Said commission shall monitor the extent to which the commonwealth has carried out its responsibilities under this act and the extent to which such efforts have brought about educational reform in the commonwealth. Said commission shall have the right to request from the board of education, the secretary of education, and the joint committee on education, arts, and humanities information and data pertinent to the commission's charge, which shall be provided in a reasonable manner to the commission, including without limitation the information collected pursuant to section one I of chapter sixty-nine of the General Laws. The board, the commissioner, the secretary of education, and the chairmen of the joint committee on education, arts and humanities of the general court shall make themselves available to the commission to review the activities of the commonwealth under this act. The commission shall annually file a report detailing its activities, including its

findings and conclusions, to the governor, the clerk of the house of representatives, and the clerk of the senate, and said report shall be made available to the public. Commission members shall serve for a term of seven years; provided, however, that the vacancies may be filled as they occur; provided, further, that members who are required to be parents of public school children shall be replaced within one year of the date upon which they no longer have children attending a public school.

SECTION 80. The board of education shall prepare a plan to extend the time during which students attend school to reflect prevailing norms in advanced industrial countries and to address the educational needs of children in the commonwealth. Said plan shall encourage the establishment of charter schools pursuant to section eighty-nine of chapter seventy-one of the General Laws which fulfill the goals of said plan. Said plan shall contain a practical, but timely, proposal for implementation and detail all associated costs. Said plan and recommended legislation shall be filed with the governor and the clerks of the house and senate no later than January first, nineteen hundred and ninety-five. The board of education is directed to evaluate and define the amount of time, exclusive of extracurricular activities including but not limited to lunch, recess, and other non-instructional activities, students spend in the classroom. Said report which details findings and recommendations shall be filed with the general court no later than September thirtieth, nineteen hundred and ninety-three.

SECTION 81. The board of education shall, no later than January first, nineteen hundred and ninety-five, establish student academic standards as provided in section one D of chapter sixty-nine of the General Laws.

SECTION 82. The student performance standards established by the board of education insofar as they apply to the criteria for the competency determination, the certificate of mastery and the certificate of occupational proficiency established pursuant to the provisions of section one D of chapter sixty-nine of the General Laws shall apply to students entering the ninth grade as of September first, nineteen hundred and ninety-three; provided, however, that the competency determination shall not be a condition for high school graduation until September first, nineteen hundred and ninety-eight.

SECTION 83. Notwithstanding the provisions of chapter thirty-two of the General Laws or any other general or special law to the contrary, any city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative which accepts the provisions of this section in the manner hereinafter provided shall, in cooperation with and upon the prescribed notification to the teacher's retirement board established under the provisions of section twenty of chapter thirty-two of the General Laws, establish and implement an early retirement incentive program for members of the teachers' retirement system and teachers employed by the city of Boston; provided, however, that in order to be deemed eligible for any of the benefit options under such program, a member (*i*) shall be employed by a city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative which has accepted the provisions of this section in a timely manner as specified in this section; (*ii*) shall be eligible to receive a superannuation retirement allowance in accordance with the

provisions of subdivision (1) of section five or subdivision (1) of section ten of said chapter thirty-two upon the effective retirement date specified in his written application to the teachers' retirement board or to the retirement board of the city of Boston; (*iii*) shall have by the date of his retirement twenty years of creditable service as a teacher in the teachers' retirement system, as a teacher in the Boston retirement system, as provided by subdivision (4) of section three of said chapter thirty-two, or in any combination thereof; and (*iv*) shall have filed a written application during one of the application periods specified in this section.

The early retirement incentive program authorized by this section may be offered to teachers by any accepting city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative in either nineteen hundred and ninety-three or nineteen hundred and ninety-four, but not in both years, as provided herein. Said retirement incentive shall be limited to two thousand five hundred eligible employees in nineteen hundred and ninety-three and to two thousand five hundred eligible employees in nineteen hundred and ninety-four. The annual cost to the state of the additional benefits payable in accordance with the retirement incentive program established by this section shall not exceed twenty million dollars after the second enrollment period. The teachers' retirement board, with the cooperation of the Boston employees' retirement board, if necessary, shall calculate the cost to the state of the additional benefits payable in accordance with said retirement incentive program for the first year of the incentive program and the projected cost to the state of the additional benefits payable in accordance with said retirement incentive program for the second year of the incentive program and shall report on the total actual and projected state cost of said additional benefits to the secretary of administration and finance, the joint committee on public service, and the house and senate committees on ways and means no later than December thirty-first, nineteen hundred and ninety-three. If the report finds that the actual and projected annual state cost of the additional benefits payable in accordance with said retirement incentive program will exceed twenty million dollars, the secretary of administration and finance shall recommend corrective legislation to reduce the cost of the second year of the retirement incentive to bring the cost to the state of said retirement incentive under twenty million dollars.

In order to offer the early retirement incentive program in nineteen hundred and ninety-three, any such city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative must accept this section on or after the effective date of this act but no later than thirty days after the effective date of this act. The application period in nineteen hundred and ninety-three for retirement under this program shall commence on July first, nineteen hundred and ninety-three and end on July thirty-first, nineteen hundred and ninety-three. Teachers retiring pursuant to this program in nineteen hundred and ninety-three shall be retired for superannuation as of August thirty-first, nineteen hundred and ninety-three.

In order to offer the early retirement incentive program in nineteen hundred and ninety-four, any such city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative must accept this section on or after

January first, nineteen hundred and ninety-four but no later than April thirtieth, nineteen hundred and ninety-four. The application period in nineteen hundred and ninety-four for retirement under this program shall commence on June first, nineteen hundred and ninety-four and end on June thirtieth, nineteen hundred and ninety-four. Teachers retiring pursuant to this program in nineteen hundred and ninety-four shall be retired for superannuation as of August thirty-first, nineteen hundred and ninety-four.

This section shall be accepted only in the following manner: in a city, by vote of the school committee and the city council, with the approval of the mayor or city manager; in a town, by vote of the school committee, the selectmen, and the town meeting; in a regional school district or for an independent vocational school, by vote of the regional school committee; for a county agricultural school, with the approval of the county advisory board or other county legislative body and of the county commissioners or other county executive authority, but in Barnstable, Nantucket and Suffolk counties, by the county commissioners only; for an educational collaborative, by vote of its board of directors, with the approval of the city councils and town meetings in all member municipalities. Any fiscal oversight board or fiscal control board established by a special act, which consists of at least the secretary of administration and finance or his designee and the commissioner of revenue or his designee, must also approve a municipality's acceptance.

If, in either year of the retirement incentive, the total number of applications exceeds two thousand five hundred, the teachers' retirement board shall proportionately reduce the number of accepted applications from each city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative accepting the provisions of this section in the particular year by limiting the total number of acceptable applications in each such jurisdiction to an amount calculated by multiplying two thousand five hundred by a fraction that is equal to the number of teachers who are members in-service of the teachers retirement system or the city of Boston retirement system, if applicable, in each jurisdiction divided by the total number of teachers who are members in-service of the teachers retirement system or the city of Boston retirement system, if applicable, in the total number of accepting jurisdictions for the particular year.

After the application deadline of June thirtieth, the teachers' retirement board may adjust said limits by totalling the amount of unused authorized applications in accepting jurisdictions where the total applications are less than the authorized limit. The total unused authorized applications may then be redistributed to accepting jurisdictions where the number of applications exceeded the limit. The number redistributed to any such jurisdiction shall be proportional to the ratio of total applications in the jurisdiction to the total of all applications in the accepting jurisdictions where applications exceeded the application limit; provided, however, that the adjusted limit, which equals the sum of the number of reallocated authorized applications and the amount of the original limit, shall not exceed the total number of actual applications in a jurisdiction. Within each such city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative, if the number of applications exceeds the adjusted limit, the teachers' retirement board and the city of Boston retirement board, if applicable, shall prioritize and

award acceptable applications on the basis of length of creditable service as a public school teacher.

Notwithstanding any provisions of said chapter thirty-two to the contrary, the normal yearly amount of the retirement allowance for an eligible employee who is employed by a city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative which accepts the provisions of this section 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 five years of age or by up to five years of creditable service or by a combination of additional years of age and service the sum of which shall not be greater than five; provided, however, that the city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative may limit the amount of additional credit for service or age or a combination of service or age offered and the number of employees for whom it will approve a retirement calculated under the provisions of this section; provided, further, that if participation is limited by the city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative, the retirement of employees with greater creditable service shall be approved before approval is given to employees with lesser creditable service.

For the purposes of this section, words shall have the same meanings as in chapter thirty-two of the General Laws, unless otherwise expressly provided or unless the context clearly requires otherwise; provided, however, that the meaning of "teacher" shall be as defined in section one of said chapter thirty-two without the exclusion in said definition of a teacher in the public schools in the city of Boston. An employee who retires and receives an additional benefit in accordance with the provisions of this section shall be deemed to be retired for superannuation under the provision of said chapter thirty-two and shall be so subject to any and all provisions of said chapter thirty-two; provided, however, that a teacher in the city of Boston retirement system retired under the provisions of this section shall be subject to the provisions of said chapter thirty-two only to the extent that he would have been if his retirement had not been in accordance with the provisions of this section.

The total normal yearly amount of the retirement allowance, as determined in accordance with the provisions of section five of said 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 section 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.

For any married employee who retires and receives an additional benefit under the provisions of this act, an election of a retirement option under the provisions of section twelve of said chapter thirty-two 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*) a certification by the teachers' board of retirement or the retirement board of the city of Boston, if applicable, that such spouse has received notice of such election as hereinafter provided. If any member who is married files an election which is not so signed by his spouse, the teachers' board of retirement or the retirement board of the city of Boston, if applicable, 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 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 appropriate board of retirement of the notice required hereunder.

The teachers' board of retirement or the retirement board of the city of Boston, if applicable, shall provide retirement counseling to employees who choose to consider retiring or who choose to retire under the retirement incentive program established by this section. Such counseling shall include, but not be limited to, the following: (*i*) a full explanation of the retirement benefits provided by this section; (*ii*) a comparison of the expected lifetime retirement benefits payable to such employee under the retirement incentive program and under the existing provisions of chapter thirty-two of the General Laws; (*iii*) the election of a retirement option under the provisions of section twelve of said chapter thirty-two; (*iv*) the restrictions on employment after retirement; (*v*) the provisions of health care benefits under the provisions of chapter thirty-two B of the General Laws; (*vi*) the provisions of law relative to the payment of cost-of-living adjustments to the retirement allowance, in years in which there is such an adjustment; and (*vii*) the effect of federal and state taxation on retirement income. Each such employee shall sign a statement that he has received such counseling or that he does not want to receive such counseling prior to the approval by the teachers' board of retirement or the retirement board of the city of Boston, if applicable, of such employee's application for superannuation benefits and the additional benefit provided by this section.

The commissioner of the public employee retirement administration shall analyze, study, and valuate the costs and the actuarial liabilities attributable to the additional benefits payable in accordance with the provisions of this section of the retirement incentive program established by this section for each city, town, county or district which accepts the provisions of this section; provided, that said commissioner shall file a report in writing of his findings for said city, town, county or district on or before December thirty-first, nineteen hundred and ninety-four, and shall send a copy thereof to the city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative as the case may be; provided, further, that said reports shall be filed with the joint committee on

public service and the house and senate committees on ways and means, the teachers' retirement board and the commissioner of the department of revenue on or before December thirty-first, nineteen hundred and ninety-four.

The teachers' retirement board shall prepare a funding schedule for each applicable city, town, county or district which shall reflect the payment of fifty percent of the costs and the actuarial liabilities attributable to the additional benefits payable under the retirement incentive program in accordance with the provisions of this section and a funding schedule for the commonwealth which shall reflect fifty percent of the costs and the actuarial liabilities attributable to the additional benefits payable under the retirement incentive program in accordance with the provisions of this section; provided, however, that said schedules shall be designed to reduce the applicable city, town, county or district and the commonwealth's additional pension liability attributable to such costs and liabilities to zero on or before June thirtieth, two thousand and ten; provided, however, that in preparing such schedules, the board shall consider the analysis of the commissioner of public employee retirement administration filed in accordance with the provisions of this section; provided, further, that said board shall triennially update such schedules until said June thirtieth, two thousand and ten; provided, further, that the commonwealth's funding schedule and updates shall be subject to the approval of the secretary of administration and finance. Said board shall file such funding schedules with the joint committee on public service and the house and senate committees on ways and means on or before March first, nineteen hundred and ninety-five, and shall file updates thereto triennially on or before March first of each year. In each of the fiscal years until the actuarial liability determined under this section shall be reduced to zero, it shall be deemed an obligation of the applicable city, town, county or district which has accepted the provisions of this section to appropriate annually an amount sufficient to meet fifty percent of the additional costs and liabilities attributable to the additional benefits payable under the retirement incentive program and said applicable city, town, county or district shall pay the same to the commonwealth's pension liability fund annually; provided, however, that if any such city, town, county or district fails to make said payment, the commissioner of the department of revenue shall deduct such liability from the annual education aid provided pursuant to chapter seventy to said city, town, county or district; provided, further, that such liability deducted shall be appropriated to the commonwealth pension liability fund; provided, further, that ancillary costs attributable to any employee who retires under the retirement incentive program established by this section, limited to the payment of accrued vacation, unused sick leave or any other severance payment, shall be the financial obligation of such city, town, county or district paid out of the sums appropriated or otherwise made available to the appropriate city, town, county or district for the fiscal year nineteen hundred and ninety-five; provided, further, that there shall be no supplemental state funds for the payment of said ancillary costs; and provided, further, that fifty percent of the total premium cost for health insurance provided to any employee who so retires shall also be paid out of the sums appropriated or otherwise made available for the fiscal year nineteen hundred and ninety-five; provided, further, that any employee who so retires shall not pay more than the percentage contribution charged to any other

retiree comparable health insurance coverage; provided, further, that there shall be no additional state supplemental funds to pay said insurance costs.

The board of education shall list each position made vacant by the retirement of an employee under the retirement incentive program and receiving an additional benefit in accordance with the provisions of this section and shall file such list with the joint committee on public service and the house and senate ways and means committees on or before December first, nineteen hundred and ninety-four; provided, however, that for each position, such list shall include 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.

SECTION 84. The department of education is hereby authorized and directed to establish a demonstration project on or before September first, nineteen hundred and ninety-four, to assess various models of parent outreach programs in working with families of children between the ages of one and three years. Said project shall gather data and test a variety of parent outreach programs, in order to choose the model most effective and most compatible with the overall system in the commonwealth for universal implementation by January first, nineteen hundred and ninety-seven. The models selected shall be tested within urban, suburban, and rural school settings. Models chosen for the demonstration project shall include, but not be limited to, the following: home visits by parent educators to educate parents about the physical, mental and emotional development of children; assistance and support to parents for meeting their own educational needs; promotion of literacy within the home; substantial parental involvement in activities for children; guidance at each stage of a child's development; periodic health screening and testing of children to check language and motor development; and group visits with other participating parents.

Participation by parents during the demonstrations project and thereafter shall be voluntary. Parent outreach programs shall be made available to all parents free of charge. Outreach efforts, initially, should focus on populations of children identified as educationally at risk.

Said demonstration projects shall terminate on December first, nineteen hundred and ninety-six. The department of education shall file a report of its findings, together with its recommendations and drafts of legislation necessary to implement a model program, by filing the same, on or before the first Wednesday in December, nineteen hundred and ninety-six, with the clerk of the house of representatives who shall forward the same to the joint committee on education.

The department shall submit to the general court a budget request to implement the provisions of this section no later than December thirty-first, nineteen hundred and ninety-three.

SECTION 85. The commissioner of education shall develop, pursuant to section one E of chapter sixty-nine of the General Laws, curriculum frameworks for mathematics, science and technology, history and social science, English and foreign languages no later than January first, nineteen hundred and ninety-five, and shall develop curriculum frameworks for the arts no later than January first, nineteen hundred and ninety-six.

SECTION 86. The board of education shall establish and administer a discretionary

grant program to assist cities and towns in initiating and implementing drug awareness and resistance education programs, to be known as D.A.R.E. programs. Said programs may be established by municipalities to teach middle school students the skills necessary to resist drug use and shall be implemented by local and state police officers. Said discretionary grant program shall, subject to appropriation, fund fifty percent of one police officer's salary per community in communities that have implemented said D.A.R.E. programs. The secretary of public safety or the chairman of the governor's alliance against drugs shall develop criteria for selecting cities and towns to receive financial assistance pursuant to this section.

SECTION 87. The commissioner of education, the attorney general, two members of the house of representatives to be appointed by the speaker, two members of the senate to be appointed by the president of the senate, and a member to be appointed by the governor shall study the feasibility of establishing regional boarding schools and other educational alternatives in the commonwealth for dropouts and for those students who are chronically disruptive and whose disruption is not due to special needs as defined by state and federal law and regulations. Results of said study shall be submitted to the joint committee on education, arts, and humanities of the general court not later than October first, nineteen hundred and ninety-three.

SECTION 88. The attorney general shall establish a project alliance statewide training program, so-called, for school personnel relative to school safety and the law. Implementation of said program shall be coordinated by the district attorneys in each district as set forth in section thirteen of chapter twelve of the General Laws. The attorney general and the commissioner of education shall jointly establish and chair an implementation oversight committee to oversee implementation of said program. Funding for implementation of said program shall be equally divided between the office of the attorney general and the department of education.

SECTION 89. There is hereby established a student initiatives discretionary grant program for conflict resolution and peer training to be implemented by the commissioner of education. Said grant program shall fund fifty percent of the cost of student initiatives and shall be targeted toward high school students. Grant proposals shall include a statement explaining student involvement in the planning and implementation of said grant. Said program shall be subject to appropriation.

SECTION 90. No later than June first, nineteen hundred and ninety-four, the board shall (*i*) establish new standards for the certification of principals in light of the responsibilities given to principals under this act, and (*ii*) fashion procedures for recertifying persons serving as principals under these new standards.

SECTION 91. The higher education coordinating council shall promulgate guidelines for the attracting excellence to teaching program, established by section nineteen A of chapter fifteen A of the General Laws, no later than January first, nineteen hundred and ninety-four.

SECTION 92. Section thirty-eight of this act shall not apply to any person employed as a school nurse by a school committee on or before the effective date of this act.

SECTION 93. There shall be appointed a commission on regulatory relief in education to review and evaluate all statutes and regulations related to education and to make recommendations to the board to reduce the scope of, ease the administration of, simplify the compliance with, and, where appropriate, eliminate such regulations and to reduce the amount of paperwork required in connection with public education and the state's regulation thereof. The commission shall consist of fifteen members, appointed by the governor, and shall be broadly representative of the racial and ethnic diversity of the commonwealth. Members shall receive no compensation for their services but may receive reimbursement for their reasonable expenses incurred in carrying out their responsibilities as members of the commission. The secretary of education shall furnish reasonable staff and other support for the work of the commission. Upon request by the commission, the board of education, the secretary of education and the joint committee on education, arts and humanities of the general court shall provide to it information and data pertinent to the commission's charge.

SECTION 94. The departments of social services, youth services, mental health and mental retardation shall conduct an investigation and study to develop a plan to earmark between one percent and two percent of its total budget for the provisions of services in school based centers. Said study shall include without limitation recommendations for ensuring each school district's participation in said plan. The secretary of health and human services shall, in consultation with the commissioner of education, participate in said study.

Said secretary shall, on or before the last Wednesday in December, nineteen hundred and ninety-three, file said plan with the clerk of the house of representatives who shall forward the same to the joint committees on education and human services.

SECTION 95. Notwithstanding the provisions of any general or special law to the contrary, superintendents of school departments or districts shall have access to criminal offender record information on employees, prospective employee, and non-employee contract personnel who have frequent contact with students. Such information will be made available subject to procedures developed by and agreed to by the secretary of public safety and the commissioner of education.

SECTION 96. All school-aged children placed 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, other than in their hometown, shall have their tuition in the public schools paid by the commonwealth to the city, town or regional school district.

SECTION 97. Notwithstanding any contrary provision of this act, the provisions of chapter six hundred and thirteen of the acts of nineteen hundred and eighty-seven shall continue to apply to the governance of the Boston school department.

SECTION 98. Each regional employment board, as established by section one hundred and five of chapter one hundred and sixty-four of the acts of nineteen hundred and eighty-eight, shall work with comprehensive high schools and regional vocational-technical schools in its region to develop a plan to provide transition for students into the work force. Such plan shall be incorporated into an annual report from the school district to the regional employment board. Each regional employment board shall submit a work force develop-

ment strategic plan annually to the MassJobs Council. This plan shall include a comprehensive school-to-work transition policy for its region. For purposes of this section, region shall be defined by said section one hundred and five.

SECTION 99. All programs and actions undertaken under the provisions of this act shall be conducted in a manner reflecting and encouraging a policy of nondiscrimination and equal opportunity for members of minority groups and women. All officials and employees of any school department or district shall take affirmative steps to ensure equality of opportunity in the internal affairs of such departments and districts, as well as in their relations with the public, including those persons and organizations doing business with said departments and districts. Each school district department and district shall adopt measures to ensure equal opportunity in the areas of hiring, promotion, demotion, transfer, recruitment, layoff or termination, rates of compensation, and in-service training programs. The department of education shall conduct an ongoing review of affirmative action steps taken by various school departments and districts to determine whether such departments and districts are complying with the intent of this section. Whenever such noncompliance is determined by the board of education, the commissioner shall hold a public hearing on the matter and report his resulting recommendations to the school committee of the department or district and to the Massachusetts commission against discrimination.

SECTION 100. The secretary of administration and finance is hereby authorized and directed to recommend revisions in the governor's budget recommendation for the fiscal year ending on June thirtieth, nineteen hundred and ninety-four to reflect the provisions of this act, including, but not limited to, the increase in aid for education and the cost of the early retirement incentive authorized by this act. Such recommendations shall be submitted to the house and senate committees on ways and means not later than the day after this act has the force of a law. Such recommendations shall specify the additional revenues, if any, or decreases in expenditure recommendations, if any, by line-item, that will ensure that the budget of the commonwealth is balanced for the fiscal year ending June thirtieth, nineteen hundred and ninety-four. No such decreases in expenditure recommendations shall be taken from local aid accounts, so-called, including but not limited to additional assistance, lottery aid, chapter eighty-one and chapter ninety highway funds, payments in lieu of taxes and police education incentive reimbursements.

SECTION 101. The board of education, with the advice of the commissioner, shall appoint an advisory commission on the student to adult resources ratio. "Adult resources" shall be defined as teachers, teacher's aides, guidance counselors and other academic support staff. The commission shall consist of eleven members, one of whom shall be the commissioner of education or his designee, who shall serve as chairperson. Six members of the commission shall be public school classroom teachers chosen to broadly represent different grade levels and disciplines, two members shall be public school principals and two members shall be parents of public school students. Said members shall serve for a term of two years each.

After December first, nineteen hundred and ninety-three the commission shall meet annually, no later than December first and file a report with the board assessing the extent

of compliance with the class size regulations adopted by the board and making any recommendations for modification thereof. No member of the commission shall receive any compensation, but the members shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their official duties. The board shall provide reasonable support for the commission, including clerical and research activities.

SECTION 102. There shall be established a task force on municipal finance whose membership shall include fifteen persons familiar with issues concerning the manner in which the commonwealth's municipal services are delivered and financed.

Said membership shall consist of: five persons to be appointed by the governor, two members of the senate to be appointed by the president of the senate and five members of the house of representatives to be appointed by the speaker of the house of representatives. Said task force shall be charged with examining all aspects of the delivery and financing of municipal services with special consideration to the review and reconsideration of the recommendations made by the Hamill commission, so-called, whose report was filed with the general court on April twelfth, nineteen hundred and ninety and shall make recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before September thirtieth, nineteen hundred and ninety-three.

SECTION 103. Section sixty-four of this act shall take effect on January first, nineteen hundred and ninety-four.

SECTION 104. No charter school, established pursuant to section eighty-nine of chapter seventy-one of the General Laws may be authorized to open prior to the school year beginning in the fall of nineteen hundred and ninety-five. In the year nineteen hundred and ninety-eight, the general court shall study the effects of the limits on the number of charter school students and shall consider possible increases or decreases. Notwithstanding any reduction in the limit on the number of students allowed to attend charter schools, students enrolled in charter schools shall have a right to continue in that school through its highest grade level unless expelled for cause.

SECTION 105. Section sixty-one of this act shall take effect upon its passage; provided, however, that the provisions of subsections *(c)*, *(d)*, *(h)*, and *(i)*, and the requirement of random selection for admission in subsection *(j)*, of section twelve B of chapter seventy-six of the General Laws shall not apply with respect to the school year beginning in September of nineteen hundred and ninety-three.

Approved June 18, 1993.

Chapter 72. AN ACT AUTHORIZING THE TOWN OF ROCKPORT TO LEASE A CERTAIN BUILDING FOR FIFTY-FIVE YEARS.

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, the town of Rockport is hereby authorized to lease for a term not exceeding fifty-five years, the school administration building, so-called, located on Broadway in said town, for the purpose of low and moderate income elderly housing.

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

Approved June 18, 1993.

Chapter 73. AN ACT EXEMPTING THE POSITION OF WATER SUPERINTENDENT IN THE WATER DEPARTMENT OF THE CITY OF CHICOPEE FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of water superintendent in the water department of the city of Chicopee 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 water superintendent in the city of Chicopee on theeffective date of this act.

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

Approved June 18, 1993.

Chapter 74. AN ACT RELATIVE TO THE CHARTER 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 3-1-4 and inserting in place thereof the following section:-

Section 3-1-4. The chairman of a town board who is absent from three consecutive meetings without informing the appointing authority and without appointing an acting chairman for such meetings shall automatically cease to be a member of such board.

SECTION 2. Said charter is hereby further amended by striking out section 10-2-1 and inserting in place thereof the following section:-

Section 10-2-1. Any non-elected member of a town board may be removed by the appointing authority for good cause, in accordance with the following procedure: (*a*) A written notice of the intent to remove and a statement of the reasons therefor shall be delivered by registered mail to the last known address of the member sought to be removed.

(*b*) Within fourteen days of delivery of the notice the member may request a public hearing before the appointing authority. (*c*) If the member fails to request a public hearing, then he shall be discharged forthwith. (*d*) Such member may be represented by counsel at the hearing, and shall be entitled to present evidence, to call witnesses, and to examine any witness appearing at such hearing. (*e*) Within ten days after the public hearing is adjourned, the appointing authority may, by a majority vote, remove the member for good cause. (*f*) A notice of a decision to remove the member and the reasons therefor shall be delivered by registered mail to the last known address of the member. (*g*) Within fourteen days of delivery of such notice, such member may request a public hearing before the personnel board. (*h*) If such member fails to request a public hearing, then he shall be discharged forthwith. (*i*) Such member may be represented by counsel at the hearing, and shall be entitled to present evidence, to call witnesses, and to examine any witness appearing at such hearing. (*j*) Within ten days after the public hearing is adjourned, the personnel board may, by a two-thirds vote, reinstate such member, but such member shall otherwise be removed.

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

Approved June 18, 1993.

Chapter 75. AN ACT AUTHORIZING THE TOWN OF STURBRIDGE TO ESTABLISH A CERTAIN FUND.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws or any other general or special law to the contrary, the town of Sturbridge may establish in the town treasury a special revenue fund which shall be kept separate and apart from all other monies by the treasurer of said town and in which shall be deposited any net surplus realized from the operation of the town sewer system. The principal and interest thereon may be expended, subject to appropriation, for new construction and extraordinary maintenance as the town engineer, with the approval of the town, may determine.

Approved June 18, 1993.

Chapter 76. AN ACT AUTHORIZING THE GOVERNOR TO DESIGNATE AN ADDITIONAL JUSTICE OF THE PEACE IN THE TOWN OF WINTHROP.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws regulating the number of justices of the peace that may be designated, the governor is hereby authorized to designate an additional justice of the peace in the town of Winthrop.

Approved June 21, 1993.

Chapter 77. AN ACT AUTHORIZING THE TOWN OF HAWLEY TO CONVEY A CERTAIN PARCEL OF PARK LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of Hawley is hereby authorized to sell and convey to Raymond L. Gotta for the sum of one dollar and the costs of such conveyance a certain parcel of park land in said town to be used for residential purpose and bounded and described as follows:-

Beginning at a point at the intersection of the easterly line of East Hawley Road with the southerly line of Forget Road; thence N 61° 33' 05" E along the southerly line of said Forget Road a distance of 102.29 feet to an iron pin set in a stone wall; thence S 10° 25' 47" E a distance of 340.65 feet to a point; thence S 68° 07' 17" W a distance of 13.82 feet to a point on the easterly line of said East Hawley Road; thence on a curve to the right having a radius of 567.00 feet an arc length of 205.15 feet to a point; thence N 04° 09' 07" E a distance of 88.82 feet to the point of beginning, the last two courses being along the easterly line of said East Hawley Road. Containing .42 acres, more or less.

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

Approved June 23, 1993.

Chapter 78. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND NINETY-THREE TO PROVIDE FOR SUPPLEMENTING THE MASSJOBS YOUTH AT RISK SUMMER JOBS PROGRAM.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act for fiscal year nineteen hundred and ninety-three and other fiscal year nineteen hundred and ninety-three appropriation acts and for certain other activities and projects, the sum set forth in section two is hereby appropriated from the General Fund, for the several purposes and subject to the conditions specified in and pertaining to said item, as appearing herein or in the most recent appropriation act referred to above, and subject to the provisions of law regulating the disbursement of public funds, for the fiscal year ending June thirtieth, nineteen hundred and ninety-three or for such period as may be specified, the sum so appropriated to be in addition, unless otherwise specified, to any amounts available for the purpose.

SECTION 2.

Item

9081-0350 For the massjobs youth at risk summer jobs program; provided, that notwithstanding the provisions of any general or special law to the contrary, the program shall not employ more persons than the number employed in the summer of nineteen

hundred and ninety-two $500,000

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

Approved June 23, 1993.

Chapter 79. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF ANDOVER AS THE ANDOVER VIETNAM VETERANS MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge over state highway Route 125 on state highway Route 28 in the town of Andover, which route is known as South Main street shall be designated and known as the Andover Vietnam Veterans Memorial Bridge. A suitable marker bearing said designation shall be attached thereto by the department of highways in compliance with the standards of said department.

Approved June 23, 1993.

Chapter 80. AN ACT AUTHORIZING THE TOWN OF SANDWICH TO GRANT AN EASEMENT IN CERTAIN CONSERVATION LAND.

Be it enacted, etc., as follows:

The town of Sandwich is hereby authorized to grant an easement in certain conservation land, subject to the approval of the secretary of environmental affairs, located in said town to the Sandwich water district for the installation, construction and maintenance of water mains and appurtenances. Said easement is shown on a plan of land entitled "Plan of Land in Sandwich, Mass. showing easement for Sandwich Water District, 72 Tupper Road, Sandwich, MA." dated February 24, 1992 drawn by Kingsbury Surveying Co. which is on file in the office of said water district.

Approved June 23, 1993.

Chapter 81. AN ACT DESIGNATING THE BAKED NAVY BEAN AS THE OFFICIAL BEAN OF THE COMMONWEALTH.

Be it enacted, etc., as follows:

Chapter 2 of the General Laws is hereby amended by adding after section 37, added by chapter 59 of the acts of 1993, the following section:-

Section 38. The baked navy bean shall be the official bean of the commonwealth.

Approved June 23, 1993.

Chapter 82. AN ACT AUTHORIZING THE COMMISSIONER OF LABOR AND INDUSTRIES TO SUSPEND THE OPERATION OF CERTAIN LABOR LAWS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the commissioner of labor and industries to suspend the operation of certain labor laws, 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 labor and industries is hereby authorized, in conformity with Article XX of Part the First of the Constitution of the Commonwealth, to suspend until July first, nineteen hundred and ninety-four the application or operation of any provision of chapter one hundred and forty-nine of the General Laws or any rule or regulation made thereunder, regulating, limiting or prohibiting the employment of minors over the age of sixteen. The commissioner shall exercise this authority upon finding, after opportunity has been given to interested parties to be heard, that an emergency exists or that conditions of hardship in an industry, branch of an industry, or individual establishment require or justify the suspension of any provision of such laws, rules or regulations. Suspensions issued by the commissioner shall prescribe, and may be either granted or limited to, one or more particular departments, operations or occupations within an establishment or a particular industry or branch of industry.

Approved June 25, 1993.

Chapter 83. AN ACT RELATIVE TO THE SALARIES OF CERTAIN SELECTMEN POSITIONS IN THE TOWN OF GREAT BARRINGTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section one hundred and eight of chapter forty-one of the General Laws or any other general or special law to the contrary, the salaries of the two additional elected selectmen positions created by section two of chapter one hundred and eighty-four of the acts of nineteen hundred and ninety-two are hereby fixed, from the date each took office for the balance of the fiscal year nineteen hun-

dred and ninety-three, in the amount of three thousand and eighty-two dollars each, and the vote of the town meeting appropriating six thousand one hundred and sixty-four dollars for that purpose is hereby ratified, validated and confirmed to the same extent as if this act had been in full force and effect in the town at the time of said meeting.

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

Approved June 25, 1993.

Chapter 84. AN ACT AUTHORIZING THE TOWN OF HARVARD TO CONVEY A CERTAIN PARCEL OF LAND IN SAID TOWN TO ROBERT J. PENA AND DANA W. FAIRBANKS.

Be it enacted, etc., as follows:

SECTION 1. The town of Harvard, acting by and through its conservation commission, is hereby authorized to convey to Robert J. Pena and Dana W. Fairbanks a certain parcel of land located on Brown Road in the town of Harvard, containing 1¼ acres of land, more or less, being Parcel 21 on Assessor's Map 35 which is the portion located in the town of Harvard being Parcel 4 in a deed to the Harvard conservation commission, recorded in the Worcester county registry of deeds, Book 6400, Page 203, excepting therefrom a strip of land thirty-five feet wide adjacent to and along the northerly boundary of said Parcel 21 but granting to said Pena and Fairbanks the right to pass and repass over said thirty-five foot wide strip and to use the same for all purposes for which driveways are commonly used in the town of Harvard, including installation of utilities to serve the remaining land of Pena and Fairbanks over, across, and under said strip of land, and also to grant easements to utility companies for the same purpose.

SECTION 2. In consideration of the conveyance in section one Robert J. Pena and Dana W. Fairbanks shall convey to the inhabitants of the town of Harvard, for conservation purposes, all their right, title and interest in a certain parcel of land identified as Parcel 23 on Assessor's Map 35, located in the town of Harvard, being the Harvard portion of the "Brown Lot", so-called, which is located off Brown Road, containing 4.1 acres, more or less, together with a strip of land thirty-five feet wide running adjacent to and along the northerly boundary of Assessor's Map 35, Parcel 22, from Parcel 21 to said Parcel 23. Said Parcel 23 is a portion of the land described in a deed recorded in Worcester county registry of deeds in Book 10022, Page 193, and Book 11041, Page 251, reserving however to Pena and Fairbanks the right to pass and repass over said thirty-five foot strip of land and to use the same for all purposes for which driveways are commonly used in the town of Harvard, including installation of utilities to serve the remaining land of Pena and Fairbanks over, across and under said strip of land, and also to grant easements to utility companies for the same purpose.

Approved June 25, 1993.

Chapter 85. AN ACT ESTABLISHING A FINANCE DEPARTMENT IN THE TOWN OF HARVARD.

Be it enacted, etc., as follows:

SECTION 1. There is hereby established in the town of Harvard a department of finance. Said department shall assume the powers and duties as presently assigned to the treasurer/tax collector and town accountant, and shall assume responsibility for the personnel management and purchasing functions of the town. All appointments to said department shall be made by the board of selectmen, including the appointment of a finance director who shall administer the operations of said department under the direct and undelegated supervision of said board and of the school committee, and who shall be subject to the removal for cause by said board. The finance director may serve as the town accountant, treasurer, tax collector, or treasurer and tax collector, but shall not combine the position of town accountant with either treasurer or tax collector.

SECTION 2. The board of selectmen shall appoint members of the board of assessors for three year terms, such terms so arranged that the term of office of one member shall expire each year. Members shall be subject to removal for cause by the board of selectmen. The board of assessors shall have the powers and duties provided by statute; provided, however, that the finance director shall supervise all employees assisting in the performance of assessing functions.

SECTION 3. Upon the effective date of the appointment of the finance director, the term of office of the treasurer/tax collector and town accountant shall terminate. The incumbents in said office of town accountant and treasurer/tax collector and all present employees of any of the departments or offices referred to in this act shall be transferred to the department of finance, to serve under the direction and supervision of said finance director and shall not forfeit pay grade or time in service.

SECTION 4. This act shall take effect on January first, nineteen hundred and ninety-four.

Approved June 25, 1993.

Chapter 86. AN ACT FURTHER EXTENDING THE TIME FOR WHICH CERTAIN LAND IN NORFOLK COUNTY MAY BE USED AS A TEMPORARY MINIMUM SECURITY ALTERNATIVE CORRECTION CENTER.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately extend the time for which certain land in Norfolk county may be used as a temporary minimum security alternative correction center, 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 of chapter 109 of the acts of 1987 is hereby amended by striking out the second paragraph, as amended by chapter 432 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-five; provided, however, that if the operation of said facility or the authority to place inmates within said facility is removed from the control of the Norfolk county sheriff, the provisions of this act shall terminate within ninety days therefrom.

Approved June 25, 1993.

Chapter 87. AN ACT RELATIVE TO WATER ASSESSMENTS IN THE LUNENBURG WATER DISTRICT OF LUNENBURG.

Be it enacted, etc., as follows:

SECTION 1. The Lunenburg Water District of Lunenburg, established pursuant to chapter seventeen of the acts of nineteen hundred and thirty-nine, is hereby authorized to make assessments for the cost of laying water pipes, including hydrants and incidental parts and materials, in the following streets: Townsend Harbor road, South Row road, Island road, Peninsula drive, Horizen Island road, Woodland avenue, Cove road, Sandy Cove road, Crescent road, Crescent terrace, Cove terrace, Beachview road, Wildwood road and Park terrace, in the following manner:

(*a*) seventy-five percent of such costs shall be assessed according to a uniform unit method, based upon said proportion of such costs divided among the total number of existing and potential water service units to be served. Each water service unit shall be equal to a single family residence. Potential water service units shall be calculated on the basis of zoning then in effect. Existing and potential multifamily, commercial, industrial and semi-public uses shall be converted into water service units on the basis of residential equivalents;

(*b*) twenty-five percent of such cost shall be assessed according to valuation for purposes of taxation in the last annual assessment of real properties in the town of Lunenburg.

SECTION 2. All orders or assessments of the Lunenburg Water District of Lunenburg voted at the special district meeting held on August thirteenth, nineteen hundred and ninety-two and all actions taken pursuant thereto are hereby ratified, validated and confirmed to the same extent as though this act had been in full force and effect at the time of said meeting.

Approved June 25, 1993.

Chapter 88. AN ACT RELATIVE TO UNEMPLOYMENT BENEFITS FOR VICTIMS OF LOCKOUTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide unemployment benefits to victims of lockouts, 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 151A of the General Laws is hereby amended by striking out subsection (b), as appearing in the 1990 Official Edition, and inserting in place thereof the following subsection:-

(b) Any week with respect to which the commissioner finds that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which he was last employed; provided, however, that nothing in this subsection shall be construed so as to deny benefits to an otherwise eligible individual (1) who becomes involuntarily unemployed during the period of the negotiation of a collective bargaining contract, in which case the individual shall receive benefits for the period of his unemployment but in no event beyond the date of the commencement of a strike; or (2) who is not recalled to work within one week following the termination of the labor dispute; and provided, further, that this subsection shall not apply if it is shown to the satisfaction of the commissioner that:-

(1) The employee is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and that

(2) The employee does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute, except that an individual for whom no work is available and who is not a member of or eligible to membership in the group or organization which caused the stoppage, shall not be considered as belonging to the same grade or class of workers as those who are responsible for the stoppage of work; provided, further, that if, in any case, separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department may, for the purposes of this subsection, be deemed a separate factory, establishment or other premises.

(3) For the purposes of this chapter, the payment of regular union dues or assessments shall not be construed as participating in or financing or being directly interested in a labor dispute.

(4) The individual has, subsequent to his unemployment because of a labor dispute, obtained employment, and has been paid wages of not less than the amount specified in clause (a) of section twenty-four; provided, however, that during the existence of such labor dispute the wages of such individual used for the determination of his benefit rights shall not include any wages such individual earned from the employer involved in such labor dispute.

In addition to the foregoing, an employee shall not be denied benefits as the result of an employer's lockout, whether or not there is a stoppage of work, if such employees are ready, willing and able to work under the terms and conditions of the existing or expired contract pending the negotiation of a new contract unless the employer shows by a preponderance of evidence that the lockout is in response to: (a) acts of repeated and substantial damage to the employer's property, or (b) repeated threats of imminent, substantial damage; provided, however, that such damage or threats of damage are caused or directed by members of the bargaining unit with the express or implied approval of the officers of such unit, and the employer has taken all reasonable measures to prevent such damage to property and such efforts have been unsuccessful.

A lockout, as used in this subsection, shall exist whether or not such action is to obtain for the employer more advantageous terms when an employer fails to provide employment to his employees with whom he is engaged in a labor dispute, either by physically closing his plant or informing his employees that there will be no work until the labor dispute has terminated.

SECTION 2. This act shall apply to any claims filed on or after January first, nineteen hundred and ninety-three.

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 on June 14, 1993 and by the House on June 16, 1993, the objections of the Governor notwithstanding in the manner prescribed by the Constitution and thereby has the force of law.

Chapter 89. AN ACT MAKING CERTAIN APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND NINETY-FOUR 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 seven hundred thirty-five million three hundred and forty-two thousand dollars is hereby made available in the fiscal year ending June thirtieth, nineteen hundred and ninety-four, to meet necessary expenditures prior to the enactment into law of the general appropriation act for said 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 the authorizations contained herein shall cease to be operative as of the effective date of the general appropriations act for said fiscal year and all actions taken under this section shall apply against said appropriations act.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, for the purpose of making available for expenditure in the fiscal year ending June thirtieth, nineteen hundred and ninety-four, the unexpended balances of all bond-funded items which would otherwise revert on June thirtieth, nineteen hundred and ninety-three, are

hereby reauthorized through July seventeenth, nineteen hundred and ninety-three; provided, that only such balances as are necessary to fund bond-funded payroll obligations as set out in section three of this act for the period prior to enactment of the final supplementary budget for the fiscal year ending on June thirtieth, nineteen hundred and ninety-three shall be so reauthorized; provided further, that the reauthorizations contained herein shall terminate upon enactment of said final supplementary budget.

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, the sum of four million dollars is hereby made available in the fiscal year ending June thirtieth, nineteen hundred and ninety-four for payroll expenditures from bond-funded items authorized for expenditure pursuant to section two of this act.

SECTION 4. Section two of this act shall take effect as of June thirtieth, nineteen hundred and ninety-three. The remainder of this act shall take effect on July first, nineteen hundred and ninety-three.

Approved June 30, 1993.

Chapter 90. AN ACT REDUCING THE NUMBER OF SIGNATURES TO CERTIFY NOMINATION FOR CITY COUNCILLOR-AT-LARGE CANDIDATES IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. Section 56 of chapter 452 of the acts of 1948, as amended by section 5 of chapter 342 of the acts of 1983, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The nomination petition shall be signed, in the case of candidate for mayor, by at least three thousand registered voters of the city qualified to vote for such candidate; in the case of a candidate for city councillor-at-large or school committee member-at-large, by at least five hundred registered voters; and in the case of a candidate for district city councillor or district school committee member, by at least the number of voters residing in the district as shall be set in ordinance by the city council and mayor, in accordance with the last paragraph of section three of chapter six hundred and five of the acts of nineteen hundred and eighty-two.

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

Approved June 30, 1993.

Chapter 91. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF CHICOPEE AS THE AMERICAN LEGION MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge crossing the Chicopee river and connecting Fuller street and East Main street in the city of Chicopee shall be designated and known as the American Legion Memorial Bridge, in recognition of the contribution of past and present Chicopee American Legion members to the defense of this nation and of Chicopee American Legion members' continuing work to help improve the community. The department of highways shall erect suitable markers bearing such designation in compliance with the standards of said department.

Approved July 1, 1993.

Chapter 92. AN ACT AUTHORIZING THE CITY OF LOWELL TO ACCEPT CERTAIN PAYMENTS IN LIEU OF TAXES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the city of Lowell is hereby authorized to accept an annual payment in lieu of real estate taxes from L'Energia Limited Partnership, L'Energia, Inc., General Partner, its successors and assigns, assessed upon land and buildings existing on January first, nineteen hundred and ninety-three and located at 2 Tanner Street in the city of Lowell for a period of twenty years; in the amount of five hundred thousand dollars per year for the first ten years and the amount of five hundred and twenty-five thousand dollars per year for the second ten years commencing with fiscal year nineteen hundred and ninety-four.

SECTION 2. Personal property taxes, which are assessed separately, are specifically excluded from the provisions of this act and L'Energia Limited Partnership, L'Energia, Inc., General Partner, its successors and assigns shall remain liable therefor.

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

Approved July 1, 1993.

Chapter 93. AN ACT RELATIVE TO THE OPERATION OF THE MUNICIPAL LIGHT PLANT IN THE TOWN OF HULL.

Be it enacted, etc., as follows:

SECTION 1. Subsection C of section 4 of chapter 8 of the acts of 1989 is hereby amended by inserting after paragraph 14 the following paragraph:-

14A. The town manager shall supervise the operation of the municipal light plant and shall have the authority to hire, suspend or remove personnel and to negotiate personnel and all other contracts and shall be responsible for the day to day functioning and operation of said light plant in accordance with the provisions of chapter one hundred and sixty-four of the General Laws. The municipal light board shall set rates and advise the town manager

on general policy. The town manager shall present the annual budget of the light plant to the finance committee and board of selectmen.

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

Approved July 1, 1993.

Chapter 94. AN ACT RELATIVE TO THE TOWN COUNCIL OF THE TOWN OF BARNSTABLE.

Be it enacted, etc., as follows:

SECTION 1. The charter of the town of Barnstable 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 2-1(a) and inserting in place thereof the following section:-

Section 2-1(a). Composition: There shall be a town council, which shall exercise thelegislative powers of the town. One councillor shall be elected from each precinct.

SECTION 2. Said charter is hereby further amended by striking out section 2-1(c) and inserting in place thereof the following section:-

Section 2-1(c). Councillors shall serve for four year overlapping terms, so arranged that the terms of as nearly half of the councillors as may be shall expire at each biennial town election.

SECTION 3. Said charter is hereby further amended by striking out section 2-6(b) and inserting in place thereof the following section:-

Section 2-6(b). Quorum: One-half of the total membership of the town council plus two shall constitute a quorum. The affirmative vote of a majority of the full town council shall be necessary to adopt any appropriation order. Except as otherwise provided by the laws of the commonwealth or the charter, any other motion or measure may be adopted by a majority vote of those present.

SECTION 4. In order to implement the provisions of this act, the town clerk of the town of Barnstable shall no later than June thirtieth, nineteen hundred and ninety-three draw by lot to determine whether the even-numbered precincts or the odd-numbered precincts of said town shall elect councillors for a two-year term at the biennial town election to be held in the year nineteen hundred and ninety-three.

SECTION 5. This act shall take effect upon its passage.

Approved July 2, 1993.

Chapter 95. AN ACT PROVIDING FOR THE ELECTION OF CERTAIN MEMBERS OF THE METHUEN HOUSING AUTHORITY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section five of chapter one hundred and twenty-one B of the General Laws, the housing authority of the city known as the town of Methuen shall be managed, controlled and governed by five members, two of whom shall be appointed by the mayor subject to confirmation by the town council, one of whom shall be appointed by the department of community affairs and two of whom shall be elected by the voters of said city known as the town of Methuen. Of the two members appointed by the mayor, one shall be a representative of organized labor as provided for in said section five and one shall be a tenant in a building owned and operated by or on behalf of the authority as further provided for in said section five. The terms of office of the three appointed members shall be five years and of the two elected members shall be two years.

SECTION 2. The provisions of this act shall not affect the terms of office of the present labor representative, tenant representative and department of community affairs appointees. The terms of office of the remaining present members of the housing authority shall cease on January third, nineteen hundred and ninety-four.

Approved July 2, 1993.

Chapter 96. AN ACT ESTABLISHING A LIABILITY INSURANCE FUND IN THE TOWN OF HADLEY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Hadley may appropriate in each fiscal year an amount not exceeding one-twentieth of one percent of its equalized valuation, as defined in section one of chapter forty-four of the General Laws, to establish and maintain a special fund to be known as the Town of Hadley's Liability Insurance Fund; provided, however, that no such appropriation may be made in any fiscal year when the aggregate amount in said fund equals or exceeds one percent of such equalized valuation. Any interest earned on the amount appropriated to said fund shall be added to and become part of said fund.

The town treasurer shall be the custodian of the fund and the commissioners of trust funds of said town of Hadley shall be the administrator of said fund and may direct the deposit or investment of said fund in such manner as may be lawful under the provisions of section fifty-four of said chapter forty-four for the investment of municipal trust funds.

Each fiscal year, the commissioners of trust funds shall authorize payment from the fund balance such amounts as the board of selectmen shall determine to be necessary from time to time to pay properly authorized settlements of claims against the town of Hadley and to cover costs of defending said town against such claims including, without limitation, the costs of employing legal counsel, court costs and filing fees. Said commissioners shall also pay from the amount in said fund, including the interest thereon, such amounts as the board of selectmen determines are necessary to effect insurance to protect said town against some or all of such claims, or to pay the deductible for any property, casualty or liability insurance

held by said town. Any amount in said fund which is not paid out by the commissioners in accordance with the provisions of this act and which remains in said fund at the end of a fiscal year shall be added to said fund to be paid out by the commissioners in subsequent years in accordance with the provisions of this act.

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

Approved July 2, 1993.

Chapter 97. AN ACT AUTHORIZING THE CAPE COD CHAPTER NO. 96 DISABLED AMERICAN VETERANS, INC. TO SELL AND CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF BARNSTABLE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of chapter five hundred and fifty-four of the acts of nineteen hundred and eighty-three or any other general or special law to the contrary, the Cape Cod Chapter No. 96 Disabled American Veterans, Inc. is hereby authorized to sell and convey a certain parcel of land situated in the town of Barnstable and described in said chapter five hundred and fifty-four. The proceeds of said sale shall be retained in escrow and may only be expended for the purpose of purchasing a new site for the headquarters of said Cape Cod Chapter No. 96 Disabled American Veterans, Inc. If said proceeds have not been expended within five years of the date of their receipt, all monies in said escrow account shall revert to the commonwealth.

Approved July 2, 1993.

Chapter 98. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF GROTON.

Be it enacted, etc., as follows:

SECTION 1. Any person who holds an elected office in the town of Groton and who has held such office for four months and has more than six months remaining in the term of such office on the date of filing of the affidavit referred to in section two, may be recalled from office by the registered voters of said town in the manner provided herein.

SECTION 2. Twenty-five or more registered voters from each precinct of the town of Groton for a total of at least fifty voters may file with the town clerk of said town an affidavit containing the name of the officer whose recall is sought and a statement of one or more of the following grounds upon which the petition is based: lack of fitness, corruption, incompetence, neglect of duties, malfeasance, misfeasance or violation of oath. The town clerk shall deliver to said voters petition blanks demanding such recall, printed forms of which said clerk shall keep available. Such blanks shall be completed by writing or type-

writing, shall be addressed to the board of selectmen; shall contain the names of the persons who filed the affidavit and the grounds for recall as stated in the affidavit; shall demand the election of a successor to the office and shall be dated and signed by the town clerk. A copy of such petition shall be kept on file in the office of 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-one days following the date the petitions were issued, signed by at least ten percent of the total number of registered voters duly recorded on the registration list of the town clerk as of the preceding town election. The town clerk shall within twenty-four hours following such filing submit such petitions to the registrars of voters who shall, within seven days, certify thereon the number of signatures which are names of registered voters of said town.

SECTION 3. If the petitions shall be certified by the 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 within forty-eight hours give written notice of such petitions and certification to the person whose recall is sought. If such officer does not resign his 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 ninety days after the date of the registrars' certification of the sufficiency of the petitions; provided, however that if, another town election is to occur within one hundred days after the date of the certification, the board of selectmen shall hold the recall election on the date of said 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 to 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 laws 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 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 that he cannot be recalled thereby until at least six months after the election at which his recall was submitted to the voters.

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 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, the word "Candidates" shall appear, and directions to voters

as required by section forty-two of chapter fifty-four of the General Laws 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, and provided that at least twenty percent of the total number of registered voters as of the date of the most recent town election have participated in such recall election, the officer shall be deemed to have been recalled.

The ballots for candidates shall then be counted, and 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.

Approved July 2, 1993.

Chapter 99. AN ACT RELATIVE TO THE LEICESTER WATER SUPPLY DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Chapter 171 of the acts of 1888 is hereby amended by inserting after section 1 the following section:-

Section 1A. Upon a petition, in writing, addressed to the board of water commissioners requesting that certain real estate, accurately described therein, located in the town of Leicester and abutting on the water supply district and not otherwise served by a suitable means of water service or sewer disposal, be included within the Leicester water supply district, and signed by the owners of such real estate, or a majority thereof, said water commissioners shall cause a duly warned meeting of the district to be called, at which meeting the voters may vote on the question of including said real estate within the district. If a majority of the voters present and voting thereon vote in the affirmative the district clerk shall, within ten days, file with the town clerk of said town and with the state secretary an attested copy of such petition and vote and, thereupon, said real estate shall become and be a part of the Leicester water supply district and shall be holden in the same manner and to the same extent as the real estate described in section one.

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

Approved July 2, 1993.

Chapter 100. AN ACT RELATIVE TO THE RETIREMENT BENEFITS OF CERTAIN COURT PERSONNEL.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the retirement benefits of certain court personnel, 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 3 of chapter 32 of the General Laws is hereby amended by inserting after the word "hospital", in line 291, as appearing in the 1990 Official Edition, the following words:- ; employees of the trial court of the commonwealth who hold the position of chief probation officer, assistant chief probation officer, probation officer in charge or probation officer, chief court officer, assistant chief court officer or court officer.

SECTION 2. Section 208 of chapter 379 of the acts of 1992 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Said retirement incentive shall be limited to three hundred and forty eligible employees as defined by this section.

SECTION 3. Those employees eligible for the retirement incentives established under sections two hundred and eight to two hundred and nineteen, inclusive, of chapter three hundred and seventy-nine of the acts of nineteen hundred and ninety-two shall be limited to those persons whose applications were filed on or after February twelfth, nineteen hundred and ninety-three and on or before March fifth, nineteen hundred and ninety-three.

SECTION 4. Section one of this act shall take effect as of July first, nineteen hundred and ninety-two. Sections two and three shall take effect as of February twelfth, nineteen hundred and ninety-three.

Approved July 8, 1993.

Chapter 101. AN ACT AUTHORIZING THE CITY OF HAVERHILL TO ENTER INTO AGREEMENTS TO DEVELOP THE MEDICAL STAFF OF THE HAVERHILL MUNICIPAL (HALE) HOSPITAL.

Be it enacted, etc., as follows:

SECTION 1. Subject to appropriation as required by chapter five hundred and sixty-nine of the acts of nineteen hundred and eighty-five, the hospital administrator of the Haverhill Municipal (Hale) Hospital, in the city of Haverhill, with the approval of the board of trustees of said hospital, may enter into agreements on behalf of the city of Haverhill and said hospital with any individual, professional corporation or medical group practice to provide professional services in the service area of the Haverhill Municipal (Hale) Hospital, as determined from time to time by said board of trustees, to permit the hospital to develop its medical staff including: (*i*) provision of management services to physicians, professional corporations or medical group practices, (*ii*) payment of physician relocation expenses, (*iii*) making of loans to support minimum salary or the purchase of equipment for physicians relocating to the hospital's service area; provided, however, that each physician receiving such support agrees to serve on the active medical staff of the hospital for the period during

which such loan has outstanding principal or interest, that a reasonable rate of interest be charged, and including such other reasonable terms and conditions as determined by the board of trustees, and (*iv*) service supports as determined reasonable by said hospital administrator and board of trustees.

SECTION 2. Subject to appropriation as required by chapter five hundred and sixty-nine of the acts of nineteen hundred and eighty-five, the city of Haverhill may make investment or hold stock in a physician/hospital organization, an independent practice association, medical service corporation or joint venture with physicians or other hospitals for the purpose of developing the medical staff of the hospital and to contract with insurers, third party payors, health plan purchasing cooperatives or other organizations to provide hospital or medical services under the terms of any health insurance plan or benefit. Employees of the city may serve in the capacity of director or officer of such organization provided that their participation in such capacity is approved by the board of trustees of the hospital.

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

July 9, 1993.

Chapter 102. AN ACT FURTHER REGULATING ELECTIONS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the division of cities and towns into wards and precincts, 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 35 of chapter 403 of the acts of 1992 is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The state secretary shall make available to the local election districts review commission, for its scrutiny, the written notices, maps and descriptive information submitted to him by city clerks in reference to the new or unrevised wards and precincts of their respective cities under this section. If the said commission shall find that any such plan of new or unrevised wards or precincts of any city conflicts with the applicable requirements of this chapter, or is of questionable constitutionality, it shall transmit a written notice of such findings, with a clear indication of the deficiencies of such plan, to the mayor of such city, or in a city having a council-manager form of government to the city manager. Said mayor or city manager shall, within seven days following his receipt of such notice, present to the city council of such city his recommendations for a division of the city into wards and precincts free of the defects cited by the commission. If the city council shall fail to ordain such division, or a substitute division, conformable to this chapter within seven days after said presentation by said mayor or city manager, the local election districts review commission shall make such division of the city into wards and precincts. The provisions

of this section shall not apply to any city which has a special law to the contrary covering the procedures for the division of wards and precincts.

SECTION 2. The third paragraph of section 36 of said chapter 403 is hereby amended by striking out the fifth and sixth sentences and inserting in place thereof the following two sentences:- If said commission shall find that any plan of town precincts established under this section conflicts with the applicable provisions of this chapter, or is of questionable constitutionality, it shall transmit a written notice of such findings, with a clear indication of the deficiencies of such plan, to the board of selectmen of the town. The board of selectmen of such town shall make a new or revised division of the town into precincts in the manner prescribed by said commission within fourteen days following receipt of such notice.

SECTION 3. Said section 36 of said chapter 403 is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

If any town fails to so divide said town into precincts in accordance with the provisions of this section, the local election districts review commission shall make such division of the town into precincts.

SECTION 4. This act shall take effect as of June first, nineteen hundred and ninety-three.

July 9, 1993.

Chapter 103. AN ACT AUTHORIZING THE TOWN OF CARLISLE TO NEGOTIATE A PLAN FOR DISABILITY INSURANCE FOR ITS EMPLOYEES.

Be it enacted, etc., as follows:

SECTION 1. The town of Carlisle, acting by and through its board of selectmen, is hereby authorized to negotiate with one or more insurance carriers and administer a plan for disability insurance for active town and school employees. 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 July 14, 1993.

Chapter 104. AN ACT AUTHORIZING THE CITY KNOWN AS THE TOWN OF METHUEN TO GRANT A LEASE WITH AN OPTION TO PURCHASE A CERTAIN PARCEL OF LAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section three of chapter forty of the General Laws, the city known as the town of Methuen, acting by and through its town manager, and, upon approval of its town council, and subject to approval of the department of environmental affairs, is hereby authorized to grant a lease or a lease with an option to purchase, up to a period of ninety-nine years, and upon such other terms and conditions as said officers deem appropriate, on a portion of a certain parcel of land to the Methuen Youth Center, Inc., said portion of the parcel being more particularly described as follows:

A parcel of land situated west of Burnham Road and south of Haverhill Street, in the Town of Methuen, in the County of Essex, Commonwealth of Massachusetts; and being a portion of Parcel 2-B as shown on a plan entitled Site Plan for Proposed Water Treatment Facility and Dedicated Open Space for Burnham Road Park, March 1980, Cyr Engineering Service, Inc. (NERD Plan #8326) and bounded and described as follows:

Beginning at a point, said point being the northwesterly corner of Parcel 2-B shown on the plan described above; then South 71 Degrees 20 Minutes 22 Seconds East by land of Park-Heggerty, Inc., and then by land of Con-Mar Realty Trust as shown on said plan, a distance of four hundred and eighty-five feet more or less (485'±) to a point; then South 18 Degrees 39 Minutes 38 Seconds West by land of the Town of Methuen, a distance of two hundred and twenty feet more or less (220'±) to a point; then North 71 Degrees 20 Minutes 22 Seconds West by land of the Town of Methuen, a distance of four hundred and eighty-five feet more or less (485'±) to a point located on the westerly property line of Parcel 2-B; then North 16 Degrees 49 Minutes 26 Seconds East by land now or formerly of Vincent Cox, a distance of thirty-six feet more or less (36'±) to a point; then North 16 Degrees 22 Minutes 34 Seconds East by land now or formerly of Vincent Cox, a distance of one hundred eighty-four and forty-six hundredths feet (184.46') to the point of beginning.

The above described parcel contains 2.4 acres of land more or less.

Together with an access easement described as follows:

Beginning at the southeasterly portion of the above described premises at a point as shown on said plan; thence travelling north 18 Degrees 39 Minutes 38 Seconds east; thence turning and running south 71 Degrees 20 Minutes 22 Seconds east 433 feet to Burnham Road; thence travelling along said Burnham Road south 18 Degrees 39 Minutes 38 Seconds 430 feet; thence turning and running north 71 Degrees 20 Minutes 22 Seconds west to the point of beginning. Said access easement known on said plan as Proposed 30 Foot Easement. Said parcel, together with the access easement being further shown on a Plan of Land, Burnham Road Park, prepared for the Methuen Youth Center, Inc., dated March 24th, 1992, Revised May 11th, 1992, Yankee Engineering.

Being a part of the premises acquired by the City Known as the Town of Methuen by an Order of Taking dated November 6th, 1978, Resolution #467, recorded in the North Essex Registry of Deeds, Book 1357, Page 244, et seq.; said property also known as the Francis J. Morse Park.

Said lease or lease with option to purchase shall be exempt from the provisions of chapter thirty B of the General Laws.

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

Approved July 16, 1993.

Chapter 105. AN ACT AUTHORIZING THE TOWN OF READING TO CONVEY A CERTAIN PARCEL OF CONSERVATION LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of Reading, acting by and through its board of selectmen, and the conservation commission of said town, are hereby authorized subject to the approval of the secretary of the executive office of environmental affairs to convey all or part of a certain parcel of conservation land located in said town, to the Reading Rifle & Revolver Club, Inc., a Massachusetts corporation. Said parcel is more particularly described as follows:-

The land off of Haverhill Street shown as Parcels C and D on a plan of land entitled: "Plan of Land in Reading, Mass., Scale: 1" = 100' dated June 9, 1992 prepared by Gerrit Consulting." Parcel C contains 270,254 square feet (6.204 acres) and Parcel D contains 25,581 square feet (.587 acres) all as shown on said plan. Parcels C and D are portions of Lot 1 on Town of Reading Board of Assessors' Map 125, revised October 10, 1972.

SECTION 2. In consideration of the conveyance authorized under the provisions of section one, the Reading Rifle & Revolver Club, Inc. shall convey to said town of Reading any land of equal or greater value to be used for conservation purposes, for the amount of one dollar or such larger amount and upon such other terms and conditions as the board of selectmen deems appropriate.

Approved July 16, 1993.

Chapter 106. AN ACT AUTHORIZING THE CITY OF BOSTON TO CONVEY CERTAIN PARCELS OF LAND ON LAMARTINE STREET.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the mayor of the city of Boston is hereby authorized to execute and deliver an instrument in writing conveying all of the city's right, title and interest in seventeen parcels of land situated on Lamartine street in the Roxbury and West Roxbury districts of the city of Boston to the abutting owners of such parcel upon petition thereof, for a nominal consideration. Each instrument shall require the approval of the corporation counsel of the city of Boston, but shall require no further approval.

Said parcels are shown as parcels 111-5, 111-6 and parcels 111-9 to 111-23, inclusive, on a plan entitled "City of Boston Public Works Department Engineering Division

Discontinuance Plan, Lamartine Street, Atherton Street, Roxbury and West Roxbury, May 9, 1988, Gordon E. Barnes, Division Engineer".

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

Approved July 16, 1993.

Chapter 107. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF ACUSHNET.

Be it enacted, etc., as follows:

SECTION 1. Section 3.1 of the charter of the town of Acushnet 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 adding the following subsection:-

3.1.5 *Recall of Elected Officials.*

(*a*) *Application* - Any person who holds an elected town office, with more than six months remaining of the term of the office, may be recalled from the office, by the voters, in the manner provided in this section.

(*b*) *Recall Petitions* - Twenty-five or more voters 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 of the persons who filed the affidavit and the grounds for recall as stated in the affidavit; they shall demand a successor to the office; and they shall be dated and signed by the town clerk. A copy of the petition shall be kept on file in the office of the town clerk in a record book maintained for that purpose. The recall petition shall be returned and filed in the office of the town clerk within fourteen days following the date the petitions were issued, signed by at least ten percent of the total number of registered voters duly recorded on the registration list of the town clerk as of the preceding town election.

The town clerk shall, within twenty-five hours following such filing, submit said petitions to the registrars of voters who shall forthwith certify thereon the number of signatures which are names of voters.

(*c*) *Recall Election* - If the petition shall be certified by the 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 the 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 ninety 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.

(*d*) *Nomination of Candidates* - An officer whose recall is sought may not be a candidate to succeed himself at 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.

(*e*) *Propositions on Ballot* - 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 name of candidates arranged alphabetically, by surname. If a majority of the votes cast upon the question of recall is in the affirmative, and if at least twenty percent of the total number of registered voters duly recorded on the registration list of the town clerk as of the preceding town election casts ballots at said special election, 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 paragraph (*c*).

(*f*) *Officeholder* - 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.

(*g*) *Repeat of Recall Petition* - No recall petition shall be filed against an officer within three months after he 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 recall was submitted to the voters.

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

Approved July 16, 1993.

Chapter 108. AN ACT AUTHORIZING THE TOWN OF READING TO CONVEY A CERTAIN PARCEL OF CONSERVATION LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of Reading, acting by and through its board of selectmen, and the conservation commission of said town, are hereby authorized subject to the approval of the secretary of the executive office of environmental affairs to convey all or part of a certain parcel of conservation land located in said town, to Richard Harper and Eileen Harper both of said town of Reading. Said parcel is more particularly described as follows:-

Beginning at a point on Pearl Street at the northerly corner of property of Harper and southerly corner of property of Bare Meadown Conservation Area, thence northerly along Pearl Street a distance of 20.00' to a point, easterly a distance of 177.34'± to a point, southerly 219.26'± to a point, westerly by land of Harper three distances of 54.87', 183.07', and 32.66' to a point of beginning containing 22,737 ± square feet.

SECTION 2. In consideration of the conveyance authorized under the provisions of section one, Richard and Eileen Harper shall convey to said town of Reading any land of equal or greater value to be used for conservation purposes, for the amount of one dollar or such larger amount and upon such other terms and conditions as the board of selectmen deems appropriate.

Approved July 16, 1993.

Chapter 109. AN ACT AUTHORIZING THE TOWN OF LINCOLN TO TRANSFER A CERTAIN PARCEL OF LAND TO THE WATER COMMISSIONERS OF SAID TOWN.

Be it enacted, etc., as follows:

The town of Lincoln is hereby authorized to transfer custody and control of a certain parcel of land to the water commissioners of said town for the purpose of constructing and operating thereon the water treatment facilities authorized under Article 1 of the Warrant for the March twenty-seventh, nineteen hundred and ninety-three special town meeting, said parcel is on a plan entitled "Plan of Land in Lincoln, Massachusetts, 1" = 40'", dated March 10, 1993, prepared by John R. Snelling Associates, Professional Land Surveyors, which is on file with the town clerk. Provided, that no more of the land transferred necessary for the construction and operation of the contact tank disinfection facility be used and that any expansion of the use of the parcel beyond that necessary for the construction of the facility shall require the approval of town meeting.

Approved July 16, 1993.

Chapter 110. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR NINETEEN HUNDRED AND NINETY-FOUR 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, other services, and for certain permanent improvements, and to meet certain requirements of law, the sums set forth as state appropriation(s) in sections two, two B, and two C for the several purposes and subject to the conditions specified in said sections two, two B, two C 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-four. The sums set forth as federal appropriation(s) in sections two for the several purposes and subject to the conditions specified in said sections two are hereby appropriated from the General Federal Grants Fund, subject to the provisions of law regulating the disbursement of public funds and the approval thereof. Federal funds received in excess of the amount appropriated in this section shall be expended only in accordance with the provisions of section six B of chapter twenty-nine of the General Laws. The amounts of any unexpended balances of federal grant funds received prior to June thirtieth, nineteen hundred ninety-three, and not included as part of an appropriation item in section two, are hereby made available for expenditure during fiscal year nineteen hundred ninety-four, in additional to any amount appropriated in section two. For each item of appropriation in section two of this act that includes a limitation on personnel, said limitation shall mean the number of full-time equivalent positions that said appropriation is funded to support. 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-four 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 and two C. 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 re-

ceipts 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 thirteen 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 1994 Revenue by Source and Budgetary Fund
(In Millions)

Source	All Funds	General Fund	Highway Fund	Local Aid Fund	Other Funds
Alcoholic Beverages	63.0	63.0	-	-	-
Commercial Banks	118.0	118.0	-	-	-
Savings Institutions	98.0	98.0	-	-	-
Cigarette	237.0	112.0	-	-	125.0
Corporations	690.0	414.0	-	276.0	-
Deeds	39.0	39.0	-	-	-
Estate/Inheritance	268.0	268.0	-	-	-
Income	5,755.1	3,181.0	-	2,302.0	272.1
Insurance	290.2	290.2	-	-	-
Motor Fuels	555.0	83.2	464.0	-	7.8
Utilities	65.0	65.0	-	-	-
Room Occupancy	60.9	39.6	-	-	21.3
Sales & Use: Regular	1,485.0	891.0	-	594.0	-
Sales & Use: Services	115.0	69.0	-	46.0	-
Sales & Use: Meals	330.0	198.0	-	132.0	-
Sales & Use: Motor Vehicle	330.0	198.0	-	132.0	-
Miscellaneous Department	0.8	0.8	-	-	-
Racing	28.0	28.0	-	-	-
Beano	4.5	4.5	-	-	-
Raffles/Bazaar	1.5	1.5	-	-	-
Division of Insurance	6.0	6.0	-	-	-
Total Consensus Taxes	10,540.0	6,167.8	464.0	3,482.0	426.2
Amnesty Program	20.0	12.0	-	8.0	-
Total Taxes	10,560.0	6,179.8	464.0	3,490.0	426.2
Federal Reimbursements	2,922.5	2,913.9	4.7	0.2	3.7
Departmental Revenue	1,341.4	894.2	333.4	24.0	89.7
Transfers & Other Receipts	623.9	90.8	11.0	531.0	(8.8)
Total for Budget	15,447.8	10,078.6	813.1	4,045.2	510.9

SECTION 1B. The comptroller is hereby authorized and directed to keep a distinct account of actual receipts of non-tax revenues 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 projected receipts set forth herein, and to include a full statement comparing such receipts with the projected receipts in the annual report for such fiscal year pursuant to section thirteen 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.

Non-tax Revenue Executive Office Summary

Source	FY 1994 Unrestricted Non-Tax	FY 1994 Restricted Non-Tax	FY 1994 Total Non-Tax
Judiciary	55,488,385	5,000	55,493,385
District Attorneys	7,190	25,000	32,190
Executive	2,500	-	2,500
Secretary of State	31,238,200	-	31,238,200
Treasurer and Receiver General	495,503,777	329,000,000	824,503,777
State Auditor	200	-	200
Attorney General	6,125,103	-	6,125,103
State Ethics Commission	32,915	-	32,915
Inspector General	565	-	565
Office of Campaign and Political Finance	18,000	-	18,000
State Comptroller	21,002,000	-	21,002,000
Administration and Finance	232,873,522	12,428,041	245,301,563
Environmental Affairs	69,296,773	1,000,000	70,296,773
Communities and Development	29,020,000	450,000	29,470,000
Health and Human Services	2,718,533,954	258,251,939	2,976,785,893
Transportation and Construction	7,416,159	28,349	7,444,508
Board of Library Commissioners	7,109	-	7,109
Education	156,131,071	100,000	156,231,071
Economic Affairs	1,690,047	-	1,690,047
Public Safety	354,181,978	21,733,768	375,915,746
Elder Affairs	-	-	-
Consumer Affairs	68,373,918	250,000	68,623,918
Labor	17,074,367	-	17,074,367
Legislature	483,618	-	483,618
Total	4,264,501,351	623,272,097	4,887,773,448

SECTION 1C. For the fiscal year ending June thirtieth, nineteen hundred and ninety-four, the chief operating officer of each department, board, agency, commission and institution for which funds are appropriated and performance measures are established in sections two of this act shall file with the house and senate committees on ways and means reports on said performance measures. Said reports shall be filed quarterly within thirty days of the end of each fiscal quarter, unless required to be filed otherwise. Said reports shall include, but not be limited to, the statistical measures or other indicators of performance found under the column labeled "expected outputs" in said section two. The term "TBR" as used in said column shall mean "to be reported" and shall represent instances when 1) insufficient or unreliable information was available to establish a numerical or statistical performance measure; 2) the output to be reported involves more complex information than can be readily summarized by a single number or statistic; or 3) when the output to be reported consists of a plan, study, analysis, or other singular non-recurring expected output. Where a date is used as an expected output, the information to be reported or the action to be accomplished shall be reported or accomplished by said report date and notification shall be provided to said committees. Where a number or percentage is used as an expected output, said number or percentage shall, to the maximum feasible extent, be accompanied by an explanation of any qualifying conditions that limit or define the interpretation of each such number or percentage. The numerator and denominator used in the calculation of each such percentage shall be included in each such report. The mission statements, performance measures and expected outputs for each program established in section two shall not be construed as giving rise to enforceable legal rights in any party, but are strictly intended to serve as internal management tools for gauging the achievement of program objectives.

SECTION 2.

JUDICIARY

Supreme Judicial Court

Notwithstanding the provisions of section one to the contrary, items 0300-0000 to 0339-2100 are charged as follows:

General Fund	20.0%
Local Aid Fund	80.0%

0320-0001 For the salaries, traveling allowances, and expenses of the chief justice and the six associate justices; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six

hundred thirty-eight thousand seven hundred and nineteen dollars 660,719

0320-0003 For the salaries and expenses of the supreme judicial court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million, five hundred and nine thousand eight hundred and thirty-five dollars, including not more than fifty-seven positions 3,463,567

0320-0010 For the salaries and expenses of the clerk of the supreme judicial court for Suffolk county; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five hundred and seventy-one thousand four hundred and sixty-five dollars, including not more than fifteen positions 627,964

0321-0001 For the expenses of the commission on judicial conduct pro gram; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred sixty-five thousand five hundred seventy eight dollars, including not more than four positions 221,076

0321-0100 For the service of the board of bar examiners; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred ninety-two thousand six hundred sixty-seven dollars, including not more than eight positions 606,425

Committee for Public Counsel Services

0321-1500 For the salaries and expenses of the committee for public counsel services program, as authorized by chapter two hundred and eleven D of the General Laws, including expenses for an audit and oversight unit; provided, that during fiscal year nineteen hundred and ninety-four, no new leases or lease extensions may be signed in which the rental rate increases from the existing rate; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted pro-

viders paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eight million nine hundred thirteen thousand three hundred ninety two dollars, including not more than two hundred and fifty positions . . . 11,856,569

0321-1510 For the compensation of private counsel assigned to criminal cases under the provisions of subsection (b), section six of chapter two hundred eleven D of the General Laws, pursuant to section twelve of said chapter two hundred eleven D of the General Laws; provided, that the amount appropriated herein shall be expended for services rendered in fiscal year nineteen hundred and ninety-four only; provided, that the chief counsel may transfer funds to item 0321-1512 as necessary, pursuant to schedules submitted to the house and senate ways and means committees thirty days prior to any such transfer 25,599,343

0321-1512 For the compensation of private counsel assigned to family and mental health legal services under the provisions of subsection (b), section six of chapter two hundred eleven D of the General Laws, pursuant to section twelve of said chapter two hundred eleven D of the General Laws; provided, that the amount appropriated herein shall be expended for services rendered in fiscal year nineteen hundred and ninety-four only; provided further, that the chief counsel may transfer funds to item 0321-1510 as necessary, pursuant to schedules submitted to the house and senate ways and means committees thirty days prior to any such transfer 10,456,070

0321-1520 For the fees and costs, as defined in section twenty-seven A of chapter two hundred and sixty-one of the General Laws, as ordered by a justice of the appeals court or a justice of a department of the trial court of the commonwealth on be-

half of indigent persons, as defined in said section twenty-seven A of said chapter two hundred and sixty-one; provided, that the amount appropriated herein shall be expended for services rendered in fiscal year nineteen hundred and ninety-four only 2,405,466

0321-1530 Notwithstanding the provisions of chapter two hundred eleven D, 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, up to a maximum of five thousand dollars 5,000

Massachusetts Legal Assistance Corporation

0321-1600 For the Massachusetts legal assistance corporation to provide legal representation for indigent or otherwise disadvantaged residents of the commonwealth, including the disability benefits project, the Medicare advocacy project, and the battered women's legal assistance project; provided, that not less than one hundred fifty thousand dollars may be expended for a battered women's legal assistance project; provided further, that the first paragraph of section nine of chapter two hundred 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 1,710,073

Mental Health Legal Advisors Committee

0321-2000 For the expenses of the mental health legal advisors committee, and for certain programs for the indigent mentally ill, as provided in section thirty-four E of chapter two hundred twenty-one of the General Laws; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred and ninety thousand dollars, including not more than seven positions 260,204

Massachusetts Correctional Legal Services

0321-2100 For the Massachusetts correctional legal services committee 336,719

Social Law Library

0321-2205 For the 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

APPEALS COURT

0322-0100 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; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three million six hundred ninety-nine thousand two hundred dollars, including not more than seventy-eight positions 4,134,541

TRIAL COURT

0330-0100 For the trial court judges program; provided, that 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; and provided further, that nothing herein shall be construed to limit the authority of the chief justice of administration and management as enumerated in chapter two hundred and eleven B of the General Laws; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed twenty-four million two hundred thirteen thousand nine hundred and two dollars, including not more than two hundred and ninety-nine positions 24,713,750

0330-0300 For the office of the chief justice of administration and management; provided, that the Chief Justice of Administration and Management prior to June thirtieth, nineteen hundred and ninety-four shall conduct a study of the need and feasibility of establishing a third district court of Barnstable to be held at Falmouth to serve the communities of Bourne, Sandwich, Falmouth and Mashpee; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the pur-poses of the programs funded herein shall not exceed three million seven hundred sixty-four thousand and fifty-five dollars, including not more than ninety positions 3,876,967

0330-0400 For the non-employee services, including services performed by private individuals and contracted services performed by agencies for the individual court divisions of the trial court to be expended as determined by the chief justice of administration and management 9,500,000

0330-0600 For dental and optical health plan trust agreements 1,630,362

0330-1000 For trial court jury expenses 3,068,052

0330-2000 For the law libraries; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million two hundred twenty-eight thousand six hundred thirty-one dollars, including not more than thirty-two positions 3,133,790

0330-2010 For expenses related to computerized legal research 175,364

0330-2020 For centralized law book purchases 415,318

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 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 22,821,450

0330-2205 For the maintenance and operation of courthouse facilities for courthouses owned by the commonwealth; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six million six hundred seventy-three thousand eight hundred twenty-nine dollars, including not more than two hundred and thirty-six positions 9,720,472

0330-2300 For the cost of witness fees 600,073

0330-2600 For the travel expenses of judicial personnel; provided, that the chief justice of administration and management 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 so that newly appointed justices shall be given first priority for such training 800,531

0330-2700 For printing expenses 1,425,485

0330-2800 For the cost of equipment repairs 2,810,144

0330-3000 For equipment purchases and rentals; provided, that said purchases and rentals may be allocated by the chief justice of administration and management; provided further, that in purchasing said equipment, the chief justice of administration and management shall utilize the approved vendor determined by the state purchasing agent for such equipment whenever the terms offered by said vendor are more favorable than those otherwise available 500,000

0330-3200 For salaries and expenses of court officers; provided, that any court officer scheduled to work nineteen hundred and fifty hours, or more, in fiscal year nineteen hundred and ninety-two shall be considered a full-time court officer for fiscal year nineteen hundred and ninety-four; and provided further, that all other per diem court officers shall be paid the daily rate in accordance with collective bargaining agreements; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed fourteen million nine hundred six thousand nine hundred ten dollars, including not more than three hundred and eighty positions 15,153,777

0330-3201 For the trial court security program including personnel and expenses, provided that the chief justice of administration and management shall notify the house and senate committees on ways and means of all assignments and allocations .. 1,600,000

0330-3300 For the expenses of the trial court, including the payment of office, administrative, special, and maintenance and repair expenses in the trial court, to be allocated by the chief justice of administration and management, provided further, that §100,000 be appropriated for expenses to establish and maintain an indigency screening unit (I.S.U.) in not more than three courts to evaluate and verify the assets, income and expenses of any individual asserting his indigency and requesting the appointment of counsel, in accordance with the rules of the supreme judicial court; provided, that said unit shall conduct pre- and post-appointment reviews of indigency to ensure the veracity and accuracy of the information provided to the unit, and shall promptly report to the court its determination as to indigency; and provided further, that said unit shall on or before May 31, 1994, submit to the house and senate committees on ways and means a report which evaluates the cost effectiveness of the unit 682,620

0330-3700 For the court interpreters program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred seventy-one thousand nine hundred ninety-nine dollars, including not more than two positions 182,813

0330-4100 For salaries of individuals filling vacancies in the trial court; provided, that the chief justice for administration and management is hereby authorized and directed to expend funds from this item for employees salaries of individuals hired or approved for employment on or before July first, nineteen hundred and ninety-three; and provided further, that the comptroller is hereby authorized and directed to transfer funds from this item to other items of appropriation as appropriate and to adjust corresponding AA expenditure and personnel caps as appropriate and shall submit to the house and senate committees on ways and means a report detailing all such transfers and adjustments by September fifteenth, nineteen hundred and ninety-three 4,068,905

0330-4200 For a reserve for the salaries and expenses of the trial court to be allocated by the chief justice of administration and management; provided, that the chief justice of administration and management shall report quarterly expenditures from this item to the house and senate committees on ways and means; provided further, that up to five hundred thousand dollars of this item may be transferred from this item to item 0337-0003 for the purpose of implementing a statewide juvenile court; and provided further, that the chief justice of administration and management shall report such transfers to the house and senate committees on ways and means no less than fourteen days previous to the transfer ... 2,140,000

Superior Court Department

0331-0100 For the administrative office of the superior court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three million six hundred thirty-three thousand nine hundred and ninety-four dollars, including not more than one hundred and three positions 3,712,583

0331-0300 For the expenses of the medical malpractice tribunals established 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 superior court probation services; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six million eight hundred thirty-three thousand three hundred nine dollars, including not more than one hundred and eighty positions . . . 6,988,672

0331-2100 For the Barnstable superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred four thousand four hundred and one dollars, including not more than twelve positions 433,656

0331-2200 For the Berkshire superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred sixty-two thousand eight hundred thirty-six dollars, including not more than four positions 177,373

0331-2300 For the Bristol superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred twenty-seven thousand four hundred nine dollars, including not more than twenty-one positions 780,584

0331-2400 For the Dukes superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed ninety-one thousand three hundred eight dollars, including not more than two positions 94,427

0331-2500 For the Essex superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall have au-

thority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million one hundred thirty-five thousand five hundred thirty-two dollars, including not more than thirty-five positions 1,225,433

0331-2600 For the Franklin superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two hundred twenty-nine thousand five hundred thirty-nine dollars, including not more than six positions 241,100

0331-2700 For the Hampden superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that expenditures made made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the

programs funded herein shall not exceed nine hundred nineteen thousand four hundred eight dollars, including not more than twenty-five positions 946,788

0331-2800 For the Hampshire superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two hundred sixty-six thousand two hundred forty-six dollars, including not more than seven positions 284,115

0331-2900 For the Middlesex superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million four hundred forty-four thousand eight hundred sixty-five dollars, including not more than seventy-six positions 2,585,475

0331-3000 For the Nantucket superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eighty-seven thousand two hundred twenty-seven dollars, including not more than two positions 92,720

0331-3100 For the Norfolk superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eight hundred ninety-five thousand six hundred twenty-one dollars, including not more than twenty-seven positions 932,630

0331-3200 For the Plymouth superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall

have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred seventy thousand fifty-three dollars, including not more than twenty-two positions 799,375

0331-3300 For the Suffolk superior civil court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million five hundred thirteen thousand three hundred four dollars, including not more than ninety positions 2,585,143

0331-3400 For the Suffolk superior criminal court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; provided further, that no less than sixty-five thousand dollars shall be expended on said clerk's

duties as clerk of the appellate division for the superior court for the commonwealth; and provided further, that no less than forty-six thousand dollars shall be expended for the purpose of holding the unified session for sexually dangerous persons, pursuant to section nine of chapter one hundred and twenty-three A of the General Laws; and provided further, that not less than two hundred thousand dollars shall be expended for a pilot program in the county of Suffolk for the purpose of assigning persons on probation to perform community work service including the development of a record keeping and recording system; provided further, that the administration of said pilot program shall be subject to the approval of the chief justice of administration and management; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million five hundred thirteen thousand nine hundred twenty-one, including not more than forty-six positions 1,540,546

0331-3500 For the Worcester superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section ten A of chapter two hundred and eleven B of the General Laws; and as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million fifty-three thousand eight hundred forty-nine dollars, including not more than thirty-one positions 1,089,466

DISTRICT COURT DEPARTMENT

0332-0100 For the administrative office of the district court department; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million one hundred three thousand one hundred fifty-three dollars, including not more than twenty-six positions 1,195,585

0332-1100 For the first district court of Barnstable; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million five hundred six thousand three hundred twenty-seven dollars, including not more than forty-five positions 1,573,759

0332-1200 For the second district court of Barnstable (Orleans); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred forty-eight thousand three hundred ninety-six dollars, including not more than twenty-two positions 786,103

0332-1300 For the district court of northern Berkshire (Adams, North Adams, Williamstown); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred ninety-nine thousand eight hundred seventy-eight dollars, including not more than thirteen positions 527,892

0332-1400 For the district court of central Berkshire (Pittsfield); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eight hundred one thousand three hundred eighty-four dollars, including not more than twenty-four positions 837,516

0332-1500 For the district court of southern Berkshire (Great Barrington, Lee); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred sixty-three thousand seven hundred seventy-seven dollars, including not more than nine positions 384,337

0332-1600 For the first district court of Bristol (Taunton); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred ninety-three thousand five hundred twenty-four dollars, including not more than twenty-six positions 846,629

0332-1700 For the second district court of Bristol (Fall River); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million six hundred thirty-two thousand four hundred ninety-nine dollars, including not more than forty-nine positions 1,728,820

0332-1800 For the third district court of Bristol (New Bedford); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million six hundred six thousand four hundred forty-six dollars, including not more than fifty-one positions 1,718,954

0332-1900 For the fourth district court of Bristol (Attleboro); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred forty thousand seventy-eight dollars, including not more than twenty-two positions 785,087

0332-2000 For the district court of Edgartown; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two hundred ninety-three thousand eight hundred thirty-four dollars, including not more than eight positions 308,455

0332-2100 For the first district court of Essex (Salem); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million three hundred forty-three thousand eight hundred forty-six dollars, including not more than forty positions 1,420,301

0332-2300 For the third district court of Essex (Ipswich); provided, that expenditures made from the AA subsidiary, so-called, of

this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred sixty-eight thousand seven hundred ninety-nine dollars, including not more than five positions 180,268

0332-2400 For the central district court of northern Essex (Haverhill); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million one hundred thirty thousand eight hundred thirty-seven dollars, including not more than thirty positions 1,180,918

0332-2500 For the district court of eastern Essex (Gloucester); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six hundred thirty-seven thousand four hundred thirty dollars, including not more than seventeen position 667,595

0332-2600 For the district court of Lawrence; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million eight hundred ninety-two thousand six hundred two dollars, including not more than fifty-seven positions 1,995,375

0332-2700 For the district court of southern Essex (Lynn); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million five hundred ninety-nine thousand one hundred ninety dollars, including not more than forty-nine positions 1,688,905

0332-2800 For the district court of Newburyport; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed nine hundred fifty-two thousand nine hundred forty-seven dollars, including not more than twenty-seven positions 998,183

0332-2900 For the district court of Peabody; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eight hundred eighty thousand three hundred eleven dollars, including not more

than twenty-five positions 942,744

0332-3000 For the district court of Greenfield; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred thousand sixty-six dollars, including not more than twenty-one positions 731,949

0332-3100 For the district court of Orange; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two hundred two thousand twenty-six dollars, including not more than seven positions 218,154

0332-3200 For the district court of Chicopee; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred twenty-nine thousand nine hundred sixty-three dollars, including not more than twenty positions 758,491

0332-3300 For the district court of Holyoke; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred seven thousand five hundred ninety-six dollars, including not more than twenty-one positions 736,109

0332-3400 For the district court of eastern Hampden (Palmer); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five hundred forty seven thousand eight hundred twenty-six dollars, including not more than fourteen positions 578,021

0332-3500 For the district court of Springfield; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million nine hundred sixty-eight thousand five hundred forty-one dollars, including not more than eighty-four positions 3,071,199

0332-3600 For the district court of western Hampden (Westfield); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with

the purposes of the programs funded herein shall not exceed five hundred twenty thousand two hundred three dollars, including not more than seventeen positions 559,896

0332-3700 For the district court of Hampshire (Northampton); provided, that of the amount appropriated herein, fifty thousand dollars shall be expended for an alternative probation program "Honor Court", so called; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million two hundred fifty-nine thousand eighty-five dollars, including not more than thirty-five positions 1,360,275

0332-3800 For the district court of eastern Hampshire (Ware); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred fifty-two thousand one hundred eighty-four dollars, including not more than ten positions 374,381

0332-3900 For the district court of Lowell; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million four hundred twenty thousand eleven dollars, including not more than seventy position 2,504,681

0332-4000 For the district court of Somerville; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million five hundred seventy-five thousand eight hundred eighty-nine dollars, including not more than forty-four positions 1,644,588

0332-4100 For the district court of Newton component of the district court program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five hundred seventy-six thousand one hundred ten dollars, including not more than seventeen positions 611,789

0332-4200 For the district court of Marlborough; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the

programs funded herein shall not exceed six hundred seventy-seven thousand six hundred thirteen dollars, including not more than twenty positions 732,245

0332-4300 For the district court of Natick; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six hundred thirty-eight thousand five hundred ten dollars, including not more than seventeen positions 681,382

0332-4400 For the district court of eastern Middlesex (Malden); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million nine hundred twenty-eight thousand two hundred eighty-three dollars, including not more than fifty-two positions 1,989,197

0332-4500 For the second district court of eastern Middlesex (Waltham); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million one hundred seventy-five thousand five hundred thirty-seven dollars, including not more than thirty-three positions 1,234,561

0332-4600 For the third district court of eastern Middlesex (Cambridge); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million seven hundred eighty-eight thousand three hundred forty-one dollars, including not more than seventy-nine positions 2,854,388

0332-4700 For the fourth district court of eastern Middlesex (Woburn); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million three hundred eighty thousand six hundred thirty-nine dollars, including not more than forty-one positions 1,455,096

0332-4800 For the first district court of northern Middlesex (Ayer); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not

exceed eight hundred twenty-one thousand eight hundred fifty dollars, including not more than twenty-four positions ... 867,008

0332-4900 For the first district court of southern Middlesex (Framingham);provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million six hundred sixty-eight thousand two hundred eighteen dollars, including not more than forty-five positions 1,752,964

0332-5000 For the district court of central Middlesex (Concord); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eight hundred fourteen thousand seven hundred sixty-eight dollars, including not more than twenty-five positions 860,776

0332-5100 For the district court of Nantucket; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred sixty-six thousand fifty-two dollars, including not more than four positions 180,638

0332-5200 For the district court of northern Norfolk (Dedham); provided, ed that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million four hundred thirty-five thousand seven hundred eighteen dollars, including not more than forty-one positions 1,490,766

0332-5300 For the district court of eastern Norfolk (Quincy); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million nine hundred sixty-eight thousand seven hundred ninety-nine dollars, including not more than one hundred and three positions 3,049,924

0332-5400 For the district court of western Norfolk (Wrentham); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million thirty-three thousand six hundred ninety-four dollars, including not more than twenty-six positions 1,070,828

0332-5500 For the district court of southern Norfolk (Stoughton); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million one hundred thirty-one thousand one hundred fifty dollars, including not more than thirty-four positions ... 1,170,441

0332-5600 For the municipal court of Brookline; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six hundred seventy-five thousand six hundred sixty-four dollars, including not more than seventeen positions 713,694

0332-5700 For the district court of Brockton; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million two hundred thirty-nine thousand five hundred forty-five dollars, including not more than sixty-two positions 2,351,357

0332-5800 For the second district court of Plymouth (Hingham); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million two hundred twenty-one thousand one hundred fifty-two dollars, including not more than thirty-six positions 1,284,098

0332-5900 For the third district court of Plymouth (Plymouth); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million two hundred forty thousand two hundred seventy-nine dollars, including not more than thirty-seven positions .. 1,291,599

0332-6000 For the fourth district court of Plymouth (Wareham); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million ninety-eight thousand ninety-eight dollars, including not more than thirty-six positions 1,163,166

0332-6100 For the district courts of Brighton component of the district court program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded

herein shall not exceed eight hundred two thousand seven hundred forty-four dollars, including not more than twenty-three positions 850,572

0332-6200 For the district court of Charlestown; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six hundred sixty-eight thousand nine hundred fifty-one dollars, including not more than eighteen positions 709,567

0332-6300 For the district court of Chelsea; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million five hundred thirty-seven thousand seven hundred thirty-one dollars, including not more than forty-two positions 1,605,306

0332-6400 For the district court of Dorchester; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three million five hundred forty-five thousand nine hundred twenty-four dollars, including not more than one hundred and four positions 3,712,355

0332-6500 For the district court of East Boston; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million one hundred thirty-five thousand eight hundred twenty dollars, including not more than thirty-four positions 1,173,499

0332-6600 For the district court of Roxbury; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three million two hundred twenty-five thousand four hundred eighty-nine dollars, including not more than ninety-three positions 3,368,580

0332-6700 For the district court of South Boston; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred sixty-four thousand five hundred seventy dollars, including not more than twenty positions 802,383

0332-6800 For the district court of West Roxbury; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million five hundred ninety-three thousand nine hundred twenty-two dollars, including not more than fifty-two positions 1,661,218

0332-6900 For the central district court of Worcester; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million seven hundred twenty-two thousand eight hundred sixty-eight dollars, including not more than eighty-four positions . 2,811,239

0332-7000 For the district court of Fitchburg; provided, that no less than one hundred thousand dollars be made available for the repair of the Fitchburg district court facility; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eight hundred twenty-one thousand thirty-eight dollars, including not more than twenty-one positions 874,956

0332-7100 For the district court of Leominster; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred thirteen thousand seven hundred twenty-six dollars, including not more than twelve positions 448,441

0332-7200 For the district court of Winchendon; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eighty-six thousand six hundred seven dollars, including not more than two positions 94,877

0332-7300 For the first district court of northern Worcester (Gardner); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six hundred thirty-four thousand nine hundred ninety dollars, including not more than eighteen positions 661,926

0332-7400 For the first district court of eastern Worcester (Westborough); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated

with the purposes of the programs funded herein shall not exceed six hundred twenty-six thousand five hundred forty-nine dollars, including not more than twenty positions 674,829

0332-7500 For the second district court of eastern Worcester (Clinton); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred eighty-three thousand eight hundred three dollars, including not more than thirteen positions 418,416

0332-7600 For the first district court of southern Worcester (Dudley); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred fourteen thousand two hundred forty-eight dollars, including not more than twenty-one positions 763,558

0332-7700 For the second district court of southern Worcester (Uxbridge); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred twenty-two thousand five hundred nineteen dollars, including not more than thirteen positions 445,525

0332-7800 For the third district court of southern Worcester (Milford); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred seventy-six thousand five hundred thirty-eight dollars, including not more than twenty-one positions 831,079

0332-7900 For the district court of western Worcester (Spencer); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred thirty-six thousand eight hundred forty-three dollars, including not more than twelve positions 470,292

Probate and Family Court Department

0333-0002 For the administrative office of the probate and family court department; provided, that expenditures made from the AA

subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred nineteen thousand seven hundred fifty dollars, including not more than nine positions 740,323

0333-0100 For the Barnstable probate court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six hundred fifty-five thousand one hundred eleven dollars, including not more than nineteen positions 672,896

0333-0200 For the Berkshire probate court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred fifty-five thousand six hundred sixty-one dollars, including not more than thirteen positions 468,149

0333-0300 For the Bristol probate court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million four hundred eighty-six thousand eight hundred sixty dollars, including not more than forty-three positions 1,566,277

0333-0400 For the Dukes probate court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred thirty-six thousand three hundred forty-six dollars, including not more than three positions 140,403

0333-0500 For the Essex probate court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million five hundred seventy-nine thousand three hundred twenty-three dollars, including not more than forty-seven positions 1,674,771

0333-0600 For the Franklin probate court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred eighty-three thousand seven dollars, including not more than ten positions 391,547

0333-0700 For the Hampden probate court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million six hundred fifty-thousand four hundred nine dollars, including not more than fifty-nine positions 1,704,151

0333-0800 For the Hampshire probate court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five hundred forty thousand one hundred sixty-six dollars, including not more than fifteen positions 561,868

0333-0900 For the Middlesex probate court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three million two hundred seventy-four thousand eight hundred forty dollars, including not more than ninety-three positions 3,387,592

0333-0911 For the Middlesex probate court family services clinic; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred eighteen thousand eight hundred nine dollars, including not more than three positions 119,760

0333-1000 For the Nantucket probate court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred four thousand three hundred sixty-seven dollars, including not more than two positions 107,854

0333-1100 For the Norfolk probate court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million one hundred eighty-one thousand four hundred twenty-seven dollars, including not more than sixty positions 2,242,310

0333-1111 For the Norfolk probate court family services clinic; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred thirteen thousand eight hundred six dollars, in-

	including not more than three positions	115,978
0333-1200	For the Plymouth probate court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million four hundred ninety-seven thousand three hundred twenty-three dollars, including not more than forty-six positions	1,551,262
0333-1300	For the Suffolk probate court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million four hundred forty thousand one hundred dollars, including not more than seventy-four positions	2,506,210
0333-1400	For the Worcester probate court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million six hundred sixty-six thousand six hundred seventy-five dollars, including not more than forty-seven positions	1,720,611

Land Court Department

0334-0001	For the land court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million twenty-four thousand two hundred thirteen dollars, including not more than fifty-two positions	2,120,664

Boston Municipal Court Department

0335-0001	For the Boston municipal court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five million four hundred ninety-five thousand seven hundred ninety-five dollars, including not more than one hundred and sixty-four positions	5,667,211

Housing Court Department

0336-0002 For the administrative office of the housing court department; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eighty-one thousand three hundred sixty dollars, including not more than two positions 81,360

0336-0100 For the Boston housing court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eight hundred thirty-one thousand five hundred ninety-six dollars, including not more than twenty-four positions 865,396

0336-0200 For the Hampden housing court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred fifty-four thousand seven hundred sixty-one dollars, including not more than eleven positions 378,181

0336-0300 For the Worcester housing court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred four thousand seven hundred five dollars, including not more than nine positions 328,035

0336-0400 For the Southeastern housing court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred thirty-seven thousand ninety-eight dollars, including not more than ten positions 350,889

0336-0500 For the Northeastern housing court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred six thousand four hundred three dollars, including not more than nine positions 328,784

Juvenile Court Department

0337-0002	For the administrative office of the juvenile court; provided, that expenditures made from the AA subsidiary, so-call-ed, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred thirty-six thousand three hundred thirty dollars, including not more than twelve positions	352,547
0337-0003	For salaries and expenses of the statewide juvenile court expansion; provided, that the chief justice of administration and management shall notify the house and senate committees on ways and means of all assignments and allocations	500,000
0337-0100	For the Boston juvenile court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three million three hundred ten thousand seventy dollars, including not more than ninety-six positions	3,352,960
0337-0200	For the Bristol juvenile court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million five hundred eight thousand one hundred eighty-five dollars, including not more than forty-eight positions	1,602,415
0337-0300	For the Springfield juvenile court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million eighty-one thousand one hundred forty-two dollars; provided that no more than thirty thousand dollars be used as a grant for the CASA of Springfield program, including not more than thirty-five positions	1,119,957
0337-0400	For the Worcester juvenile court; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred eighty thousand five hundred six dollars, including not more than twenty-nine positions	830,091

Office of the Commissioner of Probation

0339-1001 For the office of the commissioner of probation; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million three hundred sixty-seven thousand eight hundred forty-six dollars, including not more than sixty-three positions 3,014,210

Office of the Jury Commissioner

0339-2100 For the office of the jury commissioner; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six hundred twenty-four thousand forty one dollars, in accordance with chapter two hundred and thirty-four A of the General Laws, including jury expenses, including not more than twenty-one positions 1,757,188

DISTRICT ATTORNEYS

Suffolk District Attorney

0340-0100 For the salaries and expenses of the Suffolk district attorney, including not more than one hundred and ninety positions ... 6,872,869

General Fund 20.0%

Local Aid Fund 80.0%

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 fifty-eight B of the General Laws, including salaries and expenses for litigation, including not more than twenty positions 507,296

Victim and Witness Assistance Fund 100.0%

0340-0135 For the salaries and expenses of the Suffolk district attorney's child abuse litigation unit, including not more than five positions 138,708

Victim and Witness Assistance Fund 100.0%

0340-0195 For the domestic violence prosecution program of the Suffolk district attorney's office, including not more than six positions 156,010

General Fund 20.0%
Local Aid Fund 80.0%

Federal Appropriations

0340-0151 For the purposes of a federally funded grant entitled, Financial Investigations 200,000

0340-0517 For the purposes of a federally funded grant entitled, Child Support Enforcement 41,326

0340-0525 For the purposes of a federally funded grant entitled, Drug Enforcement 82,908

0340-0526 For the purposes of a federally funded grant entitled, Second Jury Session in Holyoke District Court 118,000

Northern District Attorney

0340-0200 For the salaries and expenses of the Northern district attorney, including not more than one hundred forty-five positions 5,457,602
General Fund 20.0%
Local Aid Fund 80.0%

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 fifty-eight B of the General Laws, including salaries and expenses for litigation, including not more than nineteen positions 590,174
Victim and Witness Assistance Fund 100.0%

0340-0235 For the salaries and expenses of the Northern district attorney's child abuse litigation unit, including not more than seven positions 192,189
Victim and Witness Assistance Fund 100.0%

0340-0295 For the domestic violence prosecution program of the Northern district attorney's office, including not more than five positions 182,666
General Fund 20.0%
Local Aid Fund 80.0%

Eastern District Attorney

0340-0300 For the salaries and expenses of the Eastern district attorney, including not more than eighty-two positions 3,331,507

General Fund 20.0%
Local Aid Fund 80.0%

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 fifty-eight B of the General Laws, including salaries and expenses for litigation, including not more than sixteen positions 421,363
Victim and Witness Assistance Fund 100.0%

0340-0335 For the salaries and expenses of the Eastern district attorney's child abuse litigation unit, including not more than four positions 128,660
Victim and Witness Assistance Fund 100.0%

0340-0337 The office of the Eastern district attorney is hereby authorized to expend revenues collected up to a maximum of twenty-five thousand dollars, from royalty income from book publication contracts entered into during current or prior fiscal years and from donations from charitable foundations, for the child abuse prosecution program 25,000

0340-0395 For the domestic violence prosecution program of the Eastern district attorney's office, including not more than six positions 166,279
General Fund 20.0%
Local Aid Fund 80.0%

Middle District Attorney

0340-0400 For the salaries and expenses of the Middle district attorney, including not more than eighty-six positions 3,935,350
General Fund 20.0%
Local Aid Fund 80.0%

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 fifty-eight B of the General Laws, including salaries and expenses for litigation, including not more than eight positions 307,334
Victim and Witness Assistance Fund 100.0%

0340-0435 For the salaries and expenses of the Middle District Attorney's child abuse litigation unit, including not more than four positions 156,311
Victim and Witness Assistance Fund 100.0%

0340-0495 For the domestic violence prosecution program of the Middle district attorney's office, including not more than five positions 136,368
General Fund 20.0%
Local Aid Fund 80.0%

Western District Attorney

0340-0500 For the salaries and expenses of the Western district attorney, including not more than sixty-eight positions 2,577,714
General Fund 20.0%
Local Aid Fund 80.0%

0340-0530 For the victim and witness assistance program of the Western district attorney's office, in accordance with the provisions of chapter two hundred fifty-eight B of the General Laws, including salaries and expenses for litigation, including not more than thirteen positions 362,070
Victim and Witness Assistance Fund 100.0%

0340-0535 For the salaries and expenses of the Western District Attorney's child abuse litigation unit, including not more than five positions 152,131
Victim and Witness Assistance Fund 100.0%

0340-0595 For the domestic violence prosecution program of the Western district attorney's office, including not more than six positions 152,553
General Fund 20.0%
Local Aid Fund 80.0%

Northwestern District Attorney

0340-0600 For the salaries and expenses of the Northwestern district attorney, including not more than thirty-seven positions 1,682,924
General Fund 20.0%
Local Aid Fund 80.0%

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 fifty-eight B of the General Laws, including salaries and expenses for litigation, including not more than thirteen positions 325,216
Victim and Witness Assistance Fund 100.0%

0340-0635 For the salaries and expenses of the Northwestern district attorney's child abuse litigation unit, including not more than one position 21,089
Victim and Witness Assistance Fund 100.0%

0340-0695 For the domestic violence prosecution program of the Northwestern district attorney's office, including not more than six positions 187,256
General Fund 20.0%
Local Aid Fund 80.0%

Norfolk District Attorney

0340-0700 For the salaries and expenses of the Norfolk district attorney, including not more than sixty-eight positions 3,252,427
General Fund 20.0%
Local Aid Fund 80.0%

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 fifty-eight B of the General Laws, including salaries and expenses for litigation, including not more than thirteen positions 419,163
Victim and Witness Assistance Fund 100.0%

0340-0735 For the salaries and expenses of the Norfolk District Attorney's child abuse litigation unit, including not more than three positions 90,488
Victim and Witness Assistance Fund 100.0%

0340-0795 For the domestic violence prosecution program of the Norfolk district attorney's office, including not more than five positions 167,441
General Fund 20.0%
Local Aid Fund 80.0%

Plymouth District Attorney

0340-0800 For the salaries and expenses of the Plymouth district attorney, including not more than sixty-four positions 2,550,252
General Fund 20.0%
Local Aid Fund 80.0%

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 fifty-eight B of the General

Laws, including salaries and expenses for litigation, including not more than twelve positions 409,895
Victim and Witness Assistance Fund 100.0%

0340-0835 For the salaries and expenses of the Plymouth district attorney's child abuse litigation unit, including not more than four positions 122,054
Victim and Witness Assistance Fund 100.0%

0340-0895 For the domestic violence program of the Plymouth district attorney's office, including not more than four positions 144,955
General Fund 20.0%
Local Aid Fund 80.0%

Bristol District Attorney

0340-0900 For the salaries and expenses of the Bristol district attorney, including not more than fifty-nine positions 2,721,318
General Fund 20.0%
Local Aid Fund 80.0%

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 fifty-eight B of the General Laws, including salaries and expenses for litigation, including not more than fifteen positions 397,546
Victim and Witness Assistance Fund 100.0%

0340-0935 For the salaries and expenses of the Bristol district attorney's child abuse litigation unit, including not more than five postions 114,751
Victim and Witness Assistance Fund 100.0%

0340-0995 For the domestic violence prosecution program of the Bristol district attorney's office, including not more than three positions 107,160
General Fund 20.0%
Local Aid Fund 80.0%

Cape and Islands District Attorney

0340-1000 For the salaries and expenses of the Cape and Islands district atttorney, including not more than twenty-four positions 1,159,575
General Fund 20.0%
Local Aid Fund 80.0%

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 fifty-eight B of the General Laws, including salaries and expenses for litigation, including not more than nine positions 292,885
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, including not more than two positions 44,522
Victim and Witness Assistance Fund 100.0%

0340-1095 For the domestic violence prosecution program of the Cape and Islands district attorney's office, including not more than four positions 143,035
General Fund 20.0%
Local Aid Fund 80.0%

Berkshire District Attorney

0340-1100 For the salaries and expenses of the Berkshire district attorney, including not more than twenty-two positions 981,596
General Fund 20.0%
Local Aid Fund 80.0%

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 fifty-eight B of the General Laws, including salaries and expenses for litigation, including not more than nine positions 266,882
Victim and Witness Assistance Fund 100.0%

0340-1135 For the salaries and expenses of the Berkshire district attorney's child abuse litigation unit, including not more than one position 16,853
Victim and Witness Assistance Fund 100.0%

0340-1195 For the domestic violence prosecution program of the Berkshire district attorney's office, including not more than three positions 129,477
General Fund 20.0%
Local Aid Fund 80.0%

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 ninety-three; and provided further, that expenses may be charged directly to this item, including not more than three positions 884,204

General Fund 20.0%
Local Aid Fund 80.0%

EXECUTIVE

0411-1000 For the salaries and expenses of the offices of the governor and lieutenant governor and governor's council pursuant to sections three, four, and seven of chapter six of the General Laws, and for the salaries and expenses of the administrative office pursuant to sections six and six A of chapter six of the General Laws; and for the payment of extraordinary expenses not otherwise provided for, and for transfer to appropriation accounts where the amounts otherwise available are insufficient 4,264,530

Governor's Commission on Mental Retardation

0411-1010 For the governor's commission on mental retardation 200,000

SECRETARY OF STATE

0511-0000 For the administration and expenses of the office of the secretary; provided, that seventy-two thousand dollars shall be expended for review of corporate annual statements by the corporations division, 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; provided further, that one hundred three thousand dollars shall be expended for the costs of notifying publicly traded corporations of their obligation to

file tax information and for the related costs of the corporate tax filing program, including the costs of personnel, in accordance with chapter four hundred two of the acts of nineteen hundred ninety-two; provided further, that one hundred and ninety-two thousand dollars shall be expended for the purposes of maintaining a computerized corporate library; and provided further, that no transfer of personnel or compensation for personnel from one item to another shall occur without the prior notification of the house and senate committees on ways and means, including not more than one hundred fifty-seven positions 5,783,902

0511-0200 For the administration of the archives division, including not more than thirteen positions 444,538

0511-0230 For the expenses of the record center, including not more than four positions 155,657

0511-0250 For the maintenance and operation of the archives facilities, including not more than eight positions 570,156

0511-0260 For the administration of the commonwealth museum, including not more than six positions 227,276

0517-0000 For the printing of public documents, including not more than eight positions 1,277,787

0521-0000 For the elections division, including preparation, printing and distribution of ballots and for other miscellaneous expenses for primary and other elections, including not more than nineteen positions 1,732,754

Local Aid Fund 100.0%

0524-0000 For the information to voters, including not more than one position 44,000

Local Aid Fund 100.0%

0526-0100 For the Massachusetts historical commission; provided, that not less than fifty-thousand dollars shall be expended for historic preservation grants, including not more than twenty-two positions 620,692

0527-0100 For the ballot law commission 19,757

0528-0100 For the records conservation board, including not more than one position 29,758

Federal Appropriations

0526-0105 For the purposes of a federally funded grant entitled, Massachu-

setts Statewide Historical Survey 680,000

0526-0115 For the purposes of a federally funded grant entitled, Massachusetts Historical Commission - Federal Preservation Grants 242,000

TREASURER AND RECEIVER-GENERAL
Office of the Treasurer and Receiver-General

0610-0000 For the office of the treasurer and receiver-general; provided, that not more than four million two hundred twenty-four thousand dollars of the amount appropriated herein shall be expended for the payment of bank fees; provided further, that the treasurer shall provide computer services required by the teachers' retirement board, including not more than one hundred and twenty-one positions 10,374,684

General Fund 50.0%
Highway Fund 10.0%
Local Aid Fund 40.0%

0610-1500 For tuition payments as required by section twelve B of chapter seventy-six of the General Laws, as appearing in section sixty-one of chapter seventy-one of the acts of nineteen hundred ninety three, notwithstanding the provisions of chapter twenty-nine of the General Laws to the contrary, the state treasurer is hereby authorized 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 items 7061-0008 and 0611-5500 and from the amounts specified in section three of this act, in accordance with the provisions of section twelve B of chapter seventy-six of the General Laws, as appearing in section sixty-one of chapter seventy-one of the acts of nineteen hundred ninety three

0611-1000 For bonus payments to war veterans 19,000

0611-5000 For compensation to victims of violent crimes; provided, that notwithstanding the provisions of section five of chapter two hundred 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 pro-visions 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 fifty-eight A of the General Laws; provided further, that no funds appropriated herein shall be expended for acute hospital services 2,454,843

General Fund 78.21%

Victim and Witness Assistance Fund 21.79%

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 that have constructed abatement facilities; provided, however, that said distribution to said public entities shall equal one million, two hundred forty-nine thousand, nine hundred forty-eight dollars 477,565,226

Local Aid Fund 100.0%

0611-5501 For a one-time payment of municipal stabilization local aid, to be distributed from the local aid fund in accordance with the formula used to distribute the State Lottery Fund local aid as listed in section three of this act; provided, that notwithstanding the provisions of chapter seventy of the General Laws or any other general or special law to the contrary, receipt of the municipal stabilization local aid shall in no way affect a municipality's obligations regarding education financing and shall be available for unrestricted use by the municipalities 20,000,000

Local Aid Fund 100%

0611-5510 For reimbursements to cities and towns in lieu of taxes on state-owned land pursuant to sections thirteen to seventeen, inclusive, of chapter fifty-eight of the General Laws 6,500,000

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 ninety-two; and provided further, that no city or town shall receive more

than the amount so certified for that city or town 1,280,181
Local Aid Fund 100.0%

State Board of Retirement

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; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed nine hundred ninety-two thousand three hundred sixty-six dollars, including not more than thirty positions 1,410,116

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 sections 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, 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 herein described shall be made only pursuant to distribution

of monies from said fund; provided further, that any such distribution and the payments for which distributions are required shall be detailed in a written report filed quarterly 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-three to the house and senate committees on ways and means detailing all retirement benefits paid to the mem-bers of the state employees' and teachers' retirement sys-tems, 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-three; 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-three; provided further, that any request for distribution from said fund shall not be in excess of the amount necessary to provide sufficient monies to make all payments for the purposes herein before described; and provided further, that no funds may be expended from this item, other than deposits to the commonwealth's pension liability fund 916,887,384

General Fund 33.9%
Local Aid Fund 59.0%
Highway Fund 7.0%
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-four; 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 by May twentieth, nineteen hundred and ninety-four; provided further, that notwithstanding any general or special law to the contrary, the Pension Reserve Investment Trust Fund shall reimburse the General Fund for the costs of this appropriation on or before June thirtieth, nineteen hundred ninety-four 272,304

Local Aid Fund 100.0%

0612-2000 For the authorization of retirement benefits pursuant to chapters seven hundred twelve and seven hundred twenty-one of the acts of nineteen hundred eighty-one, chapter one hundred fifty-four of the acts of nineteen hundred eighty-three, chapter sixty-seven of the acts of nineteen hundred eighty-eight, and chapter six hundred twenty-one of the acts of nineteen hundred 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, 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 23,500,000

General Fund 82.2%

Highway Fund 17.8%

Commission on Firemen's Relief

0620-0000 For the financial assistance to injured firemen program 9,808
Local Aid Fund 100.0%

Emergency Finance Board

0630-0000 For the expenses of the emergency finance 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; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed sixty-two thousand sixty dollars, including not more than five positions 66,500
Local Aid Fund 100.0%

State Lottery Commission

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, 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; 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; provided further, that no funds shall be expended from this item for any costs associated with advertising lottery games; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eighteen million seven hundred seventy-four thousand fifty-five dollars, including not more than four hundred and six positions 57,069,913

Lottery Advertising

0640-0010 For the purpose of advertising associated with the state lottery program; provided, that twenty-five percent of this appropriation shall be transferred from the State Lottery Fund to the General Fund quarterly; provided further, that the funds made available herein shall be the only funds made available for advertising lottery games; and provided further, that no non-appropriated funds shall be expended for the purposes of advertising lottery games 3,600,000

0640-0096 For the purpose of the commonwealth's fiscal year nineteen hundred ninety-four 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

Local Aid Fund 100.0%

Massachusetts Cultural Council

0640-0300 For the services and operations of the council; provided, that notwithstanding the provisions of any general or special law to the contrary, the council may expend the amounts herein appropriated for the purposes of the council as provided in sections fifty-two to fifty-eight, inclusive, of chapter ten of

the General Laws, 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 further, that twenty-five percent of this appropriation shall be transferred from the Arts Lottery Fund to the General Fund quarterly; 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; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six hundred thirty-four thousand one hundred eleven dollars, including not more than twenty positions 6,153,420

Federal Appropriations

0640-9717 For the purposes of a federally funded grant entitled, Promotion of Arts, Basic State Grant 522,000

0640-9718 For the purposes of a federally funded grant entitled, Promotion of Arts, Arts in Education 125,000

0640-9722 For the purposes of a federally funded grant entitled, Promotion of Arts, Basic Salary Assistance 30,000

Debt Service

0699-0090 For debt service associated with the Dedicated Income Tax Bonds, Fiscal Recovery Loan Act of nineteen hundred ninety 272,109,825

Commonwealth Fiscal Recovery Fund ... 100.0%

0699-0100 For payments related to bonds issued pursuant to chapter one hundred fifty-one of the acts of nineteen hundred ninety due under agreements entered into pursuant to section thirty-eight C of chapter twenty-nine of the General Laws 6,600,000

0699-1901 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 46,782,200

Local Aid Fund 100.0%

0699-1902 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 4,680,044

Local Aid Fund 100.0%

0699-1903 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 22,653,600

Local Aid Fund 100.0%

0699-3901 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, and 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 271,271,177

0699-3902 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, and 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 5,408,411

0699-3903 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, and 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 361,450,180

0699-3910 For the payment of interest, discount and principal on certain bonded debt of the commonwealth associated with the Watershed Management Fund for the acquisition of development rights and other interests in land, including fee simple acquisitions of watershed lands of the Quabbin and Wachusett reservoirs and the Ware river watershed above the Ware river intake pipe 400,000

Watershed Management Fund 100.0%

0699-6800 For the payment of interest on certain bonded debt of the commonwealth; provided, that not more than eleven million dollars of the amount appropriated herein may be expended for the payment of interest, principal, redemption price, funding of reserves and other costs relating to special obligation bonds issued pursuant to the provisions of section two O of chapter twenty-nine of the General Laws; provided further, that said expenditures shall be charged to the infrastructure subfund; and provided further, that any deficit existing in this item at the close of this fiscal year shall be charged to the Highway Fund debt service reserve 95,553,681

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 1,068,049

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 111,735,978

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 1,956

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 27,800,000

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 thirty of the acts of nineteen hundred eighty-seven 6,000,000

OFFICE OF THE STATE AUDITOR

State Auditor

0710-0000 For the administration and expenses of the office of the auditor, including not more than two hundred and seventy positions 9,495,973

0710-0010 For the administration and expenses associated with the privatization review board and the monitoring of privatization contracts 720,000

0710-0100 For the administration and expenses of the bureau of local mandates, including not more than twenty positions 739,426

Local Aid Fund 100.0%

ATTORNEY GENERAL
Office of the Attorney General

0810-0000 For the office of the attorney general, including not more than three hundred and nineteen positions 13,514,890

0810-0014 For the expenses of the public utilities proceedings of the office of the attorney general, pursuant to section eleven E of chapter twelve of the General Laws, including not more than seventeen positions 1,355,145

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, including not more than thirty positions 1,372,441

0810-0031 For the expenses of administering the local consumer aid fund, including not more than two positions 605,393

0810-0035 For the administration and expenses of the Anti-Trust division, including not more than nine positions 321,631
Anti-Trust Enforcement Fund 100.0%

0810-0045 For the wage enforcement program pursuant to section three hundred thirty-two of this act, including not more than thirty-one positions 1,332,800

0810-0201 For the expenses incurred in administrative or judicial proceedings as authorized by section eleven F of chapter twelve of the General Laws; provided, that funds made available herein may be used to supplement the automobile insurance fraud unit and the workers compensation fraud unit of the office of the attorney general, including not more than fifteen positions 1,170,000

0810-0338 For the administration and expenses of the prosecution of automobile insurance fraud component of the office of the attorney general program; provided, that the costs of this program shall be assessed pursuant to section three of chapter three hundred and ninety-one of the acts of nineteen hundred and ninety-one; provided further, that said assessments shall be credited to the General Fund, including not more than three positions 100,172

0810-0399 For the workers' compensation fraud prosecution; provided, that the costs of this program shall be assessed pursuant to section three of chapter three hundred and ninety-nine of the acts of nineteen hundred and ninety-one; provided

further, that the attorney general is hereby authorized and directed to investigate and prosecute where appropriate employers who fail to provide workers' compensation insurance in accordance with the laws of the commonwealth; provided further, that said assessments shall be credited to the General Fund; and provided further, that said unit shall investigate and report on all companies not in compliance with chapter one hundred and fifty-two of the General Laws, including not more than three positions 184,334

0810-1031 For the victim and witness assistance program of the attorney general's office, in accordance with the provisions of chapter two hundred fifty-eight B of the General Laws, including salaries and expenses for litigation, including not more than five positions 120,685

Victim and Witness Assistance Fund 100.0%

Federal Appropriation

0810-6646 For the purposes of a federally funded grant entitled, Crime Victum Compensation 791,000

Commission on Uniform State Laws

0830-0100 For the commission on uniform state laws program 27,900

Victim and Witness Assistance Board

0840-0100 For the administration and expenses of the victim and witness assistance board, including not more than six positions .. 263,640

Victim and Witness Assistance Fund 100.0%

Federal Appropriation

0840-0110 For the purposes of a federally funded grant entitled, Crime Victims Assistance 800,000

STATE ETHICS COMMISSION

State Ethics Commission

0900-0100 For the administration and expenses of the state ethics commission; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs

associated with the purposes of the programs funded herein shall not exceed nine hundred sixty four thousand five hundred twenty-three dollars, including not more than twenty-eight positions 1,073,540
General Fund 50.0%
Local Aid Fund 50.0%

OFFICE OF THE INSPECTOR GENERAL

0910-0200 For the administration and expenses of the office of the inspector general; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million one hundred seventy-one thousand five hundred dollars, including not more than thirty-three positions 1,293,028

OFFICE OF CAMPAIGN AND POLITICAL FINANCE

0920-0300 For the administration and expenses of the office of campaign and political finance; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred eighty-seven thousand seven hundred twenty eight dollars, including not more than thirteen positions 620,104
General Fund 50.0%
Local Aid Fund 50.0%

OFFICE OF THE STATE COMPTROLLER

1000-0001 For the administration of the office of the state comptroller, for the purpose of compliance with the Single Audit Act of nineteen hundred 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 ninety-three, 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 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; provided further, that the comptroller shall maintain a special federal and non-tax revenue unit which shall operate under policies and procedures developed in conjunction with the office of purchased services; 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; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs asso-ciated with the purposes of the programs funded herein shall not exceed four million two hundred fifty-three thousand thirty-three dollars, including not more than one hundred and three positions 5,825,449

1000-1100 For engaging the services of a certified public accounting firm expert in environmental regulation to audit the activities of the Massachusetts water resource authority pursuant to the provisions of section two eighty-four of this act 250,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Executive Office

1100-1100 For the office of the commissioner; 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; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million fifty-four thousand seven hundred twenty dollars, including not more than twenty positions 1,236,734

Office of Dispute Resolution

1100-1103 For the office of dispute resolution; provided, that notwithstanding any special or general laws to the contrary, the office shall generate up to a maximum of four hundred ninety-seven thousand five hundred thirty-six dollars from 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 the costs of personnel for said office; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eighty-five thousand five hundred fifty-six dollars, including not more than two positions 497,536

Keno

1100-1234 For the implementation of keno, so-called, pursuant to section three hundred eighty-seven of this act 4,000,000

Massachusetts Corporation for Educational Telecommunications

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 legislature; provided that not less than fifty thousand dollars be expended for the purpose of conducting a study by the Massachusetts association of college librarians for a proposed five campus library system 5,500,000

1100-5500 For the operations of the Chelsea receiver; provided, that the funds appropriated herein shall be used exclusively for the operations of the Chelsea receiver as established in chapter two hundred of the acts of nineteen hundred ninety-one; provided further, that the funds appropriated herein shall not be transferred to any other item of appropriation; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two hundred seventy-one thousand eight

hundred fifty-eight dollars, including not more than four positions 393,930
Local Aid Fund 100.0%

Federal Appropriations
Administering Agency for Developmental Disabilities

1100-1703 For the purposes of a federally funded grant entitled, Administering Agency for Developmental Disabilities 1,178,310

1100-1710 For the purposes of a federally funded grant entitled, Massachusetts Developmental Disabilities Council 357,461

Fiscal Affairs Division

1101-2100 For the administration of the fiscal affairs 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; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million sixteen thousand one hundred fifty-nine dollars, including not more than forty-four positions 2,397,131

Office of Management Information Systems

1101-2380 For the administration of the office of management information systems; provided, that said office of management in-

formation 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 two C of this act; provided further, that not less than forty thousand five hundred and ninety-two dollars be expended for maintaining the current personnel, operations and scheduled projects associated with the personnel administrative reporting and information system; provided further, that said office of management information services perform quarterly evaluations and surveys of the true demand for reports distributed to agencies; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven million four hundred ninety-two thousand five hundred forty-four dollars, including not more than one hundred seventy-nine positions 9,105,334

1101-4000 The commissioner of administration is hereby authorized to expend two hundred twenty-five 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; provided further, that 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 further, 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 commis-

sioner 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 the costs of personnel 225,000

DIVISION OF CAPITAL PLANNING AND OPERATIONS

AGENCY MISSION

To meet the real property ownership and rental needs of state agencies.

STATUTORY REFERENCES

Enabling Statute
M.G.L. c.7 § 39-A43I
M.G.L. c.8

COMPONENT PROGRAMS

1. Administration and Operations
2. State Transportation Building
3. Springfield State Office Building

PROGRAM 1: Administration and Operations

PROGRAM MISSION

To manage the real property holdings and needs of the Commonwealth, including planning, construction, repair, maintenance, leasing, acquisition, and disposition.

Program Objectives	Performance Measures	Expected Outputs
1. Develop and coordinate a process for monitoring and improving program performance.	1. Program improvements and enhancements produced by the performance review process.	1. TBR
2. Conduct capital planning and annual budgeting	2a. File comprehensive annual report on the progress of all capital facility projects subject to the jurisdiction of the division.	2a. February 15, 1994
	2b. File 5 year proposed capital repair and maintenance plan.	2b. February 15, 1994
3. Administer contracts for design and construction work	3. Contracts negotiated.	3. TBR

4. Conduct projects audits.	4.	Audits indicating non-compliance with the regulations of the division.	4. TBR
5. Negotiate land acquisitions and dispositions.	5a.	Acquisitions completed, total square feet.	5a. TBR
	5b.	Dispositions completed, total square feet, and total revenues.	5b. TBR
	5c.	Dispositions at less than the appraised value of the property.	5c. TBR
6. Regulate designer selections	6.	Projects requiring designation by the designer selection board.	6. TBR
7. Provide for the reuse of Commonwealth properties by maintaining property inventories, analyzing usage, and redeveloping surplus property.	7a.	Annual inventory of real property rented, owned, or occupied by state agencies.	7a. February 15, 1994
	7b.	Property usage studies completed.	7b. TBR
8. Negotiate cost-effective leases for agencies.	8a.	Agency space evaluations completed.	8a. TBR
	8b.	Leases whose square footage costs exceed the median cost For a given region.	8b. TBR
	8c.	Annual agency rent reductions attributable to lease renegotiations.	8c. TBR
	8d.	New leases and lease renewals.	8d. TBR
9. Design, award, and oversee new construction, major rehabilitations, and renovations.	9.	Value of new construction and asset acquisition actively managed, by agency.	9. TBR

10. Operate, maintain, and state buildings, and ensure health, safety, and code compliance in state buildings	10a. Agencies and building authorities in noncompliance with maintenance and repair standards and guidelines of the division.	10a. TBR
	10b. Inspections of state agency or building authority buildings completed.	10b. TBR
	10c. Code compliance corrections made within 30 days.	10c. TBR
	10d. Preventive maintenance programs at each state agency and building authority evaluated and approved.	10d. TBR
	10e. Value of repairs and renovations performed on state real assets.	10e. TBR
	10f. Savings attributable to the shared savings energy conservation program.	10f. TBR

State Appropriation

1102-3210 For the administration and operations program; provided, that the division shall conduct a study relative to the disposition of the facility located at 1010 Commonwealth Avenue located in the city of Boston; provided further, that said study shall be filed with the clerks of the house and the senate on or before December thirty-first, nineteen hundred and ninety-three; provided further, that said division may expend a sum not exceeding four hundred thousand dollars from this item to develop the master plan for the Boston state hospital site required by section three hundred seventy-one of this act; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five million four hundred forty-two thousand seven hundred and fifty-four dollars, including not more than one hundred and fifty positions 6,117,796

PROGRAM 2: State Transportation Building

PROGRAM MISSION

To provide building management services for the State Transportation Building through a contract with a building manager and to complete its sale.

Program Objectives	Performance Measures	Expected Outputs
1. Maintain and operate the building at class A office space standards.	1a. Cost of routine repairs, upkeep, and maintenance.	1a. TBR
	1b. Cost of major repairs.	1b. TBR
	1c. Deviations from capital facility maintenance schedule.	1c. TBR
	1d. Rental income and expenses.	1d. TBR

State Appropriation

1102-3214 For the state transportation building program, including expenses for the maintenance and operation of said building; provided, that the division of capital planning and operations is hereby authorized to expend revenues collected up to a maximum of seven million dollars from rentals, commissions, fees, parking fees and from any and all other sources pertaining to the operation of the state transportation 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 forty-three J of chapter seven of the General Laws 7,000,000

State Transportation Building
Management Fund 100.0%

PROGRAM 3: Springfield State Office Building

PROGRAM MISSION

To provide building management services for the Springfield State Office Building through a contract with a building manager.

Program Objectives	Performance Measures	Expected Outputs
1. Maintain and operate the building at class A office space standards.	1a. Cost of routine repairs, upkeep, and maintenance.	1a. TBR

1b.	Cost of major repairs.	1b. TBR
1c.	Deviations from capital facility maintenance schedule.	1c. TBR
1d.	Rental income and expenses.	1d. TBR

State Appropriation

1102-3231 For the Springfield state office building program, including expenses for the maintenance and operation of said building; provided that the division of capital planning and operations is hereby authorized to expend revenues collected up to a maximum of five hundred thousand dollars accrued from rents charged to agencies occupying the Springfield state office building, pursuant to the provisions of section forty-three K of chapter seven of the General Laws 500,000

Springfield State Office
Building Management Fund 100.0%

Bureau of State Office Buildings

1102-3301 For the administration of the bureau of state office 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 no less than ninety thousand dollars shall be made available for the Massachusetts arts commission; provided further, that notwithstanding the provisions of section nineteen of chapter six of the General Laws, the chairman of the commission shall serve for the duration of the project as executive director of this project and shall be compensated therefore from funds appropriated in this item; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million seven hundred thirty-five thousand three hundred fifty-four dollars, including not more than eighty-nine positions 10,270,819

1102-3302 For the purposes of utility costs for the properties managed by the bureau of state office buildings and the department

of capital planning and operations 7,213,137

Department of Procurement and General Services

1104-1000 For the administration of the department; provided, that the secretary of administration and finance shall ensure that adequate resources are provided from this item for the maintenance of the government center medical unit at the same level as in fiscal year nineteen hundred ninety-three; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million eight hundred fifty-seven thousand eight hundred thirty-five dollars, including not more than sixty-nine positions 3,220,873

1104-1091 The department of procurement and general services is hereby authorized to expend revenues collected up to a maximum of seventy-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 one position 78,000

1104-6601 Pursuant to section twenty-one A of chapter eight hundred eight of the acts of nineteen hundred eighty-one, chapter four hundred forty-nine of the acts of nineteen hundred eighty-four, and section four L of chapter seven of the General Laws, the department of procurement and general services is hereby authorized to expend revenues collected up to a maximum of two hundred fifty thousand dollars from the sale of federal surplus property, for the payment, expenses and liabilities for the acquisition, warehousing, allocation and distribution of federal surplus property, including not more than six positions 250,000

1104-6607 The department of procurement and general services is hereby authorized to expend revenues collected up to a maximum of five hundred twenty-five 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, including not

more than three positions 525,000

Office on Disability

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, education and employment training through the arts; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred eighty-six thousand one hundred twenty-three dollars, including not more than ten positions 527,341

Federal Appropriations

1107-2450 For the purposes of a federally funded grant entitled, Client Assistance Program 181,730

Disabled Persons Protection Commission

1107-2500 For the disabled persons protection commission, which may include the costs of protective services pursuant to chapter six hundred fifty-five of the acts of nineteen hundred eighty-six; provided, that the disabled persons protection commission shall file with the committees on ways and means of the house and senate, by September first, nineteen hundred ninety-three, standards developed by the commission regarding the conduct of investigations of alleged abuse by said commission pursuant to the provisions of chapter nineteen C of the General Laws; provided further, that the commission shall coordinate the development of investigative standards by the department of mental health and the department of mental retardation which are consistent with the provisions of said chapter nineteen C and the regulations of the commission; provided further, that nothing contained herein shall be construed to affect the independent operation of the commission or its responsibility for independent oversight of alleged abuse pursuant to the

provisions of said chapter nineteen C; provided further, that, notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million seventy thousand five hundred seventy-two dollars, including not more than thirty positions 1,327,373

Department of Personnel Administration

1108-1000 For the administration of the department and the county personnel board 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 charge 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; provided further, 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 eighty-three, as amended; provided further, that the department shall administer a program of state employee unemployment manage-

ment, including, but not limited to, agency training and assistance; provided further, that the department also shall also administer 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; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three million forty-nine thousand seven hundred forty-five dollars, including not more than seventy-four positions. 3,430,908

General Fund 50.0%

Local Aid Fund 50.0%

1108-1214 The department of personnel administration is hereby authorized to expend revenues collected up to a maximum of eight hundred seventy-two thousand eight hundred and seventy dollars from the fees charged for civil service examination applications for the administration of the civil service examination program by the department, including the costs of personnel 872,870

Civil Service Commission

1108-1011 For the administration of the civil service commission; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two hundred seventy-nine thousand five hundred fifteen dollars, including not more than seven positions . . . 305,689

Office of Affirmative Action

1108-2500 For the office of affirmative action; provided, that expenditures made from the AA ubsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred twenty-three thousand two hundred eighty-two dollars, including not more than three positions 168,609

Office of Employee Relations

1108-3000 For the administration of the office of employee relations; 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; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred seventy-four thousand fifty-seven dollars, including not more than eleven positions 499,147

1108-3200 For the purposes of the commonwealth's contributions for the fiscal year nineteen hundred ninety-four 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 13,854,014

Massachusetts Teachers' Retirement Board

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 chapter one hundred thirty eight of the acts of nineteen hundred ninety-one; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs assoc-

iated with the purposes of the programs funded herein shall not exceed one million twelve thousand six hundred ninety-four dollars, including not more than thirty-two positions . . . 1,237,900

GROUP INSURANCE COMMISSION

AGENCY MISSION

To provide life, health, and other insurance benefits to active and retired employees and dependents.

STATUTORY REFERENCES
Enabling Statute
M.G.L. c.32A

COMPONENT PROGRAMS
1. Administration

PROGRAM 1: Administration

PROGRAM MISSION

To provide fiscal, managerial, legal, and systemic support for the provision of group life and health insurance benefits to active and retired employees of the commonwealth.

Program Objectives	Performance Measures	Expected Output
1.. Develop and coordinate a process for monitoring and improving program perfFormance.	1. Program improvements and enhancements produced by the performance review process.	1. TBR
2. Process enrollment and coverage changes in a timely manner.	2. New enrollment and coverage changes processed at least 6 days prior to effective date of coverage or change.	2. 98%
3. Ensure vendors pay claims in a timely and efficient manner according to commission and industry standards.	3a. Performance standards set by the commission and stipulated in self-insurance contracts.	3a. TBR
	3b. Annual independent audit of self-insured claims processed by administrative service organization (ASO) vendors.	3b. January 15, 1994

4. Develop audit system for evaluating health maintenance organizations (HMO) comparable to the ASO vendor audit.	4. HMO data reconciled to meet GIC contractual performance standards	4. TBR
5. Negotiate and control anual rate adjustments with all health insurers.	5a. Estimate of comparable private sector rate increases.	5a. January 15, 1994
	5b. Actual FY95 GIC rate increase by insurer.	5b. April 15, 1994
6. Report cost elements, calculations, and underlying asssumptions for fiscal years 1994 and 1995 premiums.	6a. FY94 report.	6a. October 1, 1993
	6b. FY95 projections report.	6b. February 28, 1994
7. Manage Group Insurance Trust Fund and Rate Stabilization Reserve Fund revenues, collections and projected expenditures.	7a. Revenues generated, by fund.	7a. TBR
	7b. Expenditures, by fund type and purpose.	7b. TBR
8. Monitor benefits usage to identify utilization trends and areas of overuse for FY92 and estimated FY93.	8. Results of independent claims data analysis report on utilization and users of the Hancock Indemnity Plan, the preferred provider organization, and mental health benefits.	8. March 15, 1994
9. Identify interventions for offsetting adverse utilization trends.	9a. Interventions recommended to commission by claims analyst.	9a. March 15, 1994
	9b. All methods of intervention to be pursued by the commission.	9b. March 15, 1994

10. Develop claims analysis system comparable to the ASO vendor analysis.	10. HMO claims analysis system developed.	10. TBR
11. Develop analysis of hospitsl finance deregulation on GIC costs.	11. Status report submitted.	11. January 30, 1994
12. Promote mandatory Medicare enrollment.	12. Monthly medicare enrollment trend.	12. TBR
13. Offer optional COBRA health insurance coverage to persons leaving state service.	13. COBRA enrollees compared to all persons offered COBRA coverage.	13. TBR
14. Monitor long term disability coverage to state employees.	14. GIC members electing long term disability coverage during FY94.	14. TBR
15. Monitor managed pharmacy benefits.	15a. Prescriptions filled through mail order and total cost	15a.TBR
	15b. Prescriptions filled through the preferred provider organization and total cost.	15b.TBR

State Appropriations

1108-5100 For the administration program; provided, that said commission shall generate four hundred fifty 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; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million six hundred thirty-eight thousand three hundred seventy-six dollars, including not more than forty-nine positions 1,811,507

1108-5200 For the commonwealth's share of the group insurance premium and plan costs component of the administration program incurred in fiscal year nineteen hundred and ninety-four; 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 three 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; provided further, that 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 for active and retired state employees 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 after July thirty-first, nineteen hundred and ninety-three, the commonwealth's share of such premium for active state employees shall be eighty-five percent of such premiums and rates;

provided further, that active employees of the Massachusetts bay transportation authority and of regional transit authorities shall pay ten percent of the total monthly premium and rates as established by the commission; provided further, that after July thirty-first, active employees of the Massachusetts bay transportation authority and of regional transit authorities shall pay fifteen percent of such premiums and rates; 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-four 432,094,166

1108-5220 For the mail order prescription drug component of the administration program 14,407,668

1108-5230 For the prior year payments component of the administration program for costs incurred through the state indemnity health insurance plan; provided, that the commission shall submit a payment schedule to the house and senate committees on ways and means, as necessary, for approval; provided further, that no funds may be expended from this item prior to the approval of said schedule; and provided further, that expenditures from this item shall be made only for the purposes expressly stated herein 40,482,244

1108-5300 For the elderly governmental retired employees premium component of the administration program; provided, that the commission is hereby authorized to expend revenues collected up to a maximum of two million nine hundred seventy-seven thousand one hundred and seventy-one 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 further, that notwithstanding any other provisions of this section, any remaining balance at the end of fiscal year nineteen hundred and ninety-three 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-four; 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 .. 2,977,171

1108-5400 For the retired municipal teacher's premium component of the administration program and the audit of said premium; 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 19,963,209

Local Aid Fund 100.0%

Public Employee Retirement Administration

1108-6100 For the administration of the public employee retirement administration, including the establishment of regional medical panels, pursuant to chapter six hundred ninety-seven of the acts of nineteen hundred eighty-seven, and for the administration of the workers' compensation costs of public employees, including the workers' compensation investigatory unit; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million seven hundred sixty-one thousand eight hundred thirty-six dollars, including not more than fifty positions 3,195,601

General Fund 60.0%

Local Aid Fund 40.0%

Division of Administrative Law Appeals

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 the provisions of any special or general laws 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 for administration; provided further, that the payments for such services shall be paid to the General Fund; provided further, that no such service shall be provided without a written contract filed with the comptroller; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred eighty-four thousand two hundred fifty-two dollars, including not more than ten positions 428,108

George Fingold Library

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; provided further, that said library shall maintain regular hours of operation from nine a.m. to five p.m.; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five hundred twenty-seven thousand five hundred forty-nine dollars, including not more than sixteen positions 960,357

Massachusetts Commission Against Discrimination

1150-5100 For the office of the commission; provided, that all positions except clerical are exempted from the provisions of chapter thirty-one of the General Laws; provided further, that said commission shall pursue the highest rate of federal reimbursement per charge allowable; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed nine hundred sixty-eight thousand four hundred seventy-three dollars, including not more than twenty-four positions 1,154,233

1150-5103 For the equal employment resolution contract program, provided that any federal reimbursements received for this purpose shall be credited to the general fund 825,000

1150-5105 For the Housing and Urban Development Fair Housing Assistance-Type I program; provided, that any federal reimbursements received for this purpose be credited to the general fund 150,000

Federal Appropriations

1150-5329 For the purposes of a federally funded grant entitled, HUD Fair Housing Assistance - Type II 100,000

DEPARTMENT OF REVENUE

AGENCY MISSION

To manage revenue collections in the Commonwealth through tax administration and child support enforcement and to provide financial management assistance to local governments.

STATUTORY REFERENCES
Enabling Statutes
M.G.L. c.7 § 4A
M.G.L. c.14 § 14

COMPONENT PROGRAMS
1. Tax Administration
2. Child Support Enforcement
3. Local Services
4. Tax Abatements

PROGRAM 1: Tax Administration

PROGRAM MISSION

To collect tax and non-tax revenues and to process individual and corporate tax returns.

Program Objectives	Performance Measures	Expected Outputs
1. Process tax returns.	1. Total tax collections.	1. TBR
2. Collect appropriate tax revenues from non-filers.	2. Delinquent collections.	2. TBR
3. Collect revenues through audits.	3. Audit assessments.	3. TBR

4. Minimize portion of revenues collected through private collection agencies.	4. Total collections through collection agencies.	4. TBR

State Appropriations

1201-0100 For the tax administration program, 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 is hereby authorized and directed to redeploy existing personnel so as to maintain a staffing level at the western Massachusetts regional office equal to the staffing level in place as of January first nineteen hundred ninety-one; 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; provided further, that the department shall maintain regional offices in Pittsfield, Brockton and Hyannis for the purpose of tax collection, taxpayer assistance, small business seminars, and auditing; provided further that a minimum of four hundred twenty-five positions be allocated exclusively to auditing and verifying the correctness of returns filed, including a minimum of ninety multi-state auditors and two hundred seventy field auditors; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed sixty-nine million thirty-three thousand four hundred and fifty dollars, including not more than one thousand six hundred and eighty-three positions, not including short term seasonal employees 99,122,657

General Fund 60.0%
Local Aid Fund 35.0%
Highway Fund 5.0%

1201-0105 The department of revenue is hereby authorized to expend those tax revenues pursuant to the tax amnesty program established in section two seventy-six of this act in an amount not to exceed one million dollars for the administration, expenses, and personnel cost associated with the program 1,000,000

PROGRAM 2: Child Support Enforcement

PROGRAM MISSION

To collect and enforce child support payment orders in order to ensure that children receive support from non-custodial parents.

Program Objectives	Performance Measures	Expected Outputs
1. Collect child support payments on behalf of Aid to Families with Dependent Children (AFDC) families.	1. AFDC collections.	1. TBR
2. Secure health insurance for AFDC children through employers' plans of non-custodial parents.	2. Individuals removed from Medicaid.	2. TBR
3. Collect child support payments on behalf of non-AFDC families.	3. Non-AFDC collections.	3. TBR
4. Establish child support orders for non-custodial parents.	4. Orders established.	4. 12,000
5. Increase the proportion of non-custodial parents in compliance with child support orders.	5a. Non-custodial parents identified compared to all non-custodial parents of the Commonwealth.	5a. TBR
	5b. Identified non-custodial parents in compliance with child support orders.	5b. TBR

State Appropriation

1201-0160 For the child support enforcement program conducted by the child support enforcement division of the department; provided, 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 all such allocations shall be reported to the house and senate committees on ways and means upon the allocation of said funds; provided further, that not less than four hundred thousand dollars be made available for the procurement of goods and services and the administrative costs, including the cost of personnel, 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 may 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; and 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; 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 ninety-three detailing current staffing levels, by function and performance indicators, including, but not limited to, AFDC and non-AFDC caseloads, collection levels, court

cases, paternities established, court orders established, average employee workload, federal reimbursements, projections of the aforementioned indicators for the remainder of the fiscal year, and any deviations of current performance from previous projections; provided further, that the division shall make all reasonable efforts to maximize AFDC collections; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed twenty-three million seventy thousand seven hundred forty-three dollars, including not more than six hundred and ninety positions 26,105,785

PROGRAM 3: Local Services

PROGRAM MISSION

To oversee and provide technical assistance to local governments in the areas of finance and financial management.

Program Objectives	Performance Measures	Expected Outputs
1. Provide financial training to municipal managers.	1. Officials trained.	1. 700
2. Authorize small borrowing for municipalities.	2. State House Notes issued.	2. TBR
3. Review municipal budgets and approve tax rates.	3. Tax rates set.	3. TBR
4. Determine local aid going to municipalities.	4a. Municipal revenue reports reviewed.	4a. TBR
	4b. Local aid schedules processed.	4b. TBR
5. Approve triennial municipal assessor valuations.	5. Assessment Certifications granted.	5. 117
6. Reduce need for Municipal Finance Control Boards.	6a. Control boards in existence.	6a. TBR
	6b. Control boards dissolved.	6b. TBR

State Appropriations

1231-0100 For the local services program, including the administration of the bureaus of municipal data management and technical assistance, the county government finance review board, 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; provided further, that the department shall provide the legislature with access to the municipal data bank; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four million two hundred fifty-eight thousand ninety-one dollars, including not more than one hundred and five positions 5,198,486

Local Aid Fund 100.0%

1231-1000 For the rate relief fund component of the local services program; provided, that funds appropriated herein shall be distributed pursuant to section twenty of this act; and provided further, that no payments or approvals shall be given or made before, 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 30,000,000

Local Aid Fund 100.0%

PROGRAM 4: Tax Abatements

PROGRAM MISSION

To provide reimbursements to cities and towns which have granted tax abatements to disabled and other veterans, surviving spouses, minors, the blind, and the elderly.

Program Objectives	Performance Measures	Expected Outputs
1. Process tax abatement requests.	1a. Requests received, by town, and abatement type and amount.	1a. TBR
	1b. Abatements processed.	1b. TBR

State Appropriations

1233-2000 For the tax abatements program; provided, that cities and towns shall be reimbursed for abatements granted pursuant to clauses seventeen, twenty-two A, twenty-two B, twenty-two C, twenty-two E, and thirty-seven of section five of chapter fifty-nine of the General Laws 5,200,000
Local Aid Fund 100.0%

1233-2010 For the tax abatements program; provided, that cities and towns shall be reimbursed for abatements granted to certain homeowners over the age of sixty-five pursuant to the fifty-second clause of section five of chapter fifty-nine of the General Laws 3,750,000
Local Aid Fund 100.0%

1233-2310 For the tax abatements program; provided, that cities and towns shall be reimbursed 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; and provided further, 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 appellate tax board; provided, that the board schedule hearings in Barnstable, Gardner, Lawrence, Milford, Northampton, Pittsfield, Springfield, and Worcester; pro-

vided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million one hundred ten thousand five hundred sixty-nine dollars, including not more than twenty-six positions 1,271,304

Department of Veterans' Services

1410-0010 For the administration of the department; provided, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million two hundred forty-five thousand five hundred seventy-nine dollars, including not more than thirty-six positions 1,553,209

1410-0012 For services to veterans, 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; provided further, that said centers shall be distributed regionally to serve veterans throughout the commonwealth; provided further, that said centers shall provide counseling to incarcerated veterans and to Vietnam era veterans and their families who may have been exposed to agent orange; provided further, that not less than eighty thousand dollars be obligated for a contract with the Veterans Benefits Clearinghouse in Roxbury; provided further, that not less than seventy-five thousand dollars be obligated for a contract with the Veterans Northeast Outreach Center in Haverhill; provided further, that not less than seventy thousand dollars be obligated for

a contract with the Veterans Association of Bristol County in Fall River; provided further, that not less than sixty thousand dollars be obligated for a contract with the North Shore Veterans Counseling Center in Beverly; provided further, that not less than sixty-five thousand dollars be obligated for a contract with Nam Vets of the Cape and Islands in Hyannis; provided further, that not less than fifty-five thousand dollars be obligated for a contract with the Metrowest/Metrosouth Outreach Center in Framingham; provided further, that not less than fifty-five thousand dollars be obligated for a contract with the Outreach Center, Inc. in Pittsfield; provided further, that not less than fifty-five thousand dollars be obligated for a contract with the Montachusett Veterans Outreach Center, Inc. in Gardner; provided further, that not less than sixty thousand dollars be expended to the Holyoke Soldiers' Home; provided further, that said centers shall develop a comprehensive housing affordability strategy for veterans and their families; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 600,000

1410-0013 For the purpose of providing matching funds to a federal grant under Title IV-C of the Jobs Training Partnership Act, an employment and training program for Vietnam, minority, disabled and recently discharged veterans; provided, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost ex-

ceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 135,741

1410-0100 For the elder affairs revenue maximization project, which shall maximize revenues by identifying individuals who are eligible for veterans' pensions and are currently receiving home care and home health services; provided, that the department of veterans' services shall enter into an interagency service agreement with the executive office of elder affairs not later than August first, nineteen hundred ninety-three to determine the methods for recovering said pensions; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 80,000

1410-0250 For homelessness services, including the maintenance and operation of homeless shelters and transitional housing for veterans; provided, that not less than one million one hundred and sixty-five thousand dollars be obligated for a contract with the New England Shelter for Homeless Veterans located in Boston; provided further, that not less than one hundred twenty-five thousand dollars be obligated for a contract with the Central Massachusetts Shelter for Homeless Veterans located in Worcester; provided further, that not less than sixty thousand dollars be obligated for a contract with the Southeast Massachusetts Veterans' Housing Program, Inc., located in New Bedford; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hun-

dred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 1,350,000

1410-0300 For the payment of annuities to certain disabled veterans 122,500

1410-0400 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 12,948,783

Local Aid Fund 100.0%

Federal Appropriations

1410-0014 For the purpose of a federally funded grant entitled, Job Training Partnership Act 160,000

Reserves

1599-0002 For contributions toward the maintenance of the old provincial state house 1,500

1599-0013 For a reserve for the cities and towns' unemployment health insurance contributions due under section fourteen G of chapter one hundred 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; and 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 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 ninety of the acts of nineteen hundred eighty-two 10,545,598

1599-0036 For the expenses of the Massachusetts convention center authority 7,847,000

Massachusetts Tourism Fund 100.0%

1599-0093 For contract assistance to the water pollution abatement trust for debt service obligations of the trust, in accordance with the provisions of section six A of chapter twenty-nine C of the General Laws, as amended in section twelve of chapter two hundred three of the acts of nineteen hundred ninety-two 8,000,000

Local Aid Fund 100.0%

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 ninety-four or a prior fiscal year and which derive from causes of action initiated in said fiscal year 10,000,000

1599-9010 For reimbursement to the town of Easthampton for an asbestos project including removal and encapsulation notwithstanding the failure of said town to timely file any required forms with the department of occupational hygiene; and provided, that notwithstanding any general or special law to the contrary, the department of occupational hygiene and the department of education shall accept the application of said town 93,488

Local Aid Fund 100.0%

1599-9100 For a reserve for pension costs associated with the local teachers' early retirement program pursuant to section eighty-three of chapter seventy-one of the acts of nineteen hundred ninety-three; provided, that the Massachusetts teachers' retirement board shall not later than August fifteenth, nineteen hundred ninety-three, certify to the comptroller the amount neccessary to meet the cost of said program in the fiscal year ending June thirtieth, nineteen hundred ninety-four, and the comptroller shall thereupon allocate the balance in this account as follows: (1) forty percent shall be made available to early childhood education, line item 7030-1000, (2) twenty percent shall be made available to head start, line item 7030-1500, and (3) notwithstanding section ninety-six of said chapter seventy-one, the balance shall fund, and shall constitute complete satisfaction of, the commonwealth's obligation for tuition payments to the city, town or regional school district for school aged

children placed 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, other than in their home town .. 20,000,000
Local Aid Fund.....100%

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS

2000-0100 For the office of the secretary, including the water resources commission, coastal zone management, the review of environmental impact reports pursuant to chapter thirty of the General Laws, a geographic information system for environmental data in Massachusetts, and a mosquito-borne disease vector control program; provided, that the secretary of the executive office of environmental affairs is hereby authorized to enter into interagency agreements with any state agency within the executive office of environmental affairs whereby the agency may render data processing services to said secretary; provided further, that the comptroller is hereby authorized to allocate the costs for such data processing services to the several state and other funds to which items of appropriation of such agencies are charged; provided further, that said secretary shall file with the house and senate committees on ways and means by October first nineteen hundred and ninety-three, a study detailing a state-wide plan for allocation of the Clean Environment Fund pursuant to section three hundred and twenty three F of chapter ninety-four of the General Laws; provided further, that at least fifty-five thousand dollars must be expended on printing of the MEPA monitor; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million twelve thousand one hundred twelve dollars, including not more than fifty-four positions .. 2,327,549
General Fund 60.0%
Local Aid Fund 40.0%

2001-1001 The secretary of environmental affairs may expend an amount not to exceed one hundred thousand dollars accrued from the rendering of data processing services to state agencies, authorities and units of government within the common-

wealth, the distribution of digital cartographic and other data, and the review of environmental notification forms pursuant to the Massachusetts environmental policy act 100,000

2010-0100 For the recycling coordination program for the operation of the Springfield recycling facility; provided, that not less than one hundred thousand dollars shall be expended for a public education campaign encouraging participation in existing curbside pick-up recycling programs in the city of Boston 1,950,000

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; provided, that a field team of technical assistance advisors be located in donated space at the university of Massachusetts at Amherst; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million thirty-one thousand five hundred eighty-five dollars, including not more than twenty-eight positions 1,829,313

Toxics Use Reduction Fund 100.0%

2050-0100 For the hazardous waste facility siting program, in accordance with the provisions of chapter twenty-one D of the General Laws; provided, that the awarding of any technical assistance grant shall require the prior approval of the secretary of the executive office of environmental affairs; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred twenty-two thousand four hundred sixty-two, including not more than three positions 172,242

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 on or before June thirtieth, nineteen hundred ninety-four; provided further, that expenditures made from the AA subsid-

iary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred nineteen thousand five hundred seventy-five dollars, including not more than seven positions 500,000

Federal Appropriations

2000-0141 For the purposes of a federally funded grant entitled, Coastal Zone Management Development 1,784,000
2000-0144 For the purposes of a federally funded grant entitled, Assessment of Sand Inside Plymouth Bay 25,000
2000-0145 For the purposes of a federally funded grant entitled, Coastal Zone Management Interstate Grant 55,000
2000-0148 For the purposes of a federally funded grant entitled, Massachusetts Bay National Estuary Project 2,064,377
2000-0149 For the purposes of a federally funded grant entitled, Gulf of Maine Data and Information Management 221,045
2000-0152 For the purposes of a federally funded grant entitled, Pollution Prevention Technical Assistance to Publicly-Owned Treatment Works 100,000
2000-9701 For the purposes of a federally funded grant entitled, Hazardous Waste - Small Generators 24,770
2000-9702 For the purposes of a federally funded grant entitled, Environmental Data Integration 26,217
2000-9704 For the purposes of a federally funded grant entitled, Pollution Prevention Merrimack River System 49,674
2000-9722 For the purposes of a federally funded grant entitled, Coordination of Environmental Programs - NERBC 1,926
2000-9731 For the purposes of a federally funded grant entitled, Buzzards Bay Project - Comprehensive Estuarine Management 300,000
2030-9701 For the purposes of a federally funded grant entitled, Outdoor Recreation Projects 3,000,000

Department of Environmental Management

2100-0005 For the department of environmental management pursuant to the purposes of sections eighty-five and eighty-eight of chapter thirty-three of the acts of nineteen hundred ninety-one; provided, that not less than two hundred fifty thousand dollars shall be made available for the dredging of the

Cole river, provided further, that not less than twenty-six thousand dollars shall be expended for emergency repairs to the mill pond dam in the town of Mansfield; provided further, that one hundred thousand dollars shall be provided for matching funds for a feasibility study of improvement of the muddy river located in the city of Boston and the town of Brookline by the United States army corps of engineers as provided for in the United States Public Law 102-866; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six hundred thirty-five thousand two hundred forty-two dollars, including not more than fifteen positions 2,767,618

Harbors and Inland Water Maintenance Fund 100.0%

2100-1000 For the administration of the department; provided, that ex-expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million thirty-eight thousand nine hundred fifty-eight dollars, including not more than twenty-eight positions, not including year round seasonals 2,374,163

Local Aid Fund 100.0%

2100-2000 For the resource conservation and protection program to protect and manage the department's lands and other natural resources; provided, that funds appropriated herein shall be used to fund forest and parks conservation services and the bureau of forestry development; provided further, that a sum not to exceed sixty thousand dollars be expended for the administration of the Martha's Vineyard commission;

provided further, that no funds from this item shall be made available for payment to true seasonal employees, so-called; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six million nine hundred twenty-five thousand six hundred twenty-five dollars, including not more than one hundred eighty-nine positions, not including year round seasonals 7,610,821

Local Aid Fund 90.0%

Highway Fund 10.0%

2100-3000 For the recreation program; provided, that funds appropriated herein shall be used to operate all department parks, heritage state parks, reservations, campgrounds, beaches, rinks and pools; provided further, that no funds from this item shall be made available for true seasonal employees, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven million seven hundred eighty-nine thousand eight hundred seventy-four dollars, including not more than two hundred and forty-five positions, not including year round seasonals 10,366,852

Local Aid Fund 90.0%

Highway Fund 10.0%

2100-3010 For the seasonal hires of the department for the summer and fall seasonal programs, including hires for the fire control unit; provided, that of the total amount appropriated herein no funds shall be made available for year-round seasonal employees, so called; provided further, that expenditures

made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three million one hundred thirty-three thousand five hundred thirty dollars 3,133,530
Local Aid Fund 90.0%
Highway Fund 10.0%

2100-3011 For the seasonal hires of the department for the winter and spring seasonal programs, including hires for the fire control unit; provided, that of the total amount appropriated herein no funds shall be made available for year round seasonal employees, so-called; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million two hundred seventeen thousand six hundred ninety-nine dollars 1,217,699
Local Aid Fund 90.0%
Highway Fund 10.0%

Federal Appropriations

2120-9701 For the purposes of a federally funded grant entitled, Rural Community Fire Protection 42,000

2120-9707 For the purposes of a federally funded grant entitled, Urban and Community Forestry 330,000

2120-9708 For the purposes of a federally funded grant entitled, Improved Wood Utilization 85,000

2121-9709 For the purposes of a federally funded grant entitled, Forestry Planning 334,000

2121-9710 For the purposes of a federally funded grant entitled, Rural Fire Protection - Training and Excess Property 145,000

2121-9750 For the purposes of a federally funded grant entitled, Insect Disease Control - Gypsy Moth Suppression 35,000

2130-9703 For the purposes of a federally funded grant entitled, Washington Mt. Brook Watershed Project 250,000

2130-9705 For the purposes of a federally funded grant entitled, SUASCO Watershed Flood Control Reservoir 45,000

2130-9721 For the purposes of a federally funded grant entitled, Instream Flow Study for Sudbury, Assabet and Concord Rivers 40,000

2140-9705 For the purposes of a federally funded grant entitled, Waquoit Bay National Estuarine Research Reserve 35,000

2140-9707 For the purposes of a federally funded grant entitled, Waquoit Bay - Characterization Projects 30,000

2140-9708 For the purposes of a federally funded grant entitled, Waquoit Bay - Operating Costs 106,000

2140-9711 For the purposes of a federally funded grant entitled, SBA Tree Planting Program 350,000

Department of Environmental Protection

2200-0100 For the administration of the department, including the division of water pollution control, the division of water supply, the division of solid waste, the division of hazardous waste, the division of wetlands and waterways, the division of air quality control, the Lawrence experimental station, and a contract with the university of Massachusetts for environmental research; notwithstanding the provisions of section three hundred twenty-three F of chapter ninety-four of the General Laws; provided, that the provisions of section three B of chapter seven of the General Laws, as amended by section four of chapter six of the acts of nineteen hundred and ninety-one shall not apply to fees established pursuant to section eighteen of chapter twenty-one A of the General Laws; provided further, that not more than ninety thousand dollars shall be made available to the town of Newbury for the exploration of new technology for landfill mining; provided further, that said town agrees to make available to the department any and all engineering reports, summaries and other related information; provided further, that 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 sub-section (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 Compliance Fund are comparable to the baseline figure, as defined in said sub-section, based on inflation, the depart-

ment's demonstrated program improvements and efficiencies in areas other than those supported by fees and added or reduced programmatic responsibilities of the department; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed nineteen million three hundred thirty-two thousand eight hundred ninety-three dollars 25,909,827

General Fund 54.0%
Clean Environment Fund 15.0%
Environmental Permitting and Compliance Fund 31.0%

2210-0100 For the implementation and administration of chapter twenty-one I of the General Laws; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eight hundred sixty-seven thousand twelve dollars, including not more than nineteen positions 953,897

Toxics Use Reduction Fund 100.0%

2220-1000 For the bureau of municipal facilities program pursuant to the provisions of chapter two hundred seventy-five of the acts of nineteen hundred eighty-nine, as most recently amended by chapter two hundred three of the acts of nineteen hundred ninety-two; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred seven thousand forty-four dollars, including not more than eight positions 427,744

Local Aid Fund 100.0%

2220-2205 For the administration and implementation of the federal Clean Air Act including the volatile organic compounds, or oxides of nitrogen reasonable available control technology requirements program and the operating permit program, including not more than nine positions 450,217

Clean Air Act Compliance Fund 100.0%

2260-8870 For the expenses of the hazardous waste cleanup and underground storage tank programs; notwithstanding the provisions of section three hundred twenty-three F of chapter ninety-four of the General Laws and section two K of chap-

ter twenty-nine of the General Laws and section four of chapter twenty-one J of the General Laws; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed twelve million four hundred fifty-three thousand one hundred sixty-nine dollars, including not more than two hundred and ninety-eight positions 15,002,809

Environmental Challenge Fund 32.0%
Clean Environment Fund 42.0%
Toxics Use Reduction Fund 10.0%
Underground Storage Tank Petroleum Product Cleanup Fund 16.0%

Federal Appropriations

2200-9704 For the purposes of a federally funded grant entitled, Solid Waste Disposal - Conservation and Recovery 1,755,000

2200-9705 For the purposes of a federally funded grant entitled, Underground Water Source Protection Program 100,000

2200-9706 For the purposes of a federally funded grant entitled, Water Quality Management Planning 975,000

2200-9709 For the purposes of a federally funded grant entitled, Massachusetts Multi-Site Cooperative Agreement 950,000

2200-9712 For the purposes of a federally funded grant entitled, Cooperative Agreement - Leaking Underground Storage Tank Program 900,000

2200-9715 For the purposes of a federally funded grant entitled, Core Cooperative Agreement Cercla Implementation Support 350,000

2200-9716 For the purposes of a federally funded grant entitled, Development of Donna Road Aquifer as a Public Water Supply 300,000

2200-9717 For the purposes of a federally funded grant entitled, D.O.D. Environmental Restoration 778,000

2200-9718 For the purposes of a federally funded grant entitled, Nyanza Coop Agreement 50,000

2200-9740 For the purposes of a federally funded grant entitled, Municipal Training Program 5,000

2240-9707 For the purposes of a federally funded grant entitled, 1991 Water Pollution Control Program 2,000,000

2240-9709 For the purposes of a federally funded grant entitled, Clean Lakes Program 343,000

2240-9710 For the purposes of a federally funded grant entitled, State Management Assistance Grant 1,321,000

2240-9718 For the purposes of a federally funded grant entitled, NPS New Management Plan 50,000

2240-9719 For the purposes of a federally funded grant entitled, Lake Water Quality Assessment 125,000

2240-9721 For the purposes of a federally funded grant entitled, Water Quality Implementation 113,000

2240-9722 For the purposes of a federally funded grant entitled, Non-Point Source (319H-2) 510,000

2240-9723 For the purposes of a federally funded grant entitled, Non-Point Source (319H-3) 575,000

2240-9732 For the purposes of a federally funded grant entitled, Wetlands Protection 401C Assessment 59,000

2240-9733 For the purposes of a federally funded grant entitled, Public Outreach 14,000

2240-9734 For the purposes of a federally funded grant entitled, Pollution Prevention 17,000

2240-9735 For the purposes of a federally funded grant entitled, Blackstone, Sewer/Stormwater Combined 225,000

2250-9701 For the purposes of a federally funded grant entitled, Public Water Supply Supervision Program 632,000

2250-9704 For the purposes of a federally funded grant entitled, Toxic Use Reduction 136,000

2250-9710 For the purposes of a federally funded grant entitled, Statewide Air Pollution Control Program 4,500,000

Department of Fisheries, Wildlife and Environmental Law Enforcement

2300-0100 For the office of the commissioner; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred fifty-six thousand three hundred one dollars, including not more than eleven positions 499,882

General Fund 50.0%
Environmental Law Enforcement Fund 12.5%
Inland Fisheries and Game Fund 12.5%
Marine Fisheries Fund 12.5%

Public Access Fund 12.5%

2300-0101 For a program of riverways protection, restoration and promotion of public access to rivers; provided, that the positions shall not be subject to the provisions of chapter thirty-one of the General Laws; provided further, that not less than fifteen thousand dollars shall be expended for the purpose of funding the cost share match of an investigation required preliminary to a comprehensive study to evaluate and correct the water quality and related problems of the blackstone river under the United States army corps of engineers, section twenty-two planning assistance to the states program; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred sixty-two thousand four hundred sixty-five dollars, including not more than five positions 245,514

Public Access Fund 100.0%

Federal funds received as reimbursements for expenditures from the following items shall be credited as income to the Inland Fisheries and Game Fund.

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 not more than two hundred thousand dollars of the sum appropriated herein may be obligated for a program of acid rain monitoring; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four million two

hundred six thousand nine hundred ten dollars, including not more than one hundred and thirty-two positions 6,352,712
Inland Fisheries and Game Fund 100.0%

2310-0316 For the purchase of land containing wildlife habitat and for the 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 thirty-one of the General Laws 2,000,000
Inland Fisheries and Game Fund 100.0%

2310-0317 For a waterfowl management program established pursuant to section eleven of chapter one hundred 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; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two hundred two thousand five hundred sixty-six dollars, including not more than five positions 216,964
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; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred twenty-seven thousand nine hundred eighty-five dollars, including not more than three positions 401,383
Natural Heritage and Endangered Species Fund 100.0%

2320-0100 For the administration of the board; provided, that positions funded herein shall not be subject to the provisions of chapter thirty-one of the General Laws; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred sixty-nine thousand four hundred thirty dollars, including not more than six positions 223,830
Public Access Fund 100.0%

2320-0200 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 . . 600,000
Public Access Fund 100.0%

2330-0100 For the marine fisheries program, 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 classi-fication program; provided, that the division shall be directed to conduct a study of the effect of the existing level of squid fishing on other fishery resources in the waters of the Commonwealth, especially in Vineyard and Nantucket Sound, said study to be completed on or before July first, nineteen hundred ninety-four; provided further, that three hundred thousand dollars be expended on a recreational fisheries program to be reimbursed by federal funds; provided further, that the Newburyport shellfish purification plant shall generate not less than one hundred fifteen thousand dollars; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three million fifty-seven thousand four hundred and thirty-seven thousand dollars, including not more than ninety-four positions 3,465,983
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 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
Marine Fisheries Fund 100.0%

2350-0100 For the administration and operations of the division of environmental law enforcement program; provided, that each county

in the commonwealth shall be assigned at least one full time environmental officer; provided further, that additional officers will be assigned to the boat theft task force and shall generate at least four hundred thousand dollars in revenue to the General Fund; provided further, that not more than twenty thousand dollars shall be expended on the expansion of the communications network to complete an analysis of joining a statewide communications system with the executive office of public safety; provided further, that additional officers shall be assigned to vacant patrol districts and shall provide monitoring pursuant to the national shellfish sanitation program; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five million one hundred twenty-three thousand eight hundred thirty-seven dollars, including not more than one hundred forty-seven positions 6,584,273

Environmental Law Enforcement Fund 65.0%
Inland Fisheries and Game Fund 15.0%
Highway Fund 10.0%
General Fund 10.0%

2350-0101 For the hunter safety training program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seventy-nine thousand seven hundred sixty-eight dollars, including not more than three positions 169,468

Inland Fisheries and Game Fund 100.0%

Federal Appropriations

2300-0102 For the purposes of a federally funded grant entitled, Non-Point Source Information and Education 17,450

2300-9884 For the purposes of a federally funded grant entitled, Taunton River Basin Erosion Control 10,000

2300-9885 For the purposes of a federally funded grant entitled, SUASCO Watershed National Rivers Study Technical Support 34,000

2300-9886 For the purposes of a federally funded grant entitled, Assabat River Riparian Mapping Project 9,925

2300-9887 For the purposes of a federally funded grant entitled, Riparian Wetlands Protection Planning and Management Decision Support System 29,450

2330-9706 For the purposes of a federally funded grant entitled, Extended Fisheries Jurisdiction 5,000

2330-9709 For the purposes of a federally funded grant entitled, Commercial Fisheries Research and Development 51,700

2330-9712 For the purposes of a federally funded grant entitled, Commercial Fisheries Statistics 127,321

2330-9714 For the purposes of a federally funded grant entitled, Commercial Fisheries Extension 6,000

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 1,000

2330-9721 For the purposes of a federally funded grant entitled, Anadromous Fish Management 69,000

2330-9722 For the purposes of a federally funded grant entitled, PCB Monitoring & Finfish Diseases Research: Buzzards Bay 500

2340-9701 For the purposes of a federally funded grant entitled, Safe Boating Program 600,000

The Metropolitan District Commission

2410-1000 For the administration of the commission; provided, that the bureau of metropolitan operations of the department of state police shall enter into an interagency agreement with the commission pursuant to police coverage on commission properties and parkways; provided further, that the bureau shall reimburse the commission for costs incurred by the commission including, but not limited to, the maintenance and repairs to the bureau's vehicles, the operation of buildings in which the bureau resides, and other related costs; 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 re-negotiate 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 an annual report be submitted to the house and senate committees on ways and means regarding fee adjustments no later than February first, nineteen hundred ninety-four; provided further, that notwithstanding the provisions of any administra-

tive 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 no funds shall be expended for personnel overtime costs; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred eighty-six thousand nine hundred and ninety-three dollars, including not more than twenty-four positions 1,208,745

Local Aid Fund 75.0%

Highway Fund 25.0%

2410-1001 The commission is hereby authorized to expend for the operation and maintenance of the commission's telecommunications system, one hundred thousand dollars from revenues received from the Massachusetts water resources authority, the Massachusetts convention center, the department of highways central artery/third harbor tunnel project, so called, the bureau of metropolitan operations of the department of state police, and quasi-public and private entities through a system of user fees and other charges established by the commissioner; provided, that nothing in this section shall impair or diminish the rights of access and utilization of all current users of the system pursuant to agreements which have been entered into with the commission; and provided further, that this 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 100,000

2420-1400 For the watershed management program to operate and maintain reservoirs, watershed lands, and related infrastructure of the commission; provided, that expenses incurred in other commission programs to assist the watershed management program may be charged to this line-item; provided further, that no water shall be diverted from the Connecticut river by the metropolitan district commission or the Massachusetts water resources authority; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four million eight hundred fifty-two thousand seven hundred ninety-four dollars, including not more than one hundred fifty-nine posi-

tions 10,320,866
Watershed Management Fund 100.0%

2440-0010 For the administration of the metropolitan district commission parks and recreation division; provided, that fifteen thousand dollars be allocated for the continued scientific monitoring of the aquatic weed control and herbicide application in the area known as Ware's Cove on the Charles River; provided further, that no funding shall be made available from this item for true seasonal employees, so-called; provided further, that said commission is hereby directed to study the feasibility of acquiring Wilson Mountain, so-called, in the town of Dedham for conservation purposes, and make a report of its findings to the general court within ninety days after the effective date of this act; provided further, that notwithstanding the provisions of any general or special law to the contrary, all offices and positions shall be subject to classification under sections forty-five to fifty, inclusive, of chapter thirty of the General Laws; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not ex-ceed fourteen million eight hundred sixty-two thou-sand eight hundred twenty-eight dollars, including not more than three hundred and eight positions, not including year round seasonals 22,395,251
Local Aid Fund 40.0%
Highway Fund 60.0%

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%

2440-2000 For the snow and ice control component of the integrated metropolitan services, including the costs of personnel 574,375
Highway Fund 100.0%

2440-3000 For the extended rink season component of the integrated metropolitan services program, including the costs of personnel 500,000
Local Aid Fund 100.0%

2440-4000 For maintenance, equipment or capital improvement of the Ponkapoag golf course, pursuant to section two U of chapter twenty-nine of the General Laws 450,000
Ponkapoag Recreational Fund 100.0%

2440-4500 For the maintenance and operating expenses of the Leo J. Martin golf course, including the costs of year round and true seasonal employees, so-called, pursuant to section two U of

chapter twenty-nine of the General Laws; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two hundred thousand dollars 300,000

Leo J. Martin Recreation Fund 100.0%

2440-5000 For the seasonal hires of the commission for the summer and fall seasonal programs; provided, that of the total amount appropriated herein no funds shall be made available for year round seasonal employees, so-called; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million seven hundred forty-four thousand four hundred six dollars 2,744,406

Local Aid Fund 40.0%

Highway Fund 60.0%

2440-6000 For the seasonal hires of the commission for the winter and spring seasonal programs; provided, that of the total amount appropriated herein no funds shall be made available for year round seasonal employees, so-called; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six hundred sixty-six thousand two hundred ninety-four dollars 666,294

Local Aid Fund 40.0%

Highway Fund 60.0%

2443-2000 For the operation and administration of the commonwealth zoological corporation, pursuant to chapter ninety-two A of the General Laws 2,000,000

Local Aid Fund 100%

2444-9001 For the construction, reconstruction, and improvement of boulevards, parkways, bridges, and related appurtenances 877,432

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 2,400,000

Highway Fund 100.0%

2460-1000 For the construction division, including a complete engineering study and profile of the Kelly rink located in the Jamaica

Plain section of the city of Boston in preparation for renovation; provided, that not less than fourteen thousand dollars shall be expended for the study and design if necessary and for the cost of repairs of the Kasabuski Rink in the town of Saugus including, but not limited to, any necessary materials and equipment; provided further, that notwithstanding the provisions of any general or special law to the contrary, all offices and positions of the division shall be subject to classification under sections forty-five to fifty, inclusive, of chapter thirty of the General Laws; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million seven hundred thousand seven hundred and seventy-nine dollars, including not more than sixty-seven positions 2,591,848

Local Aid Fund 20.0%
Highway Fund 80.0%

Department of Food and Agriculture

2511-0100 For the office of the commissioner, including the expenses of the board of agriculture; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred twenty-six thousand six hundred thirty-four dollars, including not more than eleven positions 476,803

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; provided, that not less than one hundred seventy-five thousand dollars shall be expended for the integrated pest management program to provide grants for research; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million eighty-seven thousand one hundred fifty dollars, including not more than twenty-nine positions 1,714,455

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; provided further, that not more than one hundred and fifty thousand dollars be expended as a grant to the city of Boston for technical assistance to the haymarket association; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred fifty-four thousand three hundred thirty dollars, including not more than thirteen positions 852,001

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; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred twenty-three thousand four hundred forty-five dollars, including not more than fourteen positions 640,927

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; provided further, that funds shall be used for rehabilitation purposes; and provided further, that expenditures made from the AA subsidiary, so-

called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seventy-three thousand six hundred forty-seven dollars, including not more than two positions 149,547

2520-0100 For the state reclamation board of the mosquito control program, including not more than one position 45,759
Mosquito and Greenhead Fly Control Fund 100.0%

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:

2520-0300 For the Cape Cod mosquito control program 847,313
Mosquito and Greenhead Fly Control Fund 100.0%

2520-0900 For the Suffolk County mosquito control program 166,859
Mosquito and Greenhead Fly Control Fund 100.0%

2520-1000 For the Central Massachusetts mosquito control program 563,430
Mosquito and Greenhead Fly Control Fund 100.0%

2520-1100 For the Berkshire County mosquito control program 66,992
Mosquito and Greenhead Fly Control Fund 100.0%

2520-1200 For the Norfolk County mosquito control program 423,412
Mosquito and Greenhead Fly Control Fund 100.0%

2520-1300 For the Bristol County mosquito control program 448,140
Mosquito and Greenhead Fly Control Fund 100.0%

2520-1400 For the Plymouth County mosquito control program 564,449
Mosquito and Greenhead Fly Control Fund 100.0%

2520-1500 For the Essex County mosquito control program 264,290
Mosquito and Greenhead Fly Control Fund 100.0%

Federal Appropriations

2511-0310 For the purposes of a federally funded grant entitled, Pesticide Enforcement 260,229

2511-0320 For the purposes of a federally funded grant entitled, Certification of Pesticide Applicators 31,000

2516-3000 For the purposes of a federally funded grant entitled, Crop Survey Report 4,887

2516-9002 For the purposes of a federally funded grant entitled, Development of Institutional Marketing 200,000

2516-9003 For the purposes of a federally funded grant entitled, Farmers' Market Coupon Program 425,000

EXECUTIVE OFFICE OF COMMUNITIES AND DEVELOPMENT

SECRETARIAT MISSION

To direct and manage the state's housing, community development, municipal assistance and antipoverty programs to secure housing for low and moderate income people and promote sound municipal and neighborhood development.

STATUTORY REFERENCES

Enabling Statute
M.G.L.c. 23B § 1
Housing and Urban Renewal
M.G.L.c. 121B to 121C

COMPONENT PROGRAMS

1. Executive Office
2. Community Development
3. Municipal Assistance
4. Neighborhood Antipoverty Development
5. Energy Assistance
6. Housing Subsidies
7. Rental Assistance
8. Private Development of Affordable Housing
9. Indian Affairs

PROGRAM 1: Executive Office

PROGRAM MISSION

To oversee, coordinate and support the programs administered by the secretariat through policy formulation, human resource management and fiscal planning and operations.

Program Objectives	Performance Measures	Expected Outputs
1. Develop and coordinate a process for monitoring and improving program performance.	1. Program improvements and enhancements produced by the performance review process.	1. TBR
2. Oversee all financial operations of the secretariat to ensure compliance with Chapter 29 of the General Laws and the General Appropriation Act.	2a. Agency budget requests for	2a. January 1, 1994 FY95 filed.
	2b. Documentation submitted explaining secretariat's supplemental budget requests within 5 days of their filing by the Governor.	2b. TBR

3. Pay invoices within the Comptroller's guidelines of 45 days after receipt.	3a.	Invoices paid on time.	3a. 95%
	3b.	Interest penalty accrued on late bills.	3b. TBR
4. Receive and review applications from developers of low and moderate income housing for tax-exempt financing or federal tax. credits.	4a.	Applications received for TELLER projects.	4a. TBR
	4b.	Applications received from developers for federal tax credit benefits.	4b. TBR
	4c.	Projects monitored to ensure compliance with IRS guidelines on tax credits applied to the development of low and moderate income housing.	4c. TBR

State Appropriations

3000-0100 For the executive office administration program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million five hundred thousand dollars, including not more than seventy-three positions 2,546,246

3000-9315 or the low income housing tax credit component of the executive office program; provided, that the executive office of communities and development may expend an amount not to exceed four hundred fifty 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 twenty-one B of the General Laws, from fees collected pursuant to Executive Order No. 291, pertaining to low-income housing tax credits, and from fees collected pursuant to the rental housing development action loan program, for the costs of administering and monitoring said programs, including the costs of personnel, subject to the approval of the secretary of the executive office of communities and development 450,000

PROGRAM 2: Community Development

PROGRAM MISSION

To support an integrated approach to rehabilitate ailing infrastructures, revitalize neighborhoods and promote economic development in the community.

Program Objectives	Performance Measures	Expected Outputs
1. Assist communities with critical infrastructure improvements, public facility improvements, social service assistance and urban development projects.	1a. Communities receiving technical or financial assistance with urban renewal projects.	1a. 194
	1b. Dollars in federal or private money leveraged by agency grants for public purposes.	1b. $19,137,000
	1c. Jobs created or retained through community financial and technical assistance.	1c. 900
	1d. Communities reimbursed for a portion of the costs related to urban development projects.	1d. 18
	1e. Social service providers receiving grants through cities and towns.	1e. 200
2. Assist communities with the rehabilitation of substandard private housing stock and small business loans.	2a. Low and moderate income housing units rehabilitated, including removal of lead paint and asbestos and correction of serious code violations.	2a. 3,875
	2b. Communities assisted with small business loans.	2b. TBR
	2c. Average loan amount.	2c. TBR
	2d. Default rate on loans.	2d. TBR

State Appropriations

3022-9101 For the federally aided urban renewal component of the community development program; provided, that no new contracts shall be entered into in fiscal year nineteen hundred ninety-four 97,874
Local Aid Fund 100.0%

3022-9102 For the non-federally aided urban renewal component of the community development program; provided, that no new contracts shall be entered into in fiscal year nineteen hundred ninety-four 391,123
Local Aid Fund 100.0%

3022-9108 For the urban revitalization and development component of the community development program, for projects authorized pursuant to section fifty-four of chapter one hundred twenty-one B of the General Laws; provided, that notwithstanding the provisions of section fifty-three or fifty-seven of said chapter one hundred 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 ninety-four ... 643,500
Local Aid Fund 100.0%

Federal Appropriations

3700-0300 For the purposes of a federally funded grant entitled, Lead Paint Abatement 6,000,000

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 28,700,000

3724-3040 For the purposes of a federally funded grant entitled, Rental Rehabilitation Program 15,000

3724-3042 For the purposes of a federally funded grant entitled, CDBG Reporting Program 80,000

3724-3043 For the purposes of a federally funded grant entitled, CDBG Partnerships in ETAs 120,000

PROGRAM 3: Municipal Assistance

PROGRAM MISSION

To provide grants, technical assistance and training to improve the overall capacity of municipal governments to plan, manage and provide cost effective and efficient local services.

Program Objectives	Performance Measures	Expected Outputs
1. Provide financial assistance to municipalities to enhance their management capacity and facilitate efforts to privatize or regionalize the delivery of local services.	1a. Management incentive grants distributed.	1a. 100
	1b. Average grant amount.	1b. TBR
	1c. Local services consolidated or regionalized.	1c. TBR
	1d. Local services privatized.	1d. TBR
	1e. Savings in municipal budgets that are attributed to consolidating or privatizing services.	1e. TBR
2. Provide technical assistance and management training to local officials through workshops and educational publications.	2a. Local officials participating in training workshops.	2a. 1,500
	2b. Requests for technical assistance received from municipalities and regional planning agencies.	2b. 5,300
	2c. Technical assistance requests fulfilled.	2c. 100%

State Appropriation

3100-0200 For the municipal assistance program to provide management incentive grants, technical assistance and training for municipal governments to provide cost effective and efficient delivery of local services, including regionalization of services; provided, that such incentive grants may be utilized for the purchase of hardware and equipment; provided further, that of the amount appropriated herein, not more than seven hundred eighty-five thousand dollars shall be expended for administrative expenses; provided further, that funds ap-

propriated herein may be provided in advance; provided further, that said administrative expenses shall include four hundred thousand dollars to qualify for grant funding under Title I of the federal housing community development act, the so-called small cities match; provided further, that not less than thirty thousand dollars shall be expended for the purposes of retaining professional services to create a plan to assist the community task force appointed by the board of selectmen to determine the future use of the Foxborough state hospital campus; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six hundred seventy thousand five hundred ninety-two dollars, including not more than seventeen positions 2,000,000

Local Aid Fund 100.0%

PROGRAM 4: Neighborhood Antipoverty Development

PROGRAM MISSION

To reduce homelessness and support the development and maintenance of housing through rehabilitation, tenancy mediation, housing search services and community education.

Program Objectives	Performance Measures	Expected Outputs
1. Plan and implement strategies to address poverty issues in targeted areas.	1. Neighborhood development and revitalization projects and services supported.	1. 63
2. Provide emergency service activities to families and individuals who are at-risk of becoming homeless.	2a. Hours of counseling provided to at-risk families and inviduals.	2a. TBR

2b.	Hours of tenancy mediation conducted.	2b. TBR
2c.	Families prevented from becoming homeless through housing search services that result in permanent housing placement.	2c. 2,400
2d.	Individuals prevented from becoming homeless through housing services that result in retaining current housing.	2d. 2,368
2e.	Families and individuals receiving assistance that become homeless.	2e. TBR

State Appropriations

3143-2027 For the community economic development component of the neighborhood antipoverty development program; provided, that contracts may 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; provided further, that expenditures by the administering agency for said program shall not exceed fifty four thousand four hundred twelve dollars; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed forty-five thousand, seven hundred twenty-two dollars, including not more than one position 752,396

Local Aid Fund 100.0%

3143-3036 For the housing services component of the neighborhood anti-poverty development program to provide assistance through community-based organizations to low income tenants in privately owned housing, and to landlords, to maintain and secure decent and affordable shelter within the private housing stock; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed thirty-one thousand seventy-four dollars, including not more than one position 304,671

3144-0002 For the urban initiative fund, a loan and grant program for inner-city neighborhoods; for the purposes of education, job training, business development, health care, day care, youth activities, including athletic and recreation programs, violence and crime prevention, and housing; administered by the community development finance corporation as provided in section one hundred thirty-seven of chapter one hundred thirty-three of the acts of nineteen hundred and ninety-two .. 1,000,000

3144-0003 For the Boston housing authority for a program to provide certain tenant services 76,000

Local Aid Fund 100.0%

Federal Appropriations

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 9,352,770

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 508,000

PROGRAM 5: Energy Assistance

PROGRAM MISSION

To provide weatherization improvements and heating assistance to low income residents of the commonwealth.

Program Objectives	Performance Measures	Expected Outputs
1. Weatherize homes of low income households to improve energy efficiency.	1a. Low income households weatherized.	1a. 2,256
	1b. Estimated annual energy savings realized as a result of weatherization.	1b. TBR
2. Provide fuel assistance through local vendors to low income households.	2a. Low income households receiving fuel assistance.	2a. 134,000
	2b. Site visits conducted to monitor fuel assistance vendors' compliance with program guidelines.	2b. 60

State Appropriation

3145-1000 For the energy assistance program, including, but not limited to the purchase of bulk oil; provided, that no funds shall be expended prior to the official notification from the federal government that sufficient funds have been awarded and that such advance will be reimbursed by the federal government upon the availability of federal funds under the low income home energy assistance act of nineteen hundred eighty-one, Title XXVI of the omnibus budget reconciliation act of nineteen hundred eighty-one (Public Law 97-35) or any other amendments or successor acts thereto 13,000,000

Federal Appropriations

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 5,700,000

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 46,000,000

PROGRAM 6: Housing Subsidies

PROGRAM MISSION

To provide management oversight and financial support for the state's public housing stock.

Program Objectives	Performance Measures	Expected Outputs
1. Provide assistance to local housing authorities to manage public housing for low income families, individuals with special needs and the elderly.	1a. State subsidized public housing units.	1a. 51,616
	1b. Federally subsidized public housing units.	1b. 34,132
	1c. Vacancy rate in state subsidized public housing for the elderly.	1c. TBR
	1d. Vacancy rate in state subsidized public housing for low income families.	1d. TBR
	1e. Vacancy rate in state subsidized public housing for individuals with special needs.	1e. TBR
	1f. Housing authorities receiving state subsidies to operate housing units.	1f. TBR
	1g. Local housing authorities' operating budgets subsidized	1g. 18%

		as a percentage of their total approved budgets.	
	1h.	Reduction in energy consumption in state public housing developments due to energy conservation efforts.	1h. 10%
2. Conduct site visits to monitor and evaluate local housing authorities' administration, maintenance and tenant selection procedures.	2a.	Site reviews conducted.	2a. 85
	2b.	Local housing authorities with poor performance evaluations.	2b. TBR
3. Implement a wage information matching program with the Department of Revenue and the Department of Public Welfare to eliminate tenant fraud.	3a.	Fraudulent income statements identified.	3a. TBR
	3b.	Cases of fraud resulting in attrition.	3b. TBR
4. Work with other state agencies to identify and assist occupants of state homeless shelters to move to public housing.	4.	Individuals transferred to public housing.	4. TBR

State Appropriations

3222-9005 For the housing subsidies program to provide 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 in-

included in the budget of the housing authorities; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred seventy-five thousand three hundred eight dollars, including not more than twelve positions 21,957,573

Local Aid Fund 100.0%

3222-9006 For phase I of a pilot program to promote economic diversity in family public housing; provided, that 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 establish an economic diversity and opportunity pilot program for family public housing in the commonwealth; provided further, that said executive office shall implement said pilot program as a phased project at family housing developments in the commonwealth; provided further, that phase I shall be implemented in the city of Boston at Orient Heights, Gallivan Boulevard, and the West Broadway family housing developments; provided further, that said executive office is hereby further authorized and directed to seek the participation of other appropriate human service agencies to implement said pilot program; provided further, that said executive office shall promulgate regulations for the economic diversity and opportunity pilot program which shall include, but not be limited to, the establishment of: maximum rates based on bedroom size; tenant selection criteria designed to assure that within a reasonable period of time each project in the pilot program will include low and moderate income families with a broad range of income; any and all reasonable restrictions and requirements necessary or appropriate for the implementation of said pilot program; and provided further, that said executive office shall study the feasibility of alternative management and ownership models for family housing developments and report its findings and recommendations to the house and senate committees on ways and means no later than September first, nineteen hundred ninety-three 704,344

Local Aid Fund 100.0%

Federal Appropriations

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 4,200,000

3724-9009 For the purposes of a federally funded grant entitled, Section 8 Substantial Rehabilitation Program; provided, that the executive office of communities and development may provide monthly payments in advance to participating agencies 4,950,000

PROGRAM 7: Rental Assistance

PROGRAM MISSION

To manage a program of rental assistance for low income households to live in private housing.

Program Objectives	Performance Measures	Expected Outputs
1. Provide financial assistance through the Massachusetts Rental Voucher Program to low income tenants in privately owned rental units.	1a. Households receiving rental assistance.	1a. 14,924
	1b. Average monthly voucher payment.	1b. $385
	1c. Mobile voucher tenants transferred to project based units.	1c. TBR
2. Implement a wage information matching program with the Department of Revenue and the Department of Public Welfare to eliminate tenant fraud.	2a. Cases of fraudulent income statements identified.	2a. TBR
	2b. Cases of fraud resulting in attrition.	2b. TBR
3. Administer a portion of the federal Section 8 rental assistance program.	3a. Households receiving federal rental assistance.	3a. 13,100
	3b. Average federal rental assistance payment.	3b. $591
4. Inspect certain rental units for compliance with program guidelines.	4. Required unit inspections conducted.	4. 100%

State Appropriation

3222-9024 For a program of rental assistance for families and elderly of low income through mobile and project based vouchers; provided, that notwithstanding the provisions of any general or special law to the contrary, said rental assistance in the form of mobile vouchers, so-called, shall be paid only to those eligible households, currently holding mobile vouchers, so-called, that held, or were lawfully entitled to hold, chapter seven hundred and seven certificates, so-called, as of October thirty-first, nineteen hundred and ninety-two, pursuant to the chapter seven hundred and seven program, so-called, and to those households currently holding mobile vouchers, so-called, that held, or were lawfully entitled to hold state housing vouchers, so-called, as of October thirty-first nineteen hundred and ninety-two, pursuant to 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; provided, that there shall be no further payments made under said chapter seven hundred and seven program, so-called, or under said program of housing assistance consistent with the requirements established by the federal government for the program authorized by Public Law 98-181, Section 207, which state program was known as the state housing voucher program, so-called; provided further, that rental assistance shall only be paid pursuant to a program known as the Massachusetts rental voucher program, heretofore established by the executive office of communities and development, as such program may hereafter be amended; provided further, that the income of said households shall in no event exceed two hundred percent of the federally established poverty level; provided further, that the executive office of communities and development is hereby authorized and directed to conduct an annual verification of household income levels based upon state and federal tax returns, and that said executive office is hereby further authorized and directed to consult with the department of revenue, the department of public welfare, or any other state or federal agency it deems necessary to conduct such income verification, and that, notwithstanding the provisions of any general or special law to the contrary, said state agencies are hereby authorized and directed to consult and

cooperate with said executive office and to furnish any and all information in the possession of said agencies including, but not limited to, tax returns and applications for public assistance or financial aid; provided further, that said vouchers shall be in varying dollar amounts set by the secretary based upon considerations, including, but not limited to, family size and composition, ranges of family income and geographic location; provided further, that notwithstanding the provisions of any general or special law to the contrary, the use of rent surveys shall not be required in determining the amounts of such mobile vouchers, so-called, or such project based vouchers, so-called; provided further, that any household which is proven to have caused intentional damages to their rental unit in an amount exceeding two month's rent during any one year lease period shall be terminated from the program; provided further, that notwithstanding the provisions of any general or special law to the contrary, a mobile voucher whose use is or has been discontinued shall not be reassigned at any time; provided further, that an allowance not to exceed fifteen dollars per voucher per month shall be determined and paid by the executive office of communities and development for administration of the rental assistance program; provided further, that the secretary is hereby authorized to expend an amount up to but not exceeding six percent of the appropriation provided herein and including any balance carried forth from the prior year for the administration of the rental voucher program; provided further that said six percent for administration shall include, but not be limited to, said allowance for administration which is not to exceed fifteen dollars per voucher per month; provided further that said six percent shall also include, but not be limited to, all expenditures which may be made by the secretary to conduct or otherwise contract for rental voucher program inspections; provided further, that under no circumstances shall subsidies be reduced for the purpose of accommodating the cost of said inspection; provided further, that notwithstanding any provision of law to the contrary, there shall be no maximum percentage applicable to the amount of income paid for rent by each household holding a mobile voucher, so-called, or project based voucher, so-called, but each household shall pay at least thirty percent of income as rent; provided further,

that payments for rental assistance may be provided in advance; provided further, that the executive office of communities and development shall establish the amounts of the mobile vouchers, so-called, and the project based vouchers, so-called, so that the appropriation herein and including any balance carried forth from the prior year is not exceeded by payments for rental assistance, administration, and other commitments; provided further, that the amount of a rental assistance voucher payment for an eligible household shall not exceed the rent less the household's minimum rent obligation; provided further, that the word "rent" as used in this item shall mean payments to the landlord or owner of a dwelling unit pursuant to a lease or other agreement for a tenant's occupancy of the dwelling unit, but shall not include payments made by the tenant separately for the cost of heat, cooking fuel, and electricity; provided further, that upon vacancy of a project based dwelling unit, households holding mobile vouchers, so-called, shall have priority for occupancy of said project based dwelling units; provided further, that the executive office of communities and development shall submit quarterly reports to the state budget director, the secretary of administration and finance, and the house and senate committees on ways and means detailing expenditures, the number of outstanding rental vouchers, and the number and types of units leased; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred ninety-nine thousand thirty-three dollars, including not more than seven positions 60,451,431

Federal Appropriations

3722-9011 For the purposes of a federally funded grant entitled, Supportive Housing Demonstration Program 1,347,600

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 65,800,000

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 17,366,087

PROGRAM 8: Private Development of Affordable Housing

PROGRAM MISSION

To support affordable housing opportunities through private mixed income housing developments.

Program Objectives	Performance Measures	Expected Outputs
1. Subsidize the operating deficiencies of private rental developments for mixed income households through the rental housing development action loan program (RHDAL). subsidies	1a. Developments subsidized.	1a. 21
	1b. Value of operating as a percentage of annual project costs.	1b. TBR
	1c. Low and moderate income units maintained in subsidized developments.	1c. 900
	1d. Occupancy rate of low and moderate income units.	1d. TBR
	1e. Occupancy rate of market rate units.	1e. TBR
2. Provide interest subsidy loans to private multi-family housing developments for mixed income households through the state housing-assistance for rental production program (SHARP).	2a. Developments receiving interest subsidy loans.	2a. 82
	2b. Interest subsidy loans repaid to the Massachusetts Housing Finance Agency.	2b. TBR
	2c. Default rate on loans.	2c. TBR
	2d. Low and moderate income units maintained in subsidized developments.	2d. 4,100
	2e. Occupancy rate of low and moderate income units.	2e. TBR

	2f. Occupancy rate of market rate units.	2f. TBR

State Appropriations

3322-8878 For the rental housing development action loan component of the private development of affordable housing program; provided, that notwithstanding any general or special law to the contrary, no new commitments, contracts, or re-negotiations of existing contracts resulting in an increased cost shall be entered into during fiscal year nineteen hundred ninety-four 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 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 2,846,910

3322-8880 For the homeownership opportunity component of the private development of affordable housing 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

3322-9027 For the state housing assistance for rental production (SHARP) component of the private development of affordable housing program, for contracts with sponsors of rental housing projects, financed through the Massachusetts housing finance agency established pursuant to chapter seven hundred eight of the acts of nineteen hundred 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 seventy-four of the acts of nineteen hundred 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 million one hundred six thousand five hundred fifty-five dollars; provided further, that notwithstanding any general or special law to the contrary, no new commitments, contracts, re-negotiations, modifications or revisions of existing contracts resulting in an increased cost shall be entered into during fiscal year nineteen hundred ninety-four 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 30,106,555

3322-9201 For the interest subsidy component of the private development of affordable housing program; provided, that notwithstanding the provisions of any general or special law to the contrary, no new commitments shall be entered into during fiscal year nineteen hundred and ninety-four for said fiscal year or any subsequent fiscal years 8,360,088

Federal Appropriation

3722-9028 For the purposes of a federally funded grant entitled, HOME .. 7,000,000

PROGRAM 9: Indian Affairs

PROGRAM MISSION

To provide counseling, advocacy and legal advice to Native Americans in the commonwealth.

Program Objectives	Performance Measures	Expected Outputs
1. Respond to requests for information concerning Native American issues.	1a. Requests for information received.	1a. 1,500
	1b. Response rate.	1b. 100%

2. Investigate possible Native American burial sites and provide for reinterments.	2. Investigations and reinterments completed.	2.	31

State Appropriations

3747-0001 For the Indian affairs program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed thirty-eight thousand eight hundred dollars, including not more than one position 51,977

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Notwithstanding the provisions of any general or special law to the contrary, unless otherwise expressly provided, all federal reimbursements received for the purposes of the executive office of health and human services, including reimbursement for administrative, fringe and overhead costs, including reimbursements attributable to the operation of the medicaid management information system, so-called, for fiscal year nineteen hundred ninety-four and prior fiscal years, shall be credited to the General Fund and the executive office of health and human services 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 medicaid program expenditures, medicaid savings and revenues and medicaid error rate measurements.

Notwithstanding any provision of general or special law to the contrary, the executive office of health and human services shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance the amount expended on basic child care contracts and vouchers, supportive child care contracts, and teen parent day care contracts and shall include the total number of slots by category, occupancy by category and the cost by category, in addition to the number of clients on waiting lists at all day care centers with which the state contracts as well as an estimate of the current unmet need for child care slots, both voucher and contract, by category.

Office of the Secretary

4000-0100 For the office of the secretary, including the health facilities appeals board; provided, that the executive office of health and human services shall provide technical and administrative assistance to agencies receiving federal funds, as may be appropriate; provided further, that the executive office shall compile annually, a report containing the total amount of contract obligation and total appropriation amounts obligated by department and service type, to be filed with the house and

senate committees on ways and means no later than March first, nineteen hundred ninety-four; provided further, that, notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million seven hundred sixty-two thousand four hundred eighty-four dollars, including not more than thirty-eight positions 2,107,459

4000-0105 The executive office of health and human services may expend from the collection of federal reimbursements generated pursuant to an initiative to restructure the financing and delivery of children's and family services an amount not to exceed three million dollars; provided, that the expenditure of said reimbursements shall be contingent upon receipt of an Anna E. Casey foundation program implementation grant; provided further, that federal reimbursements so generated shall not be expended unless certified by the secretary of said executive office to exceed the most recent estimate of federal reimbursement estimates to be generated by agencies within said executive office as reported in the state accounting system for fiscal year nineteen hundred and ninety-four; provided further, that no reimbursements attributable to any department of social services reimbursements or to any department of youth services Title IV-E reimbursements shall be counted in said estimate or credited to this item; provided further, that the secretary of said executive office may designate agencies within the executive office to receive and expend said revenues for services to children and families consistent with the Casey Foundation project plan subject to the approval of the secretary and the notification of the house and senate committees on ways and means; provided further,

that an agency designated by said secretary may incur expenses and the comptroller shall certify for payments amounts not to exceed the authorization as assigned by said secretary; provided further, that the executive office shall assure the delivery of services provided to said children and families pursuant to this item to the maximum extent feasible at the Boston specialty and rehabilitation hospital in Mattapan; and provided further, expenditures from this item shall be prohibited before October first, nineteen hundred and ninety-three and until such time as agencies within said executive office shall have negotiated contracts with said hospital for inpatient admissions of not fewer than seventy clients of said agencies for medical services and specialized care at said hospital at a rate not to exceed the reasonable financial requirements of said hospital 3,000,000

Day Care

4000-0190 For the administration of day care programs; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred five thousand seven hundred seventy dollars, including not more than eleven positions 405,770

4000-0200 For voucher and contracted day care programs; provided, that the MassJOBS day care program shall be available for recipients of benefits provided under the program of aid to families with dependent children and the absent parents of said recipients; provided further, that the day care program shall be available to participants in the MassJOBS program, and for former participants within up to one year of termination of their aid to families with dependent children benefits due to employment; provided further, that unless otherwise authorized to be expended, any federal reimbursements received for this purpose shall be credited to the General Fund; provided further, that day care slots shall be distributed geographically in a manner which provides fair and adequate access to day care for all eligible individuals; provided further, that the department is hereby authorized to provide day care benefits to parents currently enrolled in a job training program who are under the age of eighteen and who would qualify for benefits under the provisions of chapter one

hundred eighteen of the General Laws but for the deeming of the grandparents' income; provided further, that not more than four million two hundred twenty-eight thousand nine hundred and seventy-five dollars shall be expended for MassJOBS contracted day care; provided further, that not more than thirty-seven million five hundred seventy-eight thousand eight hundred sixty-five dollars shall be expended for MassJOBS voucher day care; provided further, that not more than three million six hundred thousand dollars shall be expended for the operating expenses of the MassJOBS voucher management system; provided further, that two hundred thousand dollars shall be expended for the provision of operating support for community-based child care resource and referral programs that provide direct services to parents; provided further, that three million eight hundred thousand one hundred thirteen dollars shall be expended for contracted day care slots for teen parents and their children; provided further, that not more than thirty-three million eight hundred twenty thousand five hundred forty-two dollars shall be expended for contracted day care slots for income eligible parents; provided further, that not more than two million seven hundred thirty-nine thousand one hundred sixty-nine dollars shall be expended for voucher day care for income eligible parents; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 85,967,664

4000-0210 The secretariat may expend for purposes of the MassJOBS day care program an amount not to exceed six million dollars from the monies received from title IV-A reimbursements which are attributable to services provided to clients within protective or supportive day care programs, so-called; provided, that three million three hundred thousand dollars shall be expended for voucher day care services for participants in the MassJOBS program and for former participants within up

to one year of the termination of their aid to families with dependent children benefits due to employment; provided further, that not more than two million seven hundred thousand dollars shall be expended for contracted day care services for participants in the MassJOBS program and for former participants within up to one year of the termination of their aid to families with dependent children benefits due to employment; provided further, that no funds from this item shall be expended for "extended vouchers," so-called; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred and ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 6,000,000

4000-0220 For the informal child care program; provided, that not more than two dollars per child per hour shall be paid for such services, and not more than four million dollars in total shall be expended for independent child care services 4,000,000

4000-0230 For supportive family preservation day care for children in need of protective services; provided, that no funds shall be expended for "extended vouchers", so-called; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred and ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 32,423,247

Federal Appropriations

6006-0042 For the purposes of a federally funded grant entitled, Airport System Planning 722,181

Department of Highways

6010-0001 For personnel services of the department; for certain administrative and engineering expenses and equipment of the commission, the office of the highways commissioner and the division of administrative services, highway engineering, highway maintenance, highway construction and the district and other highway activity offices, and for materials, supplies, fleet maintenance and equipment, and for maintenance and operation of state highways and bridges; provided, 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; 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; provided further, that the department shall use only funds appropriated herein for maintenance costs, not including Essex county; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed fifty-nine million five hundred nineteen thousand five hundred twenty-four dollars, including not more than one thousand seven hundred and twenty-seven positions 74,122,524

Highway Fund 100.0%

6010-1022 For the maintenance costs associated with Essex county; provided, that the department shall submit to the house and senate committees on ways and means by December second, nineteen hundred ninety-three a cost-benefit analysis of the privatization program for the previous year; and provided fur-

ther, that the department shall use only funds appropriated herein for the maintenance costs in Essex county 4,000,000
Highway Fund 100.0%

6020-2505 For the administration of the outdoor advertising board; provided, that expenditures made from the AA sub-sidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred and four thousand six hundred twenty-six dollars, including not more than three positions 112,926
Highway Fund 100%

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-four may be expended for bridge washing, catch basin cleaning, and highway sweeping 16,167,000
Highway Fund 100.0%

BOARD OF LIBRARY COMMISSIONERS

7000-9101 For the administration and expenses of the board of library commissioners; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five hundred twenty-one thousand one hundred thirty-seven dollars, including not more than fourteen positions 700,845
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 eighty-eight and seven-hundredths 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 is below an amount equal to the average of the appropriations for free public library service for the three years immediately preceding; and 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 nineteen hundred and ninety edition, to any library not receiving funds as a library of last recourse for a period of no more than one year 11,206,453

Local Aid Fund 100.0%

7000-9402 For the purposes of a talking book library at Worcester 136,852

Local Aid Fund 100.0%

7000-9406 For the administration of a talking book program, including the administration and operation of the machine lending agency; provided, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 901,274

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 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 fifty waivers in addition to the number permitted pursuant to the sixth paragraph of sec-

tion nineteen A of chapter seventy-eight of the Massachusetts General Laws as appearing in the nineteen hundred and ninety edition, to any library not receiving funds as a library of last recourse for a period of no more than one year; and 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..... 108,022

Local Aid Fund 100.0%

Federal Appropriations

7000-9703 For the purposes of a federally funded grant entitled, Title III LSCA Interlibrary Cooperation 532,846

7000-9705 For the purposes of a federally funded grant entitled, LSCA Program - Title I 2,500,000

7000-9707 For the purposes of a federally funded grant entitled, Emergency Federal Jobs Bill - LSCA Title II 500,000

EXECUTIVE OFFICE OF EDUCATIONAL AFFAIRS

Office of the Secretary

7005-0001 For the office of the secretary of education; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred forty-eight thousand two hundred seventy-seven dollars; and provided further, that two hundred thousand nine hundred and thirty-seven dollars is hereby appropriated for extraordinary personnel costs, including not more than sixteen positions .. 1,071,096

7005-0003 For the school of excellence program at the Worcester polytechnic institute; provided, that every effort be made to recruit and serve equal numbers of male and female students 250,000

7005-0005 For the expenses of the New England board of higher education and for the expenses of the members of said board 526,733

DEPARTMENT OF EDUCATION
Board of Education and Commissioner's Office

7010-0005 For the general administration of the department; provided, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five million four hundred seventy-seven thousand three hundred seventy-nine dollars, including not more than one hundred forty-four positions 8,031,642

Local Aid Fund 100.0%

7010-0010 For the implementation of the education reform act of nineteen hundred ninety-three, chapter seventy-one of the acts of nineteen hundred ninety-three, including but not limited to the development of statewide educational goals, standards, and curriculum frameworks; provided, that of the amount appropriated herein, not less than one hundred thirty-nine thousand seven hundred thirty-eight dollars shall be expended for the purchase of equipment and services to automate the teacher certification system; provided further, that of the amount appropriated herein, not less than one million one hundred six thousand dollars shall be expended for the development, administration and scoring of a statewide assessment test; provided further, that of the amount appropriated herein, no more than one hundred eighty-four thousand nine hundred fifty dollars may be expended for the costs associated with the administration of said programs; and provided further, that the department of education shall file a spending plan for the amounts appropriated herein with the joint committee on education and the house and senate committees on ways and means by September first, nineteen hundred ninety-three 2,875,838

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 12,031,328

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 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 may reimburse grant recipients for prior year expenditures 864,000

Local Aid Fund 100.0%

7027-1000 For the state matching requirements of the partnership for advancement in learning math and science and the community service project 2,100,000

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 notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said

purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million six hundred twenty-seven thousand two hundred forty dollars, including not more than sixty-four positions 8,274,566

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 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 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; provided further, that not less than twenty-one thousand two hundred and seventy-nine dollars be expended to reimburse the town of Hudson for monies due in previous fiscal years; 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; provided further, that notwithstanding the provisions of any general or special

law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 3,708,404

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; provided further, that the commissioner of education may expend funds from this item for grants to head start programs at his discretion; provided further, that of the sum appropriated herein, any monies expended for the purpose of the head start program shall be used exclusively to fund program slots; and provided further, that the department shall work in conjunction with the department of public welfare to obtain federal reimbursement pursuant to Title IV-A of the Social Security Act for all program participants that are eligible 12,912,938

Local Aid Fund 100.0%

7030-1500 For grants to head start programs; provided, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein

until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 6,000,000

Local Aid Fund 100.0%

7030-2000 For grants to cities, towns, regional school districts and educational collaboratives 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; 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; and provided further, that not less than sixty thousand dollars be expended for the project learn program in the city of Lynn 1,967,984

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 16,000,000

Health Protection Fund 100.0%

7035-0002 For the expenses of providing and strengthening basic educational attainment and work-related programs in reading, writing and mathematics at adult learning centers; provided, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made

available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 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-three 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 the provisions of 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%

7052-0003 For school building assistance grants and reimbursements for projects to eliminate racial imbalance under the provisions of chapter six hundred forty-five of the acts of nineteen hundred 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 forty-five of the acts of nineteen hundred forty-eight in the fiscal year

ending June thirtieth, nineteen hundred ninety-four shall not exceed six million nine hundred fifty thousand dollars 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; provided further, that eight million four hundred thirty-three thousand three hundred sixty-three dollars shall be expended for the principal and interest of the projects in the city of Chelsea; and provided further, that a report shall be filed quarterly by the board of education with the house and senate committees on ways and means regarding funding commitments 14,896,215

Local Aid Fund 100.0%

7052-0004 For school building assistance grants and reimbursements for cities and towns not subject to court ordered or board of education racial imbalance plans under the provisions of chapter six hundred forty-five of the acts of nineteen hundred 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 forty-five of the acts of nineteen hundred forty-eight in the fiscal year ending June thirtieth, nineteen hundred ninety-four shall not exceed nine million nine hundred two thousand four hundred seventy-seven dollars; provided further, that those projects on the fiscal year nineteen hundred and ninety-two priority list, so-called, which have not been reached in fiscal year nineteen hundred and ninety-four shall be given priority before any new projects when such list is prepared for fiscal year nineteen hundred and ninety-five; provided further, that notwithstanding any general or special law to the contrary, the board of education is prohibited from authorizing the expenditure of funds for new school building assistance projects until such time as the existing pool of approved projects on the fiscal year nineteen hundred and ninety-three priority list so-called are funded; and provided further, that a report shall be filed semi-annually by the board of education with the house and senate committees on ways and means regarding funding commitments 9,232,800

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, as amended, for annual payments on accounts of school projects on which the first annual payments have been made 135,000,000
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 forty-five of the acts of nineteen hundred forty-eight, for (a) educational, engineering and architectural services for regional school districts, (b) surveys made of school building needs and conditions, (c) matching stabilization fund payments, (d) costs of leasing buildings for vocational programs and originally equipping and furnishing said buildings for vocational programs, and (e) payments associated with admission to a regional school district; provided, that thirty-five thousand dollars of the amount appropriated herein shall be expended for a portion of the costs to be incurred by the town of Belchertown for architectural plans and drawings to be prepared for a school building project in the town; and provided further, that this thirty-five thousand dollars shall be considered an advance payment of the reimbursement the town receives from the commonwealth for said building project under the provisions of chapter six hundred forty-five of the acts of nineteen hundred forty-eight 575,000
Local Aid Fund 100.0%

7052-0007 For grants and reimbursements to cities, towns, regional school districts and counties for the purposes of the school building assistance program under the provisions of chapter six hundred forty-five of the acts of nineteen hundred forty-eight; provided, that of the amount appropriated herein, the board of education may authorize one-time payments of the total reimbursement due to cities and towns for school buildings that are structurally unsound or otherwise in a condition jeopardizing the safety of the school children 5,365,732
Local Aid Fund 100.0%

7053-1909 For the reimbursements to 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 the 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%

7053-1925 For the school breakfast program; provided, that of the sum appropriated herein, not less than three hundred thousand dollars shall be expended for the summer food service out-reach program, and not less than two hundred thousand dollars shall be expended for the school breakfast outreach program, including reimbursement of municipal expenses 850,000

Local Aid 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 chapters seventy and seventy six of the General Laws, as appearing in sections thirty-two and sixty-one of chapter seventy-one of the acts of nineteen hundred ninety-three 1,432,415,996

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 ninety-three; provided that twenty thousand dollars shall be expended for the town of Groveland for related expenses; provided further, that not more than one million two hundred fifty thousand dollars may be used to fund voluntary pilot programs between the department of education and the department of mental retardation to develop community-based support services for children and their families; provided further, that the amount spent for a particular student shall not exceed the amount of

tuition funds allocated for the student at the time of transition into the pilot program; provided further, that funding provided herein may reimburse private schools for prior fiscal year's tuition; provided further, that the commonwealth shall not pay more than fifty percent of the cost of any such residential placement; provided further, that notwithstanding the provisions of any general or special law to the contrary, no further rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 27,871,529

Local Aid Fund 100.0%

7061-9000 For fiscal year nineteen hundred ninety-four reimbursements to certain cities, towns and regional school districts pursuant to section twelve B of chapter seventy-six of the General Laws as appearing in section sixty-one of chapter seventy-one of the acts of nineteen hundred ninety-three; provided, that of the amount appropriated herein, not less than twenty-nine thousand three hundred eighty-four dollars shall be paid to the town of Rowley, and not less than three thousand one hundred ten dollars shall be paid to the town of Boxford, as reimbursement for costs incurred in fiscal year nineteen hundred ninety-two 7,000,000

Local Aid Fund 100.0%

Federal Appropriations

7010-0013 For the purposes of a federally funded grant entitled, Racial Imbalance Programs 550,000

7010-9091 For the purposes of a federally funded grant entitled, Explorations in Mathematics, an In-Service Program for Urban Teachers 285,000

7010-9093 For the purposes of a federally funded grant entitled, Project PALMS 2,000,000

7010-9706 For the purposes of a federally funded grant entitled, Common Core Data Project 40,000

7010-9732 For the purposes of a federally funded grant entitled, Chapter 2 Education Consolidation and Improvement Act, Administration 1,790,000

7027-9116 For the purposes of a federally funded grant entitled, Occupational Education, Distribution 15,800,000

7027-9121 For the purposes of a federally funded grant entitled, Community Based Organizations 200,000

7027-9122 For the purposes of a federally funded grant entitled, Occupational Education Consumer and Homemaking 657,000

7027-9123 For the purposes of a federally funded grant entitled, Technical Preparation 1,700,000

7027-9126 For the purposes of a federally funded grant entitled, Occupational Education, Administration 2,800,000

7028-0601 For the purposes of a federally funded grant entitled, Education of the Handicapped, Administration 3,000,000

7028-0816 For the purposes of a federally funded grant entitled, Handicapped in Institutions, Distribution 12,500,000

7028-0891 For the purposes of a federally funded grant entitled, Into the Mainstream 265,000

7028-1925 For the purposes of a federally funded grant entitled, Transition Services for Youth 440,000

7030-0191 For the purposes of a federally funded grant entitled, Coordination of Technical Assistance for Bilingual Education Programs by S.E.A.S. 125,000

7030-9736 For the purposes of a federally funded grant entitled, Chapter II, Education Consolidation and Improvement Act, Distribution 7,200,000

7030-9780 For the purposes of a federally funded grant entitled, D.D. Eisenhower Math and Science Education Program, Administration 400,000

7030-9790 For the purposes of a federally funded grant entitled, D.D. Eisenhower Math and Science Education Program, Distribution 3,500,000

7032-0207 For the purposes of a federally funded grant entitled, Robert C. Byrd Honors Scholarship Program, Administration 20,000

7032-0217 For the purposes of a federally funded grant entitled, Robert C. Byrd Honors Scholarship Program, Distribution 180,000

7032-0227 For the purposes of a federally funded grant entitled, Drug Free Schools, Administration 850,000

7032-0228 For the purposes of a federally funded grant entitled, Massachusetts AIDS Education Program 270,000

7032-0230	For the purposes of a federal grant entitled, Drug Free Schools, Distri-bution	7,500,000
7032-0402	For the purposes of a federally funded grant entitled, Chapter 1, Administration	1,450,000
7032-9130	For the purposes of a federally funded grant entitled, Foreign Language Assistance, Distribution	295,000
7032-9131	For the purposes of a federally funded grant entitled, Foreign Language Assistance, Administration	17,000
7035-0013	For the purposes of a federally funded grant entitled, Education of the Handicapped, Discretionary	3,500,000
7035-0116	For the purposes of a federally funded grant entitled, Chapter I, Education Consolidation and Improvement Act, Distrib-ution	145,000,000
7035-0126	For the purposes of a federally funded grant entitled, Neglect-ed and Delinquent Children	630,000
7035-0136	For the purposes of a federally funded grant entitled, Children in State Adult Correctional Institutions	135,000
7035-0146	For the purposes of a federally funded grant entitled, Migrant Education	5,400,000
7035-0151	For the purposes of a federally funded grant entitled, Homeless Exemplary	500,000
7035-0156	For the purposes of a federal grant entitled, Chapter 1 Capital Expenses for Private Schools	1,500,000
7035-0157	For the purposes of a federal grant entitled, Chapter 1 Program Improvement	590,000
7035-0158	For the purposes of a federally funded grant entitled, Massa-chusetts Educational Program for Homeless Children	100,000
7035-0166	For the purposes of a federally funded grant entitled, Even Start Family Literacy, Distribution	1,439,000
7035-0167	For the purposes of a federally funded grant entitled, Even Start Family Literacy, Administration	75,000
7035-0316	For the purposes of a federally funded grant entitled, Education of the Handicapped, Distribution	52,200,000
7035-0713	For the purposes of a federally funded grant entitled, Early Child-hood Incentive, Administration	420,000
7035-0716	For the purposes of a federally funded grant entitled, Preschool Incentive, Distribution	6,100,000
7035-0718	For the purposes of a federally funded grant entitled, Preschool Incentive, Discretionary	1,650,000
7038-0002	For the purposes of a federally funded grant entitled, Adult Ba-sic Education, Administration	500,000

7038-0106 For the purposes of a federally funded grant entitled, Adult Basic Education, Distribution 4,800,000
7038-0109 For the purposes of a federally funded grant entitled, Adult Education for the Homeless 50,000
7038-0110 For the purposes of a federally funded grant entitled, Adult Education Homeless, Administration 420,000
7038-0119 For the purposes of a federally funded grant entitled, Workplace Literacy Partnership, Administration 54,000
7038-0121 For the purposes of a federally funded grant entitled, Workplace Literacy Initiative, Distribution 50,000
7038-0193 For the purposes of a federally funded grant entitled, Literary Demo Program, Distribution 300,000
7038-0194 For the purposes of a federally funded grant entitled, Literacy Demo Program, Administration 50,000
7038-0492 For the purposes of a federally funded grant entitled, Community Driver License Initiative 130,000
7038-0493 For the purposes of a federally funded grant entitled, Workplace Initiative 210,000
7038-9003 For the purposes of a federally funded grant entitled, Community Service, Administration 160,000
7038-9004 For the purposes of a federally funded grant entitled, Community Service and Development, Distribution 8,173,000
7038-9724 For the purposes of a federally funded grant entitled, Emergency Immigrant Education Assistance, Administration 10,000
7038-9746 For the purposes of a federally funded grant entitled, Emergency Immigrant Education Assistance, Distribution 630,000
7053-2105 For the purposes of a federally funded grant entitled, Special Food Distribution Cash 600,000
7053-2111 For the purposes of a federally funded grant entitled, Special Milk Program 750,000
7053-2112 For the purposes of a federally funded grant entitled, School Lunch, Section 11, Special Assistance 53,000,000
7053-2113 For the purposes of a federally funded grant entitled, Community School Lunch Program 14,000,000
7053-2114 For the purposes of a federally funded grant entitled, School Breakfast Program 14,500,000
7053-2117 For the purposes of a federally funded grant entitled, Child Care Food Program 36,000,000
7053-2118 For the purposes of a federally funded grant entitled, School Food Service, Management and Related Activities 320,000
7053-2126 For the purposes of a federally funded grant entitled, Temporary Emergency Food Assistance 1,800,000

7053-2202 For the purposes of a federally funded grant entitled, Special Summer Food Service Program for Children 2,800,000

7062-0008 For the purposes of a federally funded grant entitled, Nutrition Program, Administration 2,150,000

HIGHER EDUCATION COORDINATING COUNCIL

AGENCY MISSION

To offer the residents of the Commonwealth and other individuals the opportunity of an affordable, quality higher education in the field of their choice.

STATUTORY REFERENCES
Enabling Statute
M.G.L. c. 15A § 4

COMPONENT PROGRAMS
1. Administration
2. Financial Assistance
3. Assistance to Tufts School of Veterinary Medicine
4. Universities
5. State Colleges
6. Toxics Use Reduction Institute
7. Community Colleges

PROGRAM 1: *Administration*

PROGRAM MISSION

To provide administrative, budgetary, legal, policy, technical and academic program support to the council and the public higher education institutions of the Commonwealth.

Program Objectives	Performance Measures	Expected Outputs
1. Develop and coordinate a process for monitoring and improving program performance.	1. Program improvements and enhancements produced by the performance review process.	1. TBR
2. Respond to information inquiries from the general public, higher education students, other state agencies, and the Legislature.	2. Inquiries responded to within 48 hours.	2. 100%
3. Provide information on law enforcement officer higher education perform-	3a. Officers enrolled in institutions of higher education through this program.	3a. TBR

	ance relative to the so-called Quinn Bill.		
		3b. Officers graduating from the program.	3b. TBR
4.	Evaluate new degree programs.	4a. Evaluations conducted.	4a. 10
		4b. Degree programs approved.	4b. TBR
5.	Conduct computer network training courses for campus personnel.	5a. Courses offered.	5a. 25
		5b. Personnel completing training.	5b. 500

State Appropriations

7066-0000 For the administration program, including the chancellor of higher education and the higher education coordinating council, and for the operation of the higher education computer network; provided, 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; 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; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million four hundred thousand dollars, including not more than forty-two positions 3,212,639

7066-0002 For the operation of the higher education computer network component of the administration program; provided, that the higher education computer network shall generate and is authorized to expend up to one hundred thousand dollars in fees and charges collected for data processing services rendered to agencies, institutions and other educational organizations of the commonwealth; and provided further, that the data processing system shall maintain a schedule of fees for

services provided to agencies, institutions and other educational organizations of the commonwealth 100,000

7066-0005 For the commonwealth's share of the cost of the compact for education component of the administration program 60,500

PROGRAM 2: Financial Assistance

PROGRAM MISSION

To provide financial assistance to residents of the commonwealth currently enrolled in public and private institutions of higher education.

Program Objectives	Performance Measures	Expected Outputs
1. Examine applications and award financial assistance to students through the 1) General Scholarship, 2) Herter Scholarship, 3) Public Service Scholarship	1a. Applications received, by scholarship program.	1a.1 125,000 1a.2 200 1a.3 250
	1b. Students receiving aid, by scholarship program.	1b.1 33,500 1b.2 60 1b.3 155
	1c. Average grant award, by scholarship program.	1c.1 $1,100 1c.2 $1,612 1c.3 $1,612
	1d. Average financial assistance award per student attending public compared to private institutions, by scholarship program.	1d. TBR
2. Provide scholarships through the Gilbert Grant Program.	2a. Scholarships awarded.	2a. TBR
	2b. Average award per student.	2b. TBR
3. Provide no interest loans to students who are ineligible for state and/or federal financial assistance.	3a. Students receiving aid.	3a. 4,000
	3b. Average student financial assistance award.	3b. $2,000
	3c. Average financial assistance award per student attending public compared to private institutions.	3c. TBR

4. Provide middle-income student loans through the MEFA loan program.	4a.	Number of students receiving loans.	4a. TBR
	4b.	Average loan value.	4b. TBR
	4c.	Average loan awarded per student attending public compared to private institutions	4c. TBR
5. Furnish financial assistance and supportive services to disadvantaged students at public education institutions in Massachusetts under the McNair program.	5a.	Students applying for aid.	5a. TBR
	5b.	Students receiving aid.	5b. TBR
	5c.	Average student financial assistance award.	5c. TBR
	5d.	Students receiving support services through faculty and peer interaction programs.	5d. TBR
6. Manage the 1) Supplemental Education Opportunity Grant, 2) College Work Study and 3) Perkins loan programs.	6a.	Colleges participating in each program.	6a.1 29 6a.2 29 6a.3 14
	6b.	Dollar value of higher education institution participation for each program.	6b.1 $1,913,969 6b.2 $2,851,022 6b.3 $536,961
	6c.	Total federal matching funds for each program.	6c.1 $5,795,904 6c.2 $2,851,022 6c.3 $1,610,884
	6d.	Students participating in College Work Study.	6d. 12,300
	6e.	Students receiving Perkins Loans.	6e. 7,000

State Appropriations

7070-0031 For the McNair component of the financial assistance program to increase access to public and independent institutions of higher education for students who meet certain income eligibility standards developed by the chancellor of higher education and for students with serious physical impairments,

known as the Ronald E. McNair education opportunity program; provided further, that, notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six hundred twenty-four thousand one hundred ninety-five dollars, including not more than twenty-five positions 3,951,135

7070-0032 For the matching student aid component of the financial assistance program which provides matching funds to the supplemental educational grant program, the college work study program and the perkins loan program, as determined by the higher education coordinating council 1,569,105

7070-0065 For the scholarship component of the financial assistance program, for grants 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; provided, that the Massachusetts state scholarship office is hereby authorized to expend not less than ten million dollars for a program of needs based financial assistance for Massachusetts residents enrolled in and pursuing a program of higher education in any of the public institutions of higher education of the commonwealth; provided further, that of the sum appropriated herein, not less than four million dollars shall be obligated for the purposes of the Massachusetts plan, pursuant to section five C of chapter fifteen C of the General Laws, as amended by chapter one hundred thirty-three of the acts of nineteen hundred ninety-two; provided further, that the Massachusetts state scholarship office is authorized and directed to expend no less than four million dollars to provide for the matching scholarship grants to needy Massachusetts students at partic-

ipating Massachusetts independent regionally accredited colleges, universities, and schools of nursing; 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; provided further, 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 the state scholarship office is authorized to expend monies for the public service awards, as established in said section sixteen of chapter fifteen A; 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; provided further, that no less than one million thirty-two thousand three hundred fifty-two dollars be expended for scholarship administration costs; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five hundred and thirty-five thousand one hundred and thirty dollars; provided further, that of the amount appropriated herein, 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 through no-interest loans, which shall be subject to repayment, pursuant to section three hundred twenty-three 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; and provided further, that of said nine million dollars, no more than nine hundred thousand dollars may be expended for the costs of administering the no-interest loan program 61,000,000

7077-0010 For the library support component of the financial assistance program which provides for the purchase of scientific, technological and other educational reference material for the libraries of the system of public higher education institutions 10,000,000

PROGRAM 3: Assistance to Tufts School of Veterinary Medicine

PROGRAM MISSION

To provide state assistance to the Tufts Veterinary Medicine program in return for veterinary services provided to the Commonwealth.

Program Objectives	Performance Measures	Expected Outputs
1. Offer veterinary support to state agencies.	1. State agencies receiving support services.	1. TBR
2. Complete diagnostic evaluations through the Small Animal Teaching Hospital program.	2. Evaluations completed.	2. 14,000
3. Treat wild animals through the Wildlife Health and Management program.	3. Animals treated.	3. 1,100

State Appropriation

7077-0023 For the Tufts school of veterinary medicine program; provided, that funds appropriated herein shall be expended for supportive veterinary services provided to the commonwealth; and provided further, that prior year costs may be paid from this item 3,981,312

PROGRAM 4: Universities

PROGRAM MISSION

To offer a quality undergraduate through graduate level education in the liberal arts and science fields.

The following program objectives, performance measures, and expected outputs are to be reported by campus.

Program Objectives	Performance Measures	Expected Outputs
1. Provide post secondary educational opportunities to qualified candidates through the doctorate degree level.	1a. Average SAT score of incoming freshmen.	1a. 1,000
	1b. Students scoring above 50th percentile on SAT.	1b. 95%
	1c. Incoming freshmen in the top 10th, 25th, and 50th percentile of high school class.	1c. TBR
	1d. Applications received compared to students who are accepted.	1d. TBR
	1e. Students enrolled per semester.	1e. 57,600
	1f. Students graduating from the university.	1f. 11,400
	1g. Faculty with Ph.D.'s.	1g. TBR
	1h. Minimum student/faculty ratio.	1h. TBR
	1i. Instructional spending per student.	1i. $3,986
	1j. Total spending per student.	1j. $4,712
	1k. Graduation rate of students.	1k. 75%
	1l. Freshman retention rate.	1l. 80%

State Appropriations

7100-0200 For the universities program; provided, that, notwithstanding any provision of general or special law to the contrary, the board of trustees shall develop an allocation plan for the amount appropriated herein and shall notify the house and senate committees on ways and means of said plan within forty-five days of the passage of this act; provided further, that not less than two hundred and fifty thousand dollars be expended for the purpose of the Paul E. Tsongas industrial historical center at the university of Lowell; 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 Massachusetts at Lowell; provided further, that not less than sixty-nine thousand five hundred and sixty-six dollars be expended for the center for rural Massachusetts at Amherst; provided further, that not less than four hundred twenty-nine thousand dollars be expended for the Massachusetts institute for social and economic research at Amherst to manage the United States

census data and provide population estimates and projections; provided further, that the board of trustees in conjunction with the state health education center at the University of Massachusetts Medical Center shall 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 ninety-five thousand six hundred and nineteen dollars be expended for the purposes of the area health education centers program, also known as "AHEC"; provided further, that not less than one hundred thirty-six thousand eight hundred sixteen dollars be expended for the purpose of the state health education center at the medical center; provided further, that four hundred nineteen thousand three hundred and seventy-five dollars be expended for the purposes of the William Joiner center; provided further, that not less than two hundred sixty-two thousand two hundred and eighty-seven dollars be expended for the purposes of the Mauricio Gaston institute of latino community development and public policy; provided further, that not less than two hundred ninety-nine thousand two hundred and eighty-four dollars be expended for the purposes of research and analytical studies at the Monroe Trotter institute; provided further, that not less than two hundred thousand dollars be expended for the purposes of the Asian-American institute; provided further, that not less than four hundred seventy-four thousand one hundred and thirty dollars be expended for the expense of a gerontology institute; provided further, that of the amount appropriated herein, no less than one hundred fifty-six thousand six hundred and sixty-three dollars be expended for the endowment of a chair named in honor of the late Frank Manning; provided further, that not less than forty-two thousand dollars shall be obligated for a position within the Boston office of the Massachusetts institute of social and economic research for the evaluation of the commonwealth's eligibility for federal grant programs and for the application for, and acquisition of, any grants made under such programs, and for the marketing and sale of publications and services, to public and private entities, provided by said institute, and further, that if such appropriation made hereunder is not matched by

no less than four times the amount of said appropriation by federal grant monies for sale acquired hereunder by July first, nineteen hundred ninety-four, then said position shall terminate forthwith and may not be renewed; provided further, that not less than six hundred thirty-seven thousand and ten dollars be expended for the physical education department at the University of Massachusetts at Boston; provided further, that of the sum appropriated herein, not less than nine hundred sixty-eight thousand seven hundred twenty-five dollars shall be expended for the county cooperative extension to be conducted by the university of Massachusetts at Amherst for the Berkshire, Bristol, Franklin, Hampden, Hampshire, Suffolk, Essex, Dukes/Nantucket, Middlesex, Worcester, Plymouth and Norfolk county cooperative extension services; provided further, that the cooperative extension shall not close any existing cooperative extension office in any county and shall file a report with the clerk of the senate and the clerk of the house of representatives within ninety days of the passage of this act detailing the plan for maintenance of statewide delivery of services; provided further, that the chairman of the higher education coordinating council shall require said institutions to provide communication accessibility for the deaf and hard of hearing where necessary; provided further, that the state auditor and the comptroller shall investigate and study whether, through efficiencies, economies and increased reliance on other revenue sources, said medical center, consistent with its present purposes, can become financially self-supporting or can operate with a smaller state subsidy than it received in the fiscal year ending June thirtieth, nineteen hundred and ninety-three; provided further, that the state auditor and the comptroller shall report the findings and recommendations of said investigation and study to the house and senate committees on ways and means not later than November first, nineteen hundred and ninety-three; provided further, that, notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost

exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred million two hundred twelve thousand eight hundred and two dollars, including not more than six thousand four hundred and thirty-four positions 316,013,470

PROGRAM 5: State Colleges

PROGRAM MISSION

To provide educational programs, research, extension and continuing education services in the liberal arts, fine arts, and applied arts and sciences through the master's level with a major focus on teaching, in fields and professions which meet state and regional needs.

The following program objectives, performance measures, and expected outputs are to be reported by campus.

Program Objectives	Performance Measures	Expected Outputs
1. Provide post secondary education opportunities to qualified candidates through the masters degree level.	1a. Average SAT score of incoming freshmen.	1a. 914
	1b. Students scoring above 50th percentile on the SAT.	1b. 80%
	1c. Incoming freshmen in the top 10th, 25th, and 50th percentile of high school class.	1c. TBR
	1d. Applications received compared to students who are accepted.	1d. TBR
	1e. Students enrolled in state colleges per semester.	1e. 44,800
	1f. Students graduating from state colleges.	1f. 7,400
	1g. Faculty with Ph.D.'s.	1g. TBR
	1h. Minimum student/faculty ratio.	1h. TBR
	1i. Instructional spending per student.	1i. $2,100

1j.	Total spending per student.	1j. $2,474
1k.	Graduation rate of students.	1k 75%
1l.	Freshman retention rate.	1l. 80%

State Appropriations

7109-0100 For the Bridgewater State College component of the state colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed fifteen million six hundred and twenty-nine dollars, including not more than four hundred and seventy-four positions 15,790,136

7110-0100 For the Fitchburg State College component of the state colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed twelve million eight hundred thirty-eight thousand seven hundred and fifty dollars, including not more than four hundred and sixty positions 13,514,473

7112-0100 For the Framingham State College component of the state colleges program; provided further, that of the amount appropriated herein, no less than four hundred thousand dollars shall be expended for the Christa McAuliffe center; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed ten million three hundred sixty-nine thousand one hundred ninety-three dollars, including not more than three hundred and fifty-one positions 10,914,940

7113-0100 For the North Adams State College component of the state colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed six million seven hundred eighty thousand one hundred and forty-eight dollars, including not more than two hundred and forty-one positions 7,136,998

7114-0100 For the Salem State College component of the state colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein

shall not exceed fifteen million six hundred forty four thousand nine hundred and sixty-eight dollars, including not more than five hundred and nineteen positions 16,468,388

7115-0100 For the Westfield State College component of the state colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed ten million forty-five thousand seven hundred and seventeen dollars, including not more than three hundred and twenty-four positions 10,574,439

7116-0100 For the Worcester State College component of the state colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed ten million two hundred thirty-six thousand eight hundred and sixty-three dollars, including not more than three hundred and twenty-eight positions 10,775,646

7117-0100 For the Massachusetts College of Art component of the state colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed six million five hundred forty-eight thousand one hundred and fifteen dollars, including not more than two hundred and twenty-six positions 6,892,753

7118-0100 For the Massachusetts Maritime Academy component of the state colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed five million eight hundred two thousand eight hundred and seventy-five dollars, including not more than one hundred and sixty positions 6,108,289

7119-0100 For the operation of state colleges governed by the higher education coordinating council component of the state colleges program; provided, that the higher education coordinating council is hereby directed to allocate funds from this item to items 7109-0100, 7110-0100, 7112-0100, 7113-0100, 7114-0100, 7115-0100, 7116-0100, 7117-0100 and 7118-0100 of section two of this act, according to an allocation plan which shall be developed by said council and filed with house and senate committees on ways and means within forty-five days

of the passage of this act; provided further, that funds appropriated herein may be expended for the purposes of health and welfare obligations; provided further, that the chairman of the higher education coordinating council shall require said institutions to provide communication accessibility for the deaf and hard of hearing where necessary; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed twenty-four million two hundred fifty-two thousand two hundred fifty-three dollars 25,528,688

PROGRAM 6: Toxics Use Reduction Institute

PROGRAM MISSION

To maintain a research and training facility at the University of Massachusetts at Lowell which provides educational and training programs in toxics use reduction for professionals, students and the public.

STATUTORY REFERENCES
Enabling Statute
M.G.L. c. 21I § 6

Program Objectives	Performance Measures	Expected Outputs
1. Conduct toxics use reduction planner courses and organize conferences and seminars on environmentally appropriate production.	1a. Graduates of class who pass the state certification exam.	1a. 95%
	1b. Professional conferences on environmentally appropriate production.	1b. 2
	1c. Specialized training classes for the Department of Environmental Protection and other interested parties.	1c. 8
2. Sponsor and conduct research on alternative policies, practices, materials, and manufacturing processes and maintain research facilities	2. New university-based research projects on alternatives policies, practices, materials or industrial processes identified, assessed and designed.	2. 12

	to assist firms in the reduction of toxic chemical use.		
3.	Develop statewide university and industry based research centers consortium to conduct research in toxics use reduction.	3. New industry and university collaborative research programs.	3. 6
4.	Provide research, consultation, and educational support to the state divisions implementing the Toxics Use Reduction Act Program.	4. Newsletters published to provide direct information and outreach to over 1,000 firms and organizations.	4. 4

State Appropriation

7220-0004 For the operation of the toxics use reduction institute program at the university of Massachusetts at 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; provided, however, that of the appropriation herein, not less than two hundred thousand dollars shall be obligated for the purposes of establishing and maintaining programs that will train business, industry, higher education, medical laboratory, and high school laboratory personnel to reduce toxic waste at the source by utilizing the Microscale chemistry technology, including not more than twenty-three positions 1,466,137

Toxics Use Reduction Fund 100.0%

PROGRAM 7: Community Colleges

PROGRAM MISSION

To offer degree and non-degree programs through the associate degree level and to provide credit and non-credit career and occupational programs.

The following program objectives, performance measures, and expected outputs are to be reported by campus.

Program Objectives	Performance Measures	Expected Outputs
1. Provide career enhancement opportunities through the associate degree level.	1a. Students enrolled in community colleges by degree, non-degree, credit, and non-credit programs.	1a. TBR
	1b. Students graduating from community colleges.	1b. 8,900
	1c. Minimum student/faculty ratio.	1c. TBR
	1d. Instructional spending per student.	1d. $1,433
	1e. Total spending per student.	1e. $1,637
	1f. Graduation rate of students.	1f. 75%

State Appropriations

7502-0100 For the Berkshire Community College component of the community colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed four million seven hundred eighty six thousand one hundred and twenty-nine dollars, including not more than one hundred and forty-eight positions . 5,038,031

7503-0100 For the Bristol Community College component of the community colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs as-sociated with the purposes of the program funded herein shall not exceed six million one hundred ninety-six thousand two hun-dred and fifty-three dollars, including not more than two hundred and twenty-three positions 6,522,372

7504-0100 For the Cape Cod Community College component of the community colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed four million eight hundred seventy-five thousand eight hundred and forty-four dollars, including not more than one hundred and sixty-six positions . 5,132,468

7505-0100 For the Greenfield Community College component of the community colleges program; provided, that of the sum appropriated herein not less than one hundred fifty thousand dollars be obligated for a practical nursing program in Hampshire county; provided, that expenditures made from the AA sub-

sidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed four million one hundred twenty-nine thousand seven hundred and ninety-six dollars, including not more than one hundred and fifty-one positions 4,347,154

7506-0100 For the Holyoke Community College component of the community colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed seven million two hundred ninety-nine thousand two hundred and eighty dollars, including not more than two hundred and sixty-nine positions 7,683,452

7507-0100 For the Mass Bay Community College component of the community colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed five million four hundred thirty-eight thousand five hundred and twenty-five dollars, including not more than one hundred and eighty positions 5,724,764

7508-0100 For the Massasoit Community College component of the community colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed nine million six hundred five thousand three hundred and thirty-nine dollars, including not more than three hundred and thirty-one positions 10,110,883

7509-0100 For the Mount Wachusett Community College component of the community colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed four million six hundred twenty-eight thousand four hundred and eighty-eight dollars, including not more than one hundred and seventy positions ... 4,872,093

7510-0100 For the Northern Essex Community College component of the community colleges program; 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; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed eight million fifty-four thousand nine hundred and thirty-nine dollars, including not more than two

hundred and sixty positions 8,478,883

7511-0100 For the North Shore Community College component of the community colleges program; provided, that of the amount appropriated herein not less than two hundred eleven thousand five hundred twenty-four dollars shall be obligated for the associated expenses of leasing, maintenance, security and utility costs of classroom space in the Massachusetts bay transportation authority parking garage in Lynn as per agreement with the North Shore community college; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed nine million three hundred thirty-nine thousand two hundred and five dollars, including not more than three hundred and seven positions .. 9,830,742

7512-0100 For the Quinsigamond Community College component of the community colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed six million three thousand four hundred and twenty-eight dollars, including not more than two hundred and eight positions 6,319,398

7514-0100 For the Springfield Community College component of the community colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed ten million five hundred twenty-six thousand six hundred and sixty dollars, including not more than three hundred and fifty-five positions 11,080,695

7515-0100 For the Roxbury Community College component of the community colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed five million five hundred thirty-six thousand nine hundred and one dollars, including not more than one hundred and fifty-one positions 5,828,316

7516-0100 For the Middlesex Community College component of the community colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed eight million two hundred eighty-eight thousand four hundred and ninety dollars, including not more than two hundred and ninety-two positions 8,724,727

7518-0100 For the Bunker Hill Community College of the community colleges program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the program funded herein shall not exceed seven million six hundred forty-five thousand four hundred and thirty-one dollars, including not more than two hundred and fifty positions 8,047,822

7519-0100 For the operation of state community colleges governed by the higher education coordinating council component of the state colleges program; provided, that the higher education coordin-ating council is hereby directed to allocate funds from this item to items 7502-0100, 7503-0100, 7504-0100, 7505-0100, 7506-0100, 7507-0100, 7508-0100, 7509-0100, 7510-0100, 7511-0100, 7512-0100, 7514-0100, 7515-0100, 7516-0100 and 7518-0100 of section two of this act, according to an allocation plan which shall be developed by said council and filed with house and senate committees on ways and means within forty-five days of the passage of this act; provided further, that funds appropriated herein may be expended for the purposes of health and welfare obligations; provided further, that the chairman of the higher education coordinating council shall require said institutions to provide communication accessibility for the deaf and hard of hearing where necessary; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed twenty-six million five hundred fifty-nine thousand three hundred eighty-seven dollars 27,957,250

EXECUTIVE OFFICE OF PUBLIC SAFETY
Office of the Secretary

8000-0000 For the office of the secretary; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five hundred fifty-four thousand one hundred ninety-seven dollars, including not more than ten positions 646,101

Highway Fund 85.0%
General Fund 15.0%

8000-0010 For the community policing grants program 5,000,000
Local Aid Fund 100.0%

8000-0020 For the state wide emergency telecommunications program; provided, that the board shall collect an amount equivalent to the direct and indirect costs related to the board pursuant to section eighteen F of chapter six A of the General Laws, as inserted by chapter two hundred ninety-one of the acts of nineteen hundred and ninety; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred seventy-five thousand dollars, including not more than six positions 279,216

8000-0040 For the police career incentive program for reimbursing certain cities and towns for fifty percent of career incentive salary increases for police officers 13,700,000
Local Aid Fund 100.0%

8000-0101 The office of the secretary is hereby authorized to expend revenues collected up to a maximum of thirty thousand dollars from fees collected for services performed through the auto etching program 30,000

Office of Chief Medical Examiner

8000-0105 For the chief medical examiner pursuant to chapter thirty-eight, as amended by section two of chapter three hundred sixty-eight of the acts of nineteen hundred and ninety-two; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million seven hundred forty-four thousand nine hundred seventy-seven dollars, including not more than forty-two positions 2,927,687

8000-0110 For the LEAPS/CJIS and CORI program; provided, that the criminal history systems board is hereby directed to collect four hundred thousand dollars in revenue from record check fees for the purpose of implementing the provisions of chapter three hundred and nineteen of the acts of nineteen hundred and ninety; and provided further, that expenditures made from the AA sub-sidiary, so-called, of this item for the personnel costs associated with the purposes of the programs

funded herein shall not exceed one million seven hundred ninety-seven thousand one hundred eighty dollars, including not more than forty-one positions 3,986,325
Highway Fund 50.0%
Local Aid Fund 50.0%

Federal Appropriation

8000-0179 For the purposes of a federally funded grant entitled, Fingerprint Supported Records 9,000

Board of Building Regulations and Standards

8000-0160 For the operation of the state board of building regulations and standards, for the purpose of implementing and enforcing the provisions of sections ninety-three through one hundred of chapter one hundred forty-three of the General Laws; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred seventy-nine thousand eighty-nine dollars, including not more than five positions 222,094

8000-0161 For the registration of home improvement contractors as established by chapter four hundred fifty-three of the acts of nineteen hundred and ninety-one; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed sixty four thousand five hundred forty-seven dollars, including not more than two positions 110,550

Architectural Access Board

8000-0500 For the operation of the architectural access board; provided, that notwithstanding the provisions of any general or special law to the contrary the architectural board is hereby authorized and directed to charge one hundred twenty-five dollars for variance hearings conducted by the board; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one

hundred fifty-eight thousand six hundred forty dollars, including not more than four positions 206,001

Department of State Police

8100-0000 For the administration and operation of the department of state police; provided, that the program shall include the division of field services which shall include, but not be limited to, the bureau of metropolitan district operations; provided further, that not less than forty officers shall be provided to the metropolitan district commission division of watershed management for the purpose of patrolling the watershed property of the commission; provided further, that the creation of a new or the expansion of the existing statewide communications network shall include the division of environmental law enforcement of the department of fisheries, wildlife, and environmental law enforcement at no cost to or compensation from said division; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eighty-seven million eight hundred fifteen thousand nine hundred seventy-five dollars, including not more than two thousand two hundred ninety-one positions 98,047,928

Highway Fund 88.2%
Local Aid Fund 9.5%
General Fund 2.3%

8100-0006 For state police private details; provided, that the department is hereby authorized to expend revenues collected up to twelve million dollars from fees charged for private police details; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed twelve million dollars 12,000,000

8100-0007 For overtime of state police officers; provided, that not less than one hundred one thousand two hundred fifty-six dollars shall be expended at the direction of the Suffolk district attorney; provided further, that not less than two hundred ninety-six thousand four hundred dollars shall be expended at the direction of the Middlesex district attorney; provided further, that not less than two hundred eighty-two thousand seven hundred thirty-four dollars shall be expended at the direction

of the Essex district attorney; provided further, that not less than two hundred ninety-eight thousand six hundred sixty dollars shall be expended at the direction of the middle county district attorney; provided further, that not less than one hundred three thousand two hundred ninety-six dollars shall be expended at the direction of the western district attorney; provided further, that not less than one hundred fifteen thousand three hundred sixty-three dollars shall be expended at the direction of the northwestern district attorney; provided further, that not less than two hundred nineteen thousand three hundred thirty-nine dollars shall be expended at the direction of the Norfolk district attorney; provided further, that not less than two hundred seventeen thousand six hun-dred thirty-three dollars shall be expended at the direction of the Plymouth district attorney; provided further, that not less than one hundred seventy-four thousand nine hundred ninety-eight dollars shall be expended at the direction of the Bristol district attorney; provided further, that no less than one hundred eighty thousand five hundred twenty dollars shall be expended at the direction of the Cape and Islands district attorney; provided further, that no less than seventy thousand seven hundred nineteen dollars shall be expended at the direction of the Berkshire district attorney; provided further, that no less than three hundred eighty-six thousand one hun-dred ninety dollars shall be expended at the direction of the office of the attorney general; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed twelve million four hundred forty-seven thousand one hundred eight dollars 12,447,108

8100-0015 For the continued training and related costs of not more than two hundred police cadets who were recruited in fiscal year nineteen hundred and ninety-three 907,200

Highway Fund 85.0%

General Fund 15.0%

8100-0100 For the administration and operation of the crime laboratory; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed nine hundred eighty-four thousand five hundred thirteen dollars, including not more than twenty-four positions 1,262,966

Highway Fund 85.0%
General Fund 15.0%

8100-0150 For the operation of an automated fingerprint identification system 704,792
Highway Fund 85.0%
General Fund 15.0%

8100-0200 For the administration and operation of a motor carrier safety assistance program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs asso-ciated with the purposes of the programs funded herein shall not exceed four hundred twenty-six thousand six hundred thirty-five dollars, including not more than fourteen positions 446,635
Highway Fund 100.0%

8100-0201 The department of state police is hereby authorized to expend revenues collected up to a maximum of one million and fifty thousand dollars from reimbursements received from the motor carrier safety assistance program, including the costs of personnel 1,050,000

8100-0300 For the administration and operation of a drug enforcement administration task force; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seventy-three thousand seven hundred twenty dollars 73,720
Highway Fund 85.0%
General Fund 15.0%

Massachusetts Criminal Justice Training Council

8200-0200 For the administration and operation of programs to be conducted by the Massachusetts criminal justice training council; provided, that 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; provided further, that the criminal justice training council shall generate not less than ten thousand dollars from the sale of training materials and supplies; and provided further, that expenditures made from

the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million one hundred forty-six thousand six hundred seventy-one dollars, including not more than thirty-two positions 2,122,809

Department of Public Safety

8311-1000 For the administration of the department and the implementation of chapter four hundred eighty-five of the acts of nineteen hundred and ninety-one; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs as-sociated with the purposes of the programs funded herein shall not exceed seven hundred fifty-five thousand nine hundred twenty dollars, including not more than twenty-eight positions 913,087

8312-1000 For the administration of the bureau of special investigations; provided, that not less than five hundred two thousand one hundred eighty-six thousand dollars be expended for the purpose of a front-end detection program; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four million one hundred seventy-nine thousand eight hundred eight dollars, including not more than one hundred four positions ... 4,311,921

Federal Appropriation

8314-9707 For the purposes of a federally funded grant entitled, Underground Storage Tank Registry Program 162,500

Division of Fire Prevention and Regulation

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; 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, shall be paid from this appropriation; provided further, that the expenses of the fire safety commission shall be paid from this item; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred forty-three thousand seventy-two dollars, including not more than seven positions 379,232

8314-1100 For the underground storage tank program and the administrative expenses associated with the implementation of chapter twenty-one J; provided, that notwithstanding the provisions of section four of said chapter twenty-one J or any other general or special law to the contrary, appropriations made herein shall be suf-ficient to cover said administrative expenses of the underground storage tank program; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs fun-ded herein shall not exceed three hundred three thousand four hundred seven dollars, including not more than eleven positions 550,794

Underground Storage Tank Petroleum Product Cleanup Fund 100.0%

8314-1200 For the reimbursement of parties who have cleaned up spills of petroleum products pursuant to chapter twenty-one J of the General Laws 8,500,000

Underground Storage Tank Petroleum Product Cleanup Fund 100.0%

8314-1300 For the administrative review board component of the underground storage tank program pursuant to chapter twenty-one J of the General Laws; provided, that notwithstanding the provisions of section four of said chapter twenty-one J or any other general or special law to the contrary, appropriations made herein shall be sufficient to cover expenses of said administrative review board; and provided further, that expenditures made from the AA sub-sidiary, so-called, of this item for the personnel costs associated with the purposes of

the programs funded herein shall not exceed eighty-eight thousand five hundred eighty-three dollars, including not more than two positions 213,341

Underground Storage Tank Petroleum Product Cleanup Fund 100.0%

8314-1400 For municipal 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 replacing underground storage tanks 1,500,000

Underground Storage Tank Petroleum Product Cleanup Fund 100.0%

Division of Inspection

8315-1000 For the administration of the division; provided, that the expenses of the state boxing commission be paid from this item; provided further, that not less than thirty thousand dollars be available for an eye examination program for all boxers participating in events regulated by the state boxing commission; provided further, that the commission shall charge professional boxers for the cost of said eye exams; provided further, that a doctor's certificate from another state will be accepted as evidence of such an examination; provided further, that fees for inspections performed during overtime hours be determined by the commissioner of administration; provided further, that the fee for inspections performed during overtime hours be not less than one hundred dollars; provided further, that the division shall inspect all elevators in the State House, McCormack and Saltonstall office buildings; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three million seventy thousand seven hundred fifty-nine dollars, including not more than seventy-seven positions 3,426,994

Massachusetts Firefighting Academy

8350-0100 For the fire training program including the Massachusetts fire training council, certification program, municipal and non-municipal fire training, and the expenses of the council; pro-

vided, that notwithstanding the provisions of any general or special law to the contrary, sums for the estimated expenses of the admin-istration of the academy, including the estimated expenses of training facilities and curriculum for firefighting personnel and training programs, shall not exceed two million four hundred twenty-three thousand sixty-eight dollars per fiscal year; pro-vided further, that not less than forty-eight thousand nine hund-red and ninety-two 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; pro-vided further, that the secretary for 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, and shall explain the derived savings to the General Fund by not hiring said personnel in this item; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five hundred seventy-one thousand eight hundred five dollars, including not more than eighteen positions 2,423,068

Local Aid Fund 100.0%

Registry of Motor Vehicles

8400-0001 For the administration and operation of the registry of motor vehicles, including the title division and the regulation of truck, rail, and bus transportation services; 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 further, 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 common-wealth, pursuant to section one hundred eighty-three of chapter six of the General Laws; provided further, that the registry shall operate an office in Fall River; provided however, that no funds from this item shall be spent for any change to the existing system for immediate issuance of permanent motor vehicle operators licenses; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed nineteen million one hundred thirty-two thousand fifty-six dollars, including not more than six hundred ninety-five positions 38,156,566

Highway Fund 100.0%

8400-0024 Notwithstanding the provisions of section two of chapter two hundred eighty of the General Laws, the registry of motor vehicles is hereby authorized to expend revenue collected up to a maximum of two million three hundred thousand 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 eighty, and shall not affect or alter the amounts of payments to cities and towns pursuant to said section two of chapter two hundred eighty 2,300,000

8400-0050 For the registry of motor vehicles rent at Ruggles Station 2,323,274

Highway Fund 100.0%

8400-0051 For the move and incidental expenses associated with the registry of motor vehicles' move to Ruggles Station 930,000

Highway Fund 100.0%

Merit Rating Board

8400-0100 For the safe driver insurance plan program authorized by chapter six of the General Laws; provided, that as of January first, nine-teen hundred eighty-five, notwithstanding the provisions of any general or special law to the contrary, no safe driver insurance plan shall require the payment of an unsafe driver point sur-charge for the first offense for noncriminal, motor vehicle traffic violations as described in chapter ninety C of

the General Laws; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs asso-ciated with the purposes of the programs funded herein shall not exceed two million one hundred eighty thousand one hundred dollars, including not more than seventy-three positions 4,487,673
Highway Fund 100.0%

8400-0150 For the merit rating board's rent at Ruggles Station 280,000
Highway Fund 100.0%

8400-0151 For the move and incidental expenses associated with the merit rating board's move to Ruggles Station 448,000
Highway Fund 100.0%

Committee on Criminal Justice

8600-0001 For the administration of the committee on criminal justice; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two hundred fifty-nine thousand nine hundred one dollars, including not more than six positions 335,182

Federal Appropriations

8600-0002 For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act Planning 71,400

8600-0003 For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act 2,397,642

8600-0008 For the purposes of a federally funded grant entitled, Drug Free Schools and Communities Act of 1986 1,950,000

8600-0009 For the purposes of a federally funded grant entitled, Edward Byrne State and Local Federal Assistance Grant Program .. 9,602,000

8600-0010 For the purpose of a federally funded grant entitled, Statistical Analysis Center 105,000

8600-0015 For the purposes of a federally funded grant entitled, Weed and Seed - Chelsea 613,000

Military Division

8700-0001 For the administration of the military division, including the offices of the adjutant general and state quartermaster, the oper-

ation of the armories, the camp Curtis Guild rifle range and certain na-tional guard aviation facilities; provided, that 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; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million two hundred ninety-one thousand six hundred seventy-seven dollars, including not more than eighty-eight positions 3,334,249

General Fund 50.0%
Local Aid Fund 50.0%

Military-State Quartermaster

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 non-military 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 tosaid armories 75,000

Massachusetts Emergency Management Agency

8800-0001 For the emergency management operations program; provided, that expenditures from this item shall be contingent upon the prior approval of the proper federal authorities; provided further, that not more 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 for aerial surveillance of Massachusetts and other water areas to monitor for environmental pollution discharges, toxic waste dumps, transportation of hazardous materials and wastes and accidents involving said transport, in conjunction with the responsible agency; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that

no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five hundred thirty-three thousand forty-eight dollars, including not more than thirty positions 639,982

8800-0100 For the nuclear safety preparedness program; 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; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two hundred ninety-eight thousand seven hundred seven dollars, including not more than eight positions 380,933

Local Aid Fund 100.0%

8800-0200 For the Seabrook power plant component of the nuclear safety preparedness program; provided, that the director of the Massachusetts emergency management agency and emergency prepar-edness may enter into agreements for up to one hundred thousand dollars with other state agencies for environmental monitoring; and provided further, that the Massachusetts emergency management agency is hereby authorized to expend an amount not to exceed two hundred seventy-eight thousand seven hundred sixty-eight dollars for a nuclear safety emergency preparedness program, including the costs of personnel; provided further, that the cost of this item may be assessed on 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, includes communities located within the commonwealth; provided further, that for the purposes of this item 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, however, that the term electric company shall not include municipalities or municipal light plants 278,768

Federal Appropriations

8800-0003 For the purposes of a federally funded grant entitled, Emergency Management Assistance --Personnel and Administrative Expenses 847,000

8800-0004 For the purposes of a federally funded grant entitled, Emergency Management Assistance --Distribution to Cities and Towns; provided, that not more than thirty-two thousand two hundred ninety-three dollars shall be expended for emergency disaster relief to the town of Hadley for damages caused and expenses incurred as a result of the storm and flooding occurring on April first nineteen hundred and ninety-three 768,369

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 175,853

8800-0007 For the purposes of a federally funded grant entitled, Radiological Defense Officer 50,664

8800-0008 For the purposes of a federally funded grant entitled, Population Protection Planning Program 200,928

8800-0009 For the purposes of a federally funded grant entitled, Emergency Management Training -State/Local Personnel 75,000

8800-0010 For the purposes of a federally funded grant entitled, Earthquake Loss Study 45,000

8800-0019 For the purposes of a federally funded grant entitled, Superfund Amendment and Reauthorization Acts of 1986 10,000

8800-0020 For the purposes of a federally funded grant entitled, Communication Warning Systems 27,786

8800-0021 For the purposes of a federally funded grant entitled, Direction, Control, and Warning Communication System Maintenance and Service 29,000

8800-0025 For the purposes of a federally funded grant entitled, Hurricane Bob - Public Assistance 1,153,501

8800-0026 For the purposes of a federally funded grant entitled, Coastal Storm Public Assistance 931,821

8800-0038 For the purposes of a federally funded grant entitled, Survival Crisis Management 32,500

8800-0039 For the purposes of a federally funded grant entitled, Urban Search and Rescue 30,000

8800-0041 For the purposes of a federally funded grant entitled, Snow Removal -- March Storm 1,500,000

Governor's Highway Safety Bureau

8850-0001 For providing matching funds for a federal planning and administration grant to the Governor's Highway Transportation Act of nineteen hundred seventy-eight, section two hundred seven (d); provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed ninety-eight thousand nine hundred sixty-three dollars 138,535

Highway Fund 100.0%

8850-0015 For the expense of the motorcycle safety program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed sixty-three thousand three hundred dollars, including not more than two positions 177,201

Motorcycle Safety Fund 100.0%

Federal Appropriations

8850-0004 For the purposes of a federally funded grant entitled, State Agency Programs 2,900,000

8850-0008 For the purposes of a federally funded grant entitled, Evaluation of Massachusetts Saving Lives 50,000

Department of Corrections

8900-0001 For the administration of the commonwealth's correctional facilities; provided, that notwithstanding the provisions of 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-four shall contain an increase in roll call pay for corrections officers, provided further, that the department shall conduct a study of the institutional needs and services of pregnant and substance abusing women prisoners; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred fifty-two million seven hundred one thousand two hundred thirteen dollars, including not more than four thousand seven hundred fifty-eight positions 213,983,712

8900-0002 For the administration of the department; provided, that the department shall develop an AIDS education plan for persons in the custody or under supervision of the department; provided further, that the department shall conduct a study for emergency medical services associates, EMSA so-called, prison health service study to be filed with the legislature by March fifteenth, nineteen hundred and ninety-four; provided further, 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; provided further, that the department will provide monthly reports on overtime and authorized excess quota positions usage, by facility, to the house and senate committees on ways and means; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three million nine hundred ninety-five thousand one hundred forty-three dollars, including not more than one hundred positions 4,673,216

8900-0003 For the local relief component of the correctional care and custody program to mitigate the inordinate fiscal demand placed on local life, health and safety departments in those cities and towns hosting a state correctional facility; provided, that each such city and town shall receive a percentage of the total funds as appropriated herein which shall be equal to the total state inmate population incarcerated within a state correctional facility located within such city or town; provided further, that all inmates incarcerated at MCI-Shirley shall be deemed to be incarcerated within a correctional facility located in the town of Shirley; provided further, that all inmates incarcerated at the Norfolk county jail and house of correction shall be deemed to be incarcerated within a correctional facility located in the town of Dedham; and provided further, that for the purpose of mitigation calculation, all distribution percentages shall be calculated according to the department of correction's inmate population record for July first of the prior year 997,000

Local Aid Fund 100.0%

8900-0004 For a health services program; provided, 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; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; provided further, that expenditures made from the MM subsidiary, so-called, of this item for the contracted provider service costs associated with the purposes of the programs funded herein shall not exceed thirty-five million three forty-five thousand nine hundred dollars; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein

shall not exceed four hundred forty-two thousand four hundred thirty-nine dollars, including not more than eleven positions 36,898,297

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; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed ninety-four thousand six hundred eighty-four dollars, including not more than two positions 400,000

8900-0009 For a program of education services; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million four hundred ninety-two thousand nine hundred eighty-two dollars, including not more than sixty-seven positions 3,378,348

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; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five hundred forty thousand six hundred seventy-two dollars 997,720

8900-0011 For the prison industries and farm program; provided, that the department is hereby authorized to expend an amount not to exceed six million dollars from revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to chapter twenty-nine of the General Laws and recorded on the Massachusetts management accounting and recording system 6,000,000

8900-0015 For a program of correctional residential services; provided, that not less than five hundred thousand dollars be expended

for a contracted low-security residential program for incarcerated expectant mothers; provided further, that not less than one hundred thousand dollars shall be obligated for assistance to incarcerated mothers; provided further, that the remaining appropriation shall be made available to contracted residential services currently accredited by the American Correction Association, and that such contracted residential services are utilized to maximum capacity; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six hundred six thousand nine hundred four dollars, including not more than eighteen positions 2,394,139

8900-0016 For the federal prison component of the residential services program 775,000

County Corrections

8910-0000 For a reserve to fund county correctional programs, including programs for intermediate sanctions; provided, that not less than two hundred thousand dollars shall be expended for an intermediate sanctions program at New Bedford district court; provided further, that not less than three million one hundred eighty-five thousand nine hundred fifty-eight dollars be made available to Barnstable county; provided further, that not less than two million five hundred seventy thousand five hundred forty-one dollars be made available to Berkshire county; provided further, that not less than fourteen million eight hundred fifty-nine thousand four hundred forty-five dollars be made available to Bristol county; provided further, that not less than five hundred sixty-six thousand five hundred forty-

three dollars be made available to Dukes county; provided further, that not less than fifteen million eight hundred fifty-nine thousand seven hundred twenty-five dollars be made available to Essex county; provided further, that not less than one million three hundred sixty-two thousand twenty-three dollars be made available to Franklin county; provided further, that not less than twenty million eight hundred fifty-eight thousand five hundred eighty-two dollars be made available to Hampden county; provided further, that not less than four million nine hundred ninety-one thousand seventy-nine dollars be made available to Hampshire county; provided further, that not less than seventeen million six hundred sixty-four thousand one hundred seventeen dollars be made available to Middlesex county; provided further, that not less than one hundred sixty-four thousand dollars be made available to Nantucket county; provided further, that not less than ten million six hundred fifty-nine thousand three hundred seventy-one dollars be made available to Norfolk county; provided further, that not less than eight million seven hundred thirty-seven thousand eight hundred forty-seven dollars be made available to Plymouth county; provided further, that not less than thirty-one million nine hundred seven thousand four hundred thirty-two dollars be made available to Suffolk county; provided further, that not less than sixteen million nine hundred thirteen thousand two hundred seventy-three dollars be made available to Worcester county; provided further, that the balance of this appropriation be distributed among the counties by the county government finance review board in accordance with section eighteen of this act, upon notification to the house and senate committees on ways and means; and provided further that the county finance review board shall make a determination as to the individual distribution of funds to each county no later than January thirty-first, nineteen hundred ninety-four and shall notify the commissioners and sheriffs in each county of this accounting 187,866,919

Local Aid Fund 100.0%

Parole Board

8950-0001 For the operation the parole board; provided, that notwithstanding the provisions of any general or special law to the con-

trary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eight million eight hundred twenty-six thousand fifty-seven dollars, including not more than two hundred fifty-one positions 11,392,010

8950-0002 For the victim and witness assistance program of the parole board, in accordance with the provisions of chapter two hundred fifty-eight B of the General Laws; provided, that the victim service unit positions be classified by the department of personnel administration under the state classification system; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred thirty-three thousand three hundred seventy-one dollars, including not more than five positions 159,934

Federal Appropriations

EXECUTIVE OFFICE OF ECONOMIC AFFAIRS
Office of the Secretary

9000-0100 For the office of the secretary; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred two thousand five hundred forty-seven dollars, including not more than nine positions 454,663

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 the office assign a qualified business development assistance specialist to serve southeastern Massachusetts in office space to be made available at the university of Massachusetts at Dartmouth and the cities of New Bedford and Fall River in responding to business inquiries and providing assistance and encouragement; provided further, that not less than sixty-five thousand dollars be expended to the Cape Cod economic development council of Barnstable county; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eight hundred eighty-nine thousand one hundred eighty-three dollars, including not more than twenty-four positions 2,575,860

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; provided further, that quarterly reports of expenditures shall be filed with the house and senate committees on ways and means; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized

cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 747,203

9000-1900 For the expenses of the office of travel and tourism; provided, that not less than one hundred thousand dollars be expended for promoting the bay state games; provided further, that not less than two million dollars be expended for international tourism promotion and marketing; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called, including not more than twenty-three positions 8,260,000

Massachusetts Tourism Fund 100.0%

9000-1920 For financial assistance for local tourist councils; pursuant to section fourteen of chapter twenty-three A of the General Laws; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 3,923,500

Massachusetts Tourism Fund 100.0%

9000-2000 For the administration of the Massachusetts film bureau; provided, that quarterly reports documenting the economic activity of the film industry in the commonwealth shall be filed with the house and senate committees on ways and means; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein

shall not exceed two hundred thirty-six thousand one hundred eighty-nine dollars, including not more than six positions 392,183

9000-2100 For expenses of the Massachusetts international trade council; provided, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 619,500

Massachusetts Tourism Fund 100%

9000-2101 For the additional expenses of the Massachusetts international trade council; provided, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 413,000

9000-2102 For the purpose of making matching grants to all applicants receiving funding under the technology reinvestment project within the advanced research projects agency of the Department of Defense, created and funded pursuant to the Defense Conversion, Reinvestment and Transition Act of fiscal year 1993 and Title IV of the fiscal year 1993 Defense Appropriations Act for the purpose of supporting the creation of or assistance to manufacturing extension services, alternative deployment pilot projects, technology access programs, and other related technology deployment programs; provided, that such applicant has submitted a proposal to the executive office of economic affairs under the Massachusetts technology deployment partnering program or is proposing to create a statewide coordinating system on behalf of the commonwealth; provided further, that such appropriation shall be provided to each applicant in an amount equal to its federal

grant; provided further, that no more than five hundred thousand dollars shall be awarded to an applicant; provided further, that if the total federal grants awarded to applicants exceeds two million dollars, each award under the partnering program shall be reduced proportionately; provided further, that no more than five hundred thousand dollars shall be used for a statewide coordinating system which shall include, but not be limited to, bay state skills corporation, industrial services program, and the executive office of economic affairs; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the department of medical security is hereby authorized and directed to transfer one million dollars to the General Fund by August first, nineteen hundred ninety-three from the labor shortage fund established in section eighty-three of chapter twenty-three of the acts of nineteen hundred eighty-eight for the purpose of partially reimbursing the General Fund for this item 2,000,000

9000-2200 For the expenses of the state office of minority and women business assistance; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred ninety-seven thousand four hundred six dollars, including not more than ten positions 443,355

Department of Employment and Training

9081-0350 For the summer jobs youth at risk program, including the costs of administration; provided, that service levels shall be developed so as not to exceed the appropriation made available herein; provided further, that the same number of youths shall be served in fiscal year nineteen hundred ninety four that were served in fiscal year nineteen hundred ninety three 3,050,000

9081-1000 For the workforce development initiative; provided, that the strategic planning committee of the MassJOBS council shall make recommendations relative to the use of said funds subject to approval by the full MassJOBS council; provided further, that the executive committee of the MassJOBS council shall approve the use of said funds should the full council be unable to approve the use of said funds in a timely manner .. 1,000,000

9081-7011 For the expenses of bay state skills corporation and the industry responsive training program, employment, training and counseling of displaced homemakers, training of teachers, work force development and business assistance; 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; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 225,000

Division of Energy Resources

9095-0003 For the administration of the division of energy resources; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred eight-six thousand one hundred and seventy dollars, including not more than twelve positions 595,125

9095-0004 For 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; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one hundred sixty-one thousand four hundred eighty-one dollars, including not more than four positions 188,047

Federal Appropriations

Office of the Secretary

9000-1621 For the purposes of a federally funded grant entitled, Job Training Partnership Act 95,000,000

9000-7000 For the purposes of a federally funded grant entitled, Strategic Planning for Economic Development 180,000

Department of Employment and Training.

9081-0100 For the purposes of a federally funded grant entitled, Department of Employment and Training Administration 106,100,000

9089-1000 For the purposes of a federally funded grant entitled, Trade Expansion Act Program 1,800,000

Division of Energy Resources

9200-9642 For the purposes of a federally funded grant entitled, Institutional Conservation Program 41,800

9200-9720 For the purposes of a federally funded grant entitled, State Heating Oil and Propane Program 20,000

9200-9742 For the purposes of a federally funded grant entitled, State Energy Conservation Plan 224,234

9200-9757 For the purposes of a federally funded grant entitled, Northeast Regional Biomass Program 30,000

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 executive office of elder affairs shall enter into an interagency service agreement with the department of veterans' services not later than August first, nineteen hundred ninety-three to maximize revenues by identifying individuals who are eligible for veterans' pensions and are currently receiving home care and home health services; and provided further, that expenditures made from

the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million three hundred twenty-three thousand nine hundred fifty-four dollars, including not more than thirty-two positions 1,727,781

9110-1603 For managed care in housing, for individuals at risk of institutionalization due to functional impairments, but which are not of sufficient severity to meet the clinical admissions criteria for medicaid nursing home eligibility; provided, that said individuals shall be subject to the same rules and regulations as those clients served under item 9110-1630 of this act; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 8,276,000

9110-1630 For home care services including home health and respite services, protective services and other services for the elderly; 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 not more than two million eight hundred thousand dollars in revenues accrued from said sliding fees shall be retained by the individual home care corporations without reallocation by the executive office of elder affairs, and be expended for the purposes of the home care program, consistent with guidelines to be issued by the executive office of elder affairs; provided further, that home care corporations shall report quarterly to the executive office of elder affairs on the receipt and expenditure of revenues accrued from said sliding fees; 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 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 less than three million 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 executive office of elder affairs shall submit a detailed report of aggregate monthly home care purchase of service expenditures, as described in lines thirty-eight to forty three, inclusive of item 9110-1630 of section two of chapter one hundred and sixty-four of the acts of nineteen hundred eighty-eight; provided further, that the secretary 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; provided further, that the executive office of elder affairs shall submit quarterly to the house and senate committee on ways and means and the secretary of administration and finance a report listing the amount expended in the previous quarter for the home care program, the administration of the home care program and the managed care community based long term care program; provided further, that notwithstanding the provisions of any general or special law to the contrary, the secretary is hereby authorized to transfer not more than three percent of the funds appropriated herein to item 9110-1633 of section two of this act for the administration of home care corporations or case management services; provided further, that no funds shall be expended from this item to pay for any salary increases for direct service workers who provide state-funded homemaker and home health aid services, that would cause a reduction in client services; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 72,002,305

9110-1633 For 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 item 9110-1630 and item 9110-1603 of section two of this act; provided, that said contract shall include the costs of administrative personnel, home care case manager, travel, rent and any other costs deemed appropriate by the executive officer; provided further, that notwithstanding the provisions of any general or special law to the contrary, the secretary is hereby authorized to transfer not more than three percent of

the funds appropriated herein to item 9110-1630 of section two of this act for the direct purchase of home care, home health or related services; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 30,977,000

9110-1660 For congregate and shared housing services for the elderly; provided, that the executive office 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; provided further, that not less than fifty thousand dollars shall be expended for congregate housing services at the Tuttle House facility in Dorchester; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 1,179,492

9110-1900 For local services; provided, 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 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 three million three hundred thousand dollars shall be obligated for the administration of a meals program for elderly persons; provided further, that the department of elder affairs shall maximize federal reimbursement for meals served herein; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 4,479,341

General Fund 50.0%

Local Aid Fund 50.0%

9110-9002 For the local services program for grants to the councils on aging; provided, that not less than fifteen thousand dollars shall be obligated for the Massachusetts senior games 2,046,873

Local Aid Fund 100.0%

Federal Appropriations

Office of the Secretary

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 9,700,000

9110-1095 For the purposes of a federally funded grant entitled, Health Information Counseling and Assistance 252,217

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 11,350,000

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 1,841,000

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 3,850,000

9110-1191 For the purposes of a federally funded grant entitled, Elder Care Coalition Demonstration Program 190,000

9110-1193 For the purposes of a federally funded grant entitled, Elder Care Volunteer Corp. 30,000

EXECUTIVE OFFICE OF CONSUMER AFFAIRS

Office of the Secretary

9200-0100 For the office of the secretary; provided, that the secretary shall expend no less than ninety-six thousand dollars for the expenses of the automobile insurance public education program; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million sixty thousand forty dollars, including not more than twenty-eight positions 1,283,600

State Racing Commission

9210-0001 For the administration of the commission; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million five hundred nine thousand four hundred thirty-five dollars, including not more than forty-eight positions 3,676,455

Alcoholic Beverages Control Commission

9212-0001 For the administration of the commission; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed seven hundred twenty-nine thousand eight hundred fifty-three dollars, including not more than twenty positions 846,882

Community Antenna Television Commission

9215-0001 For the administration of the commission; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed four hundred thirty-six thousand six hundred twenty-seven dollars, including not more than eleven positions 485,360

Division of Standards

9218-0100 For the administration of the division; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred seventy-six thousand six hundred twenty-nine dollars, including not more than eleven positions 451,513

Division of Banks

9221-1000 For the office of the commissioner; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed six million five hundred seventy-three thousand four hundred twenty-eight dollars, including not more than one hundred eighty-four positions ... 7,865,942

Division of Insurance

9222-0100 For the administration of the division, including expenses of the board of appeal on motor vehicle policies and bonds, 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; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the

personnel costs associated with the purposes of the programs funded herein shall not exceed four million two hundred twelve thousand three hundred eight dollars, including not more than ninety-nine positions 5,306,987
General Fund 60.0%
Highway Fund 40.0%

9222-7800 For the administration of the division; provided, that the commissioner of insurance shall expend funds from this item of appropriation for the purpose of obtaining accreditation by the National Association of Insurance Commissioners 3,000,000
Division of Insurance Trust 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; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three million five thousand four hundred thirty-two dollars, including not more than ninety-one positions 3,816,950

9230-0150 For the expenses of the board of registration and discipline in medicine and the committee on acupuncture; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed one million two hundred eighty thousand five hundred forty-one dollars, including not more than forty-seven positions 1,739,023

Department of Public Utilities

9270-0001 For the 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 ninety-four shall be made at a rate sufficient to produce three million five hundred thirty thousand nine hundred forty-four dollars; provided further, that the department of public utilities is hereby authorized and directed to promulgate rules

and regulations to substantially expedite, streamline and reduce the costs of the rate setting process, subject to the existing review authority of the attorney general, for utilities selling less than one hundred twenty-five million kilowatt hours of electricity per year; provided, however, that said amount shall be calculated using the average sales for the three years preceding the most current rate request filing; provided further, that said regulations shall be promulgated on or before July first, nineteen hundred and ninety-five, and shall exempt any municipally owned utility; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two million nine hundred seventy nine thousand five hundred six dollars, including not more than eighty-three positions . . . 3,530,944

9272-0001 For the transportation division; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five hundred eighty-two thousand one hundred seventy-seven, including not more than seventeen positions 618,268

Highway Fund 100.0%

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 four positions 250,000

Federal Appropriations

9271-9015 For the purposes of a federally funded grant entitled, Environmental Externalities in Least Cost Planning 1,000

EXECUTIVE OFFICE OF LABOR

SECRETARIAT MISSION

To preserve and protect the health, safety, legal and economic interests of employees in the Commonwealth.

STATUTORY REFERENCES
Enabling Statute
M.G.L. c. 6A § 17B-17E

COMPONENT AGENCIES
Executive Office
Department of Labor and Industries

Board of Conciliation and Arbitration
Joint Labor Management Committee
Labor Relations Commission
Department of Industrial Accidents

EXECUTIVE OFFICE

AGENCY MISSION

To provide overall guidance and administrative support to the departments and programs of the secretariat.

STATUTORY REFERENCES
Enabling Statute
M.G.L. c. 6A § 2

COMPONENT PROGRAMS
1. Executive Office and Department of Labor and Industries Administration
2. Industrial Services

PROGRAM 1: Executive Office and Department of Labor and Industries Administration

PROGRAM MISSION

To provide general oversight and administrative support for the policies and programs administered by the agencies of the secretariat.

Program Objectives	Performance Measures	Expected Outputs
1. Develop and coordinate a process of monitoring and improving program performance.	1. Program improvements and enhancements developed by the performance review process.	1. TBR
2. Oversee all financial operations of the secretariat to ensure compliance with Chapter 29 of the General Laws and the General Appropriation Act.	2a. Agency budget requests for FY95 filed.	2a. January 1, 1994
	2b. Documentation submitted explaining secretariat's supplemental budget requests within 5 days of their filing by the Governor.	2b. TBR

3. Pay invoices within the Comptroller's guidelines of 45 days after receipt.	3a.	Invoices paid on time.	3a. 95%
	3b.	Interest penalty accrued on late bills.	3b. TBR
4. Enforce state labor laws and regulations through timely prosecution of alleged violations.	4a.	Cases prosecuted.	4a. 700
	4b.	Average time to process case.	4b. TBR
	4c.	Cases prosecuted successfully.	4c. TBR
5. Hold bid protest hearings to decide alleged violations in public bidding requirements.	5a.	Bid protests filed.	5a. TBR
	5b.	Hearings held.	5b. TBR
	5c.	Average time between protest filing and hearing.	5c. TBR
	5d.	Average time between hearing and decision.	5d. TBR
6. Issue advisory opinions in response to constituent inquiries concerning labor laws.	6a.	Inquiries received.	6a. TBR
	6b.	Opinions issued.	6b. TBR
	6c.	Average time between initial inquiry and official response.	6c. TBR

State Appropriation

9400-0100 For the executive office and department of labor and industries administration program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five hundred five thousand five hundred ninety-six dollars, including not more than twelve positions 616,164

PROGRAM 2: Industrial Services

PROGRAM MISSION

To provide consulting services and financial support to manufacturing businesses to retain jobs and increase employee involvement and productivity.

Program Objectives	Performance Measures	Expected Outputs
1. Administer economic stabilization trust funds to help prevent business failures and work force reductions.	1a. Businesses assisted.	1a. 7
	1b. Business closings averted.	1b. TBR
	1c. Jobs created or retained.	1c. TBR
	1d. Default rate on business loans.	1d. TBR
2. Provide consulting services to ailing manufacturing companies.	2a. Businesses assisted.	2a. 80
	2b. Business failures prevented.	2b. TBR
	2c. Jobs created or retained.	2c. TBR
3. Provide information and technical assistance to firms and business groups to encourage employee involvement and ownership.	3a. Companies assisted in developing employee stock ownership programs.	3a. 30
	3b. Companies adopting employee stock ownership programs.	3b. 5

State Appropriations

9400-1100 For the employee involvement and ownership in the workplace component of the industrial services program; provided, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 49,800

9400-1700 For the economic stabilization trust component of the industrial services program, as provided by chapter twenty-three D of the General Laws, and for a re-employment 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 of administration and finance and the house and senate committees on ways and means; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called 155,400

Department of Labor and Industries

AGENCY MISSION

To administer programs that protect the health and welfare of employees in the Commonwealth.

STATUTORY REFERENCES
Enabling Statute
M.G.L. c. 23 1-6

COMPONENT PROGRAMS
1. Industrial Safety
2. Occupational Hygiene
3. Apprentice Training

PROGRAM 1: Industrial Safety

PROGRAM MISSION

To administer and enforce the state's laws and standards concerning safety in the workplace to limit occupational hazards, accidents and injuries.

Program Objectives	Performance Measures	Expected Outputs
1. Conduct industrial and-construction site investigations to determine compliance with safety laws and regulations.	1a. Complaints or inquiries concerning workplace safety received.	1a. TBR
	1b. Site investigations conducted.	1b. 744
	1c. Industrial accidents reported.	1c. TBR
	1d. Industrial fatalities reported.	1d. TBR

2. Conduct inspections to monitor levels of lead and asbestos in the workplace.	2a. Site visits conducted.	2a. 2,892
	2b. Violations of lead paint and asbestos laws identified.	2b. TBR
	2c. Lead and asbestos removal licenses issued or renewed.	2c. 3,360
3. Provide information and assistance to municipalities to inform workers and communities about their rights concerning the handling of toxic substances.	3. Municipalities assisted.	3. TBR

State Appropriations

9411-0100 For the administration and operations component of the industrial safety program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs as-sociated with the purposes of the programs funded herein shall not exceed one million one hundred thirty-seven thousand eight hundred twenty-three dollars, including not more than twenty-seven positions 1,235,096

9411-0105 For the "right-to-know" component of the industrial safety program to implement certain provisions of chapter four hundred seventy of the acts of nineteen hundred eighty-three 50,000

Federal Appropriations

9411-2013 For the purposes of a federally funded grant entitled, Mine Safety and Health Training 70,000

9411-4207 For the purposes of a federally funded grant entitled, Asbestos Compliance Monitoring Grant 25,000

9411-9701 For the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Onsite Consultation Program 755,000

PROGRAM 2: Occupational Hygiene

PROGRAM MISSION

To enforce hygiene standards in the workplace to ensure the health and welfare of employees in the Commonwealth.

Program Objectives	Performance Measures	Expected Outputs
1. Conduct industrial site inspections to determine compliance with state health and sanitation laws.	1a. Complaints received.	1a. TBR
	1b. Site inspections conducted.	1b. TBR
	1c. Violations of state health laws identified.	1c. TBR
2. Conduct training and provideinformation relating to occupational hygiene.	2. Training sessions conducted.	2. 25
3. Perform laboratory tests on air and blood samples to determine existence and levels of toxic substances.	3a. Samples analyzed.	3a. 300
	3b. Samples indicating unacceptable levels of toxic substances.	3b. TBR

State Appropriation

9412-0100 For the occupational hygiene program; provided, that for a program to evaluate the asbestos level in public buildings the division may employ staff which shall not be subject to chapter thirty-one of the General Laws; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eight hundred twenty-two thousand two hundred eighty-two dollars, including not more than eighteen positions 1,004,435

Federal Appropriation

9411-4203 For the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Statistical Survey 160,000

PROGRAM 3: Apprentice Training

PROGRAM MISSION

To coordinate efforts of labor and management to establish and maintain apprentice training in the skilled trades.

Program Objectives	Performance Measures	Expected Outputs
1. Support efforts by Massachusetts companies to establish and maintain apprentice training programs.	1a. Apprentices recruited.	1a. 2,926
	1b. Apprentice training programs conducted.	1b. 1,562
	1c. Companies employing apprentices.	1c. 1,791
	1d. Trainees completing apprentice training programs.	1d. 85%

State Appropriation

9415-0100 For the apprentice training program; provided, that no position in the apprentice training division shall be subject to chapter thirty-one of the General Laws; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed two hundred fifty-five thousand eight hundred forty-six dollars, including not more than twelve positions 240,472

BOARD OF CONCILIATION AND ARBITRATION

AGENCY MISSION

To mediate and arbitrate labor and management disputes to achieve impasse resolution and encourage constructive and cooperative labor-management relationships.

STATUTORY REFERENCES
Enabling Statutes
M.G.L. c. 23C
M.G.L. c. 150E

COMPONENT PROGRAMS
1. Dispute Mediation and Arbitration

PROGRAM 1: Dispute Mediation and Arbitration

PROGRAM MISSION

To assist public management and unions reach settlements after negotiations have failed.

Program Objectives	Performance Measures	Expected Outputs
1. Provide interest mediation and grievance arbitration	1a. Collective bargaining impasse resolution cases opened.	1a. 200
	1b. Collective bargaining impasse resolution cases resolved.	1b. 65%
	1c. Grievance arbitration cases opened.	1c. 150
	1d. Grievance arbitration cases resolved.	1d. 100%
	1e. Grievance mediation cases opened.	1e. 80
	1f. Grievance mediation cases resolved.	1f. 100%

State Appropriation

9420-0100 For the dispute mediation and arbitration program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed five hundred twenty-seven thousand seven hundred seventy-nine dollars, including not more than twelve positions 575,350

JOINT LABOR MANAGEMENT COMMITTEE

AGENCY MISSION

To mediate and arbitrate municipal public safety labor disputes.

STATUTORY REFERENCES
Enabling Statute
St.1979, c. 154

COMPONENT PROGRAMS
1. Public Safety Dispute Mediation

PROGRAM 1: Public Safety Dispute Resolution

PROGRAM MISSION

To assist municipalities and their public safety labor organizations in resolving disputes arising from collective bargaining negotiations to ensure that services are not interrupted.

Program Objectives	Performance Measures	Expected Outputs
1. Conduct field investigations, mediation sessions, and procedural hearings.	1a. Field investigations conducted within 30 days.	1a. TBR

1b.	Public safety labor disputes resolved.	1b. 25%
1c.	Average months to resolve labor disputes.	1c. 11

State Appropriation

9421-0100 For the public safety dispute mediation program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed three hundred ten thousand dollars, including not more than eight positions 403,426

LABOR RELATIONS COMMISSION

AGENCY MISSION

To administer and enforce the state's public and private sector collective bargaining laws.

STATUTORY REFERENCES
Enabling Statutes
M.G.L. c. 23 9O-9R

COMPONENT PROGRAMS
1. Labor Relations

PROGRAM 1: Labor Relations

PROGRAM MISSION

To perform quasi-judicial functions to achieve prompt and fair resolution of collective bargaining disputes.

Program Objectives	Performance Measures	Expected Outputs
1. Investigate and dispose of, or adjudicate labor disputes.	1a. Labor relations cases opened.	1a. 1,200
	1b. Labor relations cases closed.	1b. 650
	1c. Average weeks to process a case from initial filing.	1c. 45

State Appropriation

9430-0100 For the labor relations program; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed eight hundred thirty-four thou-

sand eight hundred sixty- two dollars, including not more than eighteen positions 865,004

DEPARTMENT OF INDUSTRIAL ACCIDENTS

AGENCY MISSION

To monitor, prevent and provide compensation for work related accidents, injuries and illnesses through dispute resolution, dissemination of workplace health and safety information and administration of public and private trust funds.

STATUTORY REFERENCES
Enabling Statutes
M.G.L. c. 23E

COMPONENT PROGRAMS
1. Industrial Accidents

PROGRAM 1: Industrial Accidents

PROGRAM MISSION

To administer the state's workers' compensation system by approving compensation agreements and providing compensation for legitimate occupational injury claims.

Program Objectives	Performance Measures	Expected Outputs
1. Process all financial transactions pursuant to statutory requirements.	1a. All eligible fees, fines and late	1a. TBR charges collected.
	1b. Bills and industry assessments processed on time.	1b. 95%
	1c. Interest penalty accrued on late bills.	1c. TBR
2. Process and adjudicate dispute resolution cases.	2a. Cases filed and resolved through conciliation.	2a. 17,340
	2b. Cases filed and resolved through arbitration.	2b. TBR
	2c. Cases adjudicated by the Industrial Accident Board.	2c. 15,700
	2d. Cases adjudicated by the Review Board.	2d. 11,075
3. Provide training and information to employers and employees concerning occupational health and safety standards.	3a. Employers and employees receiving training.	3a. 3,200

	3b.	Reduction in company specific workplace injuries as a result of training.	3b. TBR
	3c.	Safety grants distributed.	3c. TBR
4. Ensure that all employers are providing worker's compensation coverage to their employees as required by law.	4a.	Investigations for compliance conducted.	4a. TBR
	4b.	Violations identified.	4b. TBR
	4c.	Amount of penalties assessed.	4c. TBR

State Appropriations

9440-0200 For the industrial accidents program; 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 fifty-two of the General Laws; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed fifteen million seven hundred seventy-six thousand seven hundred eighty-two dollars, including not more than three hundred thirteen positions 15,776,782

LEGISLATURE

Senate

9511-0000 For the compensation of senators 1,605,000
9511-8000 For expenses of senators, including travel, prior appropriation continued 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, prior appropriation continued
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 worker's compensation charges assessed against the employees of the senate, prior appropriation continued 198,000

9516-0000 For administrative, secretarial and clerical assistance to the senators, prior appropriation continued 1,200,000
9516-0030 For a legislative intern and service program for the senate, prior appropriation continued 100,000
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 720,160
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 270,000
9519-7000 For legislative committee services for the senate, prior appropriation continued 1,400,000
9519-7500 For the automation of senate offices, prior appropriation continued 125,000
9519-8000 For the expenses of televising sessions of the senate; provided, however, that any contract for the broadcasting by radio or television of sessions of the senate shall be awarded by the rules committee of the senate to the lowest responsible bidder, prior appropriation continued 120,000
0185-7888 For a study by the senate committee on ways and means of chapter twenty-three of the acts of nineteen hundred and eighty-eight, prior appropriation continued

House of Representatives

9621-0000 For the compensation of representatives, prior appropriation continued 5,225,832
9622-8000 For expenses of representatives, including travel, prior appropriation continued 771,380
9623-0000 For the office of the clerk of the house of representatives, prior appropriation continued 506,208
9624-0000 For the salary of the chaplain of the house of representatives, prior appropriation continued 15,359
9625-0000 For the office of the house counsel, prior appropriation continued 1,035,016
9626-0000 For the office of the house committee on rules, prior appropriation continued 1,010,401
9626-0010 For repairs and renovations, prior appropriation continued 186,000

9627-0050 For the cost of unemployment, medicare and worker's compensation charges assessed against the employees of the house of representatives, prior appropriation continued 506,449

9628-0000 For the office of the house committee on ways and means, prior appropriation continued 1,316,833

9628-0010 For certain renovations and improvements to the house committee on ways and means, including the costs of data processing services, prior appropriation continued 500,000

9628-0020 For the performance oversight component of the house ways and means committee, prior appropriation continued 180,000

9629-0000 For clerical and other expenses of the members of the house of representatives, prior appropriation continued 2,568,307

9630-0020 For administrative and legislative aides to the members of the house of representatives, prior appropriation continued ... 3,600,316

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, prior appropriation continued 56,597

9632-0040 For office supplies and other expenses of the house of representatives, prior appropriation continued 638,824

9633-0000 For the expenses of televising sessions of the house of representatives, prior appropriation continued 559,207

9634-2000 For the expenses related to the House Information Systems, including maintenance of data and telecommunications equipment, prior appropriation continued 154,349

9634-3000 For the salaries of court officers and pages of the house of representatives, prior appropriation continued 864,521

9634-4000 For the expenses of the office of the house committee on personnel administration, prior appropriation continued 34,452

9634-5000 For legislative committee services for the house of representatives, prior appropriation continued 4,754,325

9634-6000 For the office of legislative post audit and oversight bureau of the house of representatives, prior appropriation continued 852,833

9636-0000 For the legislative service bureau, prior appropriation continued .. 455,924

Sergeant-at-Arms

9731-0000 For the office of the sergeant-at-arms, prior appropriation continued 518,728

9731-0050 For the cost of unemployment, medicare, and workers compensation charges assessed against the employees of the joint legislative committees, prior appropriation continued 179,682

9734-1000 For the salaries of clerks employed in the legislative document room, including other joint legislative expenses, prior appropriation continued 376,570

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 180,100

9736-0000 For the rental, maintenance and updating of an electric roll call system, prior appropriation continued 22,532

Other Expenses

9738-0001 For the administration of the office of legislative data processing, prior appropriation continued 705,112

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, including other joint legislative expenses, prior appropriation continued 167,167

9742-0000 For the administration of the legislative engrossing division, prior appropriation continued 213,883

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 2,051,858

9744-1000 For joint legislative dataprocessing and telecommunications services, prior appropriation continued 2,784,627

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, prior appropriation continued 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 174,242

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 38,054

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, prior appropriation continued 209,443

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, prior appropriation continued

9749-0100 For the expenses of the joint committee on redistricting, prior appropriation continued

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 upon the prior receipt of private donations equal to or greater than said expenditure; and, provided further, that said donations shall be deposited in the general fund, prior appropriations continued

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 of this act to the Intragovernmental Service Fund, established pursuant to section two Q of chapter twenty-nine of the General Laws; provided further, that no expenditures shall be made from said Intragovernmental Service Fund which shall cause said fund to be in deficit at the close of fiscal year nineteen hundred and ninety-four; provided further, that all authorizations in this

section shall be charged to said Intragovernmental Service Fund; provided further, that any balance remaining at the close of fiscal year nineteen hundred and ninety-four shall be transferred to the General Fund.

SECRETARY OF THE COMMONWEALTH
Office of the Secretary of the Commonwealth

0511-0003 For the costs of providing electronic and other publications purchased from the state bookstore and for the commission and notary fees and for direct access to the secretary's computer library pursuant to a schedule of fees established by the secretary of state 25,000

OFFICE OF THE STATE COMPTROLLER
Office of the 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 state-wide 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 525,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
Workers' Compensation Litigation Unit

1100-1111 For the purpose of providing a workers' compensation unit to provide litigation assistance previously provided by the attorney general's office 335,300

Office of Management Information Systems

1101-2310 For the cost of computer resources and services provided by the bureau of computer services, in accordance with the policies, procedures and rates approved by the secretary for administration and finance, including the purchase, lease or rental of telecommunications lines, services and equipment, that are centrally billed to the commonwealth; provided, that the said secretary shall charge other items of appropriation for the cost of said resources and services; provided further, that

the bureau shall submit quarterly reports to the house and senate committees on ways and means summarizing each agency's charges and payments for the preceding quarter for this item; and provided further, that the secretary for administration and finance is authorized to establish regulations, procedures and a schedule of fees to further implement this section including, but not limited to, the development and distribution of forms and instructions 16,200,000

Bureau of State Office Buildings

1102-3333 For the operation and maintenance of state buildings, including reimbursement for overtime expenses, materials and contract services purchased in performing renovations for agencies occupying state buildings or for services rendered to approved entities utilizing state facilities 50,000

Department of Procurement and General Services

1104-5211 For the purchase, operation and repair of certain vehicles and for the cost of the operation and maintenance of all vehicles that are leased by other agencies 1,680,000

1104-6600 For the purchase, delivery, handling of, and contracting for supplies, postage, related equipment and other incidental expenses as provided pursuant to the provisions of section fifty-one of chapter thirty of the General Laws 1,040,000

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 such services 1,155,000

Department of Personnel Administration

1108-1213 For the cost 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 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; and provided further, that the department is authorized to collect from participating state agencies a fee sufficient to cover administrative costs of the commonwealth's pride in performance program and to expend such fees for goods and services rendered in the administration of the program 700,000

Public Employee Retirement Administration

1108-6201 For the cost of workers' compensation paid to public employees; provided, that the secretary of administration and finance shall charge, pursuant to section fourteen of this act, other items of appropriation or state agencies for cost incurred on behalf of said agencies; provided further, that said secretary may transfer workers' compensation-related fringe benefit assessments from federal grants and trust accounts to this item; provided further, that said secretary shall identify charges by said item of appropriation; provided further, that said secretary shall file quarterly reports with the house and senate committees on ways and means detailing said items, including federal grants and trust accounts, that have not yet paid their charges, and the reasons why, within three weeks of the close of each quarter; and provided further, that no funds shall be expended from this item that would cause said item to be deficient 72,499,079

Reserves

1599-3100 For the cost of the commonwealth's employer contributions to the unemployment compensation fund and the medical security trust fund; provided, that the secretary of administration and finance shall authorize the collection, accounting and payment of said contributions; provided further, that in executing these responsibilities the state comptroller is authorized to charge in addition to individual

appropriation accounts 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 19,944,000

1599-9500 For the implementation of the higher education early retirement incentive program established pursuant to the provisions of this act; provided, that the public employee retirement administration and the group insurance commission, in consultation with the chancellor of higher education, shall certify in writing to the secretary of administration and finance, the comptroller, and the senate and house committees on ways and means, the total amount of pension, group insurance, and other costs associated with those eligible employees who choose to retire on or before December thirty-first, nineteen hundred and ninety-three or June thirtieth, nineteen hundred and ninety-four; provided further, that the comptroller is hereby authorized and directed to transfer the amounts so certified from items 7100-0200, 7109-0100, 7110-0100, 7112-0100, 7113-0100, 7114-0100, 7115-0100, 7116-0100, 7117-0100, 7118-0100, 7119-0100, 7502-0100, 7503-0100, 7504-0100, 7505-0100, 7506-0100, 7507-0100, 7508-0100, 7509-0100, 7510-0100, 7511-0100, 7512-0100, 7514-0100, 7515-0100, 7516-0100, 7518-0100, 7519-0100 of section two of this act to this item for the purposes of paying said costs; provided, that, notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge said items for the costs of employees who enroll in said early retirement incentive program who are compensated from non-appropriated funds; provided further, that the comptroller shall expend said charges for the pension, group insurance, and other related costs associated with employees who enroll in said early retirement incentive program at the direction of the public employees retirement administration and the group insurance commission; provided further, that the public employees retirement administration and the group insurance commission, in consultation with the chancellor of higher education, shall, no later than February first, nineteen hundred and ninety-four, complete an analysis to determine whether the funds transferred to this item exceed the actual pension and group insurance costs of employees who retired on December thirty-first, nineteen hundred and ninety-three

or June thirtieth, nineteen hundred and ninety-four and shall submit a copy of said analysis to the secretary of administration and finance, the comptroller and the senate and house committees on ways and means; provided further, that, to the extent that said analysis shows that funds transferred to this item exceed the actual costs associated with employees who retired on or before December thirty-first nineteen hundred and ninety-three or June thirtieth, nineteen hundred and ninety-four, the comptroller shall allocate such excess funds back to items 7100-0200, 7109-0100, 7110-0100, 7112-0100, 7113-0100, 7114-0100, 7115-0100, 7116-0100, 7117-0100, 7118-0100, 7119-0100, 7502-0100, 7503-0100, 7504-0100, 7505-0100, 7506-0100, 7507-0100, 7508-0100, 7509-0100, 7510-0100, 7511-0100, 7512-0100, 7514-0100, 7515-0100, 7516-0100, 7518-0100, 7519-0100 of section two according to an allocation plan which the chancellor of higher education shall prepare and which shall re-allocate funds proportional to the number of full-time equivalent employees who were compensated from said items and who retired on or before December thirty-first, nineteen hundred and ninety-three, or June thirtieth, nineteen hundred and ninety-four 17,663,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS

Office of the Secretary of Environmental Affairs

2001-1002 For the costs of data processing and related computer and mapping services, the distribution of digital cartographic and other data, the review of environmental notification forms pursuant to the Massachusetts environmental policy act, and for the staff and printing of the MEPA Monitor 350,000

Department of Environmental Management

2100-2001 For the costs of providing interstate firefighting services authorized under section forty-four of chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-two with the United States Department of Agriculture Forest Service; provided, that costs attributed to other state agencies under agreement be disbursed according to state accounting practices; and provided further, that federal reimbursements

deposited within this account shall be retained for the purposes of item 2100-2000 and 2440-0010 of section two of this act 50,000

Department of Fisheries, Wildlife, and Environmental Law Enforcement

2350-0102 For the costs of overtime and special details provided by the department of fisheries, wildlife, and environmental law enforcement's division of environmental law enforcement; provided, that revenues collected under this account shall not revert to the General Fund but shall be retained for the purposes of item 2350-0100 of section two of this act 120,000

Metropolitan District Commission

2410-1002 For the costs of operating the service's telecommunications system; provided, that nothing in this section shall diminish or impair the rights of all current users of the system pursuant to agreements which have been entered into with the service 100,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Massachusetts Commission for the Deaf and Hard of Hearing

4125-0122 For the cost of interpreter services provided by staff of the commission; 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 the provisions of section one hundred and ninety-six of chapter six of the General Laws 50,000

Department of Public Health

4590-0901 For costs of medical services provided at public health hospitals pursuant to a schedule of services and fees approved by the commissioner of public health, which may be expended for the purposes of hospital related costs, including capital expenditures and motor vehicle replacement 100,000

Department of Mental Retardation

5948-0012 For residential services pilot program, for the costs of residential services provided for the purposes of 7061-0012, in section two of this act 1,250,000

5982-1001 For the costs of products produced by the department's farm program including the sale of milk and livestock; provided, that revenues collected may also be expended for the support of respective programs including costs of materials, supplies, equipment and maintenance of the facility 23,100

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION
Massachusetts Aeronautics Commission

6006-0010 For the costs of air transportation services provided to state officials, including the cost of personnel 47,500

Department of Highways

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 highways shall charge to other items of appropriation the cost of purchased fuel for other agencies and for certain administrative expenses related to purchasing and distributing the fuel 1,600,000

EXECUTIVE OFFICE OF EDUCATION
Higher Education Computer Network

7066-0003 For the costs of data processing services provided by the higher education computer network pursuant to a schedule of fees for services 50,000

EXECUTIVE OFFICE OF PUBLIC SAFETY
Department of State Police

8100-0002 For the costs of overtime associated with requested police detail; provided, that revenues collected under this account shall not revert to the General Fund but shall be retained without further appropriation for the purposes of item 8100-0000 of section two of this act 1,400,000

Military Division

8700-1145 For the costs of utilities and maintenance and for the implementation of energy conservation measures with regard to state armories 75,000

Department of Correction

8900-0021 For the costs of products produced by the prison industries and farm program and for the costs of services provided by inmates, including moving, auto repair, culinary, and renovation and construction services; provided, that the cost for such renovation and construction services shall not exceed the amount established by the department of procurement and general services; provided further, that such revenues may also be expended for materials, supplies, equipment, maintenance of facilities and compensation of employees and for the inmate employment and training program 6,400,000

SECTION 2C. I. For the purpose of making available in fiscal year nineteen hundred and ninety-four balances of appropriations which otherwise would revert on June thirtieth, nineteen hundred and ninety-three, the unexpended balances of the maintenance appropriation items listed below, not to exceed the amount specified below for each item, are hereby re-appropriated for the fiscal year nineteen hundred and ninety-four. Amounts in this section are reappropriated for the purposes of 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 re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section two of the general appropriation act and section two A of supplemental appropriation acts for the fiscal year ending June thirtieth, nineteen hundred and ninety-three; provided, that for items neither with purposes and conditions specified below nor appearing in said section two or two A the amounts in this section are reappropriated for the purposes of and subject to the conditions stated for the corresponding item in section two or two A of this act or in prior appropriation acts. Amounts in this section are re-appropriated from the fund or funds designated below for each item; provided, that for items for which no fund is so designated, the amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in section two of the general appropriation act or section two A of supplemental appropriation acts for the fiscal year ending June thirtieth, nineteen hundred and ninety-three; provided, that for items neither with a fund designated below nor appearing in said section two, the amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in section two of this act or in prior appropriation acts.

EXECUTIVE OFFICE OF COMMUNITIES AND DEVELOPMENT

3722-9024 ..... $3,000,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
Department of Public Health

4500-1010 ..... $20,000,000

LOCAL AID DISTRIBUTIONS

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, except for section twelve B of chapter seventy-six as appearing in section sixty-one of chapter seventy-one of the acts of nineteen hundred and ninety-three, for the fiscal year ending June thirtieth, nineteen hundred and ninety-four, 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 be three hundred and twenty-nine million dollars and shall be apportioned to the cities and towns in accordance with this section; provided, that the amount of any balance in the State Lottery Fund at the end of the fiscal year shall be transferred to the Local Aid Fund. Pursuant to item 0611-5501 of section two of this act, there shall be made available a one-time payment of municipal stabilization local aid, to be distributed from the local aid fund in accordance with the formula used to distribute the State Lottery Fund local aid. Notwithstanding the provisions of chapter seventy of the General Laws or any other general or special law to the contrary, receipt of the municipal stabilization local aid shall in no way effect a municipality's obligations regarding education financing and shall be available for unrestricted use by the municipalities.

Notwithstanding the provisions of any general or special law to the contrary, except for section twelve B of chapter seventy-six as appearing in section sixty-one of chapter seventy-one of the acts of nineteen hundred and ninety-three, 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, 0611-5501 and 7061-0008 of section two of this act shall be set forth in the following list; provided further, that the amounts to be distributed from items 0611-5500, 0611-5501 and 7061-0008 of said section two are hereby deemed to be in full satisfaction of the amounts due under chapter seventy and section thirty-seven of chapter twenty-one of the General Laws. No payments to cities, towns, regional school districts or counties maintaining an agricultural school 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.

MUNICIPALITY	0611-5500 ADDITIONAL ASSISTANCE	7061-0008 CHAPTER 70 SCHOOL AID	LOTTERY DISTRIBUTION	0611-5501 MUNICIPAL STABILIZATION
ABINGTON	0	3,851,078	933,624	49,876
ACTON	37,368	749,485	604,239	39,923
ACUSHNET	30,043	2,066,625	725,930	36,192
ADAMS	44,096	0	1,027,029	45,646
AGAWAM	0	6,096,684	1,697,549	95,304
ALFORD	0	0	8,038	350
AMESBURY	0	4,752,998	934,509	47,215
AMHERST	280,503	2,809,278	3,453,217	217,428
ANDOVER	0	1,940,906	695,537	50,840
ARLINGTON	5,652,310	2,871,148	2,066,731	127,873
ASHBURNHAM	0	0	243,314	18,674
ASHBY	0	0	159,768	9,915
ASHFIELD	0	0	67,485	4,666
ASHLAND	366,937	745,706	360,290	30,096
ATHOL	5,507	0	852,782	63,511
ATTLEBORO	0	11,582,763	2,343,622	142,141
AUBURN	0	2,522,819	733,416	44,224
AVON	504,148	251,140	209,043	9,227
AYER	55,642	3,665,786	401,191	16,360
BARNSTABLE	0	1,620,378	670,573	60,402
BARRE	0	0	326,531	19,898
BECKET	10,797	1,672	35,440	1,669
BEDFORD	609,391	744,053	317,167	22,261
BELCHERTOWN	0	2,903,010	643,038	36,301
BELLINGHAM	0	4,161,452	967,037	45,490
BELMONT	1,041,278	1,091,292	838,039	49,761
BERKLEY	0	1,131,271	201,238	12,260
BERLIN	0	262,901	111,770	6,064
BERNARDSTON	0	0	108,968	6,813
BEVERLY	3,086,077	3,747,165	1,762,752	104,786
BILLERICA	2,956,313	6,226,658	1,730,437	106,372
BLACKSTONE	0	1,241	560,201	33,413
BLANDFORD	0	0	53,242	3,159
BOLTON	0	65,917	72,919	5,448
BOSTON	206,638,214	66,602,012	27,232,544	1,886,059

MUNICIPALITY	0611-5500 ADDITIONAL ASSISTANCE	7061-0008 CHAPTER 70 SCHOOL AID	LOTTERY DISTRIBUTION	0611-5501 MUNICIPAL STABILIZATION
BOURNE	443,645	1,279,435	454,076	29,244
BOXBOROUGH	0	87,756	94,128	5,632
BOXFORD	45,818	185,307	166,417	10,343
BOYLSTON	0	164,886	158,680	8,414
BRAINTREE	4,250,822	1,885,496	1,501,952	76,829
BREWSTER	0	136,192	112,688	11,374
BRIDGEWATER	0	3,850,241	1,232,762	82,239
BRIMFIELD	0	408,924	145,273	8,998
BROCKTON	5,424,063	41,027,599	7,596,741	445,017
BROOKFIELD	0	691,420	201,908	13,386
BROOKLINE	4,401,448	1,740,063	1,818,725	119,751
BUCKLAND	0	0	118,534	7,009
BURLINGTON	1,744,603	1,644,883	620,663	48,094
CAMBRIDGE	22,595,349	2,626,192	3,756,704	209,936
CANTON	1,104,851	1,001,949	602,533	35,884
CARLISLE	18,534	187,764	78,845	7,115
CARVER	0	3,245,230	496,322	43,175
CHARLEMONT	0	0	64,715	4,395
CHARLTON	0	0	470,791	31,178
CHATHAM	0	94,625	71,455	4,508
CHELMSFORD	3,190,395	2,944,294	1,290,155	87,649
CHELSEA	4,274,507	15,028,280	2,311,923	150,782
CHESHIRE	0	0	233,160	13,366
CHESTER	0	0	68,608	4,352
CHESTERFIELD	0	4,615	53,043	3,184
CHICOPEE	1,504,526	18,092,935	4,333,839	256,058
CHILMARK	0	7,545	1,398	105
CLARKSBURG	16,502	566,486	176,529	9,669
CLINTON	220,865	4,288,384	967,530	56,488
COHASSET	209,013	527,807	199,483	10,616
COLRAIN	0	0	88,511	6,492
CONCORD	483,163	553,848	419,285	27,847
CONWAY	0	142,427	70,135	4,541
CUMMINGTON	0	7,002	30,551	1,885
DALTON	0	275,565	422,333	27,732
DANVERS	1,408,080	1,282,590	908,100	53,658
DARTMOUTH	0	4,184,868	1,117,033	65,409

MUNICIPALITY	0611-5500 ADDITIONAL ASSISTANCE	7061-0008 CHAPTER 70 SCHOOL AID	LOTTERY DISTRIBUTION	0611-5501 MUNICIPAL STABILIZATION
DEDHAM	1,950,847	1,444,219	1,023,635	58,713
DEERFIELD	0	340,599	201,469	13,198
DENNIS	0	0	202,603	14,405
DIGHTON	0	0	309,770	17,106
DOUGLAS	0	1,641,791	17,336	
DOVER	0	60,018	90,366	5,441
DRACUT	0	5,323,015	1,324,116	88,693
DUDLEY	0	0	639,807	37,327
DUNSTABLE	37,846	0	69,190	4,767
DUXBURY	0	1,086,889	374,890	28,246
EAST BRIDGEWATER	0	3,290,439	625,928	34,990
EAST BROOKFIELD	0	3,910	136,756	7,264
EAST LONGMEADOW	0	1,749,274	596,239	32,887
EASTHAM	0	51,355	50,111	4,245
EASTHAMPTON	137,004	5,129,671	1,260,162	69,370
EASTON	0	3,281,199	865,313	63,256
EDGARTOWN	35,873	81,723	14,520	1,413
EGREMONT	0	0	33,339	1,608
ERVING	16,548	132,259	20,744	2,059
ESSEX	42,569	178,325	100,329	6,073
EVERETT	5,139,628	3,522,218	1,395,370	106,536
FAIRHAVEN	492,569	3,245,667	942,586	49,235
FALL RIVER	2,882,862	47,209,758	11,396,680	543,557
FALMOUTH	0	1,716,992	598,991	35,701
FITCHBURG	270,312	15,995,019	3,604,785	220,661
FLORIDA	0	64,675	15,765	1,714
FOXBOROUGH	0	2,575,388	730,425	39,658
FRAMINGHAM	5,911,189	3,052,867	2,523,084	199,085
FRANKLIN	0	4,596,043	1,050,220	59,178
FREETOWN	0	532,262	394,376	26,854
GARDNER	151,944	7,060,180	1,601,618	95,552
GAY HEAD	0	960	1,219	35
GEORGETOWN	66,691	1,362,294	293,993	18,563
GILL	0	0	81,767	6,490
GLOUCESTER	2,419,911	2,801,335	1,132,176	63,008
GOSHEN	0	2,755	27,182	1,845
GOSNOLD	2,469	100	167	19
GRAFTON	0	2,327,064	629,153	44,286

MUNICIPALITY	0611-5500 ADDITIONAL ASSISTANCE	7061-0008 CHAPTER 70 SCHOOL AID	LOTTERY DISTRIBUTION	0611-5501 MUNICIPAL STABILIZATION
GRANBY	0	1,468,443	389,440	19,868
GRANVILLE	0	131,078	54,133	3,746
GREAT BARRINGTON	0	0	375,084	20,909
GREENFIELD	0	5,673,175	1,421,799	74,779
GROTON	0	0	277,779	18,798
GROVELAND	0	0	307,693	17,257
HADLEY	174,084	210,852	136,031	8,517
HALIFAX	0	1,068,672	394,222	23,521
HAMILTON	53,967	0	278,476	16,180
HAMPDEN	0	622,555	289,703	13,612
HANCOCK	22,195	25,965	22,134	823
HANOVER	1,669,092	1,331,099	482,846	26,272
HANSON	0	0	591,758	29,036
HARDWICK	4,062	0	190,760	8,056
HARVARD	69,324	598,943	923,750	52,149
HARWICH	0	309,194	157,933	11,374
HATFIELD	0	304,332	154,126	8,825
HAVERHILL	3,149,881	13,563,007	3,159,061	191,577
HAWLEY	16,264	0	11,661	852
HEATH	0	84,806	17,216	1,812
HINGHAM	420,485	1,419,940	660,086	36,532
HINSDALE	0	33,122	82,716	6,118
HOLBROOK	5,987	3,130,342	706,575	39,293
HOLDEN	0	1,481,241	694,425	46,385
HOLLAND	0	155,798	65,270	5,333
HOLLISTON	518,826	2,322,839	547,573	34,693
HOLYOKE	763,384	33,076,794	4,402,011	227,920
HOPEDALE	0	1,067,418	217,621	21,961
HOPKINTON	151,365	667,964	244,057	17,278
HUBBARDSTON	0	0	94,401	8,576
HUDSON	0	3,987,964	953,031	56,158
HULL	1,747,307	1,799,225	469,472	30,965
HUNTINGTON	0	0	127,399	7,786
IPSWICH	975,780	850,680	467,093	28,640
KINGSTON	0	736,150	364,692	24,225
LAKEVILLE	0	642,091	322,638	17,060
LANCASTER	0	1,324,406	402,564	23,121

MUNICIPALITY	0611-5500 ADDITIONAL ASSISTANCE	7061-0008 CHAPTER 70 SCHOOL AID	LOTTERY DISTRIBUTION	0611-5501 MUNICIPAL STABILIZATION
LANESBOROUGH	0	356,817	210,341	7,185
LAWRENCE	239,970	45,797,042	6,275,273	444,053
LEE	0	1,054,245	362,298	15,963
LEICESTER	0	3,573,146	786,050	42,183
LENOX	90,787	789,390	346,987	9,572
LEOMINSTER	14,714	11,579,210	2,221,232	141,151
LEVERETT	0	50,754	68,159	5,165
LEXINGTON	0	1,980,631	724,197	49,219
LEYDEN	0	0	23,249	1,977
LINCOLN	367,459	145,405	208,631	13,565
LITTLETON	207,535	454,102	242,172	14,972
LONGMEADOW	0	1,861,563	647,080	34,813
LOWELL	7,978,998	39,959,285	7,189,329	515,428
LUDLOW	0	4,288,783	1,307,554	64,792
LUNENBURG	0	1,831,282	469,263	26,664
LYNN	11,926,220	33,380,141	5,597,804	378,155
LYNNFIELD	455,892	744,350	336,948	23,716
MALDEN	7,030,168	11,983,666	3,737,694	229,140
MANCHESTER	0	303,623	121,218	6,690
MANSFIELD	912,368	1,438,035	533,141	38,933
MARBLEHEAD	49,583	908,917	490,931	36,978
MARION	0	61,253	86,020	5,537
MARLBOROUGH	3,433,241	1,685,629	1,421,943	76,919
MARSHFIELD	255,142	4,576,666	949,218	51,022
MASHPEE	0	184,138	49,317	7,567
MATTAPOISETT	0	150,168	203,982	9,325
MAYNARD	738,519	1,136,067	482,266	33,822
MEDFIELD	937,000	731,641	397,730	25,522
MEDFORD	8,094,393	7,828,106	3,446,751	197,475
MEDWAY	235,317	1,844,248	396,270	26,964
MELROSE	3,402,865	3,486,968	1,510,515	84,002
MENDON	0	0	139,418	10,570
MERRIMAC	0	0	321,055	20,754
METHUEN	205,147	9,770,002	2,133,842	132,127
MIDDLEBOROUGH	0	6,620,380	1,062,108	60,298
MIDDLEFIELD	0	0	20,118	918
MIDDLETON	159,272	185,170	151,923	8,833

MUNICIPALITY	0611-5500 ADDITIONAL ASSISTANCE	7061-0008 CHAPTER 70 SCHOOL AID	LOTTERY DISTRIBUTION	0611-5501 MUNICIPAL STABILIZATION
MILFORD	0	7,074,288	1,436,859	83,414
MILLBURY	0	2,866,482	808,218	44,210
MILLIS	403,862	953,459	324,292	21,791
MILLVILLE	0	959	143,702	8,021
MILTON	1,566,851	1,086,670	1,063,296	63,874
MONROE	17,526	6,655	4,768	189
MONSON	0	2,298,605	602,396	28,994
MONTAGUE	0	0	554,082	29,736
MONTEREY	15,777	0	21,623	661
MONTGOMERY	0	0	36,113	2,263
MOUNT WASHINGTON	41,886	2,466	1,029	109
NAHANT	157,791	127,474	138,362	7,987
NANTUCKET	0	137,435	29,350	1,991
NATICK	2,444,348	1,714,012	1,054,820	71,091
NEEDHAM	259,216	1,427,873	727,552	44,861
NEW ASHFORD	9,203	6,270	2,693	321
NEW BEDFORD	901,313	54,940,033	11,304,438	591,826
NEW BRAINTREE	0	0	40,978	2,848
NEW MARLBOROUGH	0	0	26,263	1,366
NEW SALEM	0	0	45,190	1,905
NEWBURY	0	477,602	179,058	13,102
NEWBURYPORT	1,736,621	1,823,817	737,331	39,960
NEWTON	1,732,789	3,589,466	2,371,645	142,393
NORFOLK	0	905,788	325,518	29,500
NORTH ADAMS	233,872	7,748,910	2,177,540	117,177
NORTH ANDOVER	151,695	1,511,418	729,919	55,172
NORTH ATTLEBORO	0	5,880,425	1,228,072	76,275
NORTH BROOKFIELD	0	1,815,805	354,730	21,540
NORTH READING	1,189,787	882,589	481,121	27,558
NORTHAMPTON	727,239	5,217,048	1,949,265	100,337
NORTHBOROUGH	76,900	1,089,051	439,543	30,058
NORTHBRIDGE	3,865	4,258,004	1,039,924	64,620
NORTHFIELD	0	0	101,285	8,871
NORTON	0	3,734,458	931,185	50,403
NORWELL	680,878	850,454	316,660	17,470
NORWOOD	3,354,660	1,503,800	1,191,109	65,898
OAK BLUFFS	0	44,583	25,003	2,112

MUNICIPALITY	0611-5500 ADDITIONAL ASSISTANCE	7061-0008 CHAPTER 70 SCHOOL AID	LOTTERY DISTRIBUTION	0611-5501 MUNICIPAL STABILIZATION
OAKHAM	0	0	55,875	4,783
ORANGE	2,661	2,340,413	742,661	35,441
ORLEANS	0	41,788	74,084	4,711
OTIS	0	0	12,655	760
OXFORD	0	4,048,871	957,406	47,115
PALMER	0	3,537,574	876,260	46,174
PAXTON	0	410,102	189,272	12,248
PEABODY	3,951,625	7,104,556	2,238,929	142,233
PELHAM	0	16,933	59,315	3,988
PEMBROKE	0	1,880,653	729,962	40,312
PEPPERELL	0	0	495,045	33,536
PERU	0	36,916	41,797	2,662
PETERSHAM	0	31,768	44,760	2,895
PHILLIPSTON	5,519	0	44,364	4,465
PITTSFIELD	1,107,722	17,849,823	3,765,842	183,499
PLAINFIELD	0	0	15,847	1,101
PLAINVILLE	0	683,577	295,602	18,228
PLYMOUTH	0	6,637,585	1,195,631	107,562
PLYMPTON	0	196,191	92,569	5,238
PRINCETON	0	285,144	120,687	7,322
PROVINCETOWN	27,912	114,203	66,417	4,063
QUINCY	14,555,556	8,070,229	4,570,533	271,167
RANDOLPH	2,297,597	4,729,390	1,507,589	100,961
RAYNHAM	0	1,579,879	537,312	25,421
READING	1,931,472	1,780,427	943,649	64,642
REHOBOTH	0	0	406,259	24,090
REVERE	6,712,698	7,760,301	2,476,178	152,631
RICHMOND	0	79,829	54,533	3,357
ROCHESTER	0	422,279	179,343	9,158
ROCKLAND	496,221	5,166,752	1,122,815	54,503
ROCKPORT	0	337,087	167,283	13,981
ROWE	0	14,090	960	151
ROWLEY	143,746	523,028	173,084	10,815
ROYALSTON	0	1,855	55,922	3,134
RUSSELL	0	0	90,160	6,706
RUTLAND	0	1,056,727	348,941	17,916
SALEM	4,151,021	3,769,025	1,635,310	114,961

MUNICIPALITY	0611-5500 ADDITIONAL ASSISTANCE	7061-0008 CHAPTER 70 SCHOOL AID	LOTTERY DISTRIBUTION	0611-5501 MUNICIPAL STABILIZATION
SALISBURY	0	840,417	278,537	14,594
SANDISFIELD	0	0	15,126	653
SANDWICH	111,247	1,717,013	183,844	27,364
SAUGUS	2,245,040	1,808,959	946,943	65,897
SAVOY	17,367	172,161	47,344	2,195
SCITUATE	1,101,119	1,352,545	695,739	34,503
SEEKONK	0	1,870,512	580,475	30,324
SHARON	78,642	2,183,921	581,683	39,890
SHEFFIELD	15,023	0	98,729	5,528
SHELBURNE	0	0	130,057	6,665
SHERBORN	26,364	107,112	101,080	5,331
SHIRLEY	233,500	1,621,958	395,123	27,368
SHREWSBURY	376,077	2,751,083	1,024,322	66,175
SHUTESBURY	0	110,652	48,203	4,234
SOMERSET	0	1,701,636	594,944	40,488
SOMERVILLE	20,410,649	12,757,205	5,718,638	355,151
SOUTH HADLEY	25,437	3,385,475	1,139,762	66,984
SOUTHAMPTON	0	673,496	253,115	13,287
SOUTHBOROUGH	0	298,720	187,413	11,559
SOUTHBRIDGE	0	7,772,625	1,500,986	92,407
SOUTHWICK	0	0	523,634	27,155
SPENCER	0	90,620	940,801	53,212
SPRINGFIELD	2,302,181	105,365,762	13,482,158	852,457
STERLING	0	568,849	277,482	18,422
STOCKBRIDGE	0	235	52,537	2,945
STONEHAM	2,553,177	1,079,185	933,153	63,741
STOUGHTON	129,781	5,613,990	1,494,962	83,013
STOW	8,776	294,469	168,354	12,490
STURBRIDGE	0	520,951	264,277	20,604
SUDBURY	807,321	652,000	418,367	25,447
SUNDERLAND	0	398,312	192,803	11,750
SUTTON	0	1,445,489	336,754	16,519
SWAMPSCOTT	443,359	766,654	425,605	28,366
SWANSEA	0	3,215,256	945,344	45,333
TAUNTON	0	17,860,649	4,298,774	213,743
TEMPLETON	0	0	539,250	28,945
TEWKSBURY	0	5,526,043	1,278,271	78,045

MUNICIPALITY	0611-5500 ADDITIONAL ASSISTANCE	7061-0008 CHAPTER 70 SCHOOL AID	LOTTERY DISTRIBUTION	0611-5501 MUNICIPAL STABILIZATION
TISBURY	0	52,683	46,469	2,659
TOLLAND	12,413	0	2,218	151
TOPSFIELD	318,725	122,382	181,570	12,837
TOWNSEND	0	0	442,814	29,442
TRURO	0	21,173	13,112	677
TYNGSBOROUGH	0	1,598,475	291,568	25,128
TYRINGHAM	0	2,100	6,914	309
UPTON	0	0	233,094	11,732
UXBRIDGE	0	2,167,827	589,764	39,513
WAKEFIELD	1,809,635	2,237,316	1,072,165	64,240
WALES	0	342,895	93,706	5,165
WALPOLE	1,112,115	2,014,640	818,861	47,382
WALTHAM	6,869,270	3,237,026	2,485,099	145,675
WARE	19,199	3,097,132	743,067	40,931
WAREHAM	0	4,160,997	969,617	45,465
WARREN	0	0	305,218	18,755
WARWICK	36,354	0	29,976	2,256
WASHINGTON	29,889	0	30,735	1,814
WATERTOWN	5,571,114	991,787	1,378,103	92,443
WAYLAND	352,813	894,947	327,396	19,397
WEBSTER	78,026	4,401,329	1,003,299	61,949
WELLESLEY	121,858	1,084,794	642,823	38,505
WELLFLEET	0	28,688	25,975	1,630
WENDELL	32,131	0	47,628	3,352
WENHAM	175,913	0	125,360	10,625
WEST BOYLSTON	85,259	708,011	297,479	13,851
WEST BRIDGEWATER	59,411	1,197,748	323,069	12,843
WEST BROOKFIELD	0	0	188,861	11,830
WEST NEWBURY	0	0	122,884	8,262
WEST SPRINGFIELD	0	5,815,291	1,473,874	78,509
WEST STOCKBRIDGE	0	0	51,476	2,507
WEST TISBURY	229,569	67,658	9,010	868
WESTBOROUGH	182,536	930,487	436,754	24,248
WESTFIELD	0	12,496,986	2,655,987	163,176
WESTFORD	1,126,887	1,520,167	550,929	36,153
WESTHAMPTON	0	62,560	54,809	3,487
WESTMINSTER	0	0	227,867	16,266

MUNICIPALITY	0611-5500 ADDITIONAL ASSISTANCE	7061-0008 CHAPTER 70 SCHOOL AID	LOTTERY DISTRIBUTION	0611-5501 MUNICIPAL STABILIZATION
WESTON	0	330,583	199,773	10,050
WESTPORT	0	1,998,011	667,687	28,433
WESTWOOD	45,632	792,125	327,259	20,158
WEYMOUTH	3,050,391	11,735,678	3,393,288	196,687
WHATELY	0	42,262	59,547	2,916
WHITMAN	0	0	988,918	50,605
WILBRAHAM	0	1,414,915	559,956	34,735
WILLIAMSBURG	0	232,720	142,815	8,545
WILLIAMSTOWN	0	645,710	490,308	23,994
WILMINGTON	1,578,564	1,380,552	578,543	36,231
WINCHENDON	31,919	3,723,830	638,906	39,088
WINCHESTER	433,387	1,371,330	607,257	35,461
WINDSOR	35,260	579	22,160	1,709
WINTHROP	2,878,558	2,613,088	1,211,633	66,769
WOBURN	4,513,710	1,871,847	1,431,980	81,817
WORCESTER	14,860,192	56,359,770	12,815,549	775,244
WORTHINGTON	0	0	43,738	2,615
WRENTHAM	0	1,063,321	420,760	27,742
YARMOUTH	0	0	430,102	34,230

REGIONAL SCHOOL	
ACTON-BOXBOROUGH	1,812,892
ADAMS-CHESHIRE	6,094,064
AMHERST-PELHAM	4,558,778
ASHBURNHAM-WESTMINSTER	4,911,202
ASHFIELD-PLAINFIELD	384,452
ASSABET VALLEY	2,539,164
ATHOL-ROYALSTON	8,594,449
BERKSHIRE HILLS	2,181,353
BERLIN-BOYLSTON	626,432
BLACKSTONE-MILLVILLE	5,329,982
BLACKSTONE VALLEY	3,412,404
BLUE HILLS	2,956,232
BRIDGEWATER-RAYNHAM	2,955,538
BRISTOL COUNTY	1,194,295
BRISTOL-PLYMOUTH	3,500,684

REGIONAL SCHOOL	
BUCKLAND-SHELBURNE	1,186,661
CAPE COD	1,544,411
CENTRAL BERKSHIRE	4,316,541
CHESTERFIELD-GOSHEN	312,925
CONCORD-CARLISLE	1,021,983
DENNIS-YARMOUTH	3,802,688
DIGHTON-REHOBOTH	6,874,848
DOVER-SHERBORN	705,452
DUDLEY-CHARLTON	8,174,529
ESSEX COUNTY	2,571,567
FARMINGTON RIVER	190,721
FRANKLIN COUNTY	1,639,205
FREETOWN-LAKEVILLE	3,620,488
FRONTIER	757,343
GATEWAY	4,143,607
GILL-MONTAGUE	4,051,828
GREATER FALL RIVER	5,488,523
GREATER LAWRENCE	7,746,629
GREATER LOWELL	9,703,199
GREATER NEW BEDFORD	9,540,245
GROTON-DUNSTABLE	2,472,583
HAMILTON-WENHAM	2,014,021
HAMPDEN-WILBRAHAM	1,946,851
HAMPSHIRE	1,293,690
HAWLEMONT	336,227
KING PHILIP	2,884,388
LINCOLN-SUDBURY	1,279,627
MARTHA'S VINEYARD	485,093
MASCONOMET	1,554,245
MENDON-UPTON	2,550,891
MINUTEMAN	2,092,203
MOHAWK TRAIL	1,532,879
MONTACHUSETT	4,865,353
MOUNT GREYLOCK	1,528,613
NARRAGANSETT	4,471,513
NASHOBA	895,964
NASHOBA VALLEY	1,735,872
NAUSET	1,219,451

REGIONAL SCHOOL	
NEW SALEM-WENDELL	423,895
NORFOLK COUNTY	593,313
NORTH MIDDLESEX	10,087,260
NORTH SHORE	1,034,275
NORTHAMPTON-SMITH	734,192
NORTHBOROUGH-SOUTHBOROUGH	1,046,869
NORTHEAST METROPOLITAN	3,172,700
NORTHERN BERKSHIRE	1,878,360
OLD COLONY	1,810,816
OLD ROCHESTER	1,034,729
PATHFINDER	1,695,656
PENTUCKET	6,082,609
PIONEER VALLEY	1,838,911
QUABBIN	6,863,455
QUABOAG	4,422,504
RALPH C. MAHAR	2,414,562
SHAWSHEEN VALLEY	2,892,233
SILVER LAKE	5,989,255
SOUTH MIDDLESEX	2,112,596
SOUTH SHORE	1,444,323
SOUTHEASTERN	5,986,736
SOUTHERN BERKSHIRE	1,169,531
SOUTHERN WORCESTER	3,791,140
SOUTHWICK-TOLLAND	4,608,821
SPENCER-EAST BROOKFIELD	9,064,519
TANTASQUA	2,884,203
TRI COUNTY	2,091,909
TRITON	1,915,225
UPPER CAPE COD	1,159,362
WACHUSETT	3,006,629
WHITMAN-HANSON	12,117,867
WHITTIER	4,184,776
WORCESTER TRADE	5,962,473

SECTION 4. The state treasurer shall 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 5. Notwithstanding the provisions of sections thirty-one of chapter eighty-one of the General Laws or any other 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-four proportional to the fiscal year nineteen hundred and ninety-three distribution of said Highway Fund reimbursements.

SECTION 6. 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 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 7. Notwithstanding the provisions of any general or special law to the contrary, the appropriations made by this act shall constitute complete satisfaction of all the financial obligations of the commonwealth for fiscal year nineteen hundred and ninety-four pursuant to chapter seventy-one of the acts of nineteen hundred and ninety-three.

SECTION 8. If the commissioner of the department of social services determines that funds made available pursuant to items 4800-0016, 4800-0017, 4800-0030 and 4800-0041 of section two of this act are insufficient to fund the services for which said items may be expended, said commissioner may, after submitting such written determination and giving thirty days prior notice to the house and senate committees on ways and means and

the secretaries of administration and finance and health and human services, reallocate fifteen percent of the amount appropriated for each of said items among said items as deemed necessary in conformance with said notice.

The department of social services shall file with house and senate committees on ways and means quarterly family-based services reports. Said reports shall indicate the number of clients of said department who have been transferred from the foster care and group care caseloads to family-based services provided by the department. Said reports shall be filed no later than fifteen days after the end of each quarter of the fiscal year beginning July first, nineteen hundred and ninety-three.

SECTION 9. Notwithstanding the provisions of any general or special law to the contrary, if the department of social services receives non-tax revenues in excess of the estimated amount of non-tax revenue receipts for said department in section one B of this act, said department may retain and expend said excess revenues for the purposes of implementing the recommendations of the Special Commission on Foster Care; provided, however, that the department shall not expend said excess revenues until the General Court approves a supplemental budget request authorizing such expenditures.

SECTION 10. Notwithstanding the provisions of any general or special law to the contrary, any agency, department, division, or commission within the executive office of consumer affairs and business regulation which is authorized to assess a regulated entity for the cost of the operation and general administration of such agency, department, division or commission shall add to such assessment so much of the operating costs of said executive office as are attributable to said agency, department, division or commission.

SECTION 11. The group insurance commission is hereby directed to develop a rational and equitable chargeback plan, which takes into account true health insurance costs per employee, to replace the system of agency chargebacks most recently in use. The commission is shall examine the possibility of developing incentives, either as part of said chargeback plan or otherwise, to encourage employees to enroll in more cost-effective health insurance plans. The commission shall submit a report of its plan, as well as draft legislation to implement such plan, if necessary, to the house and senate committees on ways and means, and to the secretary of administration and finance, no later than October thirty-first, nineteen hundred and ninety-three.

SECTION 12. 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, including but not limited to 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.

SECTION 13. 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 all agencies for the commonwealth's share of the health insurance costs incurred on behalf of any employees of that agency who are on leave of absence for a period of more than one year. The amounts received in payment for such charges shall be credited to the General Fund.

SECTION 14. 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 as hereinafter provided for workers' compensation costs incurred on behalf of the employees of said agencies. The commissioner of the division of public employee retirement administration shall notify agencies within ten days of the effective date of this act as to the change in calculation of workers' compensation chargebacks from fiscal year nineteen hundred and ninety-four.

The commissioner of the division of public employee retirement administration shall notify agencies not later than fourteen days after the effective date of this act as to the amount of their estimated workers' compensation costs for the fiscal year beginning July first, nineteen hundred and ninety-four, and shall require all agencies to encumber funds that are sufficient to meet the estimated annual charges. The estimated workers' compensation costs for each agency shall be not less than the amount of the actual workers' compensation costs incurred by said agency during the fiscal year ending June thirtieth, nineteen hundred and ninety-three and may include such additional sums as are deemed necessary by regulations promulgated pursuant to this section. Said commissioner shall revise the estimated workers' compensation costs for each agency on the first day of each quarter of the fiscal year commencing July first, nineteen hundred and ninety-four. Within thirty days after the effective date of this act, for any agency that fails to encumber funds sufficient to meet the annual estimated charges, the comptroller is hereby authorized and directed to encumber funds that are sufficient to meet the annual charges on behalf of such agency.

The comptroller shall charge each agency's workers' compensation costs to the agency's appropriation amount and shall transfer said amount to item 1108-6201 of section two of this act for the purposes of workers' compensation paid to public employees for any costs incurred during the fiscal year. The division of public employee retirement administration may expend an amount so collected for all agencies under this section not to

exceed seventy-two million four hundred and ninety-nine thousand and seventy-nine dollars, to pay for hospital, physician, benefits, and other costs without further appropriation.

By not later than fourteen days after the effective date of this act, and on the first day of each succeeding quarter during the fiscal year, the division of public employee retirement administration shall bill agencies for twenty-five percent of said agency's annual estimated workers' compensation costs. Each agency shall be credited or billed for any differences between the previous quarter's estimated costs and actual costs incurred by said agency.

The commissioner of the division of public employee retirement administration is authorized to establish regulations and procedures to implement this section; 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 annual estimated charge, and the quarterly actual charge, and explanations for any unpaid charges with the house and senate committees on ways and means.

SECTION 15. 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, and shall not be construed to affect any other obligations of said systems or said fund.

SECTION 16. The secretary of communities and development is hereby authorized and directed to expend funds appropriated in item 3100-0200 of section two of this act to develop and implement a program of competitive municipal management grants designed to promote economy, efficiency and effectiveness in the delivery of local services by cities and towns. Such a program shall include, but not be limited to, an emphasis on sound fiscal management, innovative programs, service cost savings, regionalization, privatization, shared services, collaborative purchasing and professional management, including equipment and hardware; provided, however, that the program guidelines and selection criteria shall allow all thirteen of the commonwealth's designated regional planning agencies the right to directly apply for municipal incentive grants inasmuch as said agencies are, by definition, composed of local governments; provided, further, that the secretary may allow the Southeastern Massachusetts Partnership or any other collaborative established pursuant to law comprising two or more municipalities to participate in the program authorized by this section; provided, further, that the secretary shall monitor the expenditure of grant funds by said agencies to ensure the compliance by each agency with its plan of activities and shall withdraw approval of any grant to a regional planning agency found not to be in compliance

with its plan of activities; provided, further, that said grants may provide funding for feasibility studies, planning, personnel or project start-up costs, building capacity, program operation and information transfer; provided, further, that nothing in these provisions shall prohibit an individual city or town from applying or competing for municipal incentive grants; and provided, further, that funds appropriated in said item may be provided in advance.

SECTION 17. Notwithstanding the provisions of any general or special law to the contrary, operating expenditures of the Massachusetts Bay Transportation Authority and for each transportation area and regional transportation authority for the fiscal year ending June thirtieth, nineteen hundred and ninety-four shall not exceed one hundred and three percent of their operating expenditures for the fiscal year ending June thirtieth, nineteen hundred and ninety-three.

SECTION 18. Notwithstanding the provisions of any general or special law to the contrary, all funds from item 8910-0000 of section two of this act shall be distributed quarterly to county sheriffs in amounts to be determined by the county government finance review board, after consultation with the executive office of public safety and the Massachusetts sheriffs' association.

On or before July thirty-first, nineteen hundred and ninety-three, each county sheriff shall submit to the county government finance review board, the executive office of public safety, and the house and senate committees on ways and means a fiscal year nineteen hundred and ninety-four interim spending plan. The county government finance review board shall prescribe the format of said spending plan. Each county sheriff shall submit such expenditure reports as the county government finance review board may request and in the format which the county government finance review board may prescribe.

On or before November fifteenth, nineteen hundred and ninety-three, the county government finance review board, after consultation with the executive office of public safety and the Massachusetts sheriffs' association, shall issue a revised distribution plan for the final two quarters of fiscal year nineteen-hundred and ninety-four, and shall use said plan to make all subsequent quarterly distributions. The board shall transmit a copy of said plan to each sheriff. The board shall file a copy of said plan with the house and senate committees on ways and means. Said plan shall take effect if approved by the house committee on ways and means.

On or before December thirty-first, nineteen hundred and ninety-three, each county sheriff shall submit a final spending plan to the county government finance review board, detailing steps necessary to restrict spending to the level contained in the distribution plan. Said final spending plans shall be submitted in the format prescribed by the county government finance review board; provided, that copies shall also be sent to the house and senate committees on ways and means and the executive office of public safety. Failure by a county sheriff to comply with any provision of this section shall result in a reduction of subsequent quarterly payments to amounts consistent with a rate of expenditure of ninety-five percent of the rate of expenditure for fiscal year nineteen hundred and ninety-

three, as determined by the county government finance review board.

The county government finance review board, after consultation with the executive office of public safety, shall develop, or select a qualified vendor to conduct, a staffing analysis of each county correctional system, to be paid for from item 8910-0000 in section two of this act. Such study shall determine the most cost effective staffing plan for each facility, as well as the minimum staffing required to safely operate the facility. The county government finance review board, the executive office of public safety and the Massachusetts sheriffs' association shall jointly oversee the progress of the staffing analysis.

Funds distributed pursuant to line item 8910-0000 of section two of this act and to this section shall be paid to the treasurer of each county who shall place said funds in a separate account within the treasury of each county. 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 said item. Upon receipt of the state distribution, the treasurer shall be authorized to transfer out of said account an amount equal to funds advanced. All funds deposited in said accounts and any interest accruing thereto shall be used solely for the functions of the sheriffs' departments of the various counties, including, but not limited to, maintenance and operation of jails and houses of correction. The sheriff's department of each county shall reimburse the county treasurer of each county for personnel-related expenses, with the exception of salaries, attributable to the operations of the sheriff's department of each county heretofore paid by the county, including, but not limited to, the cost of employee benefits.

SECTION 19. Each county shall expend during the fiscal year for the operation of the sheriff's department, in addition to the amount distributed to it from item 8910-0000 in section two of this act, not less than one hundred and two and one-half percent of the amount expended in fiscal year nineteen hundred and ninety-three for such purposes from own-source revenues including, but not limited to, amounts levied pursuant to sections thirty and thirty-one of chapter thirty-five of the General Laws and amounts provided pursuant to sections eleven to thirteen, inclusive, of chapter sixty-four D of the General Laws. For purposes of this calculation, the amount expended in fiscal year nineteen hundred and ninety-three shall not include personnel-related expenses other than salaries. Notwithstanding the provisions of any general or special law to the contrary, the deputy commissioner of revenue for local services shall certify on or before May fifteenth, nineteen hundred and ninety-four, that all municipalities have appropriated and transferred to their respective county treasuries not less than one hundred and two and one-half percent of the municipality's prior year obligations for county corrections. If any municipality fails to transfer said obligation, said deputy commissioner is hereby authorized and directed to withhold an amount equal to the shortfall in the obligation due to the county from said municipality's fourth quarter local aid cherry sheet distribution, so called, from item 0611-5500 of section two and from funds made available in section three.

In fiscal year nineteen hundred and ninety-four, 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. 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 expenditures for the operations of the sheriff's department in fiscal nineteen hundred and ninety-three and one hundred and two and one-half percent of the county's fiscal nineteen hundred and ninety-three assessment limit exceeds the sum of its distribution from this line item in fiscal nineteen hundred and ninety-four and its otherwise applicable fiscal nineteen hundred and ninety-four assessment limit.

The county treasurer is hereby authorized and directed, not later than March thirty-first, nineteen hundred and ninety-four, to transfer amounts expended pursuant to this section from the general treasury of the county into an account established for the purpose of receiving said funds. The dollar amount of such transfer shall be approved by the county government finance review board. On or before August first, nineteen hundred and ninety-three, the county treasurer shall notify and request the approval of the county government finance review board of the dollar amount to be so transferred. The county government finance review board shall certify to the county treasurer the amount so approved. The county government finance review board is authorized to determine and certify to the county treasurer the amount of such transfer should the notification and request not be received on or before August first, nineteen hundred and ninety-three. The county treasurer is further authorized and directed to transfer corrections deeds excise funds and county correction fund grants into said account.

SECTION 20. Notwithstanding the provisions of any general or special law to the contrary, funds appropriated in item 1231-1000 in section two of this act to the Commonwealth Sewer Rate Relief Fund shall be available to mitigate sewer rate increases due to debt service obligations created by issuing eligible indebtedness. Eligible indebtedness shall be defined as debt issued after January first, nineteen hundred and ninety-two which has a final date of maturity greater than five years after the date of issuance and is incurred, wholly or in substantial part, to finance or refinance the costs of planning, design or construction of any water pollution abatement project, or part thereof required to be constructed to meet the provisions of the Federal Clean Water Act, 33 USC, Secs. 1251, et seq., and sections twenty-six to fifty-three, inclusive, of chapter twenty-one of the General Laws, or any wastewater collection or transportation project related thereto; provided, that eligible indebtedness shall not include any portion of indebtedness for which the issuer has or will receive assistance provided from other revenue sources including, but not limited to, federal grants and loan agreements provided under the provisions of said chapter two hundred and seventy-five, as most recently amended by chapter two hundred and three of the acts of nineteen hundred and ninety-two; provided further, that no issuer, which shall be defined as any city, town, district, commission, agency, authority, board, or

other instrumentality of the commonwealth or any of its political subdivisions, which are responsible for the ownership or operation of wastewater treatment projects and are authorized to finance all or any part of the cost through the issue of eligible indebtedness, shall receive relief authorized herein in excess of twenty percent of its annual debt service obligations due to eligible indebtedness. The division of local services of the department of revenue, in consultation with the department of environmental protection, shall develop guidelines to certify an issuer's eligible indebtedness and shall create a process to equitably distribute funds to eligible issuers, in order to mitigate extraordinary increases in sewer costs; provided, that funds appropriated to the Commonwealth Sewer Rate Relief Fund by item 1231-1000 of section two of this act shall be disbursed to eligible issuers under the terms of this section on or before December thirty-first, nineteen hundred ninety-three. Said appropriation of thirty million dollars shall be repeated in each fiscal year.

SECTION 21. Notwithstanding the provisions of any general or special to the contrary, during the fiscal year ending June thirtieth, nineteen hundred and ninety-four, the department of environmental protection is hereby authorized to expend a sum not more than five million three hundred and thirty seven thousand nine hundred and forty-one dollars from the Water Pollution Abatement Projects Administration Fund solely for the administration of the provisions of section twenty-seven A of chapter twenty-one of the General Laws.

SECTION 22. Notwithstanding the provisions of any general or special law to the contrary, each district attorney shall file with the attorney general detailed reports on the operation of the domestic violence unit within his office. Said reports shall include, but not be limited to, prosecution of domestic violence offenders, training of law enforcement personnel in the handling of domestic violence cases, cooperation with other public and private domestic violence service providers, provision of counseling or therapy for both victims of domestic violence and domestic violence offenders and allocation of resources and personnel within such domestic violence units. Said reports shall be filed on December first, nineteen hundred and ninety-three, April fifteenth, nineteen hundred and ninety-four and a final report on June first, nineteen hundred and ninety-four. On June fifteenth, nineteen hundred and ninety-four, the attorney general shall file a report detailing a model domestic violence prosecution unit incorporating those features of each district attorney's domestic violence unit which said district attorney reports have shown to be the most successful. Said attorney general report shall be filed with the joint committee on criminal justice and the house and senate committees on ways and means.

SECTION 23. There is hereby established on the books of the commonwealth a fund to be known as the Asbestos Cost Recovery Fund. Notwithstanding any general or special law to the contrary, all sums awarded or received by the commonwealth, after the payment of fees and expenses, as a result of settlement, trial, or judgment from Commonwealth of Massachusetts v. Owens Corning Fiberglass, et al., Suffolk Superior Court No. 90-3791-A, or received as payments by the commonwealth on account of the bankruptcy of any manufacturer, seller or distributor of asbestos containing materials in any

building that the commonwealth owns, operates or has a property interest in shall be segregated and held in such trust. The division of capital planning and operations shall develop a plan for the orderly expenditure of such sums as are received by the Asbestos Cost Recovery Fund for the purposes of operations and maintenance, encapsulation and removal of asbestos. The plan, which shall be subject to revision as necessary, shall contain provisions for emergencies, the short term and long term control of asbestos in buildings that the commonwealth owns, operates or has a property interest in, and the removal and disposition of asbestos containing materials located in such buildings. Any funds deposited in said fund shall not revert at any time to the General Fund, but shall remain available for the purposes provided herein. Any funds deposited as described above shall be expended by the division of capital planning and operations, subject to appropriation, consistent with the purposes of this section.

SECTION 24. 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-four, 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; and, provided further, that upon receipt of such invitations to bid the division shall post such invitations in a conspicuous manner for inspection by all interested parties. 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. The commissioner may delegate to state agencies and building authorities the authority to enter into such agreements with an estimated construction cost of less than two hundred thousand dollars. Such delegation shall be in writing from the commissioner to the requesting agency or building authority.

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-four, 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 fourteen days 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; and, provided further, that upon receipt of such invitations to bid the division shall post such invitations in a conspicuous manner for inspection by all interested parties.

For the purposes of this section, the term "energy management services" shall include, but not be limited to, energy audits, energy conservation measures, and 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 25. 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 26. 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-three and June thirtieth, nineteen hundred and ninety-four; 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 27. Notwithstanding the provisions of any general or special law to the contrary the comptroller is hereby authorized and directed to submit to the house and senate committees on ways and means, on or before November second, nineteen hundred and ninety-three a detailed actual end-of-year expenditure and revenue histories, by line item, by subsidiary, for the fiscal years nineteen hundred and eighty-eight through nineteen hundred and ninety-three. Said expenditure and revenue histories may be transmitted to said committees by electronic media.

SECTION 28. 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-four for expenditures on behalf of said district and for the cost of the state reclamation board.

SECTION 29. 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 30. The department of social services, in conjunction with the appropriate collective bargaining agent, shall develop a system for prioritizing cases to ensure that individual social workers shall meet the caseload standards recommended by the Governor's special commission on foster care. The system of prioritizing cases shall be reported to the legislature no later than December thirty-first, nineteen hundred ninety-three. The number of social workers with caseloads over the numbers recommended by the Governor's special commission on foster care shall also be reported to the legislature on a quarterly basis.

SECTION 31. Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the department of social services is hereby authorized and directed to develop and implement a sliding fee for the provision of all out of home placement services, including foster care, funded by the department. Said fees shall be imposed solely upon voluntary placements. Fees charged under said sliding schedule shall be based on the financial circumstances of parents of the child in placement, including but not limited to, income, assets, and liabilities. The department shall provide affected parents at least thirty days notice of an impending fee charge before implementation of said sliding fee schedule. No such fees shall be charged to individuals and families whose incomes are at or below one hundred and fifty percent of the federal poverty level. The commissioner may authorize a waiver or an adjustment of said sliding fee copayment if the commissioner determines that the imposition of said fee would create a financial hardship due to recent disaster or extraordinary medical or other expenses. Said commissioner shall file a schedule of all fees, including an estimate of new revenues resulting therefrom, with the house and senate committees on ways and means no later than March fifteenth, nineteen hundred and ninety-four.

SECTION 32. Notwithstanding the provisions of section three of chapter six B 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, preadmissions 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 a healthy start card will constitute sole verification of application and eligibility for free care for inpatient hospital services.

SECTION 33. Notwithstanding any general or special law to the contrary, the department of medical security is hereby authorized and directed to transfer one million dollars to the Bay State Skills Corporation from the labor shortage fund established in section eighty-three of chapter twenty-three of the Acts of nineteen hundred and eighty-eight; provided, however, that said amount is available in said fund. The commissioner shall transfer funds to said corporation on or before August first, nineteen hundred and ninety-three.

SECTION 34. Notwithstanding the provisions of any general or special law to the contrary, the amount appropriated in item 0612-2000 of section two of this act is available to fulfill certain pension obligations of the commonwealth 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 metropolitan district commission; for retirement allowances of certain veterans and police officers formerly in the service of the metropolitan sewage district; for retirement allowances of certain veterans formerly in the service of the metropolitan water system; and, for annuities of the uniformed branch of the state police.

SECTION 35. The estimated cost of fringe benefits and indirect costs 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, however, that said costs 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 36. 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, up to a maximum of one hundred eighty-eight thousand and forty-seven dollars, plus indirect costs as determined by the secretary of administration and finance and the cost of fringe benefits as calculated by said secretary pursuant to section six B of chapter twenty-nine of the General Laws, shall be assessed upon utility companies in accordance with the provisions of chapter twenty-five A of the General Laws.

SECTION 37. Notwithstanding the provisions of any general or special law to the contrary, the funds appropriated in item 5011-0200 shall be available for expenditure only when the following conditions are met:

(a) On or before November first, nineteen hundred and ninety-three, the department of mental health shall file a financial plan with the clerk of the house of representatives and the clerk of the senate that details by line item, by subsidiary, by program and by facility, year-to-date actual and projected expenditures for the first two quarters of fiscal year nineteen hundred and ninety-four. Said plan shall include, but not be limited to, personnel schedules for each such item, program and facility showing the weekly compensation amount, position title, functional title, step level and full-time status for each employee; an organizational chart for each administrative office, program and facility; actual and projected subsidiary transfers, including documentation substantiating the necessity of such transfers; client caseload for each purchase of service contract, program and facility; actual and projected expenditures and units of service for each purchase of service contract; actual and projected expenditures by facility, including lower subsidiary spending by object code; actual and projected revenues by line item, program and facility; and an explanation of any actions taken to restructure, reorganize or otherwise alter administrative accounts, programs and facility operations which have an impact on the appropriations for said department in section two. Said report shall describe any savings or increases in expenditures which in the opinion of the commissioner of the department are necessary to maintain the level of services provided for by the appropriations in section two. Said plan shall be accompanied by a report on projects to maximize efficiency in billing processes and to coordinate revenue collections and accounting between facilities, area offices, and the central office.

(b) Said plan shall further report on projected expenditures, personnel, caseload and contracts by line item, subsidiary, program and facility for the third and fourth quarters of fiscal year nineteen hundred and ninety-four, including, but not limited to, the information required to be detailed in paragraph one.

(c) Said clerks shall forward said plan to the house and senate committees on ways and means. Said committees shall report, on or before December fifteenth, nineteen hundred and ninety-three, whether said plan complies with the provisions of paragraphs (a) and (b) and with a recommendation to the general court to approve or reject said plan by a majority vote.

The secretary of administration and finance is hereby authorized and directed to appoint a receiver for the department of mental health in the event that said committees certify to said secretary that the department has not filed said report pursuant to the provi-

sions of paragraphs (a) and (b), or the general court rejects said plan. No funds shall be expended from item 5011-0200 until said appointment is made by said secretary; provided, that in the event that the general court fails to act on said financial plan on or before January first, nineteen hundred and ninety-four, one-sixth allotments shall be provided to the department for each remaining month of the fiscal year, or until the general court acts upon said plan.

Said receiver shall be appointed to a term not exceeding one year and shall have duties and powers as assigned by the secretary, subject to the following:

(1) Said secretary shall submit to the general court a description of the powers and duties assigned to said receiver by January nineteenth, nineteen hundred and ninety-four.

(2) Said receiver shall assume the duties and responsibilities of the chief executive officer and commissioner of the department, whose powers shall supersede those of the existing commissioner, and shall be responsible for the overall operation and administration of said department.

(3) Said receiver shall be responsible for developing an administrative restructuring plan to be submitted to the general court, for approval, prior to implementation. Said plan shall not reduce direct care client services below the level provided for in this act. In the event that said receiver determines the need for the restructuring of the department service delivery system, including the transfer of clients, said recommendation shall be submitted to the general court with said administrative restructuring plan. Said plan shall be submitted prior to the expiration of said receiver's term

(4) Said receiver shall report quarterly to the house and senate committees on ways and means on all activities undertaken by said receiver.

SECTION 38. 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, if any, 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 the state colleges and the University of Massachusetts shall transfer to the General Fund from the funds received from the operation of said projects such costs, if any, as will be incurred by the commonwealth 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 secretary of education, and the secretary of administration and finance.

SECTION 39. Section 9 of chapter 3 of the General Laws, as amended by section 3 of chapter 50 of the acts of 1993, is hereby further amended by striking out the fifth and sixth sentences and inserting in place thereof the following two sentences:- The assistant floor leader of each of the major political parties in the senate and the assistant floor leader of each of the major political parties in the house of representatives, and the second assistant floor

leaders of each of the major political parties in the senate and house of representatives, the third assistant floor leader of the minority party in the senate and house of representatives, the vice chairman of the house committee on ways and means and the vice chairman of the senate committee on ways and means and the ranking minority members of the house and senate committees on ways and means, the senate chairman and the house chairman of the committee on post audit and oversight, the senate chairman and the house chairman of the committee on taxation, the senate chairman and house chairman of the committee on science and technology shall each receive forty-five thousand dollars. Other chairmen of committees of the house of representatives and the senate established by the joint rules or the house or senate rules, and the house vice chairman of the committee on post audit and oversight, the assistant vice chairman of the senate committee on ways and means and the assistant vice chairman of the house committee on ways and means and the vice chairman of the house committee on taxation shall each receive thirty-seven thousand five hundred dollars; provided, however, that no chairman who serves as chairman of more than one such committee shall receive more than the compensation established for a chairman of one of any such committees.

SECTION 40. Sections twenty-two to twenty-five, inclusive, of chapter six of the General Laws are hereby repealed.

SECTION 41. Section 129 of chapter 6 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in lines 8 to 10, the words ", and with the Library of Congress and the United States Department of Health and Human Services or its successors relative to the administration of the program of talking books".

SECTION 42. Said section 129 of said chapter 6, as so appearing, is hereby further amended by striking out, in lines 11 and 12, the words "the aforementioned purposes" and inserting in place thereof the following:- such purpose.

SECTION 43. The last paragraph of section 165A of said chapter 6, as so appearing, is hereby amended by adding the following sentence:- Said trust fund may also be used to collect funds intended as compensation for services rendered by said academy, including but not limited to costs for administration, personnel, overtime and fringe benefits, from any governmental unit, public or private agency, institution, person, firm, or corporation.

SECTION 44. The fourth paragraph of section 183 of said chapter 6, as so appearing is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Such estimated and actual costs shall include an amount equal to indirect costs as determined by the commissioner of administration and finance and shall also include the cost of fringe benefits as established by the commissioner of administration and finance.

SECTION 45. Section 16 of chapter 6A of the General Laws, as so appearing, is hereby amended by striking out, in lines 25 and 26, the words "; the commissioner of veterans' services".

SECTION 46. Subsection (a) of section 18D of said chapter 6A, as so appearing,

is hereby amended by inserting after the first sentence the following sentence:- Any municipality that establishes, staffs, and operates a public safety answering point in conjunction with one or more other municipalities shall receive the same amount of financial assistance it would have received if it established, staffed and operated such answering point independently.

SECTION 47. Said chapter 6A, as appearing in the 1990 Official Edition, is hereby further amended by adding the following section:-

Section 103. The Commission shall require hospitals, physicians and other providers of general health supplies, care, social, rehabilitative or educational services and accommodations, and health maintenance organizations as defined in chapter one hundred seventy-six G to report appropriate data including, but not limited to, provider identification, provider charges for services, actual payments for services, payer identification and measures which differentiate between severity of illnesses, mortality rates, rates of infection, morbidity rates, readmission rates, and incidence of post-discharge professional care, to enable purchasers of group health insurance policies and health care services to make meaningful financial and quality care comparisons.

The commission shall consult with interested parties in developing methodologies for collecting data pursuant to this section and plans for its use and dissemination.

Subject to the provisions clause (c) of section two of chapter sixty-six A, information collected by the commission pursuant to this section shall be made available in the form of *reports derived from raw data or through computer-to-computer access.* All personal data shall be maintained with the physical safeguards enumerated in said chapter.

SECTION 48. Section 3B of chapter 7 of the General Laws, as so appearing, is hereby amended by inserting after the word "increase", in lines 63, 64 and 66, in each instance, the following words:- or decrease.

SECTION 49. Section 4G of said chapter 7 as so appearing, is hereby amended by striking out, in lines 8 and 9, the words "low level radioactive waste management board" and inserting in place thereof the words:- department of veterans' services.

SECTION 50. Said chapter 7 is hereby further amended by inserting after section 4L the following three sections:-

Section 4M. There shall be within the executive office for administration and finance a department of veterans' services under the supervision and control of a commissioner of veterans' services, who shall be appointed by the secretary of administration and finance, with the approval of the governor, and who shall serve at the pleasure of the secretary and may be removed by the secretary at any time subject to the approval of the governor. This 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 said chapter thirty. The commissioner shall devote his full time during business hours to the duties of his office. He shall be the state agent for the settlement of pension, bounty, back pay, compensation and other claims of citizens of the commonwealth against the government of the United States, or any state thereof, on account of military or naval service, and he shall assist and advise

war veterans, and their dependents, heirs or legal representatives, with respect to the filing, prosecution and settlement of such claims.

Section 4N. The commissioner shall be allowed his traveling expenses when necessary for him to visit the city of Washington, and may expend for such purpose and for all other expenses necessary for the proper performance of his duties such sums as are annually appropriated therefor.

Section 4 O. The commissioner of veterans' services, with the approval of the secretary of administration and finance, shall appoint and may remove a deputy commissioner of veterans' services who shall devote his full time during business hours to the duties of his office. Said deputy commissioner shall be subject to the direction and control of said commissioner. Said deputy commissioner, shall perform the duties of said commissioner during his absence on account of disability or other case.

SECTION 51. Said chapter 7 of the General Laws is hereby further amended by inserting after section 9 the following section:-

Section 9A. The secretary of administration and finance shall 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 reevaluation 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 an 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 896 issued by the executive office for administration and finance; provided, 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 52. Said chapter 7 is hereby further amended by inserting after section 22B the following section:-

Section 22C. Notwithstanding any general or special law to the contrary, any nonprofit independent college or university in the commonwealth may make purchases of materials, supplies, equipment or services through the state purchasing agent subject to such rules, regulations and procedures as may be established from time to time by said purchasing agent; provided, however, that the nonprofit independent college or university shall accept sole responsibility for any payment due to the vendor for its share of such purchase.

SECTION 53. Section 40G of said chapter 7, as appearing in the 1992 Official Edition, is hereby amended by adding the following paragraph:-

The secretary of administration and finance 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 this section; provided, however 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 54. Said chapter 7 is hereby further amended by inserting after section 43I the following two sections:-

Section 43J. There is hereby established on the books of the commonwealth a separate fund known as the State Transportation Building Management Fund. Monies received by the commonwealth from rentals, commission fees, parking fees and from any and all other sources pertaining to the operation of the state transportation building shall be credited to said fund. Said fund shall be used for the maintenance, repair and operation of said building. The division of capital planning and operations may enter into a contract with a public or private entity with experience in operating building facilities for the provision of building management services for the operation and maintenance of the state transportation building.

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 subject to appropriation for the purposes authorized by this section.

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 43K. There is hereby established on the books of the commonwealth a separate fund known as the Springfield State Office Building Management Fund. Monies received by the commonwealth from rentals and all other sources pertaining to the operation of the Springfield state office building shall be credited to said fund. Said fund shall be used for the maintenance, repair and operation of said building.

The division of capital planning and operations shall collect all monies payable to the commonwealth relating to the operation of the Springfield state office building and deposit the same in the Springfield State Office Building Management Fund to be expended subject to appropriation for the purposes authorized by this section.

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 55. Section 10 of chapter 10 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following paragraphs:-

He 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 clear-

ly identify the roles to be played by short-term borrowing, investment policy, expenditure controls, and revenue management in providing necessary cash.

SECTION 56. Section 35D of said chapter 10, as so appearing, is hereby amended by inserting after the word "commonwealth", in line 5, the following words:- and credits.

SECTION 57. Said section 35D of said chapter 10, as so appearing, is hereby further amended by inserting after the word "sixty-two", in line 6, the following words:- and section thirty-eight L of chapter sixty-three.

SECTION 58. Chapter 10 of the General Laws is hereby amended by striking out section 35J, as so appearing, and inserting in place thereof 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;

(c) nineteen percent for financial assistance to tourist promotion agencies under the provisions of section fourteen of chapter twenty-three A; and

(d) three percent for the expenses of the Massachusetts International Trade Council.

SECTION 59. Section 38 of said chapter 10, as so appearing, is hereby amended by striking out, in line 130, the words "twenty-five cents" and inserting in place thereof the words:- five dollars,- and by striking out, in line 131, the words "of nominal value" and inserting in place thereof the words:- up to but not more than one hundred dollars.

SECTION 60. Section 49 of said chapter 10, as so appearing, is hereby amended by striking out, in line 9, the word "ten" and inserting in place thereof the word:- twenty.

SECTION 61. Said chapter 10 is hereby amended by adding the following section:-

Section 59. There is hereby established on the books of the commonwealth a separate fund known as the Head Injury Treatment Services Trust Fund. Said trust fund shall consist of monies paid to the commonwealth pursuant to the provisions of section twenty-four of chapter ninety, and any interest or investment earnings on such monies. The state treasurer, ex officio, shall be the custodian of said trust fund, and shall receive, deposit, and invest all monies transmitted to him under the provisions of this section, and shall credit interest and earnings on the trust fund to said trust fund. The state treasurer shall make such monies available to the statewide head injury program of the Massachusetts rehabilitation commission as may be appropriated for the purpose of developing and maintaining non-residential rehabilitation services for head-injured persons.

SECTION 62. The seventh paragraph of section 1G of chapter 15 of the General Laws, as most recently amended by section 3 of chapter 71 of the acts of 1993 amended by

inserting after the word "provided", in line four, the following words:- and a member representing the Massachusetts Head Start Directors Association.

SECTION 63. Chapter 15A of the General Laws is hereby amended by inserting after section 15B the following two sections:-

Section 15C. The public institutions of higher education shall report monthly by subsidiary all expenditures and revenues from all appropriated and non-appropriated funds on the Massachusetts management and accounting reporting system, so-called, by July thirty-first, nineteen hundred and ninety-three.

Section 15D. The public institutions of higher education shall report all personnel information for those employees compensated from any budgetary, federal, capital or trust fund through the personnel administrative reporting and information system, so-called, by July thirty-first, nineteen hundred and ninety-three.

SECTION 64. Section 29 of chapter 15A of the General Laws, as so appearing, is hereby amended by striking out paragraphs (a), (b) and (c) and inserting in place thereof the following three paragraphs:-

(a) As used in this chapter and in chapters seventy-three and seventy-five, the following words shall have the following meanings:

"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 governmental association as valid.

"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 is displayed 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 optional fee and is controlled by its students.

(b) Non-mandatory 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 an optional fee whenever students have authorized said optional fee on the tuition bill by a majority vote of the students voting in an official student referendum. The continuation of said optional 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 optional 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 an optional fee by a majority vote of those students voting in an official student referendum. Said optional fees shall be collected as provided in paragraph (b).

SECTION 65. Chapter 15C of the General Laws is hereby amended by inserting after section 26 the following section:-

Section 26A. The Massachusetts Higher Education Assistance Corporation and the New England Loan Marketing Corporation shall report to the department of revenue by September thirtieth of each calendar year, the names of those persons who have been in default of repayment of Massachusetts granted guaranteed student educational loans for a period of one year.

SECTION 66. Section 20 of chapter 21 of the General Laws is hereby amended by adding the following paragraph:-

(14) To disseminate information regarding amendments to the general and special laws of the commonwealth, proposed changes in laws and rules and regulations which affect or shall affect businesses in the commonwealth; and, to establish educational outreach programs for the purpose of assisting small business to implement required changes in legislation.

SECTION 67. Said chapter 21 is hereby further amended by inserting after section fifty-three the following new section:-

Section 53A. All municipalities or sewer districts shall institute sewer charges and fees that incorporate a base rate for all users; provided, that said base rate shall be increased at an increasing block rate to fairly reflect the resource demand and discharge of high volumes of sewage.

SECTION 68. Section 11 of chapter 21A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There is hereby established within the division of law enforcement an advisory board to be designated as the boating and recreational vehicle safety advisory board. The board shall consist of seven members to be appointed by the governor, two of whom shall be representative of the boating public each of whom shall hold a certificate of number issued pursuant to section three of chapter ninety B, one of whom may represent the harbormaster's association; two members shall represent the recreational boating business, one of whom shall operate a boat dealership; one member shall represent a snowmobile or all-terrain vehicle dealership; one member shall represent the snowmobile users; and one member may represent the all-terrain vehicle users. Each member shall serve for a term of three years.

The chairman of the board shall be appointed, from the seven members, annually by the governor, and in the absence of same shall be designated by the director. Board members shall be appointed or reappointed for terms of three years.

SECTION 69. The second paragraph of section 11 of said chapter 21A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The boating and recreational vehicle safety advisory board shall meet at least quarterly and four members in attendance shall constitute a quorum.

SECTION 70. Said chapter 21A is hereby further amended by inserting after section 18 the following section:-

Section 18A. As used in this section the following words shall, unless the context otherwise requires, have the following meanings:-

"Advisory committee", the advisory committee on administration of the federal safe drinking water assessment.

"Act", the federal safe drinking water act, as amended from time to time, including regulations promulgated under the act.

"Assessment", the federal safe drinking act assessment established by this section.

"Commissioner", the commissioner of the department of environmental protection.

"Department", the department of environmental protection.

"End suppliers", suppliers of water who provide water directly to users.

"Receipts", monies received by the department which are proceeds from the assessment.

"Suppliers of water", suppliers of water as defined in the act.

"Users", all consumers of water, whether public or private or taxed or tax-exempt, provided by end suppliers.

"Withdrawal", the withdrawal, purchase or pumping of water by an end supplier.

(a) Notwithstanding any general or special law to the contrary, the department is authorized and directed to establish a federal safe drinking water act assessment to assist the department in providing technical compliance, assistance to and otherwise to regulate all suppliers of water pursuant to the act in the manner set forth in this section. This act shall address the lack of federal assistance for a federally mandated program. Collection of the assessment may begin on or after July first, nineteen hundred and ninety-three. Matters relating to the rate, collection, cost, enforcement and application and other administrative features of the assessment shall be in accordance with regulations of the department adopted pursuant to section two of chapter thirty A but no later than one hundred eighty days after the effective date of this section, after consultation with the advisory committee. Such regulations, in addition to such further matters reasonably incidental to the administration of the assessment as may be determined by the department, shall:

(i) provide that the assessment shall be remitted to the department by the end supplier;

(ii) set, and provide for periodic revision of, the rate of assessment at a uniform level

not to exceed one cent per thousand gallons of withdrawal, such that receipts in the aggregate are reasonably related to defraying the department's direct and indirect costs for monitoring, inspection, technical assistance, reporting and enforcement activities necessary to ensure compliance with the act and any regulations of the department adopted to implement the act;

It is the intent of this section that amounts payable as assessments, administrative costs and payments in lieu of assessments shall be recovered to the maximum practical extent from charges to users. Nothing in this section shall limit the authority of the department of public utilities to rule on the propriety of any rates charged by any end suppliers subject to its jurisdiction; provided, however, that in making such a ruling the department of public utilities shall consider the amount of the assessment; and provided, further, that such ruling shall not impose any condition inconsistent with the provisions or intent of this section or any regulations adopted hereunder.

Compliance with any requirement imposed by the department of public utilities shall not exempt any end supplier from the requirements of this section or regulations adopted hereunder.

The department of public utilities shall monitor the manner in which investor-owned end suppliers engaged in the distribution of water apportion and collect amounts necessary to defray the assessment and applicable administrative costs.

(iii) The department shall establish the assessment rate by October first of each year for the following fiscal year. End suppliers shall be notified by mail of the assessment rate by November first of each year. The department may mail bills to end suppliers during the month of July of each year for that fiscal year.

(b) All receipts shall be deposited in the Environmental Permitting and Compliance Assurance Fund established pursuant to section two M of chapter twenty-nine, and used solely for the purposes set forth therein, provided, however, that receipts shall be separately accounted for and shall be used solely for administering the act and furthering its purposes. Any unexpended balance may be used to defray the amount of the assessment in future fiscal years. Regulations establishing the assessment pursuant to this section shall not be in effect in any fiscal year in which the department fails to provide from state funds, other than those collected under the terms of this section, a match of seventy-five percent of the amount of the federal grant attributable to the implementation of the act.

(c) In the event that the requirements of this section conflict with applicable federal requirements pertaining to the establishment and collection of the assessment by the department, such federal requirements shall take precedence over any conflicting requirements of this section and the department shall have the authority to establish by regulation and to collect such assessment in accordance with applicable federal requirements.

(d) The department shall establish an advisory committee on administration of the federal safe drinking water assessment.

The representative organizations may nominate persons for consideration and the commissioner shall appoint such persons to the advisory committee as deemed desirable in accordance with this section, which members shall serve until successors shall be appointed and qualified by the commissioner. No state employee shall be appointed to the advisory committee and no person appointed to the advisory committee shall be deemed to be a state employee for purposes of any other general or special law.

Members of the advisory committee shall serve without compensation except for reimbursement of their direct expenses of travel from their place of abode to the regular meetings of the advisory committee. The commissioner's appointees shall include one representative from each of the following categories of organizations, two of which such designated representatives who are water utility personnel shall serve, under the same terms and conditions as members of the committee established pursuant to section eighteen chapter twenty-one A: a statewide water works non-profit association, a New England regional water works non-profit association, a non-profit association representing rural water systems, a regional water works association, a non-profit association representing investor-owned water companies, two statewide environmental organizations, organizations representing non-community water suppliers, the Massachusetts Municipal Association, an organization representing industry and one other designee the commissioner deems desirable. The total membership of the committee shall not exceed eleven, a majority of whom shall be comprised of water utility personnel. In addition to consulting with the advisory committee prior to adoption of regulations implementing this section, the department shall review with the advisory committee the operation of the assessment program authorized by this section at least quarterly.

(e) The committee and the department shall undertake the additional responsibility to ensure that regular public service announcements are released to inform the public as to the requirements and costs associated with the act. The committee, with administrative support from the department, shall produce an annual report on the assessment program for the House and Senate committees on ways and means and the joint committee on natural resources and agriculture, with a summary of all findings and action taken mailed to all end suppliers.

(f) The department shall not collect water quality annual compliance assurance fees for public water supplies as established in 310 CMR 4.03.

SECTION 71. Chapter 23 of the General Laws is hereby amended by striking out section 1, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 1. There shall be a department of labor and industries, under the supervision and control of a commissioner of labor and industries, who shall be the secretary of labor appointed pursuant to chapter six A, and who shall in this chapter be called the commissioner.

SECTION 72. Said chapter 23 is hereby further amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. The commissioner shall devote his full time during business hours to the duties of this office and that of secretary of labor, and shall not engage in other employment or business activities.

SECTION 73. Section 3 of said chapter 23, as so appearing, is hereby amended by striking out the fifth and sixth sentences, and inserting in place thereof the following sentence:- He shall prepare rules and regulations for the conduct of the department and all other rules and regulations which the department is by law authorized to make, and such rules and regulations shall, except as otherwise provided by law, take effect upon such date as the commissioner determines.

SECTION 74. Section 4 of said chapter 23, as so appearing in, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The commissioner may, with the approval of the governor, appoint not more than four directors, and may, with like approval, remove them.

SECTION 75. Section six of said chapter twenty-three is hereby repealed.

SECTION 76. Section 3E of chapter 23A of the General Laws, as appearing in section 4 of chapter 19 of the acts of 1993, is hereby amended by striking out paragraph (5) and inserting in place thereof the following paragraph:-

(5) notwithstanding any provisions of sections three to three H, inclusive, the EACC shall not designate nor shall there exist at any one time more than twenty Economic Target Areas.

SECTION 77. Chapter 23A of the General Laws is hereby amended by striking out section 14, as so appearing, and inserting in place thereof the following section:-

Section 14. The office of travel and tourism is hereby directed, subject to appropriation, to establish a program for financial assistance to those public or nonprofit agencies which promote or provide services for tourism, convention, travel and recreation in the commonwealth.

Funds shall be granted to agencies listed in section six of chapter six hundred and thirty-six of the acts of nineteen hundred and sixty-four with the addition of the Bristol County Development Council, Inc., Franklin County Chamber of Commerce, the Greater Boston Convention and Visitors Bureau, Inc., North of Boston Tourist Council, Pioneer Valley Convention and Visitors Bureau, Plymouth County Development Council, Inc., Worcester County Convention and Visitors Bureau, and Northern Middlesex Chamber of Commerce and to any other public or nonprofit agency which has been in operation for two consecutive years prior to application for funds under this section and which spends fifteen thousand dollars in its fiscal year on tourism or a public or nonprofit agency which has a total budget larger than the average of Massachusetts tourist promotion agencies as estimated by the secretary of the executive office of economic affairs and which spends twenty-five percent of said budget on tourism.

Funds shall be used to strengthen efforts of tourism, convention, travel and recreation agencies to attract and service visitors to the commonwealth and to better manage and distribute the influx of said visitors. The amount of funds received by any one agency shall

be based on, but shall not be limited to, the following criteria:

(1) geographical size and population served by such agency;

(2) amount of matching funds from nongovernmental sources;

(3) Assurance that the funded proposal will be in addition to the work currently being done by the agency and that the agency will maintain a continued effort of the funded program;

(4) demonstrated effectiveness of agency;

(5) integration of agency's tourism promotion plans with other private and public agency plans.

No funds may be spent for travel, entertainment, or purchase of equipment under this section.

Tourism is hereby authorized to make grants to agencies to assist such agencies in planning and carrying out their promotional programs and projects; provided, that before any such grant may be made;

(1) the agency shall have made application to tourism for such grant, and shall have set forth the program proposed to be undertaken for the purpose of encouraging and stimulation tourist, convention, visitor and vacation business. The application shall further state, with evidence satisfactory to tourism, the amount of nongovernmental funds held by or committed or subscribed to the agency for application to the proposals herein described and the amount of the grant for which application is made;

(2) tourism, after review of the application, shall be satisfied that the program of the agency appears to be in accord with the purpose of this section, and shall authorize the making of a grant to such agency;

(3) the maximum received by a private nonprofit agency shall be no greater than the amount received by that agency from nongovernmental sources.

Any agency receiving funds under this section shall make a report to the house and senate committees on ways and means on the use of said funds at such time and in such form as the executive director of tourism shall specify. The executive director, subject to approval by the secretary of economic affairs shall establish guidelines in which to regulate the dispersal of funds under this section.

SECTION 78. Chapter 23E of the General Laws is hereby amended by striking out sections 15 and 16, as so appearing, and inserting in place thereof the following two sections:-

Section 15. There is hereby established an advisory council on workers' compensation in this chapter and in chapter one hundred and fifty-two, called the advisory council. The voting membership of said council shall be composed of five members representing employers in the commonwealth, at least one of whom shall represent manufacturing classifications, at least one of whom shall represent small business, at least one of whom shall represent self-insurers, and five members representing employees, all of whom shall be members of a duly recognized and independent employee organization, coun-

cil, or union, and at least one of whom shall be a disabled worker. The five employer members shall represent the following organizations. One member shall be named by Associated Industries of Massachusetts. One member shall be named by the National Federation of Independent Business and the Smaller Business Association of New England, one member shall be named by the Associated General Contractors of Massachusetts and the Associated Builders and Contractors of Massachusetts, one member shall be named by the Self-insured Businesses of Massachusetts and one member shall be named by the Massachusetts Association of Self-insurers and the Greater Boston Chamber of Commerce. The five employee members shall represent the following organizations. One employee representative shall be named by the Massachusetts AFL-CIO. One member shall be named by the Massachusetts Building Trades, one member shall be named by the Teamsters, one member shall be named by unions representing public sector employees and one member shall be named by an organization representing disabled workers in Massachusetts. The following organizations shall each name one non-voting member from each of the following: the insurance industry as represented by the Alliance of American Insurers and the American Insurance Association, the workers' compensation claimants' bar as represented by the Massachusetts Bar Association, the commonwealth's medical providers as represented by the Massachusetts Medical Society, and vocational rehabilitation providers as represented by New England Chapter of the National Association of Rehabilitation Professionals in the private sector. All members currently serving on the advisory council shall be removed, unless the constituency which he or she represents renames him or her to said council under the terms of this act. The term of any member shall be for a period of no more than 3 years, provided, however, that any member may be reappointed by his or her constituency group. Any person appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the unexpired portion of such term. The chairman and the vice-chairman of such advisory council, one of whom shall be an employee representative and one of whom shall be an employer representative, shall be appointed from among voting members for two year terms. Such appointees shall not succeed themselves as chairman or vice-chairman. No member of said advisory council shall be subject to chapter thirty-one. Members shall receive their traveling and other necessary expenses incurred in the performance of their duties. Such expenses shall be paid from the special fund established in section sixty-five of chapter one hundred and fifty-two. Meetings of said advisory council shall be called by the chairman or upon petition by a majority of voting members. Such meetings shall be subject to the provisions of section eleven A of chapter thirty A. Said advisory council shall take no action pursuant to its authority under this chapter or said chapter one hundred and fifty-two unless a quorum of its voting members are present.

The presence of seven voting members of the advisory council, at least two of whom shall be representatives of employees, shall constitute a quorum. No action shall be taken by the advisory council without the affirmative vote of at least seven members. A subcommittee on worker's compensation health care is hereby created to study the fee struc-

ture for providers of care to injured workers, twenty-four hour care for injured workers, how the number of impartial physicians can be expanded, and any other health care issue that may affect injured workers and their access to quality medical care.

Section 16. The advisory council shall appoint such personnel as are necessary for the proper discharge of its duties. The staff of the advisory council shall be funded from monies collected for the special revenue fund in accordance with the provisions of section sixty-five of said chapter one hundred and fifty-two. The advisory council may expend for personnel and office expenses funds appropriated to the department for that purpose.

SECTION 79. Chapter 23F of the General Laws is hereby amended by striking out sections 1 to 8, as so appearing, and inserting in place thereof the following eight sections:-

Section 1. There is hereby created the Manufacturing Technology Project hereinafter referred to in this chapter as the "project," whose members shall be the Bay State Skills Corporation, known hereinafter as "BSSC", and the Industrial Service Program, known hereinafter as "ISP". The project shall have all the powers of both members and those powers and responsibilities specified in this chapter. The governor shall by executive order designate the executive director of either member to coordinate the project's responsibilities.

Section 2. The duties of the project shall include, but shall not be limited, to:

(a) encouraging and assisting in the diversification of defense-dependent firms and enhancing the competitiveness of the commonwealth's manufacturing sector by providing technical assistance to such firms seeking to expand into new product areas and new productions processes, and markets, including but not limited to, technology assistance provided pursuant to subsection (p) of section four and section seven F of chapter forty I and subsection (a) of section four of chapter twenty-three A;

(b) supporting the creation and organization of manufacturing extension services, alternative deployment pilot projects, technology access services, or other related deployment programs to regional consortia of, but not limited to, private companies, especially small- and medium-sized companies, universities, colleges and community colleges, labor organizations, nonprofit agencies, and other interested individuals and organizations through: (1) direct support of services or (2) matching grants through the Economic Conversion Fund for proposals made to the Technology Reinvestment Program within the Advanced Research Projects Agency of the Department of Defense, created and funded pursuant to the Defense Conversion, Reinvestment and Transition Act of Fiscal Year 1993 and Title IV of the Fiscal Year 1993 Defense Appropriations Act or other related federal conversion programs; provided, however, that the project shall require applicants to provide other non-federal and non-state matching funds as a condition of support by the project under paragraph (2) of this subsection;

(c) providing statewide support services to regional consortia or providers that include but are not limited to training and capacity building of extension service providers, assessment and evaluation of services, federal grant administration services, and interregional communications; provided, however, in no case shall the project make evaluations or assessments for any consortia in which BSSC or ISP is a participating mem-

ber or in which BSSC or ISP has a relationship with the consortia which would impair or appear to impair its objectivity;

(d) collecting and disseminating information on financial, technical, marketing, management, and other services available to technology-intensive small- and medium-sized and emerging businesses, including potential sources of debt and equity capital, in cooperation with the executive office of economic affairs and the quasi-public corporation planning council established pursuant to section fifty-six of chapter twenty-three A; and,

(e) supporting development of a regional defense conversion plan by a regional planning agency or any combination of municipalities in response to a potential or actual dislocation as a result of a major plant closing or base closing.

Section 3. (a) Manufacturing extension services supported or provided by the project under this chapter shall be designed to increase competitiveness of small- and medium-sized companies in Massachusetts through access to technical, technology, systems, and management assistance in accessing training and consulting services, and the transitioning of technologies from research or military uses to commercially viable products and processes.

(b) The project shall support the improvement of business practices, including but not limited to: technology, quality systems, work organization and management practices, including total quality management and just-in-time delivery systems, encouragement of employee-management cooperation in training, product design and manufacturing improvement, marketing, or alternative use development. Technology extension services provided under this chapter may be supported through a fee for service program as provided in subsection (p) of section five of chapter forty I or as otherwise authorized by law.

(c) The project shall also seek to stimulate the creation of advanced technologies and techniques to improve both products and manufacturing processes, including activity-based accounting, concurrent engineering, and new problem-solving techniques.

(d) The project shall provide the advisory committee, as created in section five of this chapter, with copies of the following documents for comment and review prior to their release or submission: (1) request-for-proposals or solicitations for services or grants provided pursuant to this chapter; (2) contracts between the project and regional consortia, as specified in section three of this chapter; and (3) applications for public or private grants or aid.

Section 4. As a condition of providing any grant under paragraph two of subsection (b) of section two of this chapter, the project shall enter into a contractual agreement with the regional consortia specifying the terms and conditions of such grant, the responsibilities and financial contribution of the consortia, and a requirement for regular reporting by the consortia as specified by the Project.

As a further condition of providing any grant under paragraph two of subsection (b) of section two of this chapter, the Project shall require that such applicant has received an award under the Defense Conversion, Reinvestment and Transition Act of Fiscal Year 1993 and Title IV of the Fiscal Year 1993 Defense Appropriations Act or other related federal

conversion programs.

Section 5. The project shall, where appropriate, request the assistance of and coordinate its activities with the quasi-public corporation planning council established pursuant to section fifty-six of chapter twenty-three A.

Section 6. There is created within the Project an Economic Conversion Fund, known hereinafter as the "Fund", to be used solely to provide the Project with financial support for the creation of statewide technology deployment coordination system and for matching grants to support the creation of or assistance to manufacturing extension services, alternative deployment pilot projects, technology access programs and other related deployment programs for proposals funded under the Technology Reinvestment Program within the Advanced Research Projects Agency of the Department of Defense, created and funded pursuant to the Defense Conversion, Reinvestment and Transition Act of Fiscal Year 1993 and Title IV of the Fiscal Year 1993 Defense Appropriations Act.

The Fund shall only consist of monies appropriated by the General Court. The project shall provide the advisory committee, the house and senate committees on ways and means and the joint committee on commerce and labor with quarterly reports regarding the nature and amount of all expenditures, with a detailed summary of activities supported.

Section 7. There shall be a project advisory committee consisting of nine members, one of whom shall be the secretary of the executive office of economic affairs or his designee, two of whom shall be the house and senate chairs of the joint committee on commerce and labor, one of whom shall be a labor representative who is affiliated with a union or unions likely to be affected by defense conversion and be designated by the AFL-CIO, one of whom shall represent an organization of manufacturers and be appointed by the Governor. Four members shall be representatives of small- or medium-sized defense-dependent companies located in the commonwealth who shall be appointed by the governor. Except as otherwise provided by law, members shall serve three year terms. Members shall serve without compensation, except members shall be entitled to reimbursement by BSSC for actual and necessary expenses incurred in the performance of their official duties. BSSC shall also provide the advisory committee with administrative and research support.

The advisory committee may establish subcommittees of individuals who are not advisory committee members. Such subcommittees may include individuals representing groups actively advocating the need for economic diversification of defense-dependent firms and industries, and academicians and other individuals with expertise in the area of the commercial product and market development application of flexible production technologies and workforce training and retraining.

Section 8. The advisory committee shall:

(a) develop a short-term and long-term strategy to harness the best talents available to focus on technology innovation, extension, infrastructure, and education and training for product and process technologies of critical importance for the commonwealth's economic competitiveness and future economic growth;

(b) review and monitor the technological development progress and potential of the various regions of the state and make findings and recommendations to the governor, general court, and project regarding state supported assistance to the regions;

(c) recommend to the project eligibility criteria for accepting applications for technical assistance and grants provided under this chapter;

(d) recommend as to the advisability and nature of, and the appropriate procedures for, any grant or endorsement regarding any project program designed to support applications for assistance under the Defense Conversion, Reinvestment and Transition Act of Fiscal Year 1993 and Title IV of the Fiscal Year 1993 Defense Appropriations Act, and other federal defense conversion and diversifications programs.

(e) review and make recommendations to the project on any request-for-proposals or solicitations for services or grants to be issued by the project, contracts between the project and regional consortia, and applications for public or private grants or aid to be submitted by the project.

SECTION 80. Section 8E of chapter 26 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The commissioner shall appoint all employees of the bureau. The bureau may expend for expenses and for such legal, investigative, clerical and other assistance and operation of said bureau, such sums as may be appropriated therefor; provided, however that all costs of administration and operation of said board shall be borne by liability insurance companies doing business within the commonwealth. The commissioner shall apportion estimated costs among all such companies and shall assess them for the same on a fair and reasonable basis. Said estimated costs shall be paid to the commissioner within thirty days after the date of the notice from the commissioner of such estimated costs. The commissioner shall subsequently apportion actual costs among all such companies and shall make assessment adjustments for any variation between estimated and actual costs on a fair and reasonable basis. Such estimated and actual costs shall include an amount equal to indirect costs as determined by the commissioner of administration and fringe benefit costs as determined by the commissioner of administration. Accountants, attorneys and actuary-statisticians employed by the board shall have access to all records kept by the registry of motor vehicles and to such records kept by insurance companies as may be pertinent to premium charges. The bureau shall consist of at least the following employees who shall devote their full time to the duties of their office and shall be exempt from the provisions of chapters thirty and thirty-one and shall serve at the pleasure of the commissioner: two certified public accountants, two attorneys and six actuary-statisticians. The actuary-statisticians shall be associates of the casualty actuarial society or the society of actuaries or shall have obtained a doctoral degree in a related discipline.

SECTION 81. Said section 8E of said chapter 26, as so appearing, is hereby further amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

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 an amount equal to indirect costs as determined by the commissioner for administration and for the persons within the rating bureau, 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 to be credited to the General Fund. Said amounts shall be expended, without appropriation, for indirect costs and for such persons' fringe benefits. If the commissioner shall fail to expend any money collected under this paragraph in any fiscal year other than monies collected for fringe benefit and indirect costs, 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 indirect costs and 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 82. Section 2T of chapter 29 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

(e) for a program of primary and preventative health care services for the benefit of uninsured dependent and adopted youths from age six through age twelve established pursuant to section seventeen B of chapter one hundred and eighteen F under the supervision of the department of medical security; provided, that such program shall incorporate and emphasize smoking cessation assistance and the harmful effects of smoking.

SECTION 83. Said chapter 29 is hereby further amended by inserting after section 2X the following section:-

Section 2Y. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Leo J. Martin Recreation Fund. There shall be credited to such fund forty-five percent or three hundred thousand dollars, whichever is greater, of the total revenues generated from fees or any other revenue device at the Leo J. Martin Golf

Course in the town of Weston and the city of Newton. Amounts credited to said fund may be used, subject to appropriation, exclusively for capital improvements, equipment, and maintenance of said golf course.

SECTION 84. Said chapter 29 is hereby further amended by striking out section 2W, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 2W. There shall be established and set up on the books of the Commonwealth a separate fund to be known as the Water Pollution Abatement Projects Administration Fund. There shall be credited to such fund any amounts transferred pursuant to section five of chapter twenty-nine C; and any income derived from the investment of amounts credited to said fund. Amounts credited to said fund shall be held in an expendable trust and the department of environmental protection shall report monthly all amounts credited to said fund as well as all expenditures by subsidiary on the Massachusetts management and accounting reporting system, so called. Said amounts shall be used solely for the administration of the provisions of section twenty-seven A of chapter twenty-one.

SECTION 85. Chapter 29 of the General Laws is hereby amended by inserting after section 2X the following section:-

Section 2Y. Notwithstanding the provisions of section eighteen (1) of chapter twenty-one A or any other general or special law to the contrary, there shall be established and set up on the books of the commonwealth a separate fund, to be known as the Clean Air Act Compliance Fund. There shall be credited to such fund all moneys received or collected by the commonwealth for permit applications, compliance assurance, and technical assistance pursuant to said section eighteen of said chapter twenty-one A and attributed to programs associated with the implementation of the federal Clean Air Act including the volatile organic compounds, or oxides of nitrogen reasonable available control technology requirements program and the operating permit program; any other moneys appropriated, granted, or donated to such fund from time to time; and any income derived credited to such fund may be expended, subject to appropriation, for the purposes of the administration and implementation of the permitting, compliance and enforcement, monitoring and analysis, and technical assistance programs associated with the implementation of the federal Clean Air Act including the volatile organic compounds, or oxides of nitrogen reasonable available control technology requirements program and the operating permit program. On or before April thirtieth of each year, the commissioner shall file with the advisory committee on fees and program improvements, the secretaries of environmental affairs and administration and finance, the joint committee on natural resources and agriculture, and the house and senate committees on ways and means, a report of the revenues and expenditures of the fund during that fiscal year and projected revenues and expenditures for the coming fiscal year.

SECTION 86. Chapter 29 of the General Laws is hereby amended by inserting after section 2Y the following section:-

Section 2Z. There shall be established upon the books of the commonwealth a separate fund to be known as the Commonwealth Sewer Rate Relief Fund hereinafter, the fund. The fund shall consist of all amounts credited to the fund and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and used solely for the purpose of providing assistance in the mitigation of sewer rate increases.

SECTION 87. Section 3 of said chapter 29, as appearing in the 1990 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following section:-

(a) Every officer having charge of any state agency which receives a periodic appropriation from the commonwealth, including all periodic appropriations to be met from state revenues shall, within sixty days of the passage of the general appropriations act, submit to the budget director and to the senate and house committees on ways and means a comprehensive first financial plan for the current fiscal year. Said first financial plan shall report spending and revenue collection in conformance with the account structure and program format established by the general appropriations act and shall include the following:

(1) statements showing the amounts expended, by account and by subsidiary, for the preceding fiscal year;

(2) statements showing, by account and by subsidiary, the amount appropriated for the current fiscal year;

(3) any planned interchanges between subsidiary accounts prescribed in accordance with section twenty-seven for the current fiscal year;

(4) statements showing total estimated spending, by account and by subsidiary, for the current fiscal year, including estimates of deficiencies and overdrafts, if any; provided, however, that said officer shall submit to the budget director and the senate and house committees on ways and means, with his financial plans, detailed management plans designed to reduce or eliminate the need for deficiencies or overdrafts; and, provided further, that, to the extent said management plans do not identify reasonable means to eliminate the need for deficiencies or overdrafts, the governor shall, within thirty days of receiving said management plans, file a supplemental budget request recommending funding levels to address such deficiencies or overdrafts;

(5) statements showing estimates, by account and by subsidiary, of the amounts required for ordinary maintenance during the ensuing fiscal year, with an explanation of any increased appropriations recommended and with citations of statutes relating thereto together with a statement indicating the priorities assigned to each program by such officer;

(6) statements showing, by revenue source the amount of revenues collected during the preceding fiscal year, the estimate of revenues to be collected during the current fiscal year, and the estimate of revenues to be collected from the same or any additional sources in the ensuing fiscal year, with recommendations as to any changes in the management, practices, rules, regulations or laws governing such state agency which would effect an increase in revenue from operations, fees, taxes or other sources or which would facilitate

the collection thereof;

(7) such other information on expenditures, revenues, activities, output measures or performance measures of any such state agency as may be required by rule or regulation of the commissioner, and any other information, including the priorities assigned to each program by such officer, required at any time by the budget director, or prescribed by the general court in the general appropriations act or any supplemental appropriation acts;

(8) a statement showing, by account and by collective bargaining unit, the number of permanent, temporary and part-time positions authorized for the state agency in his charge and the volume of work performed in the preceding fiscal year, and justifying his request for permanent, temporary and part-time positions in the ensuing fiscal year in relation to the volume of work expected to be performed by such state agency.

(b) Within thirty days of the submission of the governor's annual budget recommendation made pursuant to section seven H, each such officer shall submit to the budget director and the senate and house committees on ways and means a revised financial plan for the current fiscal year. Said revised financial plan shall report spending and revenue collection for the current fiscal year through the end of the second quarter in conformance with the account structure and program format established by the general appropriations act and shall include the following:

(1) statements showing the amounts expended through the end of the second quarter, by account and by subsidiary;

(2) any planned interchanges between subsidiary accounts prescribed in accordance with section twenty-seven for the remainder of the current fiscal year;

(3) statements showing the status of the implementation of management plans developed to reduce or eliminate deficiencies or overdrafts identified in the preparation of the first financial plans;

(4) statements showing total estimated spending, by account and by subsidiary, for the current fiscal year, including revised estimates of deficiencies and overdrafts, if any;

(5) statements showing, by revenue source, the revenues collected through the end of the second quarter and a revised estimate, if necessary, of total revenues to be collected during the current fiscal year.

SECTION 88. Said chapter 29 is hereby further amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. Every officer having charge of any state agency who, in his annual reports or otherwise, recommends or petitions for the expenditure of money by the commonwealth from any source of revenue, including expenditures to be met by assessments or from bond revenues or trust funds, for any purpose not covered by the estimates to be submitted under section three shall, within sixty days of the passage of the general appropriations act, submit detailed estimates thereof to the budget director and to the senate and house committees on ways and means, together with any other information required by said budget director or prescribed by the general court in the general appropriations act or any supplemental appropriation acts. Such estimates and other information relating to such state agency, be-

fore being submitted to the budget director, shall first be submitted to the appropriate secretary, if any, on or before a date set by him, but in no case later than sixty days after the passage of the general appropriations act; provided, however, that said secretary shall review the same and make such additions thereto, deletions therefrom and modifications therein as he deems appropriate; and, provided, further, that prior to making any additions, deletions, or modifications, said secretary shall conduct public hearings, for which he shall give five days' public notice prior thereto, on all items for which he shall submit to the governor a recommendation for an appropriation of one million dollars or more.

All copies of such statements and information relative to the expenditures from bond revenues shall be submitted to the commissioner of capital planning and operations on or before the aforementioned date. Said commissioner shall evaluate them as to the priority, necessity and feasibility of the requests contained therein in relation to the long range capital facilities development plans, capital facilities development plans, and capital facilities projects contained therein, as defined by section thirty-nine A of chapter seven. Said commissioner shall submit his evaluation to the officer providing such estimates and information, to the appropriate secretary, budget director and senate and house committees on ways and means.

SECTION 89. The first paragraph of section 5B of said chapter 29, as so appearing, is hereby amended by striking out, in line 2, the words "annually on or before August" and inserting in place thereof the following words:- on or before both September fifteenth and March.

SECTION 90. Said chapter 29 is hereby further amended by striking out section 5F, as so appearing, and inserting in place thereof the following two sections:-

Section 5F. Every officer having charge of any state agency which receives a periodic appropriation from the commonwealth shall, within sixty days of the passage of the general appropriations act and at such other times as may be specified by the commissioner, submit to the budget director and to the senate and house committees on ways and means a department financial plan for the current fiscal year in accordance with the provisions of section three.

The budget director shall provide to the comptroller and the senate and house committees on ways and means information from department financial plans for the purpose of developing estimates of monthly cash flow and for the purpose of preparing monthly reports of planned and actual expenditure and planned and actual revenue for each major state program, department and executive or other constitutional office.

Section 5G. Every officer having charge of any state agency which receives a periodic or other appropriation from the commonwealth shall, on a quarterly basis, submit to the budget director and to the senate and house committees on ways and means a report comparing actual spending rates and revenue collection rates to those rates projected in the financial plans submitted pursuant to this chapter. Said reports shall include statements showing spending and revenue information in conformance with the account and program format established by the general appropriations act. Within thirty days after the receipt of

such reports, the budget director shall classify each agency as being at a low, medium or high risk of exceeding spending levels authorized in the general appropriations act or any supplemental appropriations act. The budget director shall recommend to the commissioner and the governor a corrective action plan for each agency found to be at a medium or high risk of exceeding authorized spending levels as defined herein so as to ensure that every agency receiving a periodic or other appropriation from the commonwealth complies with the provisions of this chapter.

Every such officer shall revise financial plans submitted pursuant to this chapter if actual spending rates or revenue collection rates indicate that financial plans submitted pursuant to section three no longer accurately reflect total estimated spending or revenue collections. Revisions to said financial plans shall be submitted to the budget director and to the senate and house committees on ways and means together with a corrective action plan to reduce or eliminate such deficiencies and overdrafts; provided, however, that to the extent that such corrective action plans do not provide a reasonable means to reduce or eliminate deficiencies or overdrafts, the governor shall within thirty days submit a request for supplemental appropriations for each such agency.

SECTION 91. Section 6B of chapter 29 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

No federal grant monies may be expended by a state agency for any program unless such state agency has complied with the provisions of this section.

SECTION 92. Section 6D of said chapter 29, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

Section two of each appropriation act shall include all direct appropriations, authorizations to retain revenue and all appropriations of federal grants. Section two A shall include appropriations for unanticipated obligations of the commonwealth regardless of budgetary funding source, and any alteration of purpose for said appropriations. Section two B shall include all appropriations from the Intragovernmental Service Fund. Section two C shall include all authorizations to continue a prior appropriation, including an amount set forth in numeric figures of the prior appropriation continued.

SECTION 93. Section 9B of said chapter 29, as so appearing, is hereby amended by inserting after the word "otherwise.", in line 11, the following sentence:- The amounts allotted shall be consistent with the financial plans required by sections three, four, five F and five G.

SECTION 94. Section 27 of said chapter 29, as so appearing, is hereby further amended by inserting after the second sentence the following sentence:- No such subsidiary account may be increased or decreased by the interchange of funds with any other such subsidiary account, nor shall any new subsidiary account be established, without prior notice to the house and senate committees on ways and means; provided further, that the budget director shall file with the house and senate committees on ways and means a notification

report no less than fifteen days prior to the need for said interchange or establishment of any subsidiary.

SECTION 95. Said chapter 29 is hereby amended by striking out section 29, as so appearing, and inserting in place thereof the following section:-

Section 29. The personnel administrator shall file with the house and senate committees on ways and means a schedule of positions, hereinafter called a "personnel schedule", for each such item of appropriation. Said personnel schedule shall include, but not be limited to; title code; position name; functional title; position number; full or part time status; projected weekly salary and such additional information as may be requested by the said committee for each such vacant and filled position and shall file the pay plan of the commonwealth pursuant to section forty-five of chapter thirty with the said committee as a part of the annual appropriation request filed by the governor pursuant to section seven H of this chapter.

The comptroller shall not authorize payment of regular compensation, including paid leave, vacation, salary in lieu of vacation, payments in lieu of maintenance, holiday pay, overtime pay, and salary differentials for any positions in excess of those positions provided for in the personnel schedule or for any position not on a personnel schedule on file with the house and senate committees on ways and means. Each state agency or office of the judiciary receiving an annual appropriation pursuant to the provisions of this chapter shall not fill a total number of positions which exceeds the number of positions as specifically provided for in each such item of appropriation. For the purposes of this section, "positions" shall mean a full-time equivalent office or position in which one or more persons are currently employed, but shall not include the positions of board members or commissioners who are not full-time state employees, an authorized position created by statute or under the civil service law whether the incumbent holding the position is on a permanent, provisional, or temporary appointment, excess quota positions and all authorized positions other than seasonal as defined in section one of chapter thirty-one and positions for a period of ninety days or less.

No funds shall be expended for excess quota positions without prior notice to the senate and house committees on ways and means.

No expenditures shall be made from any revenue retention account, as defined by section one of this chapter, until a personnel schedule, if applicable, and an expenditure subsidiary classification schedule have been filed therefor with the house and senate committees on ways and means.

SECTION 96. The first paragraph of section 45 of chapter 30 of the General Laws, as so appearing, is hereby amended by inserting after the word "commonwealth", in line 3, the following words:- ; provided, that said office and position classification plan and said pay plan shall be filed with the house and senate committees on ways and means as part of the annual appropriation request filed by the governor, pursuant to section seven H of chapter twenty-nine; provided further, that said plans shall remain in full force and effect and

there shall be no changes to said plans without prior notice to the house and senate committees on ways and means; and provided further, that said plans shall be submitted to the department of personnel administration, the comptroller and the budget director.

SECTION 97. Said section 45 of said chapter 30, as so appearing, is hereby further amended by striking out paragraph 4, and inserting in place thereof the following paragraph:-

(4) Each appropriation act, as filed by the governor and as enacted by the General Court, shall contain, in each item of appropriation, subject to the provisions of this chapter, a specific number of authorized and funded positions, as defined in section twenty-nine of chapter twenty-nine. No authorization to establish, allocate, reallocate, transfer, or reclassify any permanent, temporary, seasonal, or excess quota position subject to the classification and pay plans provided for in this section shall be effected, unless and until the personnel administrator provides prior notice to the house and senate committees on ways and means. The personnel administrator shall submit quarterly schedules to the said committees. Said schedules shall be prepared by the personnel administrator. Subject to the provisions of section sixty-six of chapter twenty-nine, no requests shall be included in said monthly schedule to hire or charge personnel to any item of appropriation that would cause said item to be deficient, require a subsequent appropriation in addition to the amounts available in the current fiscal year, or create any additional liability or ongoing commitment in excess of available funds.

SECTION 98. Clause (iii) of paragraph (a) of subdivision (6) of section 22 of chapter 32 of the General Laws, as so appearing, is hereby further amended in clause (iii) by adding the following sentence:- On or before February fifteenth of each year the state employees' retirement system and the teachers' retirement system shall transfer to the pension reserves investment trust fund an amount equal to an estimate of said balance in said systems' investment income account as established by the commissioner; provided, however, that any remaining amounts shall be transferred to the pension reserves investment trust fund on or before April fifteenth of the same year.

SECTION 99. Chapter 32A of the General Laws is hereby amended by striking out section 19, as so appearing, and inserting in place thereof 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 June first, nineteen hundred and ninety-three 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 secretary of administration and finance; 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 shall pay such amount to such active or retired employee in payments or in one lump sum.

The commission shall require that any active or retired employee choosing to accept such payment shall verify that he is insured under a qualifying policy toward which the commonwealth makes no contribution; provided, that for the purpose of this section, a "qualifying policy" shall be any policy 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. The commission shall provide that if such active or retired employee ceases to be so insured under such a qualifying policy, such active or retired employee shall thereupon have his insurance coverage pursuant to this chapter reinstated by the commonwealth 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 active or retired employee in accordance with this section shall be ratably reduced and any amounts paid hereunder which are allocable to periods after insurance coverage pursuant to this chapter is reinstated by the commonwealth may be recovered by the commission under such terms and conditions as the commission shall determine.

SECTION 100. The first paragraph of section 3 of chapter 32B of the General Laws, as so appearing, is hereby amended by striking out the sixth and seventh sentences and inserting in place thereof the following two sentences:- Prior to the purchase of said insurance, and execution of all such agreements or contracts within the limits established by said sections, the appropriate public authority shall consult with an advisory committee for the purpose of securing the written recommendations of a majority of the membership of said committee. Said committee shall consist of eight members as follows: seven persons to be duly elected or appointed to membership on such committee by organizations of the employees affected, and one person who shall be a retiree of a governmental unit who shall be duly appointed to membership on said committee by the appropriate public authority.

SECTION 101. The first paragraph of section 4 of said chapter 32B, as so appearing, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- Any such collective bargaining agreement shall provide for benefits, monetary or otherwise, in lieu of such coverage.

SECTION 102. Section 15 of said chapter 32B, as so appearing, is hereby amended by inserting after the word "chapter", in line 17, the following words:- or (iii) providing health benefits required under the provision of this chapter.

SECTION 103. Chapter 32B of the General Laws is hereby amended by adding the following section:

Section 19. (a) Notwithstanding the provisions of any other section in this chapter, the appropriate public authority of any governmental unit which has undertaken to provide health coverage to its employees, retirees, surviving spouses or dependents, who shall hereafter be referred to collectively as subscribers, by acceptance of any other section of this chapter may instead elect to provide health coverage to all such subscribers pursuant to the provisions of this section, by entering into a contract or contracts with any one or more health carriers, or by transferring such subscribers to the group insurance commission established in chapter thirty-two A, pursuant to subsection (e) herein. This section shall take

effect in a county, except in Worcester county, city, town or district upon its acceptance in the following manner: in a county except in Worcester county, by a vote of the county commissioners; in a city having Plan D or a Plan E charter, by majority vote of its city council and approved by the manager; in any other city by majority vote of the city council and approved by the mayor; in a town, by vote of the board of selectmen; in a regional school district, by vote of the regional district school committee; and in all other districts, by vote of the registered voters of the district at a district meeting. Acceptance hereunder shall not take effect until a written agreement is reached between the appropriate public authority and the public employee committee established herein.

Notwithstanding the provisions of subsection (c) of section four of chapter four, the acceptance of this designation may be revoked in the same manner it was accepted in accordance with all other subsections of section four B of chapter four, subject to the requirements of any public employee committee agreements as provided in this section and chapter one hundred and fifty E; provided, that revocation of this section shall not take effect until a written agreement providing for such revocation is reached between the appropriate public authority and the employee committee established herein. Nothing in this section shall preclude an appropriate public authority from agreeing to establish a health and welfare trust fund under section fifteen.

Any such contract or contracts with any one or more health insurance carriers shall be in conformity with an agreement reached by an appropriate public authority and a public employee committee. Such election by the appropriate public authority may be renewed in conformity with any successor agreement reached with a public employee committee.

The public employee committee shall be composed of a representative of each collective bargaining unit in the governmental unit and a retiree. The retiree representative shall be a designee of the Retired State, County and Municipal Employees Association. The retiree representative shall have a ten percent vote. The remaining ninety percent vote shall be divided as follows: each collective bargaining unit represented on the public employee committee shall have a weighted vote equal to the proportion which the number of employees eligible for health insurance under this chapter employed in the bargaining unit he represents bears to the total number of employees eligible for health insurance in all bargaining units of the governmental unit. Any agreement with the public authority must be approved by seventy percent of votes cast by the representatives on the public employee committee.

For the purposes of this section, a health carrier shall include any insurance company organized pursuant to chapter one hundred seventy-five, hospital service corporation organized pursuant to chapter one hundred seventy-six A, medical service corporation organized pursuant to chapter one hundred seventy-six I, or, in the case of a governmental unit which is partially or fully self-insured with respect to health coverage, any third party administrator selected by the governmental unit, which may include but is not limited to any health carrier.

An agreement so approved under this section shall be binding on all active and retired employees for whom health coverage is being purchased; shall supersede any conflicting provisions of all collective bargaining agreements and shall itself not be subject to supercedence in any statutory impasse proceeding under chapter one hundred and fifty E. Any dispute arising over the interpretation or application of the public employee committee agreement under this section may be submitted to binding arbitration under the labor arbitration provisions of the American Arbitration Association upon request of the public employee committee. Any request must be approved by seventy percent of votes cast by the representatives on the public employee committee.

A governmental unit which elects to provide health coverage to subscribers under this section shall be deemed in full compliance with any other provisions of this chapter regulating the procurement of health insurance.

A governmental unit which elects to provide health coverage under this section pursuant to an agreement approved by a public employee committee, may provide such coverage either as a single governmental unit or, pursuant to section twelve, through joint purchase with other governmental units or, with multiple governmental units, through a risk-sharing pool, trust or health carrier or third party administrator, or by making payments to a health and welfare trust fund to provide health coverage under this section either as a single governmental unit or together with multiple governmental units.

The appropriate public authority may contract with a health carrier for direct coverage of subscribers for whom the carrier's geographic service area provides appropriate access and coverage for other subscribers in accordance with subsection (d) herein.

(b) Nothing in this section shall be deemed to require, preclude or permit any change in any aspect of health coverage for active employees authorized by this section except where an agreement to provide for such change is reached by an appropriate public authority and a public employee committee in an agreement entered into or modified subsequent to the effective date of this subsection. In the absence of a successor agreement approved under this section the prior agreement of the public employee committee and the appropriate public authority regarding the provision of health insurance shall remain in effect.

(c) Nothing in this section shall be construed so as to relieve any governmental unit from providing health coverage to any employee, retiree, surviving spouse or dependent to whom it has an obligation to provide coverage under any other provision of this chapter.

(d) The agreement reached between an appropriate public authority and the public employee committee shall provide for those subscribers who, by reason of residence or domicile, cannot be appropriately served within the service area of the health carrier or carriers included in said agreement, subject to the provisions set forth in the paragraph below.

Coverage for active employees under this subsection shall be pursuant to and in conformity with the agreement required by this section and shall conform to all requirements of this section. The agreement reached between an appropriate public authority and the public employee committee shall provide that any subscriber who for reasons of residency

is not eligible for enrollment in any such plan offered by a governmental unit shall be covered under a plan offered pursuant to chapter one hundred and seventy-six I, if any such plan is provided for under said agreement; provided, that any such subscriber who lives ten miles or more from the nearest primary care physician providing care under said plan shall have out-of-pocket payments and medical deductibles limited to the amount that he would have paid had he utilized the network of medical services of the plan offered pursuant to chapter one hundred and seventy-six I. If the agreement reached between the appropriate public authority and the public employee committee provides for only health maintenance organizations or other health carriers that limit enrollment to a particular geographic area, then, notwithstanding any general or special law to the contrary, health maintenance organizations or other health carriers shall provide for the coverage of services provided or arranged for all subscribers who do not reside within the geographic service area of said carriers in the following manner: Any subscriber not eligible for direct coverage due to his residency shall have the same benefit schedule and premium contribution provided to subscribers residing within the carrier's geographic service area, including but not limited to covered services, out-of-pocket payments and medical deductibles for any and all medical services provided for or arranged pursuant to such agreement.

(e) Where an agreement reached by an appropriate public authority and the public employee committee covering the public employee committee of the governmental unit executed or modified subsequent to the effective date of this subsection so provides, the appropriate public authority shall, for a period of time specified by regulation of the group insurance commission transfer to said commission all subscribers for whom it provides health coverage. The regulations of said commission shall permit the governmental unit, upon agreement reached by the appropriate public authority and the public employee committee pursuant to this section, to withdraw from such transfer to said commission after a period of not less than three years following such transfer consistent with the provisions of subsection (f).

(f) Said commission shall negotiate and purchase health coverage for subscribers transferred pursuant to subsection (e) and shall promulgate regulations for coverage of such subscribers so transferred. The schedule of benefits available to such transferred subscribers shall be determined by said commission in accordance with chapter thirty-two A. Said commission shall offer such subscribers at least the same choice as to health carriers as is made available to state employees, subject only to the agreement reached between the appropriate governmental unit and the public authority committee. The governmental unit's contribution to the cost of health coverage for such subscribers, shall be as determined under this section, and shall not be subject to the provisions on contributions in said chapter thirty-two A. Said commission shall require the governmental unit to collect and forward to the said commission the full premium or cost of coverage, including the subscriber's contribution, if any; provided, that the commission shall require any governmental unit so transferring subscribers under this section, notwithstanding any general or special law to the contrary, to forward to the commission the full cost of at least one month's but not more than

three month's premiums for such transferred subscribers thirty days prior to the effective date of said transfer. For the purpose of determining the cost to subscribers transferred pursuant to subsection (d), the dollar amount payable by said subscribers shall be the same as the dollar amount paid by subscribers covered by the plan offered by the appropriate governmental unit, distinguishing only by the type of plan, individual, family or optional medicare extension plan, in which the subscriber enrolls. Said commission may also charge the governmental unit an administrative fee, to be determined by said commission, which shall be paid by the governmental unit and shall not be considered as part of the cost of coverage for purposes of determining the contributions of the governmental unit and its employees to the cost of health coverage. Any such administrative fee charged hereunder shall be used by said commission to pay any personnel or other costs associated with the administration of said plans.

(g) Any agreement reached between the governmental unit and the public employee committee shall provide that within the same health coverage plan the percentage contributed by the governmental unit to the premium or cost of health coverage shall be the same for all subscribers covered under this section. Said payments shall differ only by the type of coverage elected under the plan, individual, family, optional medicare extension or other; provided, however, that the percentage contributed by the governmental unit may vary among the different health coverage plans offered under the agreement reached between the governmental unit and the public employee committee. The agreement reached hereunder shall provide that the percentage contributed by said governmental unit to the premium or cost of at least one medicare extension plan available to all eligible subscribers shall be no less than the minimum percentage contributed by said governmental unit to any other health coverage plan offered pursuant to the agreement reached hereunder. Any governmental unit that accepts this section shall establish by agreement with the public employee committee a contribution by said governmental unit to said premium or cost of health coverage that provides for a minimum of fifty percent but not more than ninety-nine percent.

SECTION 104. Section 59 of chapter 40 of the General Laws, added by section 12 of chapter 19 of the acts of 1993, is hereby amended by striking out clause (iii) and inserting in place thereof the following clause:

(iii) authorizes tax increment exemptions from property taxes, in accordance with the Provisions of clause fifty-first of section five of chapter fifty-nine, for a specified term not to exceed twenty years, for any parcel of real property which is located in the TIF zone and for which an agreement has been executed with the owner thereof in accordance with the provisions of paragraph (v); provided, however, that the TIF plan shall specify the level of such exemptions expressed as an exemption percentage, not to exceed one hundred percent to be used in calculating the exemption under clause fifty-first of said section five of said chapter fifty-nine; provided, however, that such exemptions shall be calculated for each said parcel as provided in said clause fifty-first using an adjustment factor for each fiscal year of the specified term equal to the product of the inflation factors for each fiscal year since the

parcel first became eligible for such exemption pursuant to this paragraph. The inflation factor for each fiscal year shall be a ratio.

(a) the numerator of which shall be the total assessed value of all parcels of commercial and industrial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment for the current fiscal year attributable to the commercial and industrial real estate as determined by the commissioner of revenue pursuant to subsection (f) of section twenty-one C of chapter fifty-nine, and

(b) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator; provided such ratio should not be less than one.

SECTION 105. Chapter 40G of the General Laws is hereby amended by inserting after section 4 the following section:-

Section 4B. The corporation is hereby authorized and directed to establish a fund to be called the Commonwealth Fund which shall be managed by the MTDC to benefit and expand the economic climate within the commonwealth so long as such is consistent with sound investment policy. MTDC is also authorized to seek and secure additional assets from public and private investment managers to establish one or more funds to be called the Co-Investment Funds which shall become co-investors along with the commonwealth and other funds.

The initial amount that MTDC will transfer from its assets to the Commonwealth Fund, during the fiscal year ending June thirtieth, nineteen hundred and ninety-three shall not exceed one million dollars, and in subsequent years, the amount shall be determined by the board, subject to the limitation that such amount will not exceed twenty percent of the total assets of the MTDC Restricted for Investment Programs Funds of the prior fiscal year.

The Commonwealth Fund and the Co-Investment Funds shall be held in an account separate from all other funds and accounts of MTDC. Earnings from the investment of each of the funds shall be credited to them and losses, if any, from such investment shall be charged against them. The assets of these funds may be invested with the assets of other funds owned or managed by MTDC; provided, however, that such investments, earnings and losses therefrom, are apportioned and accounted to each participating fund in proportion of its share of the total investment. In no event shall losses of these funds be charged against any other funds of MTDC. Subject to the terms of an agreement between MTDC and the secretary of administration, a share of the net gains from the investments of the Commonwealth Fund shall be distributed to the General Fund.

MTDC shall invest and reinvest the monies from the Commonwealth Fund and the Co-Investment Funds and the income from such funds in the following ways:

(1) In the purchase of qualified securities issued by enterprises authorized in accordance with the requirements of this chapter; provided, however, that the board finds that such investment will enhance the economic climate of the commonwealth by acting to provide investment capital, both public and private, to firms which will utilize each investment to share and to expand their operation, assist in the direct and indirect creation

of employment in the commonwealth and offer the potential of significant financial returns to the Commonwealth Fund and the Co-Investment Funds; provided further, that the board need not find as a basis for any such purchase that the MTDC participation is necessary to the success of the enterprise because funding for the enterprise is unavailable from the traditional capital markets, or because funding for the enterprise is unavailable from the traditional capital markets, or because funding has been offered on terms that would substantially hinder the enterprise, or that the enterprise has the reasonable potential to create a substantial amount of primary employment within the commonwealth and such employment, as far as feasible, may be expected to be for residents of target areas as defined by chapter forty F, and offer employment opportunities to unskilled and semi-skilled individuals; provided, further, that such purchases shall not be subject to, and shall not be taken into account in otherwise applying the following limitations on investments under this chapter, requires not more than twenty percent of the assets of MTDC at any time to be invested in direct investments, and requires at least fifty percent of all MTDC investments for the previous year to be made in enterprises that will locate in target areas as defined in said chapter forty F.

(2) The total amount of dollars invested in any enterprise shall not be limited except as required for the prudent diversification of assets; provided, however, that notwithstanding any provision of this chapter to the contrary, no investment shall be made pursuant to this section without the prior written notice to the house and senate committees on ways and means.

(3) In the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth.

In making purchases pursuant to subsection (1), the board shall not be subject to any limitations on lawful investments for fiduciaries in the commonwealth or to any provisions of law governing the investment of state pension funds or other public monies.

MTDC shall receive a fee for the management of the Commonwealth Fund and the Co-Investment Funds, as defined by the investment agreement or agreements which may include a portion of the earnings of said funds, to be paid out of the monies in said funds. Said investment agreement or agreements shall legally bind the MTDC for the term or terms of the agreement or agreements and shall not be modified by legislative or executive action during the term or terms of the agreement or agreements.

SECTION 106. Section 7 of chapter 44 of the General Laws, as so appearing, is hereby amended by striking out clause (18) and inserting in place thereof the following:-

(18) For the payment of charges incurred under contracts authorized by section four of chapter forty for the expert appraisal of taxable property or for the preparation of assessors maps, including charges for aerial mapping in connection with the preparation of such maps, ten years.

SECTION 107. Section 3 of chapter 55 of the General Laws, as so appearing, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

The director shall appoint such employees as the work of the office may require. The director shall establish the salaries, duties, and personnel regulations of all employees as he deems necessary to perform the duties of the office, provided however, the salaries of such employees shall not exceed the sum annually appropriated by the general court. The provisions of sections nine A and forty-five of chapter 30 and of chapter 31 shall not apply to the employees of the office.

SECTION 108. Chapter 58 of the General Laws is hereby amended by striking out section 18D, as so appearing, and inserting in place thereof the following section:-

Section 18D. The state treasurer, upon certification by the state racing commission, shall quarterly distribute to each city and town within which racing meetings are conducted, including racing meetings conducted in connection with a state or county fair, under licenses issued under the provisions of chapter one hundred and twenty-eight A, the sum of one quarter of one percent of the total pari-mutuel wager for each such racetrack within said city or town for the previous three months, which sum shall be allocated from the commonwealth's share; provided, however, that if the parcel of land containing such racetrack is located in two cities or towns, said sum shall be divided so that two-thirds shall be distributed to the city or town in which the major portion of said parcel is located, and one-third shall be distributed to the other city or town.

SECTION 109. Section 2B of chapter 59 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

This section shall not apply to easements, grants, licenses or rights of way of public utility companies; or to the property of the United States, or any instrumentality thereof, for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed, in behalf of the United States or any instrumentality thereof; or to the property of the United States, or any instrumentality thereof, which is used by a manufacturing corporation so classified under chapter fifty-eight.

SECTION 110. Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by inserting, after clause Twenty-Second E, the following paragraph:-

Notwithstanding the provisions of this section, in any city or town which accepts the provisions of this paragraph, said exemptions available under clauses twenty-second, twenty-second A, twenty-second B, twenty-second C, twenty-second D and twenty-second E may be granted to otherwise eligible persons who have resided in the commonwealth for one year prior to the date of filing for exemptions under the applicable clause.

SECTION 111. Section 5 of chapter 59 of the General Laws is hereby amended by adding the following clause:-

Fifty-second. (a) Notwithstanding any other provision of this section, any elderly homeowner who meets the criteria described in subsection (c) shall receive an abatement of an amount equal to the difference between any increase in property taxes attributable to the provisions of paragraph (n) of section twenty-one C and the amount by which the applicant's water and sewer bill would be higher if the amount of said increase in property

taxes were recovered in water and sewer charges, which difference shall be calculated by the board or officer responsible for fixing water and sewer charges, and certified to the board of assessors; provided, however, that said abatement shall not be greater than two hundred dollars.

(b) The commonwealth shall annually appropriate the amount necessary fully to reimburse cities and towns for taxes abated under this clause. Subject to said appropriation, the commissioner of revenue shall distribute to each city and town its full reimbursement amount based on the number and amount of such abatements granted.

(c) The criteria for eligibility for this abatement shall be as follows. The property for which the abatement is sought must be owned by a person sixty-five years of age or over and occupied by him as his domicile, or owned jointly with his spouse, either of whom is sixty five years of age or over, and occupied as their domicile, or by a person who owns the same jointly or as a tenant in common with a person not his spouse and occupied by him as his domicile. No abatement shall be granted unless said owner had, in the preceding year, gross receipts from all sources of less than fifteen thousand dollars, or, if married, combined gross receipts of less than eighteen thousand dollars; provided, however, that in computing the gross receipts of an applicant under this clause, ordinary business expenses and losses may be deducted, but not personal or family expenses; provided, further, that no abatement shall be granted unless in the preceding year, such owner had a whole estate, real and personal, not in excess of twenty thousand dollars, or, if married, a combined estate not in excess of twenty-five thousand dollars, provided that real property occupied as his domicile shall not be included in computing the whole estate except for any portion of said property which produces income. In the case of real estate owned by a person jointly or as a tenant in common with a person not his spouse, the amount of his exemption under this clause shall be that proportion of the amount described in subsection (a) which the amount of his interest in the property bears to the whole value of the property; provided that no abatement shall be granted to any joint tenant or tenant in common unless the gross receipts from all sources whatsoever of each joint tenant or tenant in common is less than fifteen thousand dollars, or, if married, the combined gross receipts from all sources whatsoever of each joint tenant or tenant in common and his spouse is less than eighteen thousand dollars and unless the combined whole estate, real and personal, of each joint tenant or tenant in common is less that twenty thousand dollars or, if married, the combined whole estate, real and personal of each joint tenant in common with his spouse does not exceed twenty-five thousand dollars; and provided, further, that no proportion of the exemption shall be denied to any applicant otherwise qualified for the reason that another joint tenant or tenant in common receives a proportion of the total exemption. Notwithstanding any provision of this section, or any other general or special law to the contrary, this abatement shall be available in addition to any other abatement which a homeowner may receive.

SECTION 112. Said chapter 59 is hereby further amended by inserting after section 5H the following section:-

Section 5I. With respect to each parcel of real property classified as class three, commercial, in each city or town certified by the commissioner to be assessing all property at its full and fair cash valuation, and at the option of the board of selectmen or mayor, with the approval of the city council, as the case may be, there shall be an exemption equal to not more than ten percent of the value of the parcel; provided, however, that such exemption shall only apply to property that is occupied by a business that, at that location and all others combined, had an average annual employment of no more than ten during the previous calendar year as certified by the commissioner of the department of employment and training, and the assessed valuation of which is less than one million dollars. This exemption shall be in addition to any exemptions allowable under section five. The value of exemptions granted under this section shall be borne by the combined value of class three commercial property and class four industrial property.

SECTION 113. Section 21C of said chapter 59, as so appearing, is hereby amended by striking out, in line 163, the words "or (k)" and inserting in place thereof the following words:- , (k) or (n).

SECTION 114. Said section 21C of said chapter 59, as so appearing, is hereby amended by adding the following paragraph:-

(n) The local appropriating authority may, by accepting this paragraph, provide that taxes may thereafter be assessed in excess of the amount otherwise allowed by this section, solely for payment, in whole or in part, of water or sewer debt service charges, including debt service charges of an independent commission, authority or district and as part of any wholesale water and sewer charges, that the board or officer responsible for determining the water and sewer charges certifies were not in fiscal year nineteen hundred and ninety-three paid by local taxes; provided, however, that water and sewer charges shall be reduced by the amount of any such aggregate additional taxes assessed; and provided, further, that said additional taxes may be assessed on only residential real property as defined in section two A, notwithstanding the failure of the city or town to adopt a residential factor pursuant to section fifty-six of chapter forty, but subject to any subsequent adoption of such residential factor allowed by said section fifty-six; and provided, further, that if said additional taxes are assessed only on residential real property, aggregate residential water and sewer charges shall be reduced by the amount of any such additional taxes assessed. In the case of a city or town whose water and sewer service is provided by an independent commission, authority or district which separately bills water and sewer users, said commission, authority or district may enter into an agreement with said city or town to effectuate the purposes of this paragraph, provided, however, that immediately upon collection of all such taxes assessed for payment of such residential water and sewer debt service charges of such commission, authority or district, the treasurer or collector of taxes of such city or town shall, without appropriation by such city or town, pay over the taxes so collected to such commission, authority or district less any amounts agreed upon to provide reasonable compensation to the city or town for costs incurred in carrying out the agreement.

Notwithstanding the provisions of chapter twenty-nine C, chapter two hundred and seventy-five of the acts of nineteen hundred and eighty-nine, or any other general or special law to the contrary, any city or town which accepts this paragraph or any independent authority, commission or district which provides water or sewer services to such city or town shall remain eligible to receive loans and grants for water pollution abatement projects or safe drinking water projects.

SECTION 115. Said chapter 59, is hereby further amended by striking out section 25, as so appearing, 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 although the total taxes assessed as provided in section twenty-one C of this chapter may by such overlay be exceeded; provided, that only an amount not in excess of the average overlay for the three previous fiscal years may, in any city or town in which the local appropriating authority, as defined in subsection (a) of section twenty-one C, accepts the provisions of this section, be excluded from the provisions of section twenty-one C. 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 in whose assessment the overlay is raised. The amount of such overlay approved by the commissioner shall not 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 116. Section 59 of said chapter 59 is hereby amended by striking out, in line 45, the words "and Forty-third" and inserting in place thereof the words:- , Forty-third and Fifty-second.

SECTION 117. Section 23 of chapter 60, as so appearing, is hereby amended by adding the following paragraph:

Any proposed subdivision plans may not be recorded unless they are accompanied by a municipal lien certificate, indicating that all taxes, assessments and charges have been paid in full.

SECTION 118. The first paragraph of section 2A of chapter 60A of the General Laws, as so appearing, is hereby amended by inserting before the first sentence the following sentence:- Taxes shall be collected within six years after the assessment of the tax in accordance with section sixty-five of chapter sixty-two A.

SECTION 119. Said section 2A of said chapter 60A, as so appearing, is hereby amended by inserting after the word "time", the first time it appears, in line 14, the following

words:- after the service of warrant has been made, but not later than six years after the initial excise tax issuance was made.

SECTION 120. Said section 2A of said chapter 60A, as so appearing, is hereby further amended by inserting after the word "law", in line 34, the following words: ; provided, however, that the registrar shall not suspend the renewal of the licenses to operate a motor vehicle or the registration of said motor vehicle if the uncollected amount exceeds a period of six years from the assessment of the tax, in accordance with section sixty-five of chapter sixty-two A.

SECTION 121. The first paragraph of section 6D of chapter 62 of the General Laws, as so appearing, is hereby amended by adding the following two sentences:- At the beginning of each fiscal year, subject to appropriation, one dollar shall be credited from the General Fund to the Natural Heritage and Endangered Species Fund for each dollar contributed by the public in the prior fiscal year under the provisions of this section. The commissioner of the department of revenue shall certify to the state comptroller total revenues contributed to the Natural Heritage and Endangered Species Fund by individuals in the prior fiscal year.

SECTION 122. Section 37 of said chapter 62C of the General Laws, as so appearing, is hereby amended by inserting after the word "later", in line 8, the following words:- ; provided, however, that where the commissioner and the taxpayer have agreed to extend the period for assessment of a tax pursuant to section twenty-seven, the period for abatement or for abating such tax shall not expire prior to the expiration period within which an assessment may be made pursuant to such agreement or any extension thereof.

SECTION 123. Said chapter 62C is hereby further amended by inserting after section 83 the following section:-

Section 84. (a) Under regulations promulgated by the commissioner, if:

(i) a joint return has been made under this chapter for a taxable year,

(ii) on such return there is substantial understatement of tax attributable to grossly erroneous items of one spouse,

(iii) the other spouse establishes that in signing the return he or she did not know, and had no reason to know, that there was such substantial understatement, and

(iv) taking into account all facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax for such taxable year attributable to such substantial understatement, then the other spouse shall be relieved of liability for the tax, including interest, penalties and other amounts, for such taxable year to the extent such liability is attributable to such substantial understatement.

SECTION 124. The first paragraph of section 38L of chapter 63 of the General Laws, as so appearing, is hereby amended by adding the following two sentences:- At the beginning of each fiscal year, one dollar shall be credited from the General Fund to the Natural Heritage and Endangered Species Fund for each dollar contributed by corporations to the Natural Heritage and Endangered Species Fund in the prior fiscal year under the provisions of this section. The commissioner of the department of revenue shall certify to

the state comptroller total revenues contributed by the corporations in the prior fiscal year.

SECTION 125. Paragraph (h) of section 6 of chapter 64H of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following definition:-

"Honor snack tray", any vending arrangement in which only candy or snacks are available in an open tray for the benefit of employees in an establishment that normally does not sell food or food products and for which payment is made on the honor system.

SECTION 126. Said section 6 of said chapter 64H, as so appearing, is hereby further amended by inserting after the word "machine", in line 108, the following words:- or honor snack tray.

SECTION 127. The General Laws are hereby amended by inserting after chapter 64J the following chapter:-

Chapter 64K
Controlled Substances Tax

Section 1. For the purposes of this chapter the following words shall have the following meanings unless the context clearly requires otherwise:-

"Marihuana", marihuana, whether real or counterfeit, as defined in section one of chapter ninety-four C, that is held, possessed, transported, transferred, sold or offered for sale in violation of Massachusetts law.

"Controlled substance", drug or substance, whether real or counterfeit, as defined in section one of chapter ninety-four C, that is held, possessed, transported, transferred, sold or offered for sale in violation of Massachusetts law. For the purposes of this act, "Controlled substance" shall not include marihuana.

"Dealer", a person who, in violation of Massachusetts law, manufacturers, produces, ships, transports, or imports into the commonwealth or in any manner acquires or possesses more than forty grams of marihuana, or seven or more grams of a controlled substance, or ten or more dosage units of a controlled substance which is not sold by weight. A quantity of marihuana or controlled substance is measured by the weight of the substance whether pure or impure or dilute, or by dosage units when the substance is not sold by weight, in the dealer's possession. A quantity of a controlled substance is dilute if it consists of a detectable quantity of pure controlled substance and any excipients or fillers.

"Commissioner", the commissioner of the department of revenue.

Section 2. The commissioner shall be responsible for the enforcement of the provisions of this chapter. Payments required pursuant to this chapter must be made to said commissioner on the form provided by said commissioner. Dealers shall not be required to give their name, address, social security number or other identifying information on such form. Said commissioner shall collect all taxes due under this chapter.

Section 3. The commissioner may adopt rules and regulations necessary to enforce the provisions of this chapter. Said commissioner shall adopt a uniform system of providing,

affixing, and displaying official stamps, labels, or other indicia for marihuana and controlled substances on which a tax shall be imposed.

Section 4. No dealer shall possess any marihuana or controlled substance upon which a tax is imposed by section eight unless the tax has been paid on the marihuana or controlled substance as evidenced by a stamp or other official indicia.

Section 5. Nothing in this chapter shall be construed to provide immunity for a dealer from criminal prosecution pursuant to Massachusetts law.

Section 6. Nothing in this chapter shall be construed to require persons lawfully in possession of marihuana or a controlled substance to pay the tax required pursuant to this chapter.

Section 7. For the purposes of calculating the tax due under section eight, a quantity of marihuana or controlled substances shall be measured by the weight of the substance whether pure or impure or dilute, or by dosage units when the substance is not sold by weight, in the dealer's possession. A quantity of a controlled substance is dilute if it consists of a detectable quantity of pure controlled substance and any excipients or fillers.

Section 8. A tax shall be imposed on marihuana and controlled substances as defined in section one at the following rates:-

(1) on each gram of marihuana, or each portion of a gram, three dollars and fifty cents; and

(2) on each gram of controlled substance, or portion of a gram, two hundred dollars; or

(3) on each fifty dosage units of a controlled substance that is not sold by weight, or a portion thereof, two thousand dollars.

Section 9. Any dealer violating the provision of this chapter shall subject to a penalty of one hundred percent of the tax in addition to the tax imposed by section eight. Such penalty shall be collected as part of the tax.

In addition to the tax penalty imposed, a dealer convicted of distributing or possessing marihuana or controlled substances without affixing the appropriate official stamps, labels, or other indicia shall be punished by imprisonment for not more than five years or a fine of not more than ten thousand dollars, or both.

Section 10. Official stamps, labels, or other indicia to be affixed to all marihuana or controlled substances shall be purchased from the commissioner. The purchaser shall pay one hundred percent of face value for each official stamp, label, or other indicia at the time of such purchase.

Section 11. When a dealer purchases, acquires, transports, or imports into the Commonwealth marihuana or controlled substances on which a tax is imposed by section eight and, if the indicia evidencing the payment of the tax has not already been affixed thereto, the dealer shall have them permanently affixed on the marihuana or controlled substance immediately after receiving such marihuana or controlled substance. Each stamp or other official indicia shall be used only once.

Taxes imposed upon marihuana or controlled substances by this chapter are due and payable immediately upon acquisition or possession in the Commonwealth by a dealer.

Section 12. An assessment for a dealer not possessing valid stamps or other official indicia showing that the tax has been paid shall be considered a jeopardy assessment or collection. The commissioner shall assess a tax and applicable penalties based on personal knowledge or information available to the commissioner. Said commissioner shall mail to the taxpayer at the taxpayer's last known address or serve, in hand, a written notice of the amount of tax and penalty due and shall demand its immediate payment and, if such payment is not immediately made, shall collect the tax and penalty by any method available under law.

No person may bring an action to enjoin the assessment or collection of any taxes, interest or penalties imposed pursuant to this chapter.

The taxes and penalties assessed by the commissioner are presumed to be valid and correctly determined and assessed. The burden shall be upon the taxpayer to demonstrate that such tax or penalty has been incorrectly or invalidly assessed. A statement filed by the commissioner with the court administrator, or other certificate by the commissioner of the amount of tax and penalties determined or assessed shall be admissible as evidence and shall be prima facie evidence of the facts contained therein.

Section 13. Notwithstanding the provisions of any general or special law to the contrary, neither the commissioner nor a public employee shall be authorized to reveal facts contained in a report or return required by this chapter or any information obtained from a dealer; nor can any such information contained in such a report or return or otherwise obtained from a dealer be used against such dealer in criminal proceeding, unless such information was independently obtained, except in connection with a proceeding involving taxes due under this chapter from the dealer making such return.

Any person violating the provisions of this section shall be guilty of a misdemeanor.

Nothing in this section shall be construed to prohibit the commissioner from publishing statistics that do not disclose the identity of dealers or the contents of particular returns or reports.

Section 14. For the purpose of determining the correctness of any return or determining the amount of tax that should have been paid or determining whether or not the dealer should have made a return or paid taxes or for collecting any taxes due under this chapter, the commissioner may examine, or cause to be examined, any books, papers, records or memoranda that may be relevant to making such determinations or collections, whether the books, papers, records or memoranda are the property of or are in the possession of the dealer or another person. Said commissioner may require the attendance of any person having knowledge or information that may be relevant and may compel the production of books, papers, records, or memoranda by persons required to attend and may take testimony on matters material to the determination, and administer oaths or affirmations. Upon demand of the commissioner or an examiner or investigator, a clerk of

court shall issue subpoenas for the attendance of a witnesses or the production of books, papers, records and memoranda. The commissioner may also issue subpoenas. Failure to obey a subpoena issued by a district court under this chapter shall be punishable in the district court of the district in which such subpoena is issued, or if the subpoena is issued by the commissioner, such failure to obey a subpoena shall be punishable in the district court of the district in which the party served with the subpoena is located, in the same manner in which a contempt is punishable in a district court.

SECTION 128. Section 2 of chapter 70 of the General Laws, as appearing in section 32 of chapter 71 of the acts of 1993, is hereby amended by striking out the definition of "Base aid" and inserting in place thereof the following definition:-

"Base aid", in any fiscal year, the total of base aid, minimum aid and foundation aid of the previous fiscal year. In fiscal year nineteen hundred and ninety-four, base aid shall be state school aid in fiscal year nineteen hundred and ninety-three; provided, however, that the amount of aid deemed to have been distributed in fiscal year nineteen hundred and ninety-three pursuant to section sixteen D of chapter seventy-one shall be adjusted to equal the amount that would have been distributed in fiscal year nineteen hundred and ninety-four in accordance with paragraph (e) of section sixteen D of said chapter seventy-one but for the provisions of this chapter and paragraph (f) of said section sixteen D of chapter seventy-one; and provided, further, that, for any district in which net school spending is less than the foundation budget in determining base aid in the current fiscal year, the base aid amount of the previous fiscal year shall be adjusted by adding any amount that will be deducted in the current fiscal year pursuant to the provisions of section twelve B of chapter seventy-six for students that applied and were accepted at receiving districts during the prior fiscal year; provided, however, that the students identified in subsection (m) of said section twelve B, shall be deemed for the purposes of this calculation to have been accepted at receiving districts during fiscal year nineteen hundred and ninety-three.

SECTION 129. Chapter 74 of the General Laws is hereby amended by inserting after section 7B the following section:-

Section 7C. Notwithstanding the provisions of section twenty-seven C of chapter twenty-nine, or of any other general or special law to the contrary, a town where a person resides who is admitted to the school of another town under section seven shall pay a tuition fee to be fixed by the commissioner under the direction of the state board, and in default of payment shall be liable therefor in contract to such other town. If an approved vocational school established by a regional school district or a public independent vocational school accepts a student who resides in a town, other than a member town of said district, which does not maintain such a vocational school, the town in which such student resides shall pay a tuition fee to be fixed by the regional district school committee or by the board of trustees of a public independent vocational school and approved by the commissioner under the direction of the state board; provided, however, that a town shall not be required to pay any portion of the tuition of any student residing therein who is enrolled in a post-secondary vocational program.

Tuition shall be paid in two equal installments in each school year of attendance, one in January and one in June, or on a pro-rated monthly basis if a nonresident student fails to apply for his first year of admission on or before April first of the preceding school year. The commissioner may direct that the resident community's tuition payment for said first year be paid in full in July of the fiscal year after the student completes his first year of nonresident attendance including the penalties that the commissioner may determine.

No tuition shall be payable under this section with respect to a student who has satisfactorily complete the twelfth grade or courses equivalent thereto and whose personal income exceeds eighteen thousand dollars, said amount to be adjusted periodically as recommended by the commissioner of education.

SECTION 130. The second sentence of section 37C of said chapter 74, as so appearing, is hereby amended by inserting after the word "preparation", in line 7, the following word:- , age.

SECTION 131. Chapter 75 of the General Laws is hereby amended by inserting after section 36B the following section:-

Section 36C. (a) The trustees are hereby authorized to acquire by purchase or otherwise affiliate with, or operate physicians practices, satellite clinics, ambulatory care centers, mental health programs or facilities, health care facilities, outpatient diagnostic or treatment centers, home health care programs, long-term care facilities, rehabilitation facilities, laboratories, fitness centers, and similar health care or related programs or facilities, provided such transactions are determined by said trustees to be in the best interests of the teaching hospital or to further the educational and research mission of the medical school. If such transactions require, as incidental to them, the acquisition of an interest in real property by purchase, lease, lease-purchase or otherwise, said real property shall be considered unique for the purposes of section forty H of chapter seven, and such acquisition shall be within the exemption provided in paragraph (b).

(b) No such transaction shall be undertaken unless it is first approved by the secretary of administration and finance, subject to such conditions as the secretary may deem appropriate. At least thirty days prior to entering into any binding agreement for such transaction, the trustees shall file a statement with the secretary of administration and finance, the secretary of education and the secretary of health and human services containing such information regarding the proposed transaction as the secretary of administration shall require. Any such proposed transaction that is approved pursuant to this paragraph, or deemed to have been approved pursuant to paragraph (c) shall be exempt from any other general or special law or regulation applicable to state agencies alone.

(c) If the secretary of administration and finance fails to send the trustees a written notice disapproving the proposed transaction stating the reasons for such disapproval within thirty days after the receipt of the trustees' statement, the proposed transaction shall be deemed to have been approved. The trustees may take such actions as they deem appropriate to cure any problems identified by said secretary and resubmit such proposals.

(d) The trustees shall cause to be filed with the secretary of administration and finance, the secretary of education and the secretary of health and human services a copy of the operating budget of the university teaching hospital and all monthly financial statements summarizing activity within the hospital trust fund. The secretary of health and human services, or his designee, shall serve as a member of the hospital management board. Notice and minutes of all meetings of said board shall be sent to the secretary of administration and finance, the secretary of education and the secretary of health and human services on a timely basis.

SECTION 132. Chapter 75 of the General Laws is hereby amended by adding the following section:-

Section 38. (a) There shall be a National Pollution Control Technology Research and Development Institute, hereinafter referred to as the Institute, at a University of Massachusetts campus which has accredited programs in engineering and public health.

(b) The purposes and responsibilities of the Institute shall be to:

(1) Engage in research, development, and demonstration of pollution control technologies and waste minimization methods that may be utilized by business and industry, including but not limited to new or modified equipment or technology, new or modified processes or procedures, and reformulation or redesign of products.

(2) Provide information regarding the availability and effectiveness of pollution control technologies and waste minimization methods to business and industry, through courses, seminars, conferences, and other events, and reports, updates, guides, and other publications, and other appropriate means of disseminating such information.

(3) Provide consulting services and technical assistance to small businesses and others with respect to the development and utilization of pollution control technologies and waste minimization methods, through such means and methods, including but not limited to use of the small business development center at the university, as may be requested and/or specified by the recipients of such services and assistance.

(c) The general court may annually appropriate such sums as it deems necessary for the maintenance, operation, and support of the institute. The institute may receive grants from public and private sources to carry out its activities and may impose fees, tuitions, and other financial charges for its programs, publications, and services. All monies appropriated to the Institute or received by the Institute through grants, gifts, bequests, or contracts shall be administered for the Institute by the trustees of the university pursuant to section eleven of this chapter.

(d) The Institute may enter into contracts with corporations, foundations, other entities, and individuals concerning the conduct of work within the scope of its purposes and responsibilities, as well as concerning inventions, discoveries, research, or other work product, including patents, trademarks, copyrights, trade secrets and any other intellectual property, developed in connection with its work.

(e) There shall be a Pollution control technology advisory board associated with the Institute consisting of eleven members appointed by the governor. Two of such members shall be appointed from a list of names submitted by the secretary of the executive office of economic affairs, two of such members shall be appointed from a list of names submitted by the secretary of the executive office of environmental affairs, one of such members shall be appointed from a list of names submitted by the president of the senate, one of such members shall be appointed from a list of names submitted by the speaker of the house, one of such members shall be appointed from a list of names submitted by the director of the Institute, two of such members shall be appointed from a list of names submitted by the Massachusetts Chemical Technology Alliance, and two of such members shall be members of the general public. Each member of the board shall be appointed for a term of three years, provided that of the initial appointees to the board, four shall serve for an initial term of one year, four shall serve for an initial term of two years, and three shall serve for an initial term of three years. Each member shall serve for the term of his appointment and until his successor has been appointed, and any vacancy in the membership occurring other than by expiration of a term shall be filled in the same manner as the original appointment for the balance of the unexpired term. No member shall serve for more than two consecutive terms. Each member must have appropriate academic or professional experience. All members shall serve without compensation.

(f) The institute shall be headed by a director. The institute shall work in cooperation with other programs, faculty, staff, and students of the university. The director of the Institute shall consult with the advisory board on issues relating to the programs, objectives, and operations of the Institute.

(g) The university may adopt, and from time to time may amend or repeal, after consultation with the director of the institute, rules and regulations which they deem necessary to govern the programs and operations of the institute.

SECTION 133. Subsection (h) of section twelve B of chapter seventy-six of the General Laws, shall be effective as of July first, nineteen hundred and ninety-three.

SECTION 134. Section 19 of chapter 78 of the General Laws, as so appearing, is hereby amended by inserting after the third sentence the following sentence:- The board shall cooperate with the Library of Congress or its successors relative to the administration of the program of talking books and may expend such state, federal or other funds as are available for such purpose.

SECTION 135. Section 8A of chapter 79 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out in line 16 the words "at the rate of ten percent per annum" and inserting in place thereof the words:- at the rate calculated pursuant to the provisions of section thirty-seven.

SECTION 136. Section 37 of said chapter 79, as so appearing, is hereby amended by striking out, in lines 2 and 9, the words:- "of ten percent per annum" and inserting in place thereof, in each instance, the words:- calculated pursuant to the provisions of this section.

SECTION 137. Said section 37 of said chapter 79, as so appearing, is hereby further amended by adding the following two paragraphs:-

Interest required to be paid under this chapter shall be at an annual rate equal to the coupon issue yield equivalent, as determined by the United States Secretary of the Treasury, of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately before the date of taking; provided, however, that such interest shall not exceed the rate of ten percent per annum.

The secretary of administration and finance shall maintain a schedule of the rates described herein for distribution, upon request, to all clerks of courts and all board of officers upon whom authority to take real estate by eminent domain under this chapter on behalf of any body politic or corporate that has been conferred by law.

SECTION 138. Section 39 of said chapter 79, as so appearing, is hereby amended by striking out in line 15 the words "of ten percent per annum" and inserting in place thereof the words:- calculated pursuant to the provisions of section thirty-seven.

SECTION 139. The eighth paragraph of section 2 of chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following three sentences:- The registrar shall make available to the owners of private passenger motor vehicles registered in the counties of Barnstable, Dukes, or Nantucket, distinctive number plates which shall display on the face of said plate a design representing the Cape and Islands. This design shall consist of a gray and white seagull above a gray colored codfish below which sprigs of cranberries surround in a semi-circular manner a blue field in the shape of a scallop in which Barnstable, Dukes, and Nantucket counties are shown in gold, below all of which shall be a gold ribbon with the words "Cape Cod & Islands" emblazoned within. There shall be a twenty-five dollar fee for said plate in addition to the established registration fee for passenger motor vehicles; the portion of said fee remaining after the deduction of costs directly attributable to issuing said plate shall be transferred to the county commissioners of each county proportional to the sale of plates to vehicles registered in that county; provided, however, that fifty percent of the proceeds to each county shall be used to promote tourism, and fifty percent shall go to a county economic development group as determined by the county commissioners; provided, further, that in the case of Barnstable county, said county economic development group shall be the Cape Cod economic development council.

SECTION 140. The second paragraph of subparagraph (1) of paragraph (2) of subdivision (1) of section 24 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the words "286 of c. 138 of the acts of 1991" and inserting in place thereof the following words:- seventy-one of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two.

SECTION 141. Section 34 of said chapter 90 is hereby amended by adding the following paragraph:-

Revenues credited to the Highway Fund shall not be transferred to any other fund of the commonwealth for any purpose.

SECTION 142. Section 27 of chapter 94C of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(f) Notwithstanding any general or special law to the contrary, needles and syringes may be distributed or possessed as part of a pilot program approved by the department of public health in accordance with section two hundred and fifteen of chapter one hundred and eleven and any such distribution or exchange of said needles or syringes shall not be a crime.

The department of public health shall ensure that individuals participating in a pilot needle exchange program will be encouraged to seek and will be placed in contact with substance abuse treatment and health care.

SECTION 143. The third paragraph in subsection (d) of section 47 of chapter 94C of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The district attorney or attorney general shall expend at least ten percent of the monies and proceeds for drug rehabilitation, drug education and other anti-drug or neighborhood crime watch programs which further law enforcement purposes.

SECTION 144. Said third paragraph of said subsection (d) of said section 47 of said chapter 94C, as so appearing, is hereby further amended by striking out the last sentence and inserting in place thereof the following two sentences:- Within ninety days of the close of fiscal year nineteen hundred and ninety-three and on each January fifteenth thereafter, each district attorney and the attorney general shall file a detailed report with the house and senate committees on ways and means on the deposit and expenditure of all monies in the trust fund including, but not limited to, the use of such monies for the purposes of protracted investigations, provision of technical equipment, drug rehabilitation, drug education, and other anti-drug or neighborhood crime watch programs. Reports filed with said committees annually on January fifteenth shall detail said deposit and expenditure of all monies for the preceding fiscal year and the current fiscal year through December thirty-first.

SECTION 145. The fourth paragraph in said subsection (d) of said section 47 of said chapter 94C, as so appearing, is hereby amended by adding the following sentence:- Within ninety days of the close of fiscal year nineteen hundred and ninety-three and on each January fifteenth thereafter, each chief of police of such city or town shall file a detailed report with the division of local services of the department of revenue on the deposit and expenditure of all monies in the special law enforcement trust fund including, but not limited to, the use of such monies for the purposes of protracted investigations, provision of technical equipment, drug education, and other anti-drug or neighborhood crime watch programs or other law enforcement purposes as the chief of police of such city or town, or the colonel of state police deems appropriate.

SECTION 146. Section 70E of chapter 111 of the General Laws, as so appearing, is hereby amended by inserting after the sixth paragraph the following paragraph:-

Except in cases of emergency surgery, at least ten days before a physician operates on a patient to insert a breast implant, the physician shall inform the patient of the disadvantages and risks associated with breast implantation. The information shall include,

but not be limited to, the standardized written summary provided by the department. The patient shall sign a statement provided by the department acknowledging the receipt of said standardized written summary. Nothing herein shall be construed as causing any liability of the department due to any action or omission by said department relative to the information provided pursuant to this paragraph. The department of public health shall:

(1) develop a standardized written summary, as set forth in this paragraph in layman's language that discloses side effects, warnings, and cautions for a breast implantation operation within three months of the date of enactment of this act;

(2) update as necessary the standardized written summary;

(3) distribute the standardized written summary to each hospital, clinic, and physician's office and any other facility that performs breast implants; and

(4) provide the physician inserting the breast implant with a statement to be signed by the patient acknowledging receipt of the standardized written summary.

SECTION 147. Section 150A of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out the fifteenth paragraph and inserting in place thereof the following paragraph:-

The department shall allow any unlined landfill, owned or operated by a municipality or a solid waste district, to continue accepting refuse in compliance with existing approvals after January first, nineteen hundred and ninety-four; provided, that said municipality or district files a statement of intent with the department on or before August fifteenth, nineteen hundred and ninety-three, as to its intent to continue in operation after January first, nineteen hundred and ninety-four; provided further, that any landfill for which a statement of intent has been submitted shall operate in accordance with applicable federal and state statutes, regulations, existing approvals, and provisions included herein. For purposes of this paragraph, the term "existing approval" shall include any permit, site assignment, plan approval, condition of operation, or any other applicable order or rule governing the operations of a landfill issued or granted by a municipality, the department, or any other agency of the commonwealth, or for which an application was pending as of May first, nineteen hundred and ninety-three, when granted in accordance with applicable regulations; provided, that no such application shall be denied arbitrarily and capriciously. Any municipality or district which does not file such a statement of intent shall cease accepting refuse no later than January first, nineteen hundred and ninety-four, and shall commence closure of the landfill under its control subject to the approval of the department in accordance with regulations promulgated by the department. On or before October first, nineteen hundred and ninety-three, the department shall compile and publish a list of all landfills for which a statement of intent has been filed and classify separately, as supported by scientific data, those landfills which pose a significant threat to the public health, safety, or the environment, those landfills which pose a potential threat, and those landfills for which current scientific data demonstrate little or no present discernible threat or for which current data is inconclusive. In classifying landfills, the department shall utilize all available

scientific data, including, without limitation, any scientific data submitted by the municipality or the district and any additional scientific data generated by the department relative to an assessment of the actual or potential migration of leachate or other contaminants off the site of the landfill. The department shall publish the list and accept public comment on said list. The department shall, if requested by November first, nineteen hundred and ninety-three, by the chief executive officer of a municipality or a district with a landfill on the list, participate in a public meeting in the municipality or district to be scheduled at mutual convenience within sixty days of such request. By February first, nineteen hundred and ninety-four, the department shall issue a final revised list taking into account any additional information generated or received through the comment and meeting process. The department shall work in conjunction with a municipality or a district to establish a schedule for the municipality or district to commence and complete closure of the landfill, considering the risks posed by the landfill and the fiscal capacity of the municipality or district to be incorporated in a consent order. If an agreement is not reached, the department may order any landfill which is classified as a significant threat to public health, safety or the environment to cease operations and commence closure, or take such other action as the department deems necessary; provided, that the municipality or district may request an adjudicatory hearing on such order pursuant to chapter thirty A. A municipality or district operating a landfill classified by the department as a potential threat shall no later than July first, nineteen hundred and ninety-four, install a groundwater monitoring system approved by the department, and shall report the results of such monitoring to the department no more than quarterly thereafter. A municipality or district operating a landfill for which the department has determined little or no present discernible threat exists or for which current data is inconclusive shall no later than January first, nineteen hundred and ninety-five, install a groundwater monitoring system approved by the department, and shall report the results of such monitoring to the department no more than quarterly thereafter. It shall be a violation of this section to falsify or falsely report any monitoring results. If the results of such groundwater monitoring or other site specific assessment indicate that a landfill does pose a threat to public health, safety or environment, the department shall work in conjunction with a municipality or a district to establish a schedule for the municipality or district to commence and complete closure of the landfill, considering the risks posed by the landfill and the fiscal capacity of the municipality or district to be incorporated in a consent order. If an agreement is not reached, the department may order the municipality or district to cease operations and commence closure, or to take such other action as the department deems necessary; provided, that the municipality or district may request an adjudicatory hearing on such order pursuant to chapter thirty A. Nothing in this paragraph shall preclude the department from acting to address violations of this section, chapter twenty-one E or the regulations promulgated thereunder.

SECTION 148. Chapter 111 of the General Laws is hereby amended by adding the following section:-

Section 215. The department of public health is hereby authorized to promulgate rules and regulations for the implementation of a pilot program for the exchange of needles in cities and towns within the commonwealth upon nomination by the department. Local approval shall be obtained prior to implementation of the pilot program in any city or town.

Not later than one year after the implementation of said pilot program said department shall report the results of said program and any recommendations by filing the same with the joint legislative committees on health care and public safety.

SECTION 149. Section 88 of chapter 112 of the General Laws, as so appearing, is hereby amended by inserting after the word "information" in lines 8 and 9 the following words:- , including, but not limited any modifications of pertinent laws, rules or regulations that would have an impact on the licensee.

SECTION 150. Section 1 of chapter 117A of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the word "may" and inserting in place thereof the following word:- shall.

SECTION 151. Chapter 118 of the General Laws, is hereby amended by inserting after section 1 the following two sections:-

Section 1A. (a) For purposes of this section the following words shall have the following meanings:-

(i) "TEMP", a program of Transitional Employment for Massachusetts Parents. TEMP shall consist of participation in placements approved by the department, for which a recipient may, or may not, be compensated.

(b) No adult receiving benefits under this chapter shall receive any such benefits for more than two years, unless said adult:

(i) works at least twenty hours per month in a job for which compensation is paid; or

(ii) participates actively in a program of education or training recognized by the department; or

(iii) participates at least twenty hours per week in a placement in TEMP unless exempt under the provisions.

An adult shall be considered to have received benefits for two years when benefits have been paid on his/her behalf for any twenty-four calendar months since January first, nineteen hundred and ninety-two, whether or not said months are consecutive; provided, that for the purposes of this paragraph, a month shall be any part of a calendar month for which the adult was paid a benefit.

(c) Notwithstanding the receipt of benefits for two years, an adult shall be exempt from participating in TEMP only if said adult is (i) unable to work because of a medical disability, as defined by the regulations of the department; or (ii) caring for a disabled person, in accordance with regulations of the department; or (iii) the parent of a child who is under the age at which full-time school attendance is mandatory in the city or town in which the child resides; or (iv) in need of child care and such care is not available, provided

the department may require participation in TEMP during the school hours of any school-aged child.

(d) Attendance in a program of post-secondary education not beyond the baccalaureate level and recognized by the department shall be considered participation in an education or training program, provided the adult is taking the number of credit hours needed to ensure graduation from either a four-year program within six years or a two-year program within three and one half years, and, provided further, the adult has maintained a grade-point- average of a least 2.0 in a scale of 4.0, or its equivalent. The state university, several state colleges, and several community colleges, are individually authorized and directed to enter interagency service agreements with the department to provide necessary child care services to those recipients of assistance under this chapter who are attending college as part of an education and training program as described in this section. Said interagency service agreements shall ensure that each institution of higher education shall provide, to the extent feasible, on-site child care at a level sufficient to ensure child care for those recipients attending the individual institutions, and shall further provide that facilities used for child care serve as employers under the TEMP program.

(e) If the adult fails to adhere to obligations concerning participation in TEMP, the department shall reduce the grant by the amount attributable to adult family members. Provided however, that the department has implemented and maintained the programs described in paragraph (b), clauses (ii) (iii).

Section 1B. (a) The department shall conduct a welfare-employment demonstration project, called "Families in Transition" (FIT) to test the effectiveness of measures designed to increase the percentage of families receiving aid under this chapter that obtain paid employment, obtain child support, and support themselves without cash assistance under this chapter.

(b) (1) The FIT demonstration shall be conducted at a minimum of two welfare service offices, including one office serving an area which is primarily urban. (2) All recipients of aid to families with dependent children at least one of the demonstration sites will be given the opportunity to participate in FIT and a control group will be identified from a comparable welfare service office. (3) Recipients of aid to families with dependent children at other demonstration sites will be given the opportunity to participate in FIT unless they have been assigned to a control group consisting of not more than twenty-five percent of the recipients of cash benefits under this chapter in that service office.

(c) Persons who participate in FIT shall be ineligible for cash aid to families with dependent children as long as they participate in FIT, but shall be eligible for the same Medicaid and child care services as recipients of cash benefits under this chapter.

(d) (1) The duration of the demonstration shall be not less than three nor more than five years. (2) No family shall be eligible for FIT benefits once the demonstration project ends, unless the FIT program is extended by subsequent legislation.

(e) The maximum FIT monthly cash benefits shall be ninety dollars less than the maximum aid to families with dependent children benefit for a family of the same size and living arrangement.

(f) (1) Gross earnings shall be counted against the maximum "FIT" cash benefit in determining the amount of such benefit, after deducting one dollar for every ten dollars in gross earnings up to the federal poverty level, and three dollars for every ten dollars in gross earnings above one percent of the federal poverty level but not above one hundred fifty percent of the federal poverty level. (2) No other deductions from earnings shall be permitted for FIT participants.

(g) FIT participants shall be permitted to own one non-luxury vehicle as defined by department regulations and to accrue assets up to four thousand dollars.

(h) The first one hundred fifty dollars in current child support per month paid on behalf of children of FIT participants shall be passed through to the family and shall not be counted in determining eligibility for FIT benefits.

(i) The department of revenue shall give priority to requests for child support enforcement services from FIT participants.

(j) The noncustodial parents of children of FIT participants shall be eligible for education and job training through the MassJOBS program operated by the department.

(k) FIT participants who are employed, who have in their care a dependent child, who lose their eligibility for cash FIT benefits because of earnings from employment, and who received benefits under this chapter in at least three of the six months preceding the month of cash benefits termination shall be eligible for subsidized child care provided that they meet the financial eligibility criteria for such subsidized care and contribute to the cost of such care is accordance with the sliding scale formula established by the department for transitional child care for former recipients of aid to families with dependent children.

(l) FIT participants who are employed, who have in their care a dependent child, who lose eligibility for cash FIT benefits under this chapter in at least three of the six months preceding the month of cash benefits termination shall be eligible for four six-month extensions of medicaid benefits in addition to those provided former recipients of aid to families with dependent children, provided that the family received medicaid during the six-month period preceding the extension and provided that the family meets the financial requirements and complies with reporting requirements set forth in department regulations for extended Medicaid for former recipients of aid to families with dependent children.

(m) FIT participants shall be permanently disqualified from FIT benefits if any family member intentionally commits fraud while in the FIT program as determined by any process permitted for intentional program violations in the food stamp program.

(n) Except as otherwise provided in this section, FIT participants shall be subject to all rules governing recipients of benefits under this chapter.

SECTION 152. Section 2 of chapter 118 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 4, the words "resides in the

commonwealth" and inserting in place thereof the following words:- has resided in the commonwealth for at least ninety consecutive days immediately prior to the making of an application for aid under this chapter.

SECTION 153. Section 3 of said chapter 118, as so appearing, is hereby amended by inserting after the word "to", in line 25, the following words:- thirty days after.

SECTION 154. Said section 3 of said chapter 118, as so appearing, is hereby further amended by striking out, in lines 36 and 37 the words "attending high school or is of high school age" and inserting in place thereof the following words:- at least six years of age.

SECTION 155. Said section 3 of said chapter 118, as so appearing, is hereby further amended by striking out, in line 52, the words "high school" and inserting in place thereof the following words:- six years of.

SECTION 156. Said section 3 of said chapter 118, as so appearing, is hereby further amended by striking out the last sentence."

SECTION 157. Chapter 118F of the General Laws is hereby amended by inserting after section 17A the following section:-

Section 17B. There is hereby established a managed care program of uninsured primary and preventative health care services for the benefit of dependent and adopted youths from age six through age twelve. Said program shall be administered by the department which shall have authority to promulgate regulations for the implementation of the requirements established by this section. Said program shall be funded by appropriations from the health protection fund established pursuant to section two T of chapter twenty-nine.

Health care services made available under said program shall include the following:-

(1) Preventative pediatric care in a participating doctor's office, community health center, health maintenance organization or school-based clinic, including not less than one well-child visit a year, immunizations, tuberculin testing, hematocrit, hemoglobin and other appropriate blood testing, urinalysis, and routine tests to screen for lead poisoning; provided, that services provided by a participating independent laboratory for diagnostic laboratory tests shall be reimbursed by said program;

(2) Unlimited sick visits in a participating doctor's office, community health center, health maintenance organization, school-based clinic or a patient's home;

(3) Emergency care in the outpatient department or emergency room of a participating hospital of up to one thousand dollars per year, including related laboratory and diagnostic radiology services and the professional radiological component for the prompt treatment of an accidental injury, including fractures, dislocations and burns, or a medical emergency;

(4) First-aid treatment and follow up care, including the changing or removal of casts, burn dressings or sutures, in a participating doctor's office, community health center, health maintenance organization or school-based clinic;

(5) Outpatient surgery and anesthesia for inguinal hernia and ear tubes, but not including the professional component for related radiology or pathology services;

(6) Medically necessary outpatient mental health services not to exceed twenty-six visits per year;

(7) Prescription drugs up to one hundred dollars per year, provided that program enrollees shall be charged a copayment of three dollars for each interchangeable drug prescription and four dollars for each brand-name drug prescription, except as provided herein;

(8) Mandatory enrollment of program enrollees in a smoking education program certified for participation by the department in consultation with the department of public health.

Said program shall include cost containment measures to ensure that only medically necessary services are rendered to program enrollees. Said program shall incorporate eligibility standards 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 program costs; persons with gross family incomes exceeding one hundred and thirty-three percent level through two hundred percent of the federal poverty level, inclusive, shall be responsible for copayments; persons with gross family incomes exceeding two hundred percent through four hundred percent of the federal poverty level, inclusive, shall be responsible for the first forty percent of premium costs; and persons with gross family incomes exceeding four hundred percent of the poverty level shall be responsible for the full premium cost of said program. Copayments established for said program shall be based on a sliding scale established by the department. Premiums, sliding fees or other revenues generated by said program shall be deposited in the General Fund and made available to said program subject to appropriation.

The department shall promulgate regulations necessary to implement the requirements of this section in consultation with the department of public health and the division of medical administration within the executive office of health and human services. The department shall further cooperate with the said division to maximize federal reimbursements made on behalf of enrollees in said program, including federal financial participation made available under Title XIX of the Social Security Act.

SECTION 158. Section 55 of chapter 119 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "child", in line 9, the second time it appears, the following words:- and why it is not in such child's best interest that he be removed from his home and whether reasonable efforts were made to prevent or eliminate the need for removal from his home.

SECTION 159. Section 58 of said chapter 119, as so appearing, is hereby amended by adding the following paragraph:-

Whenever a court of competent jurisdiction adjudicates a child as delinquent and commits the child to the department of youth services, the court, in order to comply with the requirements contained in the federal Adoption Assistance and Child Welfare Act of 1980 and any amendments thereto, shall receive evidence in order to determine whether continuation of the child in his home is contrary to his best interest, and whether reasonable

efforts were made prior to the commitment of the child to the department, to prevent or eliminate the need for removal from his home; or whether an emergency situation existed making such efforts impossible. No such determination shall be made unless the parent or guardian of the delinquent shall have been summoned before the court and, if present, given an opportunity to be heard. The court, in its discretion, may make its determinations concerning said best interest and reasonable efforts in written form, but in the absence of a written determination to the contrary, it shall be presumed that the court did find that continuation of the child in his home was contrary to his best interest and that reasonable efforts to prevent or eliminate the need for removal of the child from his home did occur. Nothing in this section shall diminish the department's responsibility to prevent delinquent acts and to protect the public safety.

SECTION 160. Section 84 of said chapter 119, as so appearing, is hereby amended by inserting after the word "welfare", in line 26, the following words:- and best interest,- and by inserting after the word "training", in line 27, the following words:- , and said court also finds that reasonable efforts were made to prevent or eliminate the need for the defendant's removal from his home or that an emergency situation made such efforts impossible.

SECTION 161. Section 5 of chapter 120 of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(e) Within eighteen months of the original commitment of a child to the department by a court of competent jurisdiction, and periodically thereafter, the committing court shall reconvene upon petition of the department, in accordance with rules established by the chief administrative judge of the trial court, to determine the future status of the child as to whether or not it is in the child's best interests to be returned to his home. All such determinations shall indicate whether, after the departmental placement of the child, reasonable efforts were made to make it possible for the child to return to his home.

SECTION 162. Section 39 of chapter 121B of the General Laws, as so appearing, is hereby amended by inserting in line 6 after the word "chapter" the following words:- provided, however, that the secretary of communities and development shall issue regulations requiring that in any state-funded project which contains units for both elderly persons of low income and handicapped persons of low income, the number of units occupied by non-elderly persons shall not exceed ten percent of the total number of units; provided, further, that the secretary shall develop and implement said regulations in a manner consistent with relevant federal laws.

SECTION 163. Section 10 of chapter 132B of the General Laws, as so appearing, is hereby amended by inserting after the word "applicator", in line 12, the following words:- provided, however, that the department shall require that all persons who are applicators of pesticides in public and private places used for human occupation and habitation, except residential properties with three or less dwelling units, shall be so licensed or certified with such special designation.

SECTION 164. Section 84 of chapter 146 of the General Laws is hereby amended by adding the following paragraph:-

For the enforcement of the provisions of this section, members of the bureau may enter places of employment, make investigations and have access to all records pertaining to, or necessary for ascertaining, the license-status of master pipefitters, and those engaged to work as journeymen or apprentice pipefitters, refrigeration technicians, fire protection sprinkler system contractors or as sprinkler fitters.

SECTION 165. Section 148B of said chapter 149, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 1, the word "section" and inserting in place thereof the following word:- chapter.

SECTION 166. Section 1 of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out the definitions of "Assistant commissioner" and "Associate commissioners."

SECTION 167. Said section 1 of said chapter 149, as so appearing, is hereby further amended by striking out the definition of "Commissioner" and inserting in place thereof the following definition:-

"Commissioner", the commissioner of labor and industries who shall be the secretary of labor appointed pursuant to chapter six A.

SECTION 168. Said chapter 149 is hereby further amended by striking out section 7, as so appearing, and inserting in place thereof the following section:-

Section 7. The commissioner may appoint committees, on which employees and employers shall be represented, to make investigations and recommend rules and regulations pertaining to the enforcement duties of the department.

SECTION 169. Section 8 of said chapter 149, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Such rules and regulations shall, subject to section thirty-seven of chapter thirty, take effect thirty days after such hearing, or at such later time as the commissioner may fix.

SECTION 170. Section 9 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 2, 5 and 9, the words "associate commissioners" and inserting in place thereof, in each instance, the following word:- commissioner.

SECTION 171. Section 15 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "With the approval of the associate commissioners and the assistant commissioner, the" and inserting in place thereof the following:- The.

SECTION 172. Section 17 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "the assistant commissioner and the associate commissioners".

SECTION 173. Section 27 of said chapter 149, as so appearing, is hereby amended by adding the following paragraph:-

When an investigation by the attorney general's office reveals that a contractor or subcontractor has violated this section by failing to pay said rate or rates of wages, including

payments to health and welfare funds and pension funds, or the equivalent payment in wages, on said works to any person performing work within classifications as determined by the commissioner, or that a contractor or subcontractor has, for himself, or as representative, agent or officer of another, taken or received for his own use or the use of any other person, as a rebate, refund or gratuity, or in any other guise, any portion of the wages, including payments to health and welfare funds and pension funds, or the equivalent payment in wages, paid to any such person for work done or service rendered on said public works, the attorney general may, upon written notice to the contractor or subcontractor and the sureties of the contractor or subcontractor, and after a hearing thereon, order work halted on the part of the contract on which such wage violations occurred, until the defaulting contractor or subcontractor has filed with the attorney general's office a bond in the amount of such penal sum as the attorney general shall determine, conditioned upon payment of said rate or rates of wages, including payments to health and welfare funds and pension funds, or the equivalent payment in wages, on said works to any person performing work within classifications as determined by the commissioner.

Any employee claiming to be aggrieved by a violation of this section may, at the expiration of ninety days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within three years of such violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief and any damages incurred, including treble damages for any loss of wages and other benefits. Any employee so aggrieved and who prevails in such an action shall be entitled to an award of the costs of the litigation and reasonable attorneys' fees.

SECTION 174. The first paragraph of section 27B of said chapter 149, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- Every contractor and subcontractor required to keep such a record shall submit a copy of said record to the awarding authority on a weekly basis.

SECTION 175. Section 27C of said chapter 149, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "the four preceding sections" and inserting in place thereof the following words:- sections twenty-six, twenty-seven, twenty-seven A, twenty-seven B, twenty-seven F, twenty-seven G and twenty-seven H.

SECTION 176. Said section 27C of said chapter 149, as so appearing, is hereby further amended by striking out in lines 11, 17 and 18, 25 and 29, the words "or twenty-seven B" and inserting in place thereof, in each instance, the following words:- , twenty-seven B, twenty-seven F, twenty-seven G or twenty-seven H.

SECTION 177. Section 27F of said chapter 149, as so appearing, is hereby amended by adding the following paragraph:-

Any employee claiming to be aggrieved by a violation of this section may, at the expiration of ninety days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within three years of such violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly

situated, a civil action for injunctive relief and any damages incurred, including treble damages for any loss of wages and other benefits. Any employee so aggrieved and who prevails in such an action shall be entitled to an award of the costs of the litigation and reasonable attorneys' fees.

SECTION 178. Section 27G of said chapter 149, as so appearing, is hereby amended by adding the following paragraph:-

Any employee claiming to be aggrieved by a violation of this section may, at the expiration of ninety days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within three years of such violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief and any damages incurred, including treble damages for any loss of wages and other benefits. Any employee so aggrieved and who prevails in such an action shall be entitled to an award of the costs of the litigation and reasonable attorneys' fees.

SECTION 179. Section 27H of said chapter 149, as so appearing, is hereby amended by adding the following paragraph:-

Any employee claiming to be aggrieved by a violation of this section may, at the expiration of ninety days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within three years of such violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief and any damages incurred, including treble damages for any loss of wages and other benefits. Any employee so aggrieved and who prevails in such an action shall be entitled to an award of the costs of the litigation and reasonable attorneys' fees.

SECTION 180. Said chapter 149 is hereby amended by striking out section 54, as so appearing, and inserting in place thereof the following section:-

Section 54. The department shall investigate core rooms where workers are employed, and shall make rules regulating the employment of workers therein. The rules shall relate to the structure and location of the rooms, the emission of gases and fumes from ovens, and the size and weight which the workers shall be allowed to lift or work on. A copy of the rules shall be posted in every core room where workers are employed. Whoever violates any such rule shall be punished by a fine or not less than one hundred nor more than three thousand dollars.

SECTION 181. Section 148 of said chapter 149, as so appearing, is hereby amended by striking out the fourth paragraph.

SECTION 182. Section 150 of said chapter 149, as appearing in the 1990 Official Edition, is hereby amended by adding the following paragraph:-

Any employee claiming to be aggrieved by a violation of section one hundred and forty-eight, one hundred and forty-eight B, one hundred and fifty C, one hundred and fifty-two and one hundred and fifty-two A may, at the expiration of ninety days after the filing of a complaint with the attorney general, or sooner, if the attorney general assents in

writing, and within three years of such violation, institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief and any damages incurred, including treble damages for any loss of wages and other benefits. An employee so aggrieved and who prevails in such an action shall be entitled to an award of the costs of the litigation and reasonable attorney fees.

SECTION 183. Section 1B of chapter 151 of the General Laws, as so appearing, is hereby amended by inserting after the word "action", in line 11, the following words:- three times.

SECTION 184. Section 2 of said chapter 151, as so appearing, is hereby amended by striking out, in line 4, the words ", and assistant commissioner".

SECTION 185. Section 20 of said chapter 151, as so appearing, is hereby further amended by inserting after the word "action", in line 6, the following words:- three times.

SECTION 186. Section 25 of chapter 151A of the General Laws, as so appearing, is hereby amended by striking out, in lines 103 to 106, inclusive, the words ", or to a knowing violation of a reasonable and uniformly enforced rule or policy of the employer, provided that such violation is not shown to be as a result of the employee's incompetence."

SECTION 187. Chapter 151A of the General Laws is hereby amended by inserting after section 64 the following section:-

Section 64A. The commissioner shall on or before July first of each year provide to the chairman of the board of assessors in each city and town a list of all employers located in the city and town that qualified for an exemption pursuant to section five I of chapter fifty-nine during the previous year. This list shall be confidential and shall be used only by the assessors or employees designated by the assessors for the purpose of determining eligibility for property tax exemptions pursuant to said section five I of said chapter fifty-nine. Any other use of this list or information contained therein or disclosure of the names of employers on said list to persons other than assessors or designated employees shall be punishable by a fine of one hundred dollars.

SECTION 188. Paragraph (k) of subsection (1) of section 36 of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out the second sentence.

SECTION 189. Section 13 of chapter 159B of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Motor vehicles owned by the commonwealth or any of its political subdivisions and motor vehicles engaged in the transportation of non-hazardous waste materials shall be subject to section eighteen, but shall be exempt from all other provisions of this chapter.

SECTION 190. Section 18 of chapter 161A of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the word "and" and inserting in place thereof the following words:- except as hereinafter provided, and.

SECTION 191. Said section 18 of said chapter 161A, as so appearing, is hereby further amended by adding the following paragraph:-

Real property of the authority, other than its transit facilities, if leased, used, or occupied in connection with a business conducted for profit, shall at the discretion of the municipality, for the privilege of such lease, use or occupancy be valued, classified, assessed and taxed annually as of January first to the lessee, user or occupant in the same manner and to the same extent as if such lessee, user or occupant were the owner thereof in fee. No tax assessed under this section shall be a lien upon the real estate with respect to which it is assessed; nor shall any tax be enforced by any sale or taking of such real estate; but the interest of any lessee therein may be sold or taken by the collector of the town in which the real estate lies for the nonpayment of such taxes in the manner provided by law for the sale or taking of real estate for nonpayment of annual taxes. Such collector shall have for the collection of taxes assessed under this section all other remedies provided by chapter sixty for the collection of annual taxes upon real estate.

SECTION 192. Section 19J of said chapter 161A, as so appearing, is hereby amended by striking out, in lines 11 to 17, inclusive, the words "; 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 193. Section 13 of chapter 161B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word "assessments", in line 3, the following words:- except as hereinafter provided.

SECTION 194. Said section 13 of said chapter 161B, as so appearing, is hereby further amended by adding the following paragraph:-

Real property of the authority, other than its transit facilities, if leased, used, or occupied in connection with a business conducted for profit, shall at the discretion of the municipality, for the privilege of such lease, use or occupancy be valued, classified, assessed and taxed annually as of January first to the lessee, user or occupant in the same manner and to the same extent as if such lessee, user or occupant were the owner thereof in fee. No tax assessed under this section shall be a lien upon the real estate with respect to which it is assessed; nor shall any tax be enforced by any sale or taking of such real estate; but the interest of any lessee therein may be sold or taken by the collector of the town in which the real estate lies for the nonpayment of such taxes in the manner provided by law for the sale or taking of real estate for nonpayment of annual taxes. Such collector shall have for the collection of taxes assessed under this section all other remedies provided by chapter sixty for the collection of annual taxes upon real estate.

SECTION 195. Chapter 165 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after section 2A the following new section:-

Section 2B. All municipalities or water districts shall institute water charges and fees that incorporate a base rate for all users; provided, that said base rate shall be increased at

an increasing block rate to fairly reflect the resource demand and consumption of high volume users of water.

SECTION 196. Sections sixty-seven and one hundred and ninety-six shall take effect on July first, nineteen hundred and ninety-four.

SECTION 197. Section 2 of chapter 166A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The commission is authorized to make an assessment for each fiscal year 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 so as to produce not more than five hundred and twenty thousand dollars in revenue for each fiscal year 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 the commission, subject to appropriation.

SECTION 198. Section 38 of chapter 167 of the General Laws, as so appearing, is hereby amended by striking out, in lines 103 and 106 the word "fifteen" and inserting in place thereof, in each instance, the following word:- twenty-five.

SECTION 199. Section 2 of chapter 167A of the General Laws, as so appearing, is hereby amended by striking out, in lines 21 and 43, the word "fifteen" and inserting in place thereof, in each instance, the following word:- twenty-five.

SECTION 200. Section 108 of chapter 175 of the General Laws, as so appearing, is hereby amended by adding the following subdivision:-

10. To the extent that this section is inconsistent with the provisions of chapter one hundred and seventy-six K, and any regulations promulgated thereunder, medicare supplement insurance plans as defined in said chapter one hundred and seventy-six K shall be subject to the provisions of said chapter one hundred and seventy-six K.

SECTION 201. Section one hundred and eight F of said chapter one hundred and seventy-five is hereby repealed.

SECTION 202. Section 10A of chapter 175A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 19, the word "commissioner" and inserting in place thereof the following word:- secretary.

SECTION 203. Section 1A of chapter 176A of the General Laws, as so appearing, is hereby amended by striking out the third paragraph.

SECTION 204. Section 6 of said chapter 176A, as so appearing, is hereby amended by inserting after the word "Contracts", in line 1, the following words:- , except contracts providing supplemental coverage to medicare subject to the provisions of chapter one hundred and seventy six K,.

SECTION 205. Said section 6 of said chapter 176A, as so appearing, is hereby further amended by striking out the third paragraph.

SECTION 206. Section 8 of said chapter 176A, as so appearing, is hereby further amended by adding the following paragraph:-

(8) To the extent that this section is inconsistent with the provisions of chapter one hundred and seventy-six K, and any regulations promulgated thereunder, medicare supplement insurance plans as defined in said chapter one hundred and seventy-six K shall be subject to the provisions of said chapter one hundred and seventy-six K.

SECTION 207. Section 10 of said chapter 176A, as so appearing, is hereby amended by striking out, in lines 33 and 34, the words "filed with and subject to prior approval by the commissioner as provided in section six" and inserting in place thereof the words:- subject to the provisions of chapter one hundred and seventy-six K.

SECTION 208. Section 4 of chapter 176B of the General Laws, as so appearing, is hereby amended by striking out the fourth paragraph.

SECTION 209. Said section 4 of said chapter 176B, as so appearing, is hereby further amended by striking out, in lines 86 and 87, the words "shall be subject to the provisions of this section requiring prior filing and prior approval of the commissioner" and inserting in place thereof the words:- shall be subject to the provisions of chapter one hundred and seventy-six K.

SECTION 210. Said section 4 of said chapter 176B, as so appearing, is hereby further amended by adding the following paragraph:-

To the extent that this section is inconsistent with the provisions of chapter one hundred and seventy-six K, and any regulations promulgated thereunder, medicare supplement insurance plans as defined in said chapter one hundred and seventy-six K shall be subject to the provisions of said chapter one hundred and seventy-six K.

SECTION 211. Section 6 of said chapter 176B, as so appearing, is hereby amended by adding the following paragraph:-

To the extent that this section is inconsistent with the provisions of chapter one hundred and seventy-six K, and any regulations promulgated thereunder, medicare supplement insurance plans as defined in said chapter one hundred and seventy-six K shall be subject to the provisions of said chapter one hundred and seventy-six K.

SECTION 212. Section 3A of chapter 176D of the General Laws, as so appearing, is hereby amended by inserting after the word "services", in line 20, the following:- ; (v) refusal to enter into a contract with a health care facility solely on the basis of the facility's governmental affiliation.

SECTION 213. Section 16 of chapter 176G of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

To the extent that this chapter is inconsistent with the provisions of chapter one hundred and seventy-six K, and any regulations promulgated thereunder, medicare supplement insurance plans as defined in said chapter one hundred and seventy-six K shall be subject to the provisions of said chapter one hundred and seventy-six K.

SECTION 214. Section eighteen of said chapter one hundred and seventy-six G is hereby repealed.

SECTION 215. The General Laws are hereby amended by inserting the after chapter 176J following chapter:-

CHAPTER 176K.

MEDICARE SUPPLEMENT INSURANCE PLANS.

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 member'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 policies for medicare supplement insurance or medicare select insurance or policies issued pursuant to a risk or cost contract.

"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 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 any entity approved by the commissioner under chapter one hundred and seventy-six I to operate an insured health plan that includes a preferred provider arrangement which deliver or issue for delivery in the Commonwealth policies for medicare supplement insurance or medicare select insurance or policies issued pursuant to risk or cost contracts."

"Commissioner", the commissioner of insurance.

"Community rating", a rating methodology in which the premium for all persons covered by a particular policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract is the same, based on the experience of all persons covered by the plan, without regard to age, sex, health status, or occupation, or any other factor which the commissioner may specify by regulation.

"Eligible person", any person who resides in the commonwealth for at least six consecutive months of each calendar year and who is eligible for or enrolled in Medicare coverage for both hospital and physician services due to age or disability, and who is not eligible for employer-sponsored health care coverage, other than a person eligible for Medicare coverage due solely to end-stage renal disease.

"Guaranteed renewable", a policy provision whereby the insured has the right to continue the policy for medicare supplement insurance or medicare select insurance or policy issued pursuant to a risk or cost contract in force by the timely payment of premiums and the carrier has no unilateral right to make any change in any provision of the plan while the plan is in force, unless approved by the commissioner, and cannot cancel or decline to renew, except for the nonpayment of premium, or material misrepresentation.

"Initially eligible for coverage", the date when an eligible person first enrolled for benefits under Medicare Part B, lost employer-sponsored health coverage due to termination

of employment or because of employer bankruptcy, moved out of the service area of a health maintenance organization or became a resident of the commonwealth.

"Insured", a subscriber, policyholder, member, enrollee or certificate holder.

"Late enrollee", an eligible person who has submitted an application for a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract after the six month period beginning with the first month in which the individual first enrolled for benefits under Medicare part B, or lost employer-sponsored coverage due to termination of employment or because of employer bankruptcy, or became a resident of the commonwealth; provided, however, that an eligible person shall not be considered a late enrollee if the person was covered under a previous health plan and the previous coverage was continuous to a date not more than thirty days prior to the effective date of the new coverage.

"Medicare", Health Insurance for the Aged Act, Title XVIII of the Social Security Act Amendments of 1965, as then constituted or later amended.

"Medicare select insurance", a type of health insurance issued by a carrier which is Medicare Supplement Insurance which contains restricted network provisions and is issued under a demonstration project authorized pursuant to amendments to the federal Social Security Act.

"Medicare supplement insurance", a type of health insurance issued by a carrier, other than a policy issued pursuant to a contract under Section 1876 or Section 1833 of the federal Social Security Act (42 U.S.C. Section 1395 *et. seq.*), or a policy issued under a demonstration project authorized pursuant to amendments to the federal Social Security Act, which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare.

"OBRA 90", the federal Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) and as this act has been subsequently amended.

"Policy issued pursuant to a risk or cost contract", a policy issued by a health maintenance organization organized under chapter one hundred seventy-six G pursuant to a contract under Section 1876 or Section 1833 of the federal Social Security Act (42 U.S.C. Section 1395 *et. seq.*).

"Participate in the market", to offer, sell, issue, deliver, or otherwise make effective, or renew, a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract.

"Policy", any policy, certificate, contract, agreement, statement of coverage, rider or endorsement issued by a carrier for medicare supplement insurance, medicare select insurance, or pursuant to a risk or cost contract.

"Preexisting conditions limitation or exclusion", a policy provision which limits or excludes coverage for charges or expenses incurred following the insured's effective date as to a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

"Waiting period", a period immediately subsequent to the effective date of an insured's coverage during which the insurance coverage does not pay for some or all hospital or medical expenses.

Section 2. (a) Notwithstanding the provisions of any other law to the contrary, and subject to the provisions of OBRA 90 and Section 1882 of the federal Social Security Act (42 U.S.C. Section 1395 *et. seq.*), any policy for medicare supplement insurance or medicare select insurance or policy issued pursuant to a risk or cost contract offered, sold, issued, delivered, or otherwise made effective or renewed by a carrier in the commonwealth after July first, nineteen hundred and ninety-three shall comply with the provisions of this chapter.

(b) A carrier that participated in the market on or after a date set by the commissioner by regulation may not withdraw from the market until all insureds of such carrier have had the opportunity to join a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract offered by another carrier during the next annual open enrollment period or other enrollment period required in section three.

(c) A carrier that withdraws from the market on or after the effective date of this act may not participate in the market in the commonwealth for five years from the date of withdrawal, unless the commissioner finds that such re-entry shall be permitted earlier than said five years due to a compelling public interest.

Section 3. (a) No carrier participating in the market shall, at any time, deny or condition the issuance of any policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract available for sale in the commonwealth, nor discriminate in the pricing of such a plan, to any eligible person because of the age, health status, claims experience, receipt of health care, medical condition of the eligible person, or any other factor which the commissioner may specify by regulation.

(b) No policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract may contain any waiting period or pre-existing condition limitation or exclusion.

(c) No carrier participating in the market shall deny or condition the issuance of any policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract available for sale in the commonwealth, nor discriminate in the pricing of such a policy, to an eligible person when an application for such a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract is submitted during the six month period beginning at the time the eligible person became initially eligible for coverage.

(d) Every carrier that participates in the market shall offer a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk orcost contract during an open enrollment period for eligible persons commencing on February first and ending on March thirty-first of each year, for coverage to be effective June first of that year or no later than Medicare coverage is first effective, whichever is later. Every carrier that participates in the market shall make available during the required open

enrollment period to every eligible person all policies for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract which that carrier is authorized to issue pursuant to section four.

(e) A carrier may offer, sell, issue, deliver, or otherwise make effective or renew a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract to an eligible person at any other time of the year, provided said carrier complies with the requirements of this chapter.

(f) A health maintenance organization shall not be required to accept applications from or offer coverage to an eligible person if: (i) the eligible person does not reside in the health maintenance organization's approved service area; or, (ii) within said area, the health maintenance organization demonstrates to the satisfaction of the commissioner that it will not, within said area, have the capacity in its network of providers to deliver services adequately to new eligible persons because of obligations to existing enrollees; provided that a health maintenance organization that makes such a demonstration to the satisfaction of the commissioner may not offer coverage in such applicable area to any other new enrollees or groups 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 persons for policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract coverage.

(g) Any carrier shall make available all its policies for medicare supplement insurance or medicare select insurance or policies issued pursuant to a risk or cost contract to any eligible person of the commonwealth whose coverage under a policy issued pursuant to a risk or cost contract has been canceled because the health maintenance organization's contract with Medicare has been terminated. Such coverage shall comply with all provisions of this chapter, and shall become effective on the date that coverage under the risk or cost contract ends.

(h) The commissioner may by regulation waive provisions of this section for policies for medicare supplement insurance or medicare select insurance or policies issued pursuant to a risk or cost contract issued in the commonwealth prior to the effective date of OBRA 90, or such other date as the commissioner may specify by regulation in order to comply with the provisions of OBRA 90 or for any other compelling interest which the commissioner finds does not significantly affect the market for such policies or contracts in the commonwealth.

Section 4. (a) The commissioner shall, to the extent permitted by OBRA 90, promulgate by regulation the plans for medicare supplement insurance and medicare select insurance, and the benefits for those plans, which may be offered, sold, issued, or delivered, or renewed by a carrier on or after a date set by the commissioner by regulation.

(b) Any policy issued pursuant to a risk or cost contract shall comply with the requirements of chapter one hundred seventy-six G and any regulations promulgated thereunder, provided however, that each policy issued pursuant to a risk or cost contract shall

provide prescription drug coverage that meets or exceeds minimum standards determined by the commissioner pursuant to regulation. The minimum prescription drug coverage required in any policy issued pursuant to a risk or cost contract shall be comparable to that required in plans for medicare supplement insurance and medicare select insurance.

On or after a date established by the commissioner by regulation pursuant to this chapter, no carrier may offer, sell, issue, or deliver any policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract unless it complies with the benefit designs set forth in the commissioner's regulations. The provisions of this section shall also apply to all policies for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract renewed by any carrier during and after the first calendar quarter of nineteen hundred and ninety-four. Except as authorized by this chapter, as of the end of the first calendar quarter of nineteen hundred and ninety-four, all policies for medicare supplement insurance or medicare select insurance or policies issued pursuant to a risk or cost contract in force in the commonwealth shall comply with the requirements of this chapter. The commissioner shall promulgate regulations to implement and enforce this section.

Section 5. Any eligible person who applies on or after a date set by the commissioner pursuant to regulation for a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract from any carrier participating in the market in the commonwealth, during the six month period beginning at the time the person became initially eligible for coverage shall have the right to any of the policies for medicare supplement insurance or medicare select insurance authorized in the commissioner's regulations from any carrier that provides policies issued pursuant to a risk or cost contract and shall have the right to the policy issued pursuant to a risk or cost contract authorized in the commissioner's regulations from any carrier that provides a policy issued pursuant to a risk or cost contract. The commissioner may require every carrier that participates in the market for medicare supplement insurance to offer more than a single type of benefit plan to an eligible person.

Notwithstanding any provision of this chapter concerning guaranteed renewability, the commissioner may by regulation establish a process for the conversion of every carrier's business in force as of a date established in such regulations into the policy for medicare supplement insurance or medicare select insurance authorized by section four. The commissioner may by regulation require that this conversion process be completed by the end of the first calendar quarter of nineteen hundred and ninety-four and implemented through a required special open enrollment period prior to nineteen hundred and ninety-four, during which period eligible persons may enroll without a surcharge for late enrollment and upgrading.

Every policy for medicare supplement insurance or medicare select insurance or policy issued pursuant to a risk or cost contract authorized to be offered, sold, issued, delivered, or otherwise made effective, or renewed on or after a date established by the commissioner pursuant to this chapter shall be a guaranteed renewable plan with respect to

an eligible person at the option of the eligible person. A carrier that participated in the market may, however, in its discretion and to the extent permitted by OBRA 90, refuse to offer, sell, issue, deliver, or otherwise make effective, or renew a medicare supplement insurance policy, medicare select insurance policy, or a policy issued pursuant to a risk or cost contract, or upon reasonable notice, cancel such a plan of any person due to non-payment of premium or material misrepresentation, or because the person does not live in or has moved out of the health maintenance organization service area, or has not resided in the commonwealth for the past six months, or for any other cause which may be approved by the commissioner.

Section 6. A carrier shall not participate in the market unless the policy form or certificate form has been filed with and approved by the commissioner.

Section 7. (a) Any policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract offered, sold, issued, delivered, or otherwise made effective, or renewed, on or after a date established by the commissioner, by any carrier in the commonwealth shall be community rated.

(b) The commissioner may by regulation permit a carrier whose approved service area includes several different geographical regions of the commonwealth to use separate rates for different portions of its service area, provided the carrier's proposed regions do not contain configurations designed to avoid or segregate particular areas.

(c) As of February first, nineteen hundred and ninety-four, a carrier may apply a surcharge to the premium for a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract to an eligible person who upgrades coverage or is a late enrollee and may discount the premium for a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract for an person who has enrolled during the six month period beginning at the time the person became initially eligible for coverage. For purposes of this section, an eligible person "upgrades coverage" if the policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract under which the eligible person is covered at the time of application for new coverage is of lesser actuarial value than the new coverage, as determined in accordance with standards promulgated by the commissioner. Any surcharge applied to the premium of an eligible person who upgrades coverage or is a late enrollee may not exceed fifteen percent annually, and may not be charged for more than three years from the date it is first imposed by the carrier. Any discount applied to the premium of an eligible person who has enrolled during the six month period beginning at the time the person became initially eligible for coverage may not exceed fifteen percent and may not be applied for more than three years from the date such person first receives coverage under this chapter. The commissioner may promulgate regulations to enforce the provisions of this paragraph.

(d) After a date established by the commissioner pursuant to regulation and subject to the provisions of subsection (g), every carrier desiring to increase or decrease premiums

for any policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract, or desiring to set the initial premium for a new policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract shall file a rate filing or application with the commissioner at least thirty days before the proposed effective date of such new rates. The commissioner may disapprove the proposed rates if they are excessive, inadequate or unfairly discriminatory or do not otherwise comply with the requirements of this chapter.

Such filings shall be deemed to be approved by the commissioner not earlier than thirty days after the date of filing, provided that:

(i) the filing complies with the anticipated minimum loss ratio standards of subsection (e); and

(ii) the carrier submits, as part of such filing, an actuarial opinion and a legal opinion that the carrier is in compliance with the provisions of this chapter. The commissioner may by regulation specify such other information which shall be included in any such filing.

Such filing shall not be disapproved by the commissioner except after a hearing conducted pursuant to chapter thirty A within thirty days after such filing. Any increase in premium rates shall continue in effect for not less than twelve months, except that an increase in benefits or decrease in rates may be permitted at any time.

(e) The anticipated minimum loss ratio shall be:

(i) at least ninety-five percent of premium for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract issued by a non-profit hospital service corporation or medical service corporation for the policy year which immediately follows the effective date of this act;

(ii) at least ninety percent of premium for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract issued by a non-profit hospital service corporation or medical service corporation for subsequent policy years;

(iii) at least sixty-five percent of premium for policies for medicare supplement insurance or medicare select insurance issued by commercial insurers; and,

(iv) at least ninety percent of premium for policies issued pursuant to a risk or cost contract.

Each policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract offered by a carrier shall independently meet the applicable minimum loss ratio standard.

(f) A carrier shall annually report to the commissioner no later than May first, the actual loss ratio calculated for each policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract for the previous calendar year. In each case where the loss ratio for policies for medicare supplement insurance or medicare select insurance or policies issued pursuant to a risk or cost contract fails to comply with the minimum loss ratio requirements of this chapter, the carrier shall

issue a refund or credit against future premiums to insureds. The instructions and format for calculating and reporting loss ratios and issuing dividends and credits shall be prescribed by the commissioner by regulation, and shall be consistent with the requirements of OBRA 90.

(g) If a carrier files for an increase in premium of ten percent or more than the premium previously charged, or if a carrier files an initial premium request that is ten percent or more than the average premium for the same policies for medicare supplement insurance or medicare select insurance or a policies issued pursuant to a risk or cost contract offered by carriers in the same class under subsection (e), such carrier's rate, in addition to being subject to all other provisions of this chapter, shall be subject to the prior approval of the commissioner as set forth in this subsection. Any requested premium increase in excess of ten percent for a medicare supplemental insurance plan shall be communicated to the insureds at least ninety days prior to the effective date of such increase, or as the commissioner may direct.

Such requested premium increase or initial premium request shall be filed no later than ninety days prior to the requested effective date of such rate. No such rate shall be effective until after a public hearing conducted by the commissioner, and advertised in newspapers in Boston, Brockton, Fall River, Pittsfield, Springfield, Worcester, New Bedford, and Lowell, or by notifying such newspapers of said hearing, and held within thirty days of the filing of such rate with the commissioner pursuant to subsection (d). The commissioner shall approve or disapprove such rate within thirty days following the conclusion of the public hearing, to be effective not earlier than thirty days subsequent to such approval. No such rate shall be approved if the benefits provided therein are unreasonable in relation to the rate charged, nor if the rates are excessive, inadequate or unfairly discriminatory or do not otherwise comply with the requirements of this chapter.

(h) Every carrier, as a condition of doing business under the authority of this chapter, shall file annually with the commissioner an actuarial opinion and legal opinion that certifies that the carrier's rating methodologies and rates comply with the requirements of this chapter and regulations promulgated under authority of this chapter. Every carrier shall maintain at its principal place of business for inspection by the commissioner a complete and detailed description of its rating practices and such other information as the commissioner may by regulation require.

(i) The supreme judicial court shall have jurisdiction in equity upon the petition of the commissioner and upon a summary hearing, to enforce all lawful orders of the commissioner.

Any subscriber, non-profit hospital service corporation, non-profit medical service corporation or other person aggrieved by any action, order, finding, or decision of the commissioner under this section may, within twenty days from the filing of such memorandum thereof in his office, file a petition in the supreme judicial court for the county of Suffolk for a review of such action, order, finding, or decision. An order of notice returnable not later than seven days from the filing of such petition shall forthwith issue and

be served upon the commissioner. Within ten days after the return of said order of notice, the petition shall be assigned for a speedy and summary hearing on the merits. The action, order, finding, or decision of the commissioner shall remain in full force and effect, pending the final decision of the court unless the court or a justice thereof after notice to the commissioner shall by a special order otherwise direct. The court shall have jurisdiction in equity to modify, amend, annul, reverse or affirm such action, order, finding or decision and shall uphold the commissioner's action, order, finding, or decision if supported by the weight of evidence. The court may make any appropriate order or decree. The court may make such order as to costs as it deems equitable. The court shall make such rules or orders as it deem proper governing proceedings under this section to secure prompt and speedy hearings and to expedite final decisions thereon.

(j) The commissioner shall annually conduct a public hearing to monitor the overall condition of the commonwealth's market so as to improve access by individuals to coverage under this chapter, to encourage aggregation of risk pools through product selection and to promote long-term access by individuals to coverage through continued stability and financial viability of all carriers in the market, particularly commercial carriers.

The commissioner shall annually summarize all claims arising under this chapter experience and loss ratio data from all insurers covered by this chapter and submit such information to the committee on insurance. The commissioner shall also file with the committee on insurance any recommendations for legislation to improve the accessibility and affordability of coverage in the market.

(k) The commissioner may promulgate regulations to facilitate the administration and enforcement of this chapter and to govern hearings and investigations thereunder, and he may issue such orders as he finds proper, expedient or necessary to enforce and administer the provisions of this chapter and to secure compliance with any rules and regulations made thereunder.

Section 8. This chapter shall not apply to a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees, or a combination thereof, of the labor organizations.

SECTION 216. Subsection (a) of section 6B of chapter 200A of the General Laws, as so appearing, is hereby further amended by striking out, in lines 7 and 10, the word "five" and inserting in place thereof, in each instance, the word:- three.

SECTION 217. Chapter 209A of the General Laws, as so appearing, is hereby amended by adding the following section:-

Section 10. The court shall impose an assessment of three hundred dollars against any person who has been referred to a certified batterers' treatment program as a condition of probation. Said assessment shall be in addition to the cost of the treatment program. In the discretion of the court, said assessment may be reduced or waived when the court finds that the person is indigent or that payment of the assessment would cause the person, or the

dependents of such person, severe financial hardship. Assessments made pursuant to this section shall be in addition to any other fines, assessments, or restitution imposed in any disposition. All funds collected by the court pursuant to this section shall be transmitted monthly to the state treasurer, who shall deposit said funds in the Domestic Violence Victims' Assistance Fund.

SECTION 218. Chapter 211 of the General Laws is hereby amended by adding the following two sections:-

Section 29. The supreme judicial court shall report monthly all expenditures and revenues from all appropriated and non-appropriated funds on the Massachusetts management accounting and reporting system, or MMARS, so-called.

Section 30. The supreme judicial court shall report all personnel information for those employees compensated from any budgetary, federal, or non-appropriated fund through the personnel administrative reporting and information system, or MMARS, so-called.

SECTION 219. Chapter 211A of the General Laws is hereby amended by adding the following two sections:-

Section 18. The appeals court shall report monthly all expenditures and revenues from all appropriated and non-appropriated funds on the Massachusetts management accounting and reporting system or MMARS, so-called.

Section 19. The appeals court shall report all personnel information for those employees compensated from any budgetary, federal, or non-appropriated fund through the personnel administrative reporting and information system, or MMARS, so-called.

SECTION 220. Chapter 211B of the General Laws is hereby amended by adding the following two sections:-

Section 21. The trial court of the commonwealth shall report monthly all expenditures and revenues from all appropriated and non-appropriated funds on the Massachusetts management accounting and reporting system or MMARS, so-called.

Section 22. The trial court of the commonwealth shall report all personnel information for those employees compensated from any budgetary, federal, or non-appropriated fund through the personnel administrative reporting and information system or MMARS, so-called.

SECTION 221. Section 12 of chapter 211D of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the third sentence the following two sentences:- Bills shall be submitted to the committee within thirty days of the conclusion of a case; or, if the case is pending at the end of the fiscal year, within thirty days after the end of said fiscal year, unless time for filing has been extended by the chief counsel. Bills submitted after said date without just cause shall not be processed for payment. The amount of payment for invoices received by the chief counsel more than thirty days after the final disposition of a case or within thirty days after the end of the fiscal year, which have not received an extension but have been approved because just cause has been shown for delay in submission, shall be reduced by five percent.

SECTION 222. Chapter 217 of the General Laws is hereby amended by inserting after section 29B the following section:-

Section 29C. The first justice of the Barnstable probate court may, with the approval of the chief justice of the probate court, designate one employee as deputy assistant register with the same powers as assistant register and may revoke any such designation at pleasure. Said deputy assistant register shall receive a salary of six thousand dollars.

SECTION 223. Said chapter 217 is hereby further amended by inserting after section 29C the following section:-

Section 29D. The first justice of the Berkshire probate court may, with the approval of the chief justice of the probate court, designate one employee as deputy assistant register with the same powers as assistant register and may revoke any such designation at pleasure. Said deputy assistant register shall receive a salary of six thousand dollars.

SECTION 224. Section 6C of chapter 231 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "action", in line 8, the words:- , provided, however, that in all actions based on contractual obligations, upon a verdict, finding or order for judgment against the commonwealth for pecuniary damages, interest shall be added by the clerk of the court to the amount of damages, at the contract rate, if established, or at a rate calculated pursuant to the provisions of section six I from the date of the breach or demand. If the date of the breach or demand is not established, such interest shall be added by the clerk of the court from the date of the commencement of the action.

SECTION 225. Said chapter 231 is hereby further amended by inserting after section 6H the following section:-

Section 6I. Interest required to be paid by the commonwealth pursuant to this section shall be calculated at a rate equal to the coupon issue yield equivalent, as determined by the United States secretary of the treasury, of the average accepted auction price for the last auction of fifty-two-week United States treasury bills settled immediately prior to the date of the judgment; provided, however, that such interest shall not exceed the rate of ten percent per annum. The secretary of administration and finance shall maintain a schedule of the rate described above for the distribution to all clerks of courts.

SECTION 226. Paragraph 4 of section 4 of chapter 234A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the third sentence the following three sentences:-

If, according to the aforementioned guideline, a person shall be permanently incapable of rendering satisfactory jury service during the person's lifetime, the person claiming such permanent disqualification shall submit a letter from a registered physician stating the nature of the disability and the physician's opinion that such disability will permanently prevent the person from rendering satisfactory jury service. If the jury commissioner determines that the person is permanently disabled, then the person shall be considered permanently ineligible for jury service, and the person's name and physician's letter shall be placed on record with the office of jury commissioner. The jury commissioner

shall make a decision on such matter promptly upon receipt of the aforementioned letter.

SECTION 227. Section 1 of chapter 258 of the General Laws, as so appearing, is hereby amended by inserting after the word "commission", in line 52, the following words:- including a municipal gas or electric plant, department, board and commission,.

SECTION 228. Section 6 of chapter 258B of the General Laws is hereby amended by striking out section 6, as so appearing, and inserting in place thereof the following section:-

Section 6. Each district attorney shall submit annually on January fifteenth to the board, the secretary of administration and finance and the house and senate committees on ways and means, a program plan to be implemented within the district attorney's jurisdiction. The program plan shall include, but not be limited to: a description of the services to be provided to victims and witnesses in each judicial district within the district attorney's jurisdiction; the personnel or agencies responsible for providing individual services and related administrative programs; proposed staffing for the program; proposed education, training and experience requirements for program staff and, where appropriate, the staff of agencies providing individual services and related administrative services; and a proposed budget for implementing the program. The district attorney shall include in the annual program plan a detailed report on the operation of the program during the preceding year as well as a detailed report of deposits and expenditures of all funds made available to said district attorney for the preceding fiscal year and the current fiscal year through December thirty-first pursuant to section nine.

SECTION 229. Section 13 of chapter 354 of the acts of 1952 is hereby amended by adding the following paragraph:-

Real property of the authority, if leased, used, or occupied in connection with a business conducted for profit, shall at the discretion of the municipality, for the privilege of such lease, use or occupancy, be valued, classified, assessed and taxed annually as of January first to the lessee, user, or occupant in the same manner and to the same extent as if such lessee, user, or occupant were the owner thereof in fee. No tax assessed under this section shall be a lien upon the real estate with respect to which it is assessed; nor shall any tax be enforced by any sale or taking of such real estate; but the interest of any lessee therein may be sold or taken by the collector of the town in which the real estate lies for the nonpayment of such taxes in the manner provided by law for the sale or taking of real estate for nonpayment of annual taxes. Such collector shall have for the collection of taxes assessed under this section all other remedies provided by chapter sixty of the General Laws for the collection of annual taxes upon real estate.

SECTION 230. The first sentence of section 17 of chapter 465 of the acts of 1956, as amended by section 2 of chapter 332 of the acts of 1978, is hereby further amended by striking out, in lines 14 to 23, inclusive, the words "shall be taxed to a lessee thereof under section three A of chapter fifty-nine of the General Laws; provided, however, that anything herein to the contrary notwithstanding, lands of the Authority, except lands acquired by the

commonwealth under the provisions of chapter seven hundred and five of the acts of nineteen hundred and fifty-one situated in that part of the city called South Boston and constituting part of the Commonwealth Flats, and land acquired by the Authority which were subject to taxation on the assessment date next preceding the acquisition thereof," and inserting in place thereof the words:- used for air transportation purposes shall be taxed to a lessee thereof under section three A of chapter fifty-nine of the General Laws, provided, that anything herein to the contrary notwithstanding, lands of the Authority.

SECTION 231. Said first paragraph of said section 17 of said chapter 465 is hereby further amended by striking out the second sentence, inserted by section 6 of chapter 719 of the acts of 1967.

SECTION 232. Section 6 of chapter 701 of the acts of 1960 is hereby amended by adding the following paragraph:-

Real property of the authority, if leased, used, or occupied in connection with a business conducted for profit shall, at the discretion of the municipality, for the privilege of such lease, use or occupancy, be valued, classified, assessed and taxed annually as of January first, to the lessee, user or occupant in the same manner and to the same extent as if said lessee, user or occupant were the owner thereof in fee. No tax assessed under this section shall be a lien on the real estate with respect to which it is assessed; nor shall any tax be enforced by any sale or taking of such real estate but the interest of any lessee therein may be sold or taken by the collector of the municipality in which the real estate lies for the non-payment of such taxes in the manner provided by law for the sale or taking of real estate of non-payment of annual taxes. Such collector shall have for the collection of taxes assessed under this section all other remedies provided by chapter sixty of the General Laws for the collection of annual taxes upon real estate.

SECTION 233. Chapter 712 of the acts of 1963 is hereby amended by striking out section 6, as most recently amended by chapter 280 of the acts of 1980, and inserting in place thereof the following two sections:-

Section 6. The corporation shall not be subject to the provisions of chapter sixty-three of the General Laws, nor to any taxes based upon or measured by income. The securities and evidences of indebtedness issued by the corporation, and income therefrom, shall at all times be free from taxation by the commonwealth. Real property owned by the corporation shall not be subject to taxation by the city or town in which it is located until forty years from the date of its acquisition or until such property is leased, rented or otherwise disposed of, whichever is first.

Section 6A. The provisions of section six of said chapter seven hundred twelve of the acts of nineteen hundred and sixty-three shall take effect as of January first, nineteen hundred and ninety-three.

SECTION 234. Chapter eight hundred and seventy-two of the acts of nineteen hundred and seventy-one is hereby repealed.

SECTION 235. After the effective date of section one hundred and seventy-one A of this act, any funds remaining in the reserve for unpaid real estate and personal property taxes, established pursuant to section three of chapter 872 of the acts of 1971, shall be distributed as set forth in this section.

Commencing with fiscal year nineteen hundred and ninety-four, the city of Somerville may use funds remaining in said reserve for unpaid real estate and personal property taxes to fund its overlay account; provided, however, that such funding shall not exceed one and one-half million dollars per year. The amount of funds to be used from said reserve in a given year shall be determined by the Somerville board of assessors in consultation with the department of revenue. If the overlay account requires funding beyond the amount used from the reserve, the balance shall be funded in the manner set forth in the General Laws.

Upon the complete depletion of funds in said reserve for unpaid real estate and personal property taxes, said fund shall be stricken from the books of the city in accordance with ordinary accounting procedures.

SECTION 236. Section one hundred and seventy-one A shall take effect on June thirtieth, nineteen hundred and ninety three.

SECTION 237. Section 4 of chapter 212 of the acts of 1975, is hereby amended by striking out clause (j), as most recently amended by section 24 of chapter 19 of the acts of 1993, and inserting in place thereof the following clause:-

(j) borrow money by the issuance of its debt obligations as provided in section eight E of this act.

SECTION 238. Clause 5 of paragraph (b) of section 8C of said chapter 212 as appearing in section 27 of chapter 19 of the acts of 1993, is hereby amended by striking out in lines 9 and 10, the words "and for which other monies of the bank are not available".

SECTION 239. Said chapter 212 is hereby further amended by inserting after section 8D the following section:-

Section 8E. The bank may provide by resolution for the issuance from time to time of debt obligations of the bank for any of its corporate purposes, provided, however, that the bank shall not issue debt obligations the principal amount of which, when added to the principal amount of debt obligations issued by the bank and then outstanding, excluding debt obligations previously refunded or being or to be refunded thereby, shall exceed forty million dollars. All such debt obligations shall be negotiable for all purposes without regard to any other law, subject only to the provisions of any such debt obligations for registration. Debt obligations issued hereunder may be secured by the full faith and credit of the bank, by a pledge of any revenues, receipts or other assets or funds of the bank, by mortgages or other instruments covering all or any part of any and all real property of the bank, including any additions, improvements, extensions to or enlargements of any real property thereafter made, or by any one or more of the foregoing, all as may be determined by the bank. Debt obligations 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 bank, and may be made redeemable or determinable prior to maturity at the option of the bank or the holder thereof at such price or prices and under such terms and conditions as may be fixed by the bank. The bank shall determine the form of debt obligations and the manner of execution, denomination or denominations and place or places of payment thereof. In case any officer whose signature or a facsimile of whose signature shall appear on any debt obligations shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until after such delivery. The bank may provide for the authentication of debt obligations by a trustee, fiscal agent, registrar or transfer agent. The bank may by resolution delegate to the executive director or any member or members of the board of directors of the bank, or any combination of them, the power to determine any of the matters set forth in this section. In the discretion of the bank, debt obligations of the bank may be issued with such terms as will cause the interest thereon to be subject to federal income taxation. The bank may sell its debt obligations in such manner, either at public or private sale, for such price, at such rate or rates of interest, or at discount in lieu of interest, as it determines will best effectuate its corporate purposes.

In the discretion of the bank, any debt obligations issued hereunder may be secured by a resolution of the bank or by a trust agreement between the bank and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the commonwealth, and any such trust agreement shall be in such form and executed in such manner as may be determined by the bank. Such trust agreement or resolution may pledge or assign, in whole or in part, any revenues and funds held or to be received, and any mortgages or other loan collateral held or to be acquired, by the bank and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the bank, and the proceeds thereof. Such trust agreement or resolutions may contain such provisions for protecting and enforcing the rights, security and remedies of holders of debt obligations as may be reasonable and proper, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof which may include the acceleration of maturities, restrictions on individual right of action by holders of debt obligations and covenants setting forth duties of limitations on the bank in relation to the conduct of its programs and the management of its property, the custody, safeguarding, investment and application of moneys, the issuance of additional or refunding debt obligations, the establishment of reserves and the making and amending of contracts. In addition to other security provided herein or otherwise by law, debt obligations issued by the bank may be secured, in whole or in part, by financial guaranties, by insurance or by letters of credit issued to the bank or a trustee or any other person, by any bank, trust company, insurance or surety company or other financial institution, within or without the commonwealth, and the bank may pledge or assign, in whole or in part, any revenues and funds held or to be received, and any mortgages or other loan collateral held or to be acquired, by the bank and any contract or

other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the bank, and the proceeds thereof, as security for such guaranties or insurance or for the reimbursement by the bank to the issuer of any such letter of credit of any payment made under such letter of credit.

It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of debt obligations, revenues or other moneys under any such trust agreement or resolution and to furnish such indemnification or to pledge such securities and issue such letters of credit as may be required by the bank. Any such trust agreement or resolution may set forth the rights and remedies of holders of debt obligations and of the trustee and may restrict the individual right of action by holders of debt obligations. Any pledge of revenues or other property made by the bank under the provisions of this act, including without limitation any pledge by the bank of its rights to receive payments of any kind from or for the account of mortgagors under mortgages, participations therein or subsidy, guaranty, insurance or other contracts relating thereto, and of its revenues and other property, and of the mortgages, notes, such participations, such subsidy, guaranty, insurance or other contracts or other collateral, and of the proceeds of any or all thereof, shall be valid and binding and shall be deemed continuously perfected for the purposes of the Uniform Commercial Code and other laws from the time when such pledge is made. The revenues, moneys, property, rights and proceeds so pledged and then held or thereafter acquired or received by the bank shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act, and the lien of any such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the bank, regardless of whether such parties have notice thereof. Neither the resolution, any trust agreement nor any other agreement by which a pledge is created need be filed or recorded except in the records of the bank, and no filing need be made under chapter one hundred and six or any other law.

Any holder of a debt obligation issued by the bank under the provisions of this act and any trustee under a trust agreement or resolution securing the same, except to the extent the rights herein given may be restricted by such trust agreement or resolution, may bring suit upon the debt obligations and may, either at law or in equity, by suit, action, mandamus or other proceeding for legal or equitable relief, including proceedings for the appointment of a receiver to take possession and control of the business and properties of the bank, to operate and maintain the same, to make any necessary repairs, renewals and replacements in respect thereof and to fix, revise and collect fees and charges, protect and enforce any and all rights under the laws of the commonwealth or granted hereunder or under such trust agreement, resolution or other agreement and may enforce and compel the performance of all duties required by this act or by such trust agreement or resolution to be performed by the bank or by any officer thereof.

Debt obligations issued by the bank under this act are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, trust companies in their commercial departments,

savings banks, cooperative banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such debt obligations are hereby made securities which may properly and legally be deposited with and received by any commonwealth or municipal officer or any agency or political subdivision of the commonwealth for any purpose for which the deposit of bonds or obligations of the commonwealth is now or may hereafter be authorized by law.

Debt obligations issued by the bank under the provisions of this act shall not be deemed to be a debt or a pledge of the faith and credit of the commonwealth, except to the extent provided pursuant to the provisions of section eight B of this act, but, except as aforesaid, shall be payable solely from the funds of the bank from which they are made payable pursuant to the provisions of this act.

All debt obligations issued by the bank under the provisions of this act, 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 cities, towns and other political subdivisions in the commonwealth.

SECTION 240. Section 19 of said chapter 212 is hereby amended by striking out the words "nineteen hundred and ninety-eight", inserted by section 576 of chapter 133 of the acts of 1992, and inserting in place thereof the following words:- two thousand and four.

SECTION 241. Section 36 of chapter 190 of the acts of 1982, as most recently amended by section 8 of chapter 629 of the acts of 1982, is hereby amended by inserting after the first sentence the following sentences:- Real property of the authority, if leased, used or occupied in connection with a business conducted for profit, except any business conducting a temporary trade show, exhibition or similar event, shall at the discretion of the municipality, for the privilege of such lease, use, or occupancy, be valued, classified, assessed and taxed annually as of January first to the lessee, user or occupant in the same manner and to the same extent as if such lessee, user or occupant were the owner thereof in fee. No tax assessed under this section shall be a lien upon the real estate with respect to which it is assessed; nor shall any tax be enforced by any sale or taking of such real estate; but the interest of any lessee therein may be sold or taken by the collector of the town in which the real estate lies for the nonpayment of such taxes in the manner provided by law for the sale or taking of real estate for nonpayment of annual taxes. Such collector shall have for the collection of taxes assessed under this section all other remedies provided by chapter sixty of the General Laws for the collection of annual taxes upon real estate.

SECTION 242. Section 9 of chapter 372 of the acts of 1984 is hereby amended by adding the following paragraph:-

Real property of the authority, if leased, used, or occupied in connection with a business conducted for profit, shall at the discretion of the municipality, for the privilege of such lease, use, or occupancy, be valued, classified, assessed and taxed annually as of January first to the lessee, user or occupant in the same manner and to the same extent as if

such lessee, user, or occupant were the owner thereof in full. No tax assessed under this section shall be a lien upon the real estate with respect to which it is assessed; nor shall any tax be enforced by any sale or taking of such real estate; but the interest of any lessee therein may be sold or taken by the collector of the town in which the real estate lies for the nonpayment of such taxes in the manner provided by law for the sale or taking of real estate for nonpayment of annual taxes. Such collector shall have for the collection of taxes assessed under this section all other remedies provided by chapter sixty of the General Laws for the collection of annual taxes upon real estate.

SECTION 243. Said chapter 372 is hereby further amended by inserting after section 9 the following section:-

Section 9A. Any city or town using estimated bills for water or sewer services which receives payment in an amount in excess of the actual amount due to such city or town for costs actually incurred in the furnishing of water or sewer service shall place such excess monies in an account to be kept separate and apart from any other monies to be applied against the next bill of the user and such monies shall not be used for any other municipal purposes.

SECTION 244. Said chapter 372 is hereby further amended by inserting after section 10 the following section:-

Section 10A. No city or town in the sewer division of the Authority and no city or town in the water division of the Authority shall assess or charge any user at a rate greater than that charged to such city or town by the Authority, provided however, such city or town may include in such assessments and charges, costs actually incurred in the furnishing of sewer or water service.

SECTION 245. Chapter 223 of the acts of 1985 is hereby amended by striking section 13, as most recently amended by chapter 389 of the acts of 1991, 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-nine.

SECTION 246. Chapter five hundred and eighty-five of the acts of nineteen hundred and eighty-six is hereby repealed.

SECTION 247. (i) It is hereby found and declared that certain activities undertaken from time to time by the Massachusetts Bay Transportation Authority, hereinafter referred to as "the authority", in order to construct, reconstruct, renovate, repair, remove, replace, or expand transportation facilities in the public interest, may provide opportunities to stabilize, develop, and revitalize the economy of the areas in which such activities are undertaken; that the stabilization, development, or revitalization of small businesses in such areas would improve the general health, safety, and welfare of such areas while also increasing the value and use of the public investment in the transportation facilities in such areas; that to achieve these benefits it may be necessary to stimulate private investment in such areas: that the stabilization, development, or revitalization of such areas may not be dealt with effectively

by the ordinary operations of private enterprise without the aids provided herein; that without such aids the construction or other activities may have a significantly harmful impact on the economic stability and growth of small businesses in such areas; and that the use of public funds to stimulate private investment in such businesses and areas as provided herein is a valid public purpose.

(ii) (a) There is hereby established a board to oversee a pilot program to assist businesses affected by transportation enhancements, hereinafter referred to as "the board". The board shall consist of the secretary of transportation and construction, or his designee, the secretary of economic affairs, or his designee, and the commissioner of banks and banking, or his designee. All official actions of the board must be approved by a majority of its members. The board is hereby authorized and directed to promulgate rules or regulations pursuant to section two of chapter thirty A of the General Laws to establish standards or criteria for the designation of transportation activity affected areas pursuant to paragraph (b) under which business entities may be qualified small business pursuant to paragraph (c), and for the evaluation of proposals for and performance under agreements entered into pursuant to paragraph (d), or for any other purpose necessary to implement the provisions of this section.

(b) The board may designate a specific geographic area to be a "transportation activity affected area". An area may be so designated if: (1) the authority is undertaking transportation enhancement activities including the construction, reconstruction, renovation, repair, removal, replacement, or expansion of its transportation facilities within the area; (2) such activities have had or are likely to have a significantly harmful impact upon the economic stability and growth of small businesses within such area; and (3) the area meets such other standards and criteria as the board may establish.

(c) A "qualifying small business" shall mean a for profit or non-profit business entity that is located, wholly or partially, within a designated transportation activity affected area; that alone or in combination with any affiliated businesses entity had average gross sales of less than two million five hundred thousand dollars per year for its most recent two fiscal years and that has fewer than fifty full-time equivalent employees; that has been doing business within a transportation activity affected area for at least one year prior to the commencement of transportation enhancement activities by the authority within the designated area; that has been or is likely to be significantly harmed by the transportation enhancement activities of the authority within the transportation activity affected area; and that meets such other standards and criteria as the board may establish. For the purposes of this section, business entities shall be considered to be affiliated if they are controlled, either through ownership or management, by the same party or parties.

(d) The authority is hereby authorized to enter into agreements with banks to stimulate loans to qualifying small businesses. For the purposes of this section, banks shall be deemed to include any bank subject to taxation under section two of chapter sixty-three of the General Laws. Banks shall be selected by the authority for participation in this pilot

program after a competitive bidding process which shall include public advertisement and the receipt of written bids. The actual selections shall be based upon standards and criteria that shall include the interest rate the bank will pay the authority for its deposits, the interest rate the bank will charge to participating qualifying small businesses, and such other standards and criteria as the board may establish. Such agreements shall provide that: (1) the authority shall deposit in such bank, pursuant to paragraph (f), funds which may earn no interest, below market rate interest, or market rate interest during periods when such funds are used to stimulate loans to qualifying small businesses as provided herein; (2) in consideration of such deposits such bank shall make loans to qualifying small business pursuant to paragraph (e) at interest rates below the rates such bank would otherwise charge on such loans; (3) such deposits and loans as a whole shall be structured in such a way that the total value of any reduction in interest earnings to the authority resulting from the deposit of funds at no interest or at below market rate interest, minus any extraordinary administrative costs incurred by such bank beyond the costs that would normally be incurred in making such a loan other than pursuant to this section, shall not be greater than the total value of any reduction in interest costs to qualifying small businesses resulting from the receipt of any such loan at below market rate interest; (4) if the total value of any such reduction in interest earnings, minus any such extraordinary administrative costs, exceeds the total value of any such reduction in interest costs, such excess shall be rebated to the authority; (5) such bank may secure the payment of principal and interest on any loan granted pursuant to this section by mortgage, security interest, or any other method; (6) upon the finding by the board that such bank has substantially failed to meet the conditions of the agreement the board may rescind such agreement and shall require the rebate of any excess owed the authority at that time under clause (4) and the return of any deposits made under clause (1).

(e) Banks entering into an agreement under paragraph (d) shall make loans to qualifying small businesses pursuant to such agreement. Such businesses may use the proceeds of any such loan for the costs of renovation, modernization, expansion, maintenance, inventory purchases or related capital improvements but may not use such proceeds for any operating costs. The factors to be considered by a bank in granting a loan pursuant to this section shall include, but need not be limited to: (1) the degree and severity of the impact of the transportation construction activity of the authority on the economic stability and growth of the applicant qualifying small business and the resulting effect on the use of mass transportation facilities in such area, (2) the degree to which the loan will assure the economic stability and growth of the applicant qualifying small business and of the designated area and will increase the value and use of mass transportation facilities in such area, (3) the ability of the applicant qualifying small business otherwise to obtain financing at reasonable rates and upon reasonable terms, and (4) the period of time the business has operated in the area and the period of time it has been owned by the applicant.

(f) Notwithstanding any general or special law to the contrary, the authority is hereby authorized to deposit any of its funds with banks at no interest or below market rate interest for the purposes and in the manner set forth in this section; provided, however, that no funds that were in any way made available because of a pledge of the credit of the commonwealth may be so deposited for said purposes; provided, further that in no event shall funds of the authority be used as security for loans granted pursuant to this section and no such loan shall be guaranteed by the authority. At no time shall the authority have on deposit with such banks in excess of seven million five hundred thousand dollars for said purposes.

(g) Within sixty days from the end of each calendar year after nineteen hundred and eighty-six, the authority shall submit a report relative to said pilot program that has been approved by the board to the clerks of the senate and of the house of representatives, to the house and senate committees on ways and means, to the commissioner of administration, and to the inspector general, who is hereby authorized thereafter similarly to submit his comments on such report. The report shall include, but need not be limited to: (1) a listing of any designated transportation activity affected area; (2) any accounting of an funds deposited by the authority pursuant to this section and of the value of any reduced interest earnings to the authority resulting from each deposit of authority funds at no interest or at below market rate interest; (3) an accounting of the value of any reduced interest costs to qualifying small businesses resulting from receiving loans stimulated by each such deposit at below market rate interest; (4) an accounting of any extraordinary administrative costs allowed to a bank for each deposit; and (5) an accounting of an excess rebated for each deposit to the authority pursuant to clause (4) of paragraph (d) of subsection (i).

(iii) The provisions of subsections (i) and (ii) shall cease to be in effect as of July first, nineteen hundred and ninety-four. No loans shall be made pursuant to paragraph (e) of subsection (i) after December thirty-first, nineteen hundred and ninety-three. Nothing in this section shall be construed to prevent the collection of any outstanding principal or interest on loans made pursuant to said paragraph (e) on or before December thirty-first, nineteen hundred and ninety-three or of any outstanding excess owed to the authority under clause (4) of paragraph (d) of subsection (i).

SECTION 248. Chapter 394 of the acts of 1987 is hereby amended by adding the following section:-

Section 5. Notwithstanding the provisions in sections one through four, inclusive of this act, an insurer, nonprofit hospital service corporation, nonprofit medical service corporation, or a health maintenance organization, shall exclude upon the request of an employer which is a diocese the benefit set forth in this act from any blanket or general policy of insurance, from any contract or subscriber certificate under a medical or hospital service plan, from any health maintenance contract, or from any preferred provider arrangement contract which is issued, delivered, or renewed.

SECTION 249. Section 83 of chapter 23 of the acts of 1988 is hereby amended by adding the following two paragraphs:

Notwithstanding the foregoing provisions, there shall be established a tactical training initiative, to create and maintain manufacturing jobs in the commonwealth. Such initiative shall design training programs which meet the specific needs of employers and workers, through upgrading of existing skills, improved productivity and modernizing production methods.

Not more than five hundred thousand dollars shall be expended from said fund for the tactical training initiative. The commissioner of the department of medical security shall transfer to the department of employment and training five hundred thousand dollars from said fund; provided, however, that said amount is available in said fund. The commissioner of the department of employment and training is hereby authorized to expend a sum not less than five hundred thousand dollars for said programs, and to expand any federal funds made available therefor.

SECTION 250. Item 7510-7892 of section 2 of chapter 208 of the acts of 1988 is hereby amended by inserting after the word "dollar", in line 8 the following words:- ; provided further, that the funds herein authorized shall be available for expenditure until June thirtieth, nineteen hundred and ninety-eight.

SECTION 251. Section 2 of chapter 229 of the acts of 1989 is hereby amended by striking out, in line 6, the words "one hundred and seventy-five" and inserting in place thereof the following words:- two hundred and twenty-six.

SECTION 252. Section 111 of chapter 240 of the acts of 1989 is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

Said commission may expend such sums as may be appropriated therefore, not to exceed, in the aggregate five hundred thousand dollars; provided, however, that banks and life insurance companies doing business in the commonwealth and subject to taxation under chapter sixty-three of the General Laws shall, as hereinafter provided, reimburse the commonwealth for all expenditures in fiscal years nineteen hundred ninety to nineteen hundred ninety-three, inclusive, and any subsequent expenditures in any fiscal year pursuant to any such appropriation. Said commission shall certify all such expenditures to the commissioner of banks and the commissioner of insurance who, jointly, shall apportion the same in equal amounts on the banking industry and life insurance encompassing such banks and life insurance companies, respectively. Said commissioner of banks and commissioner of insurance shall transmit said apportionments to the comptroller who shall assess the same on said banks and life insurance companies who, in turn, shall remit the amount of such assessments to said comptroller within thirty days of the receipt thereof.

SECTION 253. Paragraph (i) of section 114 of chapter 412 of the acts of 1991 is hereby amended by inserting after the word "fifty E", in line 4, the following words:- ; provided, however, that notwithstanding any other provisions of this act to the contrary, all matters relating to wages, hours and standards of productivity or performance, and any other matters pertaining to section thirteen, section twenty-five and section twenty-six of chapter

twenty-two C of the General Laws shall be subject to the provisions 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.

SECTION 254. Chapter 537 of the acts of 1991 is hereby amended by striking out, in lines 13 to 16, inclusive, the words "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" and inserting in place thereof the following: beginning on the Easterly sideline of Park Road as laid out by the Metropolitan Park Commissioners July 26, 1906, at a point 309.00 feet Southeasterly of a stone bound;

Thence N73 27' 47" E a distance of 37.94 feet to the southwest corner of the Golf Museum's eight foot envelope;

Thence N17 17' 29" W a distance of 142.80 feet, said point being 36.05 feet from Park Street;

Thence N72 42' 31" E a distance of 28.00 feet;

Thence S17 17' 29" E a distance of 8.30 feet;

Thence N72 42' 31" E a distance of 67.00 feet;

Thence S17 17' 29" E a distance of 48.00 feet;

Thence S72 42' 31" E a distance of 29.60 feet;

Thence S17 17' 29" E a distance of 35.80 feet;

Thence N72 42' 31" E a distance of 4.45 feet;

Thence S17 17' 29" E a distance of 72.20 feet;

Thence S46 08' 37" W a distance of 5.59 feet;

Thence N17 17' 29" W a distance of 24.00 feet;

Thence S72 42' 31" W a distance of 64.85 feet to the starting southwest envelope corner.

Contains 10,789 square feet.

SECTION 255. Section 47 of chapter 133 of the acts of 1992, is hereby amended by inserting after the first sentence the following sentence:- On or after the effective date of this act an active member who is currently contributing to two or more retirement systems, established under the provisions of chapter thirty-two, may elect not to participate in the retirement system in which he is contributing the lesser amount of accumulated deductions; provided, however, that said active member upon such election not to participate, shall be entitled to receive upon his written request to the retirement board, in one sum, an amount equal to the accumulated regular deductions paid by said member into the Annuity Savings Fund of the retirement system of the governmental unit which said member has contributed the lesser amount together with regular interest as shall have accrued thereon in accordance with the provisions of sections eleven and twenty-two of said chapter thirty-two.

SECTION 256. Said chapter 133 is hereby further amended by inserting after section 48 the following section:-

Section 48A. Notwithstanding the provisions of chapter thirty-two of the General Laws or any other general or special law to the contrary, and upon acceptance of this section by the legislative and executive authority within a city, town or county, the provisions of this section providing for a retirement program for municipal hospital or municipal department of health employee who is a Group 1, Group 2, or Group 4 employee as defined in section three of said chapter thirty-two, who is a member of the appropriate municipal or county retirement system and (*i*) who is an employee of the municipality on the effective date of this section, (*ii*) shall be eligible to receive a superannuation retirement allowance in accordance with the provisions of subdivision (1) of section five or subdivision (1) of section ten of said chapter thirty-two upon the effective date specified in his written application to said board and (*iii*) shall have filed a written application after August first, nineteen hundred and ninety-three, but not later than December thirty-first, nineteen hundred and ninety-three to retire for superannuation as of the date which shall be specified in such application; provided, however, that said date for retirement shall be no earlier than August fifteenth, nineteen hundred and ninety-three and no later than one hundred and twenty days after acceptance of this section by the city, town, county or executive authority. For the purposes of this section the legislative authority shall mean a town meeting in a town, the city council in a city, the county advisory board in a county other than the counties of Suffolk and Nantucket in which cases the county commissioners shall serve as the legislative authority; and executive authority shall mean the board of selectmen in a town, the mayor in a city, and the county commissioners in a county. Said program shall be administered by the appropriate municipal or county retirement system, which shall also promulgate regulations to implement the provisions of said program. Notwithstanding the foregoing, no city, town, or county may adopt the provisions of this section unless said city, town or county has established a retirement system funding schedule pursuant to the provisions of section twenty-two D of chapter thirty-two of the General Laws or subdivision (6A) of section twenty-two of said chapter thirty-two prior to the effective date of this act or adopts the provisions of section twenty-two D of said chapter thirty-two after the effective date of this act.

Notwithstanding any provisions of said chapter thirty-two to the contrary, the normal yearly amount of the retirement allowance for an eligible employee who is employed by a city, town or county hospital or department of health which accepts the applicable 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*) 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 five years of age or by up to five years of creditable service or by a combination of additional years of age and service the sum of which shall not be greater than five, provided however that the executive

authority in a city or town may limit the amount of additional credit for service or age or a combination of service and age offered and the number of employees for whom it will approve a retirement calculated under the provisions of this section; provided, further, that if participation is limited, the retirement of employees with greater creditable service shall be approved before approval is given to employees with lesser creditable service.

For the purpose of this section 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. An employee who retires and receives an additional benefit in accordance with the provisions 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 total normal yearly amount of the retirement allowance, as determined in accordance with the provisions of section five of said chapter thirty-two, of any employee who retires and receives additional benefit under the retirement incentive program for employees of municipal departments of health and municipal hospitals in accordance with the provisions of this section shall not exceed four-fifths 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, which ever is greater.

The commissioner of the public employee retirement administration shall analyze, study, and evaluate the costs and the actuarial liabilities attributable to the additional benefits payable in accordance with the provisions of this section of the retirement incentive program for municipal county and employees of municipal hospitals or municipal departments of health employees, established by this section for each retirement system; provided, however, that said commissioner shall file a report in writing of his findings to the board on or before June thirtieth, nineteen hundred and ninety-four, and shall send a copy thereof to the county commissioners, the mayor, or the board of selectmen, as the case may be; and, provided further, that said reports shall be filed with the joint committee on public service on or before June thirtieth, nineteen hundred and ninety-four.

The applicable retirement board shall prepare a funding schedule which shall reflect the costs and the actuarial liabilities attributable to the additional benefits payable under the retirement incentive program in accordance with the provisions of this section and said schedule shall be designed to reduce the applicable retirement system's additional pension liability attributable to such costs and liabilities to zero on or before June thirtieth, two thousand and nine; provided, however, that in preparing such schedule, the board shall consider the analysis of the commissioner of public employee retirement administration filed in accordance with the provisions of this section; provided further, that said board shall triennially update such schedule until June thirtieth, two thousand and nine. Said board shall file such funding schedule with the joint committee on public service and the house and senate committees on ways and means on or before September first, nineteen hundred and ninety-four, and shall file updates thereto triennially on or before September first of the reporting year. In each of the fiscal years until the actuarial liability determined under this

section shall be reduced to zero, it shall be deemed an obligation of the applicable city, town or county to fund such liability and there shall be appropriated to the applicable pension reserve fund in such fiscal year the amount required by the funding schedule and the update thereto.

SECTION 257. Section ninety three of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two is hereby repealed.

SECTION 258. Item 3711-9111 of section 2 of chapter 153 of the acts of 1992 is hereby amended, by adding the words:- ; provided, further, that the funds appropriated herein shall be paid to the Boston Redevelopment Authority to be administered for the purposes of said project.

SECTION 259. Chapter 288 of the acts of 1992 is hereby amended by striking out section 3 and inserting in place thereof the following section:-

Section 3. Section forty-two B of chapter seventy-one of the General Laws shall apply to all certified school personnel formerly employed by the school committee for the Plymouth-Carver Regional School District. Non-certified school personnel formerly employed by the school committee for the Plymouth-Carver Regional School District shall have the same rights provided to certified personnel under said section forty-two B of said chapter seventy-one to the extent applicable.

SECTION 260. Item 9222-7800 of section 2A of chapter 289 of the acts of 1992 is hereby amended by striking out the wording and inserting in place thereof the following:-

For the administration of the division; provided, however, that the commissioner of insurance shall expend funds from this item of appropriation for the purpose of obtaining accreditation by the National Association of Insurance Commissioners; provided further, that in the event that all monies collected by said division pursuant to section eight B of chapter twenty-six, section eight J of chapter twenty-six, and sections fourteen and one hundred sixty-three of chapter one hundred seventy-five of the General Laws for fiscal year nineteen hundred and ninety-three do not exceed monies so collected during fiscal year nineteen hundred and ninety-two by the amount appropriated herein, the commissioner is hereby authorized and directed to make an assessment not to exceed seven hundred thousand dollars on or before June thirtieth, nineteen hundred and ninety-three against all licensed insurers in the commonwealth at a rate sufficient to produce revenue to reimburse the commonwealth for said difference, notwithstanding the provisions of section eight C of chapter twenty-six of the General Laws to the contrary; provided, further, that no funds appropriated herein shall be expended until such time that all legislation relative to obtaining said accreditation has been filed with the clerks of the senate and the house of representatives.

Division of Insurance Trust Fund . . . . . 100.0%.

SECTION 261. Section 2A of chapter 50 of the acts of 1993 is hereby amended by striking out item 4500-1010 and inserting in place thereof the following item:-

4500-1010 For the purposes of a tobacco control program; provided, however, that the department is authorized to expend funds for a media campaign on the dangers of cigarette smoking and other forms of tobacco use, which may include public transit advertising; provided, further, that not more than one million dollars shall be paid from this item to the department of education for comprehensive school health education programs, including information relating to the hazards of tobacco use; provided, further, that not less than five million dollars shall be paid from this item to the executive office of public safety to administer a discretionary grant program for city and town drug awareness and resistance education programs, to be known as D.A.R.E. programs, which shall include information about the health risks of cigarette smoking and shall include the participation of local and state police officers, subject to the supervision of and standards established by the department of public health 20,000,000

Health Protection Fund 100.0%

SECTION 262. Section 1G of chapter 15 of the General Laws, as most recently amended by section 3 of chapter 71 of the acts of 1993, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There shall be established advisory councils to the board in the following areas: early childhood education; life management skills; home economics; educational personnel; fine arts education; gifted and talented education; math and science education; racial imbalance; parent and community education and involvement; special education; bilingual education; technology education; vocational-technical education; adult basic education; and comprehensive interdisciplinary health education and human service programs.

SECTION 263. Section 16D of chapter 71 of the General Laws is hereby amended by striking out subsection (e) as appearing in section 34 of chapter 71 of the acts of 1993,and inserting in place thereof the following subsection:-

(e) Notwithstanding the foregoing provisions of this section, for the fiscal year ending on June thirtieth, nineteen hundred and ninety-four, regional schools shall receive the same amount of state aid that they received in the fiscal year ending on June thirtieth, nineteen hundred and ninety-three; provided, however, that any regional school that received in the fiscal year ending on June thirtieth, nineteen hundred and ninety-three less than seventy-six percent of the amount of state aid that it would have been entitled to pursuant to the foregoing provisions of this section if the full amount had been appropriated for such state aid in said fiscal year nineteen hundred and ninety-three shall receive an additional state aid payment in fiscal year nineteen hundred and ninety-four such that the total state aid for

each regional school pursuant to this section shall be no less than seventy-six percent of the amount of state aid that it would have been entitled to pursuant to the foregoing provisions of this section if the full amount had been appropriated for such state aid in said fiscal year nineteen hundred and ninety-three; provided, further, that any regional school district that is newly reorganized pursuant to section fifteen subsequent to June thirtieth, nineteen hundred and ninety-two but prior to January first, nineteen hundred and ninety-four shall receive seventy-six percent of the amount it would otherwise have been entitled to receive for expenses incurred in the first year of operation as a reorganized school district pursuant to the foregoing provisions of this section.

SECTION 264. The second paragraph of section 70 of chapter 71 of the acts of 1993 is hereby amended by striking out the first, second and third sentences and inserting in place thereof the following three sentences:- The members of the commission shall include a member of the house of representatives appointed by the speaker, a member of the senate appointed by the president of the senate, and the following members to be appointed by the governor: a representative of the executive office of human services, a representative of the board of education or the secretary of education, a representative of the office for children, a representative of the department of public welfare, a representative of the department of social services, a head start director as recommended by the Massachusetts Head Start Directors Association, a representative of private day care providers as recommended by the Massachusetts Association of Day Care Agencies, a head start parent as recommended by the Massachusetts Head Start Association, a parent with a child in private day care as recommended by the Parents United for Child Care, an early childhood education teacher; provided, however, that said teacher shall be CDA certified. The commission shall elect co-chairpersons from among its members and shall file its final plan with the clerks of the house and senate no later than April thirtieth, nineteen hundred and ninety-four. The joint committee on education, arts and humanities shall review said plan no later than May thirtieth, nineteen hundred and ninety-four; provided, however, that any changes to said plan shall be made in conjunction with the members of the commission; and, provided further, that the commissioner of education shall make available staff and administrative resources to the commission.

SECTION 265. The second paragraph of section 83 of chapter 71 of the acts of 1993 is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The annual cost to the state of the cost of the pensions taken under the provisions of this section shall not exceed twenty million dollars for teachers retiring in nineteen hundred and ninety-three and such annual cost to the state of the cost of the pensions taken under the provisions of this section shall not exceed twenty million dollars for teachers retiring in nineteen hundred and ninety-four.

SECTION 266. Said second paragraph of said section 83 of said chapter 71 is hereby further amended by striking out the fifth sentence and inserting in place thereof the following sentences:- If the total benefits payable in accordance with said retirement incentive program, due to applicants admitted in any given year, will exceed twenty million

dollars, the teachers' retirement board shall proportionally reduce the number of accepted applications from each city, town, regional school committee, independent vocational school, county agricultural school, or educational collaborative accepting the provisions of this section in nineteen hundred and ninety-three and nineteen hundred and ninety-four.

SECTION 267. The fourth paragraph of said section 83 of said chapter 71 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- In order to offer the early retirement incentive program in nineteen hundred and ninety-four, any such city, town, regional school committee, independent vocational school, county agricultural school or educational collaborative must accept this section on or after January first, nineteen hundred and ninety-four but no later than June tenth, nineteen hundred and ninety-four.

SECTION 268. Said chapter 71 is hereby further amended by striking out section 96 and inserting in place thereof the following section:-

Section 96. All school-aged children placed 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, other than in their home city or town, shall have their tuition reimbursed, subject to appropriation, under the provisions of said sections seven and nine.

SECTION 269. (a) Notwithstanding the provisions of any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property, and legal obligations of the following functions of state government from the transferor agency to the transferee agency, as hereby defined:

(1) The functions of the department of labor and industries, insofar as they relate to the investigation and enforcement of laws pertaining to wages, hours and working conditions, child labor, fair competition for bidders on public construction jobs and workplace safety, with the exception of lead and asbestos and the division of occupational hygiene, as the transferor agency; to the office of the attorney general, as the transferee agency.

(2) The functions of the office of veterans' services in the executive office of health and human services, as the transferor agency; to the department of veterans' services in the executive office of administration and finance, as the transferee agency.

(b) All employees of the transferor agencies as defined in subsection (a), including those who immediately prior to the effective date of this act 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 or do not hold such tenure, are hereby transferred to the transferee agencies, as defined in subsection (a), without interruption of service within the meaning of said section nine A or said chapter thirty-one of the General Laws, and without reduction in compensation or salary grade. Notwithstanding the provisions of any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter one hundred and fifty E of the General Laws, and shall be considered employees for the purposes

of said chapter one hundred and fifty E.

(c) All petitions, requests, investigations, and other proceedings appropriately and duly brought before the transferor agencies, as defined in subsection (a), or duly begun by said transferor agencies and pending before said transferor agencies prior to the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the transferee agencies, as defined in subsection (a).

(d) All orders, rules and regulations duly made and all approvals duly granted by the transferor agencies, as defined in subsection (a), with the exception of the department of labor and industries, 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, until superseded, revised, rescinded or canceled in accordance with law by the transferee agencies, as defined in subsection (a).

(e) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, which immediately prior to the effective date of this act are in the custody of the transferor agencies, as defined in subsection (a), shall be transferred to the transferee agencies, as defined in subsection (a), including all such property held in trust.

(f) All duly existing contracts, leases and obligations of the transferor agencies, as defined in subsection (a), shall continue in effect but shall be assumed by the transferee agencies, as defined in subsection (a). No existing right or remedy of any character shall be lost, impaired or affected by the provisions of this act.

SECTION 270. This section may be cited as the Interstate Corrections Compact.

The Interstate Corrections Compact is hereby enacted into law and entered into by this state with any other states legally joining therein in the form substantially as follows:

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economics in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

As used in this compact, unless the context clearly requires otherwise, the following terms shall have the following meanings:-

"State", a state of the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

"Sending state", a state party to this compact in which conviction or court commitment was had.

"Receiving state", a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

"Inmate", a male or female offender who is committed, under sentence to or confined in a penal or correction institution.

"Institution", any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which inmates may lawfully be confined.

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

(1) Its duration;

(2) Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance;

(3) Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom;

(4) Delivery and retaking of inmates; and

(5) Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent herewith.

Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to sub-section (3), shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care of an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of subsection (3).

Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of his record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had been place in the sending state. In any and all proceedings had pursuant to the provisions of this paragraph, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the

confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

SECTION 271. Notwithstanding the provisions of section thirty-five of chapter two hundred and seventy-six of the general laws, in Essex county and Norfolk county, except in proceedings under sections fifteen to eighteen A inclusive, of chapter two hundred and seventy-three of the General Laws, the court or justice may adjourn an examination or trial from time to time, not exceeding thirty days at any one time against the objection of the defendant, and to the same or a different place in the county. In the meantime, if the defendant is charged with a crime 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.

The chief justice for the district court department, with the approval or at the discretion of the supreme judicial court, may request the general court to suspend this act if he finds that circumstances have arisen which seriously delay the trial of cases and seriously impede the administration of justice.

The provisions of this section shall be implemented by the chief justice for the district court department and shall be effective in Essex County and Norfolk County for a period of one year commencing on January first, nineteen hundred and ninety-four and shall apply only to actions commenced on or after January first, nineteen hundred and ninety-four.

In the event that the provisions of this act are not extended by the general court prior to January first, nineteen hundred and ninety-five, or in the event that the provisions of this act are suspended by the general court prior to said date, actions pending or initiated in Essex County or Norfolk County shall be conducted pursuant to all applicable provisions of the General Laws and shall not be subject to the provisions of this section.

The chief justice of the district court department of the trial court, in consultation with the district attorneys for Essex County and Norfolk County and the committee for public counsel services, shall prepare and file with the clerks of the senate and house of representatives and the house and senate committees on ways and means, an initial report on the implementation of this act, on or before March first, nineteen hundred and ninety-four, and a final report on said implementation, on or before July first, nineteen hun-

dred and ninety-four. Said reports shall provide detailed information concerning the status and effect of implementation of this section, including but not limited to any costs incurred as a result of such implementation, as well as a statistical analysis of the disposition of examinations or trials conducted pursuant to the provisions of this section which indicate the number of examinations or trials that were adjourned for up to thirty days and the effect such time had on the examinations or trials.

SECTION 272. The House Committee on Ways and Means shall conduct a study of the funding sources for all programs administered, developed, monitored or overseen by the judiciary.

SECTION 273. There is hereby established in the office of the chief justice for administration and management of the trial court a pilot indigency verification unit. Notwithstanding any general or special law to the contrary, said unit shall evaluate and verify the assets, income and expenses of persons requesting appointment of counsel pursuant to section two of chapter two hundred and eleven D of the General Laws, and make recommendations to the court relative to the appointment of counsel for such persons. Said unit shall conduct selected post-appointment reviews of indigency and inform the court of its findings. Said unit shall obtain access to records of the department of public welfare, the department of revenue, the department of corrections and such other state agencies as may have information relevant to the unit. Said departments and all other state agencies shall comply with any request for records made by said unit. Said unit may contract with providers of asset and credit records and other relevant information for the provision of such information to the unit.

Said unit shall operate in three courts of the commonwealth as determined by said chief justice. Said chief justice shall prepare and submit to the house and senate committees on ways and means on or before May first, nineteen hundred and ninety-four, a report evaluating the operations of the unit and making recommendations concerning statewide expansion of the unit.

SECTION 274. There shall be established within the department of procurement and general services 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 section, 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, 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 of the General Laws, 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 this section.

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 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.

The division shall have the responsibility for prescribing the methods to be used in determining the prices to be reimbursed to providers of social service programs by governmental units. The methods prescribed by the division in determining prices shall incorporate cost containment standards and shall be fair to both governmental units and providers; provided, that in no event shall such methods result in a price for any component purchased from a provider of social services that exceeds ninety percent of the price paid by private sector purchasers for the same or a comparable component or service. All governmental units shall pay the prices developed in accordance with the methods prescribed by the division.

The prices determined by the division of purchased services, or pursuant to its methods, for programs pursuant to chapter seventy-one B of the General Laws shall be set annually by the first Wednesday in February for the next fiscal year. If said division fails to determine said final annual prices on or before the first Wednesday in February, said prices in effect shall continue to be in effect for the next fiscal year. Program prices for programs approved under said chapter seventy-one B which are located outside of the Commonwealth may be adjusted prospectively to account for rate or price adjustments authorized by the host state's rate setting body. In addition, program prices 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 compliance with federal or state statutory or local regulatory requirements as determined by the division and pursuant to standards developed by the division. No such price 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 price for a new program established for the first time under said chapter seventy-one B, or individual or sole source prices 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 the section four H of chapter seven of the General Laws. 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 of the General Laws.

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 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. The disclosure of client records by providers to auditors, including independent auditors as defined by Federal Office of Management and Budget Circular A-133, as amended, as necessary to comply with state and federal audit requirements shall not constitute an invasion of privacy, or other wise be grounds for civil or criminal penalty.

The assistant commissioner may, in accordance with said chapter thirty A, and after notice to the social service policy advisory board, promulgate rules and regulations required to develop, implement, administer and monitor the programs and functions of the division. Said regulations shall provide for 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 section or said regulations.

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 said chapter thirty A.

SECTION 275. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established within the executive office of health and human services a division of medical assistance, hereinafter the division, which shall be responsible for the administration of the programs of medical care and assistance established pursuant to chapter one hundred and eighteen E of the General Laws. For each appearance of the words "department of public welfare", "department" or "welfare" in chapter one hundred and eighteen E, chapter one hundred and ninety-three, chapter one hundred and ninety-four, chapter one hundred and ninety-five, and chapter one hundred and ninety-eight of the General Laws, reference to the said department shall be construed to refer to the said division unless the context clearly requires otherwise. Wherever the words "department of public welfare", "department" or "welfare" otherwise appear in any general or special law or in any order, rule, regulation or other document related to the exercise of powers or the performance of duties under chapter one hundred and eighteen E such words shall be construed to refer to said division.

The division shall be in the charge of a commissioner who shall be known as the commissioner of medical assistance and who shall be appointed by the secretary of said ex-

ecutive office, with the approval of the governor, and who shall serve at the pleasure thereof. The commissioner may appoint a deputy commissioner and such assistant commissioners, not to exceed four in number, as he determines necessary to carry out the work of the division. The commissioner and his appointees shall have such educational qualifications and such administrative and other experience deemed necessary for the performance of the duties of those offices. The positions of commissioner, deputy commissioner and assistant commissioners shall be classified in accordance with section forty-five of chapter thirty of the General Laws and the salary shall be determined in accordance with section forty-six C of said chapter thirty.

Said division is responsible for administering said programs of medical assistance. Any agency engaging in any activity or implementing any policy (1) involving the delivery of services reimbursable under said chapter one hundred and eighteen E, (2) the certification or licensure of providers of services under said chapter, or (3) the identification of individuals eligible for assistance under said chapter, shall seek review by the said commissioner prior to engaging in any such activity or implementing any such policy.

Beginning July first, nineteen hundred and ninety-three, the said division shall have the powers, duties and responsibilities established by chapter eighteen, chapter one hundred and eighteen E and any other general or special law necessary for the administration of said medical assistance programs.

The commissioner shall appoint and may remove such agents and subordinate officers as the commissioner may deem necessary, may establish such subdivisions within the division as he deems appropriate and may establish regional or local offices at such locations in the commonwealth as he may deem necessary. Such locations may include, but shall not be limited, to the regional or local offices of the department of public welfare.

An immediate priority of the new division shall be the development of management information reports on not less than a quarterly basis. Said reports shall relate expenditures on medical services to recipient utilization patterns for such services including, but not limited to, the units of service rendered by provider type to unduplicated recipients by age and gender. Said reports shall further identify such patterns by category of assistance on a date of service basis for recipients participating in managed care compared to recipients with other third party coverage, including, but not limited to, qualified medicare beneficiaries. The commissioner shall ensure that such reports are made available for public inspection and dissemination.

The commissioner of public welfare shall transfer to the division all books, papers, records, documents, equipment, land, interests in land, buildings, facilities, and other property, both personal and real, which immediately prior to the effective date of this section are in the custody of the department, and relate solely to or are maintained for purposes related to medical assistance; provided, however, that all such property held in trust shall continue to be held in trust by the division. Both commissioners shall reasonably and equitably apportion to the department and to the division the rights to and responsibilities

for those books, papers, records, documents, equipment, land, interest in land, buildings, facilities and other property, both personal and real which, prior to the effective date of this section, are in the custody of the department and relate to or are maintained for purposes related both to medical assistance and financial assistance; provided, that all such property held in trust shall continue to be held in trust by the department or the division. Any questions regarding the identification of such property, the apportionment of rights to and responsibilities for such property, and the times for the transfer of such property shall be determined by said secretary or his designee.

Employees of the said department who on January first, nineteen hundred and ninety-three performed functions related solely to medical assistance regardless as to which division within the said department such employees were allocated on that date, shall be transferred to the division of medicaid. Both commissioners shall reasonably and equitably apportion to the department and the division those employees of the department who on January first nineteen hundred and ninety-three performed functions related both to medical assistance and financial assistance regardless of which division within the department such employee was allocated on that date. Any questions regarding the identification of such employees and employee positions, the apportionment of such employees and employee positions, and the times for the transfer of such employees and employee positions shall be determined by said secretary or his designee. All employees of the said department who are allocated to the division of medicaid shall be so transferred without impairment of civil service status, without interruption of services within the meaning of chapter thirty-one of the General Laws, without impairment of seniority, retirement or other rights of employees, without reduction in compensation or salary grade, and without change in union representation, notwithstanding any change in title or duties resulting from such transfer. Nothing in this section shall be construed to confer upon any employee any right not held immediately prior to the date of such transfer, or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited prior to such date.

All other duly existing rights, obligations and responsibilities of said department which relate to medical assistance and which are in force immediately prior to the effective date of this section shall be transferred to the division reasonably and equitably in the manner described above.

Any orders, rules, and regulations duly made, and all licenses, permits, certificates, and approvals duly granted, by the said department which arise from or relate to medical assistance and which are in force immediately prior to the effective date of this section shall remain in force and effect unless and until superseded, revised, rescinded, or canceled in accordance with law by the said division. Any questions regarding the identification and responsibility for such orders, rules, regulations, licenses, permits, certificates and approvals shall be determined by the said secretary or his designee.

Implementation of this section shall commence upon the date of its effect, with a transition period extending until one year from that date. The commissioner of the said division, with the approval of the secretary, may make agreements with the commissioner of the department for the department to carry out any of the functions provided for by chapter one hundred and eighteen E. Notwithstanding any provisions of this section to the contrary, powers and duties vested in the department or in any board, council or official of such department and powers and duties vested in the division under this section shall be exercised by the department during such transition period until such time as such power or duty shall be implemented and assumed by the said division.

SECTION 276. Notwithstanding any other provision of law, the commissioner of revenue is authorized to waive any penalty under chapter sixty-two C of the General Laws for a period pursuant to this section and may forego the assessment of tax under said chapter sixty-two C for any period beginning on or before January first, nineteen hundred and eighty-six with respect any of the following taxpayers:

(a) A nonresident subject to the tax imposed under chapter sixty-two of the General Laws who has failed to file returns reporting income from sources within the commonwealth, within the meaning of section five A of said chapter sixty-two, as required by section six of chapter sixty-two C for all taxable years beginning after January first, nineteen hundred and eighty six, and on or before January first nineteen hundred and ninety-two, if such nonresident files all require returns and pays all taxes and interest required to be shown on said returns during the special filing period;

(b) A foreign corporation subject to the tax imposed under chapter sixty-three of the General Laws that has failed to file the returns required by section twelve of chapter sixty-two C for all taxable years beginning after January first, nineteen hundred and eighty-six, and on or before January first, nineteen hundred and ninety-two, if such corporation files all required returns and pays all taxes and interest required to be shown on said returns during the special filing period; and

(c) A person subject to the tax imposed by chapter sixty-four I who has failed to report the purchase of any item of tangible personal property or service with respect to which said tax is required to be shown on a return due under subsection (i) of section sixteen of chapter sixty-two C after January first, nineteen hundred and eighty-six, and on or before January first, nineteen hundred and ninety-two, if such person reports all such purchases and pays all such taxes and interest thereon during the special filing period.

For the purposes of this act, the term "special filing period" shall mean a period of three consecutive calendar months chosen by said commissioner in his discretion, provided that said three month period shall begin at any time on or after July first, nineteen hundred and ninety-three and shall end no later than June thirtieth, nineteen hundred and ninety-four. The commissioner shall prescribe such forms as are necessary to implement this section and may require taxpayers to file said forms in addition to the returns and other information required by this section. The provisions of this section shall be binding on the commissioner

and the taxpayer, provided that the commissioner shall be authorized to assess additional taxes and penalties with respect to matters covered by this section as provided in said chapter sixty-two C where the taxpayer reports false of fraudulent information on the forms and returns required under this section.

SECTION 277. The Massachusetts general court hereby requests that the Massachusetts congressional delegation complete an investigation of, and make recommendations for, methods to reduce the fiscal effects of federal environmental statutes and regulations, consistent with their purposes, and that said delegation's report include cost benefit analyses of current or proposed federal requirements.

SECTION 278. Notwithstanding the provisions of any general or special law to the contrary, the time within which the special commission established by chapter three of the resolves of nineteen hundred and ninety-one to make an investigation and study relative to revising the vehicle emissions inspections and maintenance program and other matters related thereto is hereby authorized to extend the time within which said commission shall complete its investigation and study and file its final report until August fifth, nineteen hundred and ninety-three.

SECTION 279. On or after June thirtieth, nineteen hundred and ninety-four, the Massachusetts Water Resources Authority is hereby authorized and directed to seek an opinion from the Internal Revenue Service to determine the deductibility from federal taxation of base water and sewer charges.

SECTION 280. The Massachusetts Water Resources Authority is hereby authorized and directed to file a formal petition with the federal district court relative to said court's implementation timetable of combined sewer overflow controls and other non-sewerage treatment plant projects. Said petition shall include, but not be limited to, a request for a phased approach to implementing said combined sewer overflow controls and other water treatment processes pursuant to the Federal Safe Drinking Water Act and the Federal Clean Water Act.

SECTION 281. The Massachusetts Water Resources Authority, established pursuant to chapter three hundred and seventy-two of the acts of nineteen hundred and eighty-four, is hereby authorized and directed to implement the MWRA Advisory Board's FY92-93 Capital Improvement Plan recommendations, subject to approval by appropriate federal courts. Said authority shall report to the clerk of the house of representatives and the clerk of the senate on the progress of the implementation by December thirty-first, nineteen hundred and ninety-three.

SECTION 282. The comptroller is hereby authorized to engage the services of a certified public accounting firm expert in environmental regulation, to audit the activities of the Massachusetts Water Resources Authority, hereinafter called the authority. This audit shall focus on program results as well as cost effectiveness, including both existing operation and capital budgets as well as determinations about whether specific projects are needed to meet essential environmental goals. The audit shall develop and recommend a list of all

reasonable proposals to enable the authority to petition the federal district court for permission to scale back the present capital plan. This list shall include, but not be limited to, those proposals described in the March nineteen hundred and ninety-three report of the authority advisory board; provided, however, that nothing herein shall be construed to discourage the authority from petitioning the federal district court as soon as possible for approval of any cost-saving measures. The report shall be submitted to the house and senate committees on ways and means no later than December 31, 1993. A sum of not more than two hundred and fifty thousand dollars may be expended for this purpose from line item 1000-1100 of section two of this act.

SECTION 283. The Massachusetts Water Resources Authority board of directors is hereby authorized and directed to immediately provide all of the necessary resources, financial and otherwise, to the Massachusetts Water Resources Authority advisory board so that said board may conduct a cost analysis of sewer service in order to determine a rate methodology which fairly and equitably assesses the member communities within the Massachusetts Water Resources Authority district for sewer services. Such analysis will give due consideration to the volume of flow into and from each community and shall make equitable adjustments for the impact of wet weather flows upon the volume of flow from each community sufficient to encourage each community to maximize the reduction of inflow and infiltration and the relative strength of flow from each community and other relevant factors. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Water Resources Authority board of directors shall adjust said methodology for the communities within said district no later than July first, nineteen hundred and ninety-four and assess said communities according to the rate methodology that had been so recommended; provided, however, that said rate methodology shall be filed with the clerks of the house and senate and the chairmen of the joint committee on natural resources and shall not take effect without further statutory authorization. Notwithstanding the provisions of any general or special law to the contrary, communities within the Massachusetts water resources authority's sewer district are hereby authorized and directed to make appropriate adjustments to fees and charges to meet all financial obligations of said communities to said authority for fiscal year nineteen hundred and ninety-four.

SECTION 284. Notwithstanding any general or special law to the contrary, any unlined municipal landfill that is subject to an administrative consent order issued by the department of environmental protection after July first, nineteen hundred and ninety-two and prior to July first, nineteen hundred and ninety-three that requires such municipal landfill to cease accepting solid waste before June thirtieth, nineteen hundred and ninety-six, shall be subject to the provisions of the fifteenth paragraph of section one hundred and eleven of chapter one hundred and fifty A of the General Laws, as inserted by this act, and the provisions of such consent order shall be deemed amended to the extent such order is not consistent with the provisions of this paragraph.

SECTION 285. The department of environmental protection shall extend the amnesty period for implementation of the regulations pursuant to chapter ninety-one of the General Laws to October fourth, nineteen hundred and ninety-five.

SECTION 286. The board of registration of hazardous waste site cleanup professionals shall be paid from the hazardous waste cleanup program of the department of environmental protection for fiscal year nineteen hundred and ninety-four.

SECTION 287. Notwithstanding the provisions of any general or special law to the contrary, the registrar of motor vehicles and the Environmental Trust Fund shall develop a distinctive Environmental Trust Fund registration and plate for private passenger motor vehicles on the theme of the right whale; provided that in addition to regular registration fee, an additional amount of not less than twenty-five dollars shall be paid; a portion of the fee for the purposes of offsetting the direct expenses of issuing special plates shall be deposited in a registry retained revenue account; provided further, that the balance of said fee shall be deposited in the Environmental Trust Fund, as established by chapter two hundred and thirty-six of the Acts of nineteen hundred and eighty-eight; and provided further that the plate shall be available no later than January first, nineteen hundred and ninety-four.

SECTION 288. Notwithstanding any general or special law to the contrary no commercial vessel rigged for otter or beam trawl and/or dragging operations shall land sea herring by midwater trawlers or pair trawlers in Massachusetts coastal waters or ashore.

No midwater trawling nor pair trawling of sea herring shall take place in any area as defined by the Atlantic States Marine Fisheries Commission Designated Area One (1) starting at forty-one (41) degrees thirty-five (35) minutes latitude north and preceding north, sixty-nine (69) degrees longitude, forty-two (42) degrees fifty-three (53) minutes fourteen (14) seconds latitude and sixty-seven (67) degrees forty-four (44) minutes thirty-five (35) seconds longitude.

SECTION 289. The secretary of communities and development and the secretary of consumer affairs are hereby authorized and directed to enter into an interagency agreement for the expenditure of two million dollars from the Oil Overcharge Trust Fund for the one and two person program, so-called, for elders and families who income is in excess of one hundred and fifty percent of the federal poverty level, but not more than one hundred and seventy-five percent of said level, and for a program of supplemental energy assistance for low-income elders and families to be administered in accordance with the Low Income Home Energy Assistance Act of 1981, as amended; provided, that such amount may be expended from such fund for the fiscal year ending June thirtieth, nineteen hundred and ninety-four without further appropriation; and provided further, that notwithstanding the provisions of any general or special law to the contrary, funds expended for said one and two person program and for said program of supplemental energy assistance for low income elders and families shall not be subject to federal reimbursement.

SECTION 290. 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.

SECTION 291. Notwithstanding the provisions of section thirty-nine of chapter one hundred and twenty-one B of the General Laws, as amended by this act, in any state-funded project which contains units for both elderly persons of low income and handicapped persons of low income, if on the effective date of this section, the number of units occupied by such handicapped persons exceeds ten percent of the total units in the project, the housing authority shall allow any such handicapped person residing in said units on the effective date of this section to continue to reside therein.

SECTION 292. Notwithstanding the provisions of any general or special law or regulation to the contrary, all housing authorities 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 persons sixty-two years of age or older on June thirtieth, nineteen hundred and ninety-three, then receiving rental assistance from the Massachusetts rental voucher program. The executive office of communities and development shall oversee and enforce compliance by local housing authorities with the provisions of this section, and is hereby authorized to take such actions as it deems necessary, including requiring regular, up-to-date reports by the housing authorities and nonprofit organizations operating such public housing, to insure such compliance in a timely and equitable fashion.

SECTION 293. Notwithstanding the provisions of any general or special law to the contrary, the secretary of the executive office of communities and development is hereby authorized and directed to enter into an interagency agreement with the commissioner of revenue to utilize the department of revenue's wage reporting and bank match system for the purpose of verifying the income and eligibility of participants and members of the participants' households in the Massachusetts rental voucher program; provided further, that any household, in which a participant or member of a participant's household in the Massachusetts rental voucher program shall fail to provide his or her social security number for use in verifying the household's income and eligibility, shall no longer be eligible for a voucher or to receive benefits pursuant to the Massachusetts rental voucher program; provided further, that the secretary of the executive office of communities and development, as condition of continued eligibility for a voucher and for voucher payments, may require disclosure of social security numbers by participants and members of the participants' households in the Massachusetts Rental Voucher Program for use in verification of income with other agencies, departments and executive offices in the commonwealth.

SECTION 294. Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the registrar of motor vehicles shall not, prior to March first, nineteen hundred and ninety-four, implement, cause to be implemented or contract for any change in the system or technology currently employed by the commonwealth relative to the registration of motor vehicles, including without limitation, the remote entry processing system of the registry of motor vehicles and any other plan to shift registry of motor vehicles'

data processing or fee collection responsibilities to any private entity.

In no event shall any change in said system of technology be contracted for or implemented by said registrar at any time unless a cost study comparing the costs of the remote entry processing system of the registry of motor vehicles with any proposed change in systems is filed with the house and senate committees on ways and means and the joint committee on public safety sixty days prior to execution of such contract or implementation of said changes.

SECTION 295. 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 and opportunity for hearing shall not be reinstated until such time as an administrative appeal has been decided in favor of the appellant, or a court has granted interim relief.

SECTION 296. The department of public welfare shall conduct a study of the feasibility and cost effectiveness of requiring all new recipients enrolled in the EAEDC or AFDC programs, so called, and any recipients who have reported lost or stolen checks, and who have a bank account, to receive their benefits through direct bank deposit. Said department shall report the results of its study to the house and senate committees on ways and means on or before December thirty-first, nineteen hundred and ninety three.

SECTION 297. The department of public welfare is hereby authorized and directed to provide transportation assistance to certain applicants and recipients of cash assistance and medical assistance for permanent relocation outside of the commonwealth pursuant to department regulations and may make expenditures from items 4400-1000, 4403-2000 and 4408-1000 of section two of this act for the purposes of this section.

SECTION 298. The department of public welfare shall contract for regional administration of a pilot program to reduce homelessness with the housing assistance corporation, a nonprofit organization located in the town of Barnstable, hereinafter referred to as the regional administrator. The responsibilities of the regional administrator shall be detailed in a written contract and shall include the following services to be provided to program performance of lease obligations and case management. Said regional administrator shall also be responsible for raising a sum of money locally for purposes of providing a homelessness prevention program for families in imminent risk of becoming homeless; provided, that for fiscal year nineteen hundred ninety-four, said regional administrator shall raise for said program a sum of money no less than sixty-two thousand five hundred dollars. In order to qualify for participation in said pilot program, a family must either be living in a temporary shelter paid for through the department's emergency assistance program for no less than thirty days, during which period the family has been unable, despite reasonable efforts as required by the regulations of the department, to obtain suitable, permanent, affordable housing, or be eligible to participate in the department's emergency assistance program. Subject to appropriation, the department shall pay rental assistance, for units provided to participants in said pilot program, of no greater than five hundred dollars per month for two-bedroom units, and no greater than six hundred dollars per month for three-

bedroom units. The homelessness prevention program shall include a) rent or mortgage assistance when the rent contribution provided by the department pursuant to this section is insufficient, and b) rental assistance to reduce the rent contribution provided by the department pursuant to this section, subject to the availability of funds. The regional administrator shall be paid an administrative fee not to not to exceed fifty dollars per month per participating family; provided, that the administrative fee shall be collected by the regional administrator from program participants.

Nothing in this section shall be construed to create any right to participate in said pilot program in this or any future fiscal year, and no family which meets the eligibility requirements for said pilot program shall have any such right to participate; Nothing in this section shall be construed to require a family which meets the eligibility criteria for said pilot program to participate therein. A family which is otherwise eligible to receive benefits pursuant to the department's emergency assistance program shall not lose eligibility for such benefits solely as a result of its agreement to participate or its participation in said pilot program. No more than two hundred fifty thousand dollar may be expended for this program from item 4403-2100 of section two of this act and said funds shall be the only funds available for this program.

SECTION 299. The department of public welfare is hereby authorized and directed to study the feasibility and cost efficacy of the implementation of an aid for families with dependent children school attendance program. The phases of such program shall be directed at the following requirements:

(A) No aid shall be paid hereunder to, or on behalf of, any child over age twelve whose school attendance does not meet the requirements of subsection B, for the period during which such child does not meet those requirements.

(B) Each recipient of aid hereunder shall be required to provide official school documentation, not less than once every three months, that a child in his family unit who is over the age of twelve and receiving payments under this chapter has missed no more than ten school days due to unexcused absences during the previous six-month period.

If a recipient of aid hereunder fails, without reason, to provide the documentation required by the first paragraph of subsection B within a reasonable time, or, if the documentation provided indicates that such child has missed more than ten school days due to unexcused absences during the previous six months, the recipient of aid here under shall be placed on probationary status, during which time such recipient shall be required to provide monthly documentation of such child's attendance. Such recipient shall remain on probationary status until such time as the number of school days missed due to unexcused absences by the child during the six preceding months does not exceed ten school days.

If a child misses more than three school days due to unexcused absences during any month in the probationary status, no aid shall be paid to, or on behalf of, such child until the recipient of such aid provides documentation that the child's school attendance meets the requirements of this section.

Any school attended by a child to which this section applies shall provide the recipient of aid hereunder with the documentation required by this section, upon the request of the recipient.

The department shall submit its report to the house and senate committees on ways and means no later than October thirty-first, nineteen hundred and ninety-three.

The commissioner of the department of public welfare shall also conduct a review of welfare reform plans which have been implemented in New Jersey, Wisconsin, New York and other states. Such review shall ascertain the flaws discovered in such programs, the costs associated with implementation and the savings and or projected savings from such reforms. Said commissioner shall project the anticipated impact of implementing such plans or variations thereof in the commonwealth. The commissioner shall submit a summary of such review to the senate and house committees on ways and means on or before January first, nineteen hundred and ninety-three

SECTION 300. The secretary of the executive office of health and human services is hereby authorized and directed to investigate and make recommendations to the General Court relative to the establishment of a plan of medical care and assistance for residents of the commonwealth not eligible for benefits under Title XVIII or Title XIX of the Social Security Act or employer-sponsored group health insurance. Said investigation shall examine the potential enrollee base for said plan, including its demographic and actuarial characteristics, and the level of premium affordability for said potential enrollees. Said investigation shall ascertain the extent to which employment status, income, disability, or other reasons explain why said potential enrollees currently lack health care coverage. Said investigation shall examine the relative cost of providing minimum and maximum benefit packages on an indemnity and managed care basis, and shall compare the costs and coverages of such options to plans administered under chapters one hundred seventy-six A and one hundred seventy-six B of the General Laws. Said investigation shall examine the cost of insuring high risk enrollees and the need for and availability of reinsurance or other risk-sharing mechanism to ensure the solvency and affordability of said plan in the event high risk enrollees are covered by said plan. Said investigation shall examine cost containment measures necessary to control premium affordability, including sliding scale premiums, copayments, deductibles and excluded coverages. Said investigation shall examine the effects of using negotiated rates of reimbursement versus rates established by the rate setting commission on the ability and willingness of health care providers to participate in said plan. Said investigation shall examine the effects of said plan on the uncompensated care pool, including savings to employer sponsored health insurance plans, revenues generated for disproportionate share hospitals and federal financial participation generated for the commonwealth. Said investigation shall examine the amounts necessary to capitalize said plan and the liability of the commonwealth for initial capitalization and long term plan liabilities. Said investigation shall examine eligibility criteria for said plan, including the use of means-testing and underwriting principles to promote access and affordability. Said investigation shall further examine administrative arrangements for said

plan, including but not limited to the use of state agencies, an independent authority or other entity to manage marketing, enrollment, claims processing and risk management functions.

Said secretary shall summarize the results of said investigations and made any recommendations relative thereto by filing a report at his convenience, but not later than March first, nineteen hundred and ninety-four, with the clerk of the Senate and the clerk of the House of Representatives.

SECTION 301. For hospital fiscal year nineteen hundred and ninety-four, the private sector liability of purchasers and third party payers to the uncompensated care trust fund established pursuant to section seventeen of chapter one hundred and eighteen F of the General Laws shall be the lesser of the sum of all the products of each hospital's allowable free care charges and such hospital's cost to charge ratio, calculated by the commission pursuant to section eleven of chapter six B of the General Laws, or three hundred and fifteen million dollars. For state fiscal year nineteen hundred and ninety-four, notwithstanding any general or special law to the contrary, fifteen million dollars generated by federal financial participation made available under Title XIX of the Social Security Act to match the costs of said trust fund for disproportionate share hospitals shall be deposited into said trust fund.

SECTION 302. Any funds remaining at the close of the fiscal year ending June thirtieth, nineteen hundred and ninety-three in the Medicaid Trust Fund established by section ninety-three of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two shall revert to the General Fund.

SECTION 303. Notwithstanding any general or special laws to the contrary, the division of medical assistance shall apply to the health care finance administration and undertake all steps, including but not limited to the preparation of federal legislation, deemed necessary to obtain a waiver of the federal prohibition that permits certain recipients of the medicaid program to avoid copayments by refusing to make such payments when purchasing prescription drugs. Said efforts shall seek to extend to the maximum number of recipients the required payment of the maximum permissible amount to be charged as copayments for obtaining prescriptions. Said division shall report to the house and senate committees on ways and means not later than October first, nineteen hundred and ninety-three on all such steps undertaken in seeking said waiver, shall include in said report copies of materials documenting such efforts, copies of correspondence received from federal officials in response to such efforts.

SECTION 304. The division of medical assistance 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 fiscal year nineteen hundred and ninety-three. The commissioner of said division is further directed to conduct a study of this data, including said recipients' relevant medical histories, which shall be reported to the committees on ways and means of the house and senate no later than November first, nineteen hundred and ninety-three. Such study shall include, but not be limited to, identification of patterns of

inappropriate use, possible fraud, use of services in a way that is clearly not cost efficient and the feasibility of placing high-utilizers in a program of managed care. Such 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, by the category of medical care or services provided. Said commissioner is expected to offer recommendations for methods of reducing over-utilization and inappropriate use as discovered by such study.

SECTION 305. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance, with the cooperation of the rate setting commission, shall not approve any increase in existing medicaid provider 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 providers in order to provide services of adequate quality.

Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance may expend from any of the items established for said program in section two for any of the purposes authorized for such items until such time as the division modifies its accounting and claims processing systems in a manner that reconciles payments processed by the medicaid management information system, or MMIS, so-called, within two weeks of expenditure to the items of appropriation established in section two of this act and entered in the Massachusetts management, accounting and reporting system, or MMARS, so-called; provided, that said modifications and reconciliation system shall be implemented by October first, nineteen hundred and ninety-three. Expenditures processed by MMIS prior to said date shall be so reconciled to MMARS not later than October fifteenth, nineteen hundred and ninety-three; and provided further, that weekly MMIS expenditures shall be reconciled to MMARS every two weeks thereafter.

Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance shall make no expenditures which are not federally reimbursable. Said restriction shall not apply to cost containment efforts which may not be eligible for federal reimbursement; provided, that such efforts are expended exclusively from item 4000-0310; provided further, that prior to committing to such expenditures the division shall submit notice of such efforts to the house and senate committees on ways and means; provided further, that said notice shall include a summary description of such spending, an explanation for any increase in spending for each such effort over the amount expended in the previous fiscal year and an estimate of savings resulting from each such effort. Said division may allocate funds from item 4000-0310 to other agencies for purposes of the medical care and assistance program after giving prior notice to the house and senate committees on ways and means; provided that not more than one million one hundred thousand dollars shall be expended from said item for early screening and treatment necessary to reduce hospitalizations and to avoid medicaid costs by delaying the onset of fully symptomatic AIDS.

No expenditures or commitments made pursuant to the items established for said program or by 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 Title XIX of the Social Security Act, shall be incurred in excess of available funds which have been appropriated therefor.

The rate setting commission, the department of public health and the executive office of elder affairs are hereby authorized and directed to cooperate with the division in developing expected outputs for performance measures established for item 4000-0500 in section two of this act.

SECTION 306. Notwithstanding the provisions of any general or special law to the contrary, the department of medical security, the division of medical assistance, hereinafter referred to as the division, 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 paid to hospitals, determined by the division to be disproportionate share hospitals in accordance with Title XIX requirements, for free care costs of such hospitals. Said appropriate action may include, but shall not be limited to, the assessment on hospitals for its uncompensated care fee revenue or the collection of amounts from hospitals for its liability to the uncompensated care pool pursuant to chapter one hundred eighteen F of the General Laws. Said appropriate action shall include the establishment or renewal of an interagency agreement between the division and the department of medical security which may authorize the division to make deposits into and payments from an account established for the purposes of this section within the uncompensated care trust fund established by section seventeen of chapter one hundred and eighteen F of the General Laws, or authorize the department of medical security to transfer uncompensated care fee revenue collected from hospitals pursuant to chapter one hundred and eighteen F of the General Laws, or funds otherwise made available to said trust fund by the legislature, to the division for purposes of making disproportionate share adjustment payments to hospitals qualifying for such payments in accordance with the commonwealth's Title XIX state plan and relevant provisions of Title XIX of the federal Social Security Act. The division may expend amounts transferred to it from the uncompensated care trust fund by the department of medical security under said interagency agreement without further appropriation. In no event shall the amount of money assessed upon each hospital exceed the hospital's gross liability to the uncompensated care pool as determined by the department of medical security and the rate setting commission pursuant to section fifteen of chapter one hundred eighteen F of the General Laws and section eleven of chapter six B 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. 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 pursuant to this section.

SECTION 307. Notwithstanding the provisions of any general or special law to the contrary, the department of mental health, the division of medical assistance, hereinafter referred to as the division, 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 paid for low income care costs at those mental health facilities determined to be disproportionate share hospitals in accordance with requirements and implementing regulations of Title XIX of the Social Security Act. Said appropriate action may include, but shall not be limited to, the establishment of a separate account within the uncompensated care trust fund, established by section seventeen of chapter one hundred and eighteen F of the General Laws, for the purpose of making disproportionate share adjustment payments to such qualifying mental health facilities pursuant to relevant rate setting commission regulations and the related Title XIX state plan amendment submitted by the division to the health care financing administration in December, nineteen hundred and ninety-two. The division or the department of mental health may expend amounts transferred to it from said separate account within the Uncompensated Care Trust Fund without further appropriation. Any federal funds obtained as a result of actions taken pursuant to this section shall be deposited in the General Fund. 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 for the proper accounting and expenditure of funds pursuant to this section.

SECTION 308. The department of medical security is hereby authorized and directed to implement the program of primary and preventative health care services for the benefit of uninsured dependent and adopted youths from age six through age twelve established pursuant to section seventeen B of chapter one hundred and eighteen F of the General Laws not later than January first, nineteen hundred and ninety-four.

SECTION 309. The department of social services is hereby authorized and directed to develop and implement a comprehensive inservice training program for its employees in regard to domestic violence. Said program shall include training in the detection and prevention of domestic violence and the utilization of existing counseling and referral services.

SECTION 310. Notwithstanding the provisions of any general or special law or regulation to the contrary, the Massachusetts Bay Transportation Authority is hereby authorized and directed to remove surface rail tracks, and all related poles, wires and other structures incidental thereto, not currently in regular use by the authority along the surface rail route commonly known as the "A-line," on or before June thirtieth, nineteen hundred and ninety-four. Use of said tracks for transportation purposes shall be deemed to have been abandoned as of December thirty-first, nineteen hundred and sixty-nine, and said tracks deemed not to serve anticipated future use. The removal of these surface rail tracks shall be conducted concurrently with the resurfacing or other major improvements undertaken on the relevant municipal roadways by such municipalities.

SECTION 311. The Massachusetts Bay Transportation Authority is hereby authorized and directed to enter into an interagency lease agreement with North Shore community college, for fair rental value, of thirteen thousand seven hundred square feet of space located in the Massachusetts Bay Transportation Authority Lynn parking garage to be utilized as classroom space.

SECTION 312. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Turnpike Authority established in section three of chapter three hundred and fifty-four of the acts of nineteen hundred and fifty-two is hereby authorized to develop and implement an early retirement process for its employees. Any such early retirement process shall not take effect before January first, nineteen hundred and ninety-five. One year before any such early retirement process takes effect the authority shall submit an analysis of any unfunded additional liability or cost that must be borne by the commonwealth's retirement system as a result of this provision. Said analysis is to be filed with the joint committee on public service and the house and senate committees on ways and means. Any such early retirement process shall not take effect without the prior written approval of the house and senate committees on ways and means.

SECTION 313. The chairman of the Massachusetts Turnpike Authority is hereby authorized to conduct a study whereby travelers using the turnpike between exit tolls three and eight, which include the designated toll names of the municipalities, in order, of Westfield, West Springfield, Chicopee, Springfield, Ludlow and Palmer, be given a credit pass to travel between said tolls at no charge. The study shall consider whether a special toll card shall be given to travelers indicating that no fee will be collected when exiting the turnpike tolls ahead.

SECTION 314. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Port Authority and the Massachusetts Turnpike Authority are hereby authorized to enter into agreements with the executive office of economic affairs and the tourist-promotion agencies included in section fourteen of chapter twenty-three A of the General Laws, for the purposes of domestic and international tourism and trade promotions and programs.

SECTION 315. Notwithstanding any general or special law to the contrary, the school of excellence described in item 7005-0003 of section two of chapter one hundred and thirty-three of the acts of 1992 shall be funded as follows. If a student attending said school resides in a community with net school spending below the foundation amount, as defined in section two of chapter seventy of the General Laws, the district of the city or town in which said student resides shall pay to said school an amount equal to the average cost per student in said district. If a student attending said school resides in a community in which net school spending is not less than the foundation amount, the district of the city or town in which said student resides shall pay to said school an amount equal to the lesser of: (i) the average cost per student in said district; and (ii) the average cost per student in the district in which said school is located. In addition, there shall be established upon the books of the

commonwealth a separate fund to be known as the School of Excellence Fund. The secretary of education is hereby authorized to solicit for deposit into said fund any grants, gifts, or other revenues other than revenues of the commonwealth. All amounts deposited in said fund shall be held in trust and used only for the school of excellence. In addition to said funds, said school shall receive the amount appropriated in item 7000-0003 of section two of this act.

SECTION 316. The department of revenue shall upon the request of any city or town calculate in the fiscal year beginning on July first, nineteen hundred and ninety-three local contribution as defined in section two of chapter seventy of the General Laws and certify to the department of education the amount calculated. Any city or town that used qualifying revenue amounts in a fiscal year that are not reasonably projected to be available for use in the next year may appeal to the department of revenue no later than October, first, nineteen hundred and ninety-three for an adjustment of local contribution. If the claim is determined to be valid, the department of revenue shall reduce the local contribution amount proportionally based on the amount of the shortfall. Qualifying revenue amounts shall include but not be limited to extraordinary amounts of free cash, overlay surplus, and other available funds. Notwithstanding the provisions of clause (14) of section three of chapter two hundred and fourteen of the General Laws, or any other general or special law to the contrary, the amount so determined shall be deemed to be the local contribution described in said chapter seventy and the department of education shall use the local contribution amount certified by the department of revenue to calculate preliminary local contribution and any other factor that directly or indirectly uses the local contribution amount, provided that the house and senate committees on ways and means and the joint committee on education, arts and humanities shall be notified of the amount of any reduction in the preliminary local contribution amount. The amount of financial assistance due from the commonwealth in fiscal year nineteen hundred and ninety-four under chapter seventy or any other provision of law shall not be changed on account of any redetermination of the required local contribution under this section. No city or town shall reduce its contribution to a regional school district on account of a redetermination of its required local contribution under this section.

SECTION 317. Notwithstanding the definition of "Teacher" in section one of chapter thirty-two of the General Laws, any person who is employed as a teacher at the Massachusetts academy of mathematics and science on a basis of not less than half-time service shall be a member of the teachers' retirement system and shall be subject to the provisions of said chapter thirty-two.

SECTION 318. Notwithstanding the provision of any general or special law to the contrary, the department of revenue is hereby authorized and directed to conduct a study relative to the feasibility and economic advantages or disadvantages of developing and implementing a student loan interest deduction program. The purpose of said program is to provide a deduction against gross taxable income. Said study shall include, but not be limited to the following: an analysis of the effects of said deduction upon tax revenue collections, providing said deduction for residents who attended public and independent

colleges located in the Commonwealth, providing said deduction to graduate school students, and limiting said deduction to government financed loans. The commissioner shall submit said report to the house and senate committees on ways and means and the joint committee on taxation no later than December thirty-first, nineteen hundred and ninety-four.

SECTION 319. Notwithstanding the provisions of chapter ninety-three of the General Laws and the regulations promulgated thereunder by the department of education, proprietary institutions of higher education licensed by the commonwealth shall be permitted to measure the academic progress of programs in credit hours and clock hours. Said credit hour measurement shall be used solely for measuring the length of a program for proprietary institutions of higher education. Nothing herein shall be deemed to qualify a student at any of said institutions for any state supported financial assistance.

SECTION 320. Notwithstanding any general or special law to the contrary, there is hereby established an interagency committee for population statistics for the purpose of advising the Massachusetts institute for social and economic research at the university of Massachusetts at Amherst, hereinafter called MISER, on the demographic data needs of state agencies and for establishing statewide demographic data standards for use by said agencies.

Said committee shall include but not be limited to a representative designated by the secretary of the appropriate executive office for each of the following agencies: The executive offices for communities and development, for consumer affairs, for elderly affairs and for labor; the department of revenue and the division of capital planning and operations within the executive office of administration and finance; the department of employment and training and the division of energy resources within the executive office of economic affairs; the departments of environmental management and environmental protection within the executive office of environmental affairs; the departments of public health, public welfare, mental health, mental retardation, medical security and the rate setting commission within the executive office of health and human services; the department of highways within the executive office of transportation and construction; and the higher education coordinating council and the department of education within the executive office of education.

Said committee shall further consist of a representative designated by the executive director of the Massachusetts water resources authority and may include ex officio representation to appropriate individuals and state agency representatives elected by the committee.

Said committee shall have advisory authority except as otherwise herein provided: 1) to advise MISER on state agency needs in the area of population estimation, measurement of population change, and population projection; 2) to develop and recommend standards for population estimation and projection; 3) to identify specific agency needs for population statistics; 4) to develop and recommend a plan for the ongoing production and dissemination of population statistics for the commonwealth; 5) to promote state agency cooperation and discussion in the development of accurate and timely population estimates and projections; 6) to collaborate in research to study demographic issues of importance to the commonwealth; 7) to assist users of population data; and 8) to establish the latest population

estimates and projections from MISER and federal census data as the official standard population figures for the commonwealth. Population estimates and projections so established shall be subject to a public review and comment process for not less than sixty days prior to their adoption as official population data for the commonwealth. Said process shall minimally provide for the announcement of such proposed statistics in the register published by the secretary of state.

Nothing in this act shall be construed to authorize the committee to adopt any rule or regulation limiting or modifying the powers of state agencies, the governor or other statutory offices.

Said committee shall be established at no expense to the commonwealth.

SECTION 321. Notwithstanding the provisions of any general or special law to the contrary, the higher education coordinating council is hereby authorized and directed to adopt a policy for all public institutions of higher education under its jurisdiction that shall require the inclusion of a statement on each tuition invoice mailed to students at each campus indicating the commonwealth's average contribution per student for tuition, capital investment and associated costs at said institution and the percentage of the student's tuition which serves to defray the cost of these items in the institution's budget.

SECTION 322. Notwithstanding any general or special law to the contrary, the commonwealth's financial obligation, in fiscal year nineteen hundred and ninety-four, for tuition waivers granted pursuant to section nineteen of chapter fifteen A of the General Laws shall not exceed nine million eight hundred seventy-six thousand one hundred and eighty-six dollars; provided, that nothing in this section shall limit the dollar amount of waivers granted pursuant to special legislative authorization, including but not limited to clause (ii) of said section nineteen.

SECTION 323. Notwithstanding the provisions of any general or special law to the contrary, there shall be a program, administered by the higher education coordinating council, to provide no-interest loans to undergraduate students domiciled in the commonwealth, 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. Such assistance shall consist of full or partial loans to students in need of assistance. Repayment shall commence within six months of graduation or termination of studies; 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 payment, deferment options, provisions for default, and a 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. Said 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 annually submit guidelines,

cost estimates, and revenue schedules 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 of each year.

SECTION 324. Pursuant to section 3 of Chapter 62D of the General Laws, the department of revenue shall assist the Massachusetts Higher Education Assistance Corporation and the New England Loan Marketing Corporation in the collection of delinquent student loan repayments.

SECTION 325. Notwithstanding any general or special law to the contrary, the University of Massachusetts is hereby authorized and directed to retain not more than ten million dollars in any unspent tuition retention revenues generated in fiscal year nineteen hundred and ninety-three for expenditure in fiscal year nineteen hundred and ninety-four.

SECTION 326. (*a*) There is hereby established a retirement incentive for certain higher education employees of the commonwealth eligible pursuant to this section. Subject to the acceptance of this section by the higher education coordinating council, and notwithstanding the provisions of chapter thirty-two of the General Laws or 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 said retirement incentive for higher education employees, hereinafter referred to as the retirement incentive program, in accordance with the provisions of this section; provided, that in order to be deemed eligible by said board for any of the benefit options under the retirement incentive program, an employee (*i*) shall be a higher education 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-two, (*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, and (v) shall have filed such written application with said board in accordance with this section.

Said retirement incentive shall be available to no more than seven hundred and fifty full-time equivalent faculty personnel, three hundred and seventy-five full-time equivalent administrative personnel, and three hundred and seventy-five full-time equivalent classified personnel; provided, that the retirement of employees with greater creditable service shall be approved before approval is given to employees with lesser creditable service; provided, further, that said applications shall be delivered by mail. No employee shall be eligible for more than one of the incentives offered herein and no employee may become eligible for one incentive by virtue of the application of a different incentive.

For the purposes of this section, 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 eligible employee who retires and receives and additional

benefit in accordance with the provisions 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.

(*b*) 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, in order to receive the retirement benefit provided by this act, an eligible employee, shall file his application for retirement under the provisions of this act with the state retirement board after July first, nineteen hundred and ninety-three but no later than August fifteenth, nineteen hundred and ninety-three; provided, that the retirement date requested shall be December thirty-first, nineteen hundred and ninety-three for all classified employees of institutions of higher education and shall be either December thirty-first, nineteen hundred and ninety-three, or June thirtieth, nineteen hundred and ninety-four for faculty and administrative employees of institutions of higher education; provided further, that the date requested by a faculty or administrative employee under the provisions of this section shall be subject to approval by said employee's appointing authority; provided, further, that such approval shall only relate to the choice of dates by said employee; provided further that said faculty employees who retire on June thirtieth, nineteen hundred and ninety-four shall receive a retirement allowance, beginning on July first, nineteen hundred and ninety-four, as if they retired on December thirty-first, nineteen hundred and ninety-three with said retirement incentive.

(c) Any employee who is eligible for the retirement incentive program in accordance with the provisions of subsection (a) of this section 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 five years of creditable service or five years of age or 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 chapter thirty-two of the General Laws.

Notwithstanding such credit, the total normal yearly amount of the retirement allowance, as determined in accordance with the provisions of said section five of said chapter thirty-two, of any employee who retires and receives the retirement benefit provided by this act shall not exceed four-fifths of the average annual rate of his regular compensation as determined in accordance with said section five of said chapter thirty-two.

(*d*) For any married employee who retires and receives an additional benefit under the retirement incentive 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*) its 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.

(*e*) The ancillary costs attributable to any employee of any institution of higher education who retires under the optional retirement plan established by this act, limited to the payment of accrued vacation, unused sick leave or any other severance payment, shall be paid out of the sums appropriated or otherwise made available to institutions of higher education for the fiscal year nineteen hundred and ninety-four; provided, that said institutions shall not receive additional supplemental funds for the payment of any costs attributable to the retirement incentive plan including said ancillary costs. Any employee who so retires under the provisions of this section shall not pay more for health insurance than the percentage contribution charged to any other retiree of said institutions with comparable health insurance coverage; provided, that said institutions shall not receive additional supplemental funds to pay said insurance costs.

(*f*) The state retirement board, established under the provisions of section eighteen of chapter ten, shall provide retirement counseling services to employees who choose to retire under the retirement incentive program. Said counseling shall include, but not be limited, the following provisions; (*i*) the additional benefit options available under the retirement incentive 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; and (*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 retirement incentive program.

(*g*) The commissioner of public employee retirement administration shall analyze, study, and valuate the costs attributable to the additional benefits payable under the retirement incentive program in accordance with the provisions of this act; provided, that said commissioner shall file the report with the secretary of administration and finance, the joint committee on public service and the house and senate committees on ways and means on or before August thirty-first, nineteen hundred and ninety-three.

(h) The comptroller shall transfer funds from items 7100-0200, 7109-0100, 7110-0100, 7112-0100, 7103-0100, 7114-0100, 7115-0100, 7116-0100, 7117-0100, 7118-0100, 7119-0100, 7502-0100, 7503-0100, 7504-0100, 7505-0100, 7506-0100, 7507-0100, 7508-0100, 7509-0100, 7510-0100, 7511-0100, 7512-0100, 7514-0100, 7515-0100, 7516-0100, 7518-0100, and 7519-0100 of section two of this act pursuant to the provisions of item 1599-9500 of section two C of this act.

The comptroller, after consultation with the chancellor of higher education, shall determine the amount available in said reserve account after the transfers and expenditures authorized by this subsection are made which are attributable to retirees who were employees of (i) state universities; (ii) state colleges and (iii) state community colleges. The comptroller shall make available to the higher education coordinating council for expenditure, subject to appropriation, said available amount; provided that said council shall use such funds for expenses associated with the category of institutions of higher education attributable to the retirees who were employed by such category of institution of higher education.

The secretary of administration and finance may promulgate rules and regulations to enforce the provisions of this subsection. Said secretary shall file monthly reports with the house and senate committees on ways and means detailing all actions taken pursuant to this section.

(i) The chancellor of higher education shall list each position which shall be made vacant by the retirement of an employee under the retirement incentive program and who shall be receiving an additional benefit in accordance with the provisions of this act and shall file such list with the joint committee on public service and the house and senate committees on ways and means on or before August thirty-first, nineteen hundred and ninety-three; provided, that for each such position, such list shall include the line-item of section two or two B of this act in which such position is funded, if any, 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.

(j) Notwithstanding any general or special law to the contrary, institutions of higher education may refill positions made vacant due to participants in the early retirement program established by this section in accordance with an allocation plan promulgated by the higher education coordinating council in accordance with this subsection.

Said plan shall provide that not more than seventy-five percent of such faculty positions may be refilled and that not more than fifty percent of administrative and classified sections may be refilled; provided, however, that such plan shall allocate refill authorizations to the university of Massachusetts, the state colleges and the community colleges in proportion to the number of retirees from said categories of institutions; provided, that no position which was vacant prior to April first, nineteen hundred and ninety-three may be filled without further appropriation for said purpose.

SECTION 327. The commissioner of the department of education shall assess the need for comprehensive child and family services to be delivered in primary and secondary schools of the commonwealth; and based on such need, develop a plan for primary and secondary schools to offer health, mental health and social services to students and their families, in partnership with other public and private child and family-serving agencies. Said plan shall be developed in consultation with the secretary of the executive office of health and human services, the deputy commissioner for medicaid, the commissioner of the department of public health, the commissioner of the department of mental health, the commissioner of the department of youth services, the commissioner of the office for children, the commissioner of the department of social services and the commissioner of the department of mental retardation or their designees.

Said plan shall address the health, mental health, social service and other related service needs of the commonwealth's children and their families, and shall identify a mechanism for funding such services. Said plan shall include a review of existing financial resources including the cigarette tax revenues earmarked for school-based health and human services, the medicaid EPSDT program, federal funds, and the blending of any and all public and private resources necessary for children and adolescents to succeed in school and in the community. Said plan shall be submitted to the joint committees on education, health care, human services and elderly affairs, house and senate ways and means and the Legislative Children's Caucus no later than April first, nineteen hundred and ninety-four.

SECTION 328. Notwithstanding any special or general law to the contrary, any city or town may install flashing school zone speed limit signs or any street within their control within one thousand feet of a school building; provided, however, that the school zone established under this section shall be on a street not abutting the school property; provided, further, that the school shall involve one or more grades below Grade 9; provided, further, that the school zone contains one or more marked cross walks; provided, further, that the school zone not be longer than six hundred feet if containing one marked crosswalk, or one thousand feet if containing two or more marked crosswalks; and, provided, further, that any traffic control devices used herewith shall be in accordance with the provisions of chapter eighty-five, section two of the General Laws.

SECTION 329. The governor shall make the designation required under section one of chapter twenty-three F of the General Laws within seven days after the effective date of this act.

SECTION 330. Chapter twenty-three F of the General Laws shall not apply to the request-for-proposals issued prior to the effective date of this act by the executive office of economic affairs to create the Massachusetts technology deployment partnering for the purpose of granting assistance under the Defense Conversion, Reinvestment and Transition Act of Fiscal Year 1993 and Title IV of the Fiscal Year 1993 Defense Appropriations Act.

Prior to making any application under the Defense Conversion, Reinvestment and Transition Act of Fiscal Year 1993 and Title IV of the Fiscal Year 1993 Defense Appropriations Act, the project shall provide a copy of such application for review and com-

ment to the house and senate chairs of the joint committee on commerce and labor.

SECTION 331. Notwithstanding the provisions of chapters one hundred forty-nine and one hundred fifty-one of the General Laws, or any other general or special law to the contrary, the following responsibilities and functions of the department of labor and industries, and of the commissioner of said department, together with the necessary powers to perform these responsibilities and functions, are transferred to the attorney general: field inspection, investigation and prosecution to enforce all laws pertaining to wages, hours and working conditions, child labor and workplace safety, and fair competition for bidders on public construction jobs, including enforcement of the provisions of chapters one hundred and forty-nine and one hundred and fifty-one of the General Laws, as well as all regulations promulgated by the commissioner of labor and industries thereunder, with the exception of those laws and regulations pertaining to lead and asbestos hazards which the department of labor and industries is currently charged with enforcing, and with the exception of those workplace hygienic standards which the department's division of occupational hygiene currently enforces. In addition to retaining his responsibilities to administer and enforce said lead and asbestos laws and regulations, and his overseeing of the work of the division of occupational hygiene, the commissioner of labor and industries shall remain responsible for promulgating rules and regulations as required by the laws, and for all licensing, occupational statistics-gathering and apprenticeship training duties he currently performs.

The office of the attorney general shall assume all the powers of investigation and enforcement granted by chapters twenty-three, one hundred and forty-nine and one hundred and fifty-one to the commissioner of labor and industries, including the power to enter places of employment for examination and investigation, and to have access to all records pertaining to wages, hours and conditions of employment necessary for its investigations.

SECTION 332. Notwithstanding any law to the contrary, the commissioner of labor and industries in consultation with the commissioner of public health shall report to the house and senate ways and means committees on or before October first, nineteen hundred and ninety-three the technologies already approved and available and those expected to be approved and available in the reasonably foreseeable future for making residential dwellings lead-safe, including but not limited to the encapsulation of paint, plaster, or other accessible structural material such as a polymer-based coating which can be painted or sprayed.

Notwithstanding any law to the contrary, the commissioner of labor and industries in consultation with the commissioner of public health shall report to the house and senate ways and means committees on or before December first, nineteen hundred and ninety-three his recommendations regarding occupancy or vacancy requirements in a dwelling unit while the deleading process such as removal, covering, or encapsulation is taking place. Said commissioner of labor and industry shall prescribe in his recommendations the requirements for licensure of contractors or nonlicensure of private owners who are authorized to remove, cover or encapsulate in the deleading process and may set in his recommendations the conditions and restrictions governing the revocation and suspension of said licenses and such

work practices required to protect against lead paint hazards created by or encountered in the work of painters and painting contractors. Such recommendations shall prescribe the local approval process before said deleading work begins and local inspection process upon completion of the deleading such as removal, covering, or encapsulation.

SECTION 333. The trustees of the Workers Compensation Trust Fund shall perform a financial needs analysis of the Second-Injury Fund to determine future claims and financial exposure for the fund. Said trustees shall file a report of their findings with the clerks of the house of representatives and the senate on or before December thirty-first, nineteen hundred and ninety-three.

SECTION 334. A working knowledge of workers' compensation and related laws is hereby added to the formal minimum requirements for appointment to administrative judge and administrative law judge positions at the department of industrial accidents. Candidates for administrative judge positions at the department of industrial accidents shall also be tested to demonstrate that they can produce a memorandum of decision of acceptable quality under time constraints.

SECTION 335. No later than ninety days after the effective date of this act, the state house building operation manager shall put into place a system to recycle newspapers or report back to the general court with a plan that will expeditiously establish such a system.

SECTION 336. There is hereby established the Eugene H. Rooney, Jr. Public Service Award. Said award shall be given annually to an employee of the commonwealth or one of its political subdivisions who best exemplifies excellence in the field of human resource development and training. The personnel administrator of the commonwealth, in consultation with the civil service commission, shall promulgate rules and regulations governing the selection process used to select the award recipient. The personnel administrator shall file copies of such rules and regulations with the clerks of the house of representatives and the senate on or before December thirty-first, nineteen hundred and ninety-three.

SECTION 337. Notwithstanding the provisions of any general or special law to the contrary and in order to promote the public good, the state retirement board is hereby authorized and directed to credit Lucille Deguire with an additional four years and two months of creditable service, for the purpose of determining her superannuation retirement allowance pursuant to the provisions of paragraph (a) of subdivision (2) of section five of chapter thirty-two of the General Laws; provided, however, that before the date any retirement allowance becomes effective, said Lucille Deguire shall pay into the annuity savings fund of the state retirement system in one sum, or in installments, upon such terms and conditions as the board may prescribe, an amount equal to that which would have been withheld as regular deductions from her regular compensation for the period of May first, nineteen hundred and seventy-nine through June thirtieth, nineteen hundred and eighty-three. In addition to the payment of the amount required by the preceding sentence, said Lucille Deguire shall also pay into the annuity savings fund an amount of interest such that upon the completion of such payments the value of her accumulated payments under this paragraph,

together with interest thereon, shall equal the value of her accumulated regular deductions for such period which would have resulted if such deductions had actually been made.

SECTION 338. The Statewide Emergency Telecommunication Board in consultation with the Office for Refugees and Immigrants shall conduct a study of the feasibility of making the enhanced 911 service accessible to linguistic minorities. The Board shall issue a report no later than October first, nineteen hundred and ninety-four.

SECTION 339. Notwithstanding the provisions of any general or special law to the contrary, the register of deeds of Hampden county is hereby authorized to establish a pilot program in said county to be funded by a user's fee. Said pilot program shall consist of a plan established by the register to levy and collect a user fee of twenty-five dollars to be assessed and paid for and in respect of the deeds, instruments and writings recorded or to be recorded in said county, which shall be in addition to the excise on said deeds, instruments and writings set forth in section one of chapter sixty-four D and section thirty-eight of chapter two hundred sixty-two, and the provisions of section eleven of said chapter sixty-four D shall not apply and shall not be considered a part of the Fund established by said section eleven.

Said register shall use the funds assessed and collected in accordance with the plan set forth in the previous paragraph for any and all purposes necessary to operate and maintain the Hampden county registry of deeds in a proper and efficient manner. Said register shall prepare a budget and a proposed spending plan which shall be submitted to the house and senate committees on ways and means for their approval. In the event that said funds are not used in accordance with said approved spending plan they shall revert to the General Fund. Said program shall expire on June thirtieth, nineteen hundred and ninety-six.

SECTION 340. Notwithstanding the provisions of any general or special law to the contrary, the Martha's Vineyard Commission may, by majority vote of its members, incur a one time debt not to exceed the sum of four hundred thousand dollars for the purpose of rehabilitating and bringing into compliance with all local and state and federal codes, a series of three buildings which formally were used to house the Cooperative Extension Service in Dukes County, which said Dukes County Commissioners are authorized to deed to said Martha's Vineyard Commission for the purposes of providing office and meeting room facilities for said Commission and further the Dukes County Commissioners are authorized to lease said land upon which the structures in question now sit to said Martha's Vineyard Commission.

SECTION 341. Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws, or any other general or special law to the contrary, the town of Bolton may establish in the town treasury a revolving fund which shall be kept separate and apart from all other monies by the treasurer of said town, and in which shall be deposited all monies received by the treasurer of said town from fines for the violation of statutes and by by-laws related to the operation and control of motor vehicles including parking fines. The principal and interest thereon shall be expended without further appropriation, at the

direction of the chief of police, with the prior written approval of the board of selectmen, for the payment of wages, and vehicle and other associated expenses of a two person highway safety unit. Any unexpended monies shall revert to the general fund of said town as ordered by the selectmen one year after passage of this bill; provided that provisions of this section shall not become effective until the town of Bolton has accepted the provisions of this section".

SECTION 342. Notwithstanding the provisions of chapter 59 of the General Laws, the town of Monterey may adopt a bylaw providing a real estate tax exemption to persons serving as members of the Volunteer Fire Department pursuant to this section.

Said bylaw shall provide that not later than ninety days prior to the beginning of the fiscal year, the Chief of the Fire Department shall certify to the Board of Assessors the names of each individual and the real estate for which an exemption is sought, provided that (a) said real estate shall be occupied and owned by said individual as his or her domicile, or occupied as his or her domicile but owned by a member of the immediate family; (b) no individual shall be certified if said individual has not been a member in good standing of the fire department for at least twelve months prior to such certification; (c) not more than twenty-four individuals shall be certified for any fiscal year, exclusive of any exemption granted to a retired member under the provisions of this section; and (d) no such exemption shall exceed the sum of one thousand five hundred dollars in any one fiscal year; provided, however, that said bylaw may provide for an annual increase of such amount based on an index approved by the commissioner of revenue.

Said bylaw shall also provide that any retired member of the town's volunteer Fire Department shall be eligible for at least seventy percent of such allowable exemption, or such other greater amount, as determined by bylaw; provided, however, that such individual has reached his or her sixtieth birthday prior to the fiscal year for which an exemption is being sought, and has served as a member of the Fire Department for not less than fifteen years immediately preceding his or her sixtieth birthday. Any individual receiving an exemption under the provisions of this act shall continue to receive such exemption regardless of any permanent disability which bars him from participation in the volunteer Fire Department.

SECTION 343. Notwithstanding the provisions of any general or special law to the contrary, the city of Brockton is hereby authorized to lay out and accept as public ways any of the ways listed in the manner set forth herein:

(1.) The planning board for the city of Brockton shall hold a public hearing on the issue of the laying out and acceptance as public ways of the ways listed in a document by October first, nineteen hundred and ninety-three on file with the city clerk, at which time interested persons shall be given an opportunity to be heard. Within twenty-one days after said hearing, the planning board shall submit a communication to the city council with its recommendations as to which ways said document should be laid out and accepted as public ways by the city of Brockton.

(2.) The city clerk shall prepare an order laying out and accepting as public ways those ways recommended by the planning board. This order shall be introduced at the city council meeting at which the communication from the planning board is received.

(3.) The order shall be referred to a standing committee of the city council, or a special committee appointed and designated by the president of the council for the sole purpose of considering the issue of the laying out and acceptance as public ways of those ways contained in the order. If the president of the city council appoints and designates such a committee, the president shall designate a chairman.

(4.) The chairman of the standing committee or special committee to which the order has been referred shall, within forty-five days of the referral of the order, schedule a public hearing on the order.

(5.) At least fourteen days prior to the scheduled public hearing, the board of assessors shall cause written notice of the intention of the city to lay out and accept as a public way and of the intention to hold a public hearing thereon to be sent to the owners of land abutting or being a part of such ways identified in the order. In addition, the city clerk shall cause notice of the city's intention to lay out and accept as public ways those ways identified in the order to be published in the newspaper of general circulation in the city once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing. In addition, the city clerk shall cause to be posted such notice in a conspicuous place in the city hall for a period of not less than fourteen days before the day of such hearing.

(6.) The standing committee or special committee shall report to the full council within fourteen days of the public hearing. Such report shall contain recommendations as to which ways identified in the order should be accepted and which ways identified in the order should not be accepted.

(7.) The city council may then amend, adopt, or reject the order.

(8.) Upon adoption of such order, the order shall be subject to the approval or veto by the mayor as provided in section 55 of the city charter. If the mayor approves the order, or if the city council, notwithstanding the mayor's disapproval shall again pass such order by a two-thirds vote, the ways contained in the final order shall be considered laid out and shall be considered public ways.

SECTION 344. The department of environmental management is hereby authorized and directed to complete the rehabilitation of Fort Meadow Dam in the city of Marlborough and the town of Hudson not later than June thirtieth, nineteen hundred and ninety-four, pursuant to the provisions of section two of chapter five hundred seventy-eight of the acts of nineteen hundred and eighty.

SECTION 345. Notwithstanding any general or special law or rule or regulation to the contrary, the commissioner of revenue shall determine the fair cash value of the land owned by the commonwealth in the town of New Braintree and used for purposes of a state police academy, and reimbursement for loss of taxes on said land shall be made to the town

of New Braintree in accordance with section thirteen of chapter fifty-eight of the General Laws, as if said land were one of the commonwealth lands listed in said section thirteen of said chapter fifty-eight of the General Laws.

SECTION 346. The division of capital planning and operations is hereby authorized and directed to sell water at a fair market price to the town of New Braintree for the purpose of providing drinking water and fire protection to the recently approved elementary school to be constructed in the town of New Braintree.

The town of New Braintree shall absolve the commonwealth of any and all liability in this regard and will fund any and all construction costs, metering and associated costs of this proposal. The town of New Braintree shall be allowed a maximum of ten thousand gallons of water per day during the school year.

The water shall be provided from the department of public safety state police training facility water supply located on West Brookfield Road in said town of New Braintree.

SECTION 347. Notwithstanding the provisions of any general or special law or regulation to the contrary, any order of conditions issued pursuant to the provisions of section forty of chapter one hundred and thirty-one of the General Laws or any local ordinance or bylaw by the conservation commission of the town of Plymouth or the town of Duxbury, that permits activities for the protection of the environment of the barrier beach known as Duxbury Beach within the said towns of Plymouth and Duxbury being that beach fronting the Atlantic Ocean running from Gurnet road in the town of Duxbury to the Gurnet/Saquish landfall in the town of Plymouth, and particularly for the protection against or prevention of beach, dune, or coastal erosion, including without limitation planting, construction of snow fencing or post and cable fencing, construction, reconstruction, and repair of any sacrificial or barrier dune or portions thereof, and maintenance and reconstruction of existing structures, including without limitation fencing, plantings, boardwalks, parking areas, and roadways; or for the construction and maintenance of a roadway for off-road vehicles to provide access to and egress from Gurnet and Saquish; or related to active or passive recreation on Duxbury Beach, including without limitation bathing, picnicking, hiking, swimming, hunting in season, fishing, and the operation of off-road vehicles; or for the protection of threatened or endangered wildlife species on Duxbury Beach, shall not be stayed during the pendency of a judicial or administrative appeal.

The activities permitted by any such order of conditions shall be allowed to continue during said appeal, but only if said activities conform to the conditions set forth in the order of conditions and any superseding order of conditions issued pursuant to section forty of chapter one hundred and thirty-one of the General Laws.

The provisions of this section shall cease to apply to any activities described herein with respect to which all administrative appeal periods have elapsed, and all administrative proceedings have been completed and a final order of conditions or final superseding order of conditions has issued. Nothing contained herein shall be construed as a stay of any final

decision of any administrative body not subject to further administrative appeal, or of any judicial body.

SECTION 348. Notwithstanding the limitations imposed by the first paragraph of section nineteen of chapter forty-four of the General Laws, or by any other applicable provision of law with respect to annual payments of bonds or notes, any maturities of each issue of bonds or notes issued for the Water Treatment Plant authorized by a vote of the town of Winchester on June third, nineteen hundred and ninety-three may be arranged so that for each issue the amounts payable in the several years for principal and interests combined shall be as nearly equal as practicable in the opinion of the officers authorized to issue such bonds or notes.

SECTION 349. Notwithstanding the limitations imposed by the first paragraph of section nineteen of chapter forty-four of the General Laws or by any other applicable provision of law with respect to annual payments of bonds or notes, any maturities of each issue of bonds or notes issued for the Library Renovation Project of the town of Winchester for which monies for the design were appropriated on May twenty-seventh, nineteen hundred and ninety-three, may be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of the officers authorized to issue such bonds or notes.

SECTION 350. Notwithstanding the provisions of section five of chapter three of the General Laws, or any other general or special law to the contrary, the Alliance of Cambridge Settlement Houses, Inc., is hereby revived for the sole purpose of reconveying and retransferring to the East End House, Inc., all of its real property. The director of the Cambridge Redevelopment Authority shall be appointed to act as a receiver for and on behalf of said Alliance.

The dissolution of said Alliance shall not become effective unless and until the receiver, acting for and on behalf of said Alliance, shall have reconveyed and retransferred to the East End House, Inc. all of its real property and shall be completed and effective upon the filing with the secretary of the commonwealth and the recording in the office of the register of deeds for Middlesex county, within one year of the passage of this act, of a certificate signed by the receiver that the conditions of this section have been satisfied.

Whatever right or authority is granted or conferred by this section are declared to be limited to such authority or right as the general court may constitutionally grant or confer, without prejudice to any proceeding that may be instituted in any court of competent jurisdiction to effect the purposes of this section. If the application of any provision of this section to any property or funds held by any of said corporations shall be held invalid, the application of such provision to property and funds other than those as to which it is held invalid shall not be affected thereby.

SECTION 351. The division of capital planning and operations shall conduct a study and prepare a plan for the renovation of the courthouse of the Charlestown division of the district court department, shall estimate the cost of the renovation, and shall report the

results to the chief justice for administration and management of the trial court by November first, nineteen hundred and ninety-three. Said study shall include, to the maximum extent possible, consideration of any available federal funds, funds that might be available from local, federal or private sources due to the historic significance of the court and its location, and revenues that might result from a use or uses of the site in addition to a court. In conducting said study and preparing said plan, the division of capital planning and operations shall consult with federal, state, and local historic preservation and tourism officials, and with representatives of the Charlestown community, shall receive assistance and support from other agencies and departments of state government, and may consult with any other governmental or nongovernmental agency.

SECTION 352. The metropolitan district commission shall conduct a study and propose plans, if necessary, for general restoration, rehabilitation and construction by said commission and any improvements related thereto, including, but not limited to, materials, furnishings and equipment at the Saxton J. Foss Park, George Dilboy Field, and Hormel Stadium.

SECTION 353. The sheriff of Essex county and the district attorney of Essex county are hereby authorized and directed to develop a plan for a pilot program in Essex county for the use of video transmission for the purposes of providing incarcerated prisoners and others access to the courts through remote appearances. Said plan shall include a complete cost-benefit analysis of its implementation. Said plan shall be filed with the clerks of the senate and house of representatives no later than September thirtieth, nineteen hundred and ninety-three.

SECTION 354. Notwithstanding the provisions of any general or special law to the contrary, the secretary for administration and finance is hereby authorized and directed to conduct a study relative to the feasibility and fiscal advantages or disadvantages of establishing and developing a photo identification card system for recipients of benefits under any program administered by the department of public welfare and the division of medical assistance. Said study shall include, but not be limited to, an analysis of the effect said system would have on the incidence of fraud within said programs particularly when compared with photo identification systems in place in other states or cities, the comparative costs of establishing and maintaining within said department or by contracting out the establishment and maintenance of said system to private vendors or other state agencies, waivers that may be necessary under federal laws and regulations and an analysis of which recipients, such as children in receipt of aid to families with dependent children, who might be required to participate in said photo identification system. The secretary shall submit said report to the house and senate committees on ways and means no later than January thirty-first, nineteen hundred and ninety-four.

SECTION 355. The secretary of administration and finance is hereby directed, in coordination with the director of the Springfield civic center, to study the funding level required to provide high quality convention and entertainment space at said center. A report of the findings of said study, along with drafts of recommended legislation, if any, shall be

submitted to the house and senate committees on ways and means no later than December thirty-first, nineteen hundred and ninety-three.

SECTION 356. The joint committee on public safety is hereby authorized and directed to conduct a study and draft legislation as to how best implement the security of the state house and the state office buildings and the property and personnel therein.

Said study shall be completed and reported to the clerk of the house of representatives on or before December thirty-first, nineteen hundred and ninety-three.

SECTION 357. The executive office for administration and finance, in coordination with the department of mental retardation is hereby authorized and directed to conduct a study of the feasibility of implementing cost sharing programs within the department of mental retardation. Said study shall include, but not be limited to, a survey of existing cost sharing programs including cash subsidies, vouchers for services, and residential and vocational cost sharing programs, as well as projected revenues from the implementation of a sliding scale fee. Said study shall also include estimates of costs and recommendations for expanding or implementing cost sharing and sliding scale fee programs. The findings of said study shall be submitted to the house and senate committees on ways and means on or before December thirty-first, nineteen hundred and ninety-three.

SECTION 358. Notwithstanding any general or special law to the contrary, the secretary of administration and finance is hereby authorized and directed to conduct a study of the police career incentive pay program or Quinn bill, so called, pursuant to section one hundred and eight L of chapter forty-one of the General Laws. Said study shall include but not be limited to the cost of said program to the commonwealth, the cost of said program to the various municipalities that have accepted the provisions of said program and a comparative analysis of the available incentive pay program salary differentials.

SECTION 359. The executive office of health and human services shall investigate and study the geographic distribution throughout the commonwealth of the resources and facilities of the departments of mental health and mental retardation. Said executive office shall report its findings in writing to the house and senate committees on ways and means and the joint committee on human services and elder affairs not later than March first, nineteen hundred and ninety-four.

SECTION 360. Notwithstanding the provisions of any general or special law to the contrary, the treasurer, in consultation with the state board of retirement and the teachers' retirement board, is hereby authorized and directed to cause an independent study to be conducted of the computer systems in use within the office of the state treasurer for the administration of the state employees' retirement system and the teachers' retirement system and for the management of the assets of said retirement systems. Said study shall be conducted by a consultant selected by the treasurer, subject to the approval of the state board of retirement and the teachers' retirement board, and shall include, but not be limited to, an assessment of the relative benefit, including cost and efficiency, of continuing to maintain one computer system for both the state board of retirement and the teachers' retirement board

or the procurement of an independent system for each retirement board. Expenditures for said study shall be limited to forty thousand dollars which shall be paid in equal amounts from the investment income accounts of said retirement systems. The treasurer shall file a copy of said study with the senate and house committees on ways and means and with the joint committee on public service. In the event that said study recommends maintenance or upgrade of said computer systems, the purchase of a new system, or the purchase of separate systems, the state board of retirement and the teachers' retirement board shall, in consultation with the treasurer, each adopt a budget for the implementation of said recommendations. Said budgets shall be filed with the senate and house committees on ways and means upon adoption. Said budgets shall be paid from the investment income account of the respective retirement system without further appropriation.

SECTION 361. The department of public welfare is authorized and to directed to conduct a study of the feasibility and cost effectiveness of awarding financial assistance in the form of rent payments to eligible welfare recipients directly to the recipient's landlord by check or electronic funds transfer, which shall be tendered within the first ten days of each month. Said department shall report the results of its study to the house and senate committees on ways and means on or before December thirty-first, nineteen hundred and ninety three.

SECTION 362. The department of public welfare is hereby authorized and directed to study the feasibility of developing a clothing allowance voucher system. Said study shall include, but not be limited to, the pursuit of federal waivers that may be necessary to establish such system and a determination of businesses that would accept such clothing vouchers. A report detailing the findings and recommendations of said study shall be filed with the house and senate committees on ways and means, on or before January fifteenth, nineteen hundred and ninety-four.

SECTION 363. The department of mental health is hereby authorized and directed to conduct a study of services for homeless mentally ill persons in the commonwealth. Said report shall include: (1) an estimate of the number of homeless mentally ill individuals in each catchment area of the department and recommendations for providing services to such individuals; (2) recommendations for state funding; (3) evaluations of capital pooling resources; (4) assessment of the role of rental vouchers; and (5) the potential of the department of obtain federal grants. Said department shall report the results of said study by filing the same with the clerks of the senate and house of representatives and the house and senate committees on ways and means on or before the first Wednesday in December, nineteen hundred and ninety-three.

SECTION 364. The secretary of elder affairs is hereby directed to conduct a study relative to the distribution of all funds including Title III and other federal funds by the executive office of elder affairs. Said secretary shall report the results of said study and his recommendations, if any, together with drafts of legislation to carry its 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-three.

SECTION 365. The secretary of health and human services, in consultation with the commissioner of the department of medical security, the commissioner of insurance and the secretary of elder affairs, is hereby authorized and directed to prepare a study and plan for implementing a prescription drug expense assistance program pursuant to this section. Said plan shall provide that persons age sixty-five or older or disabled receiving medicare benefits whose income is not higher than two hundred and fifty percent of the federal poverty level and who are not eligible for medical assistance pursuant to chapter one hundred and eighteen E of the General Laws shall be eligible for said program. Benefits provided under said program shall, to the extent feasible, be calculated on a sliding scale so that the amount of assistance decreases for persons with higher incomes. Said plan may provide for other eligibility standards and application and verification procedures.

Said plan shall specify a schedule of benefits, copayments, covered drugs, covered diagnoses and other requirements. Said benefits may be coordinated with or subsidize insurance coverage for prescription drug costs. Said plan may include incentives or requirements to increase the cost effectiveness of the program. Said plan may include the negotiation of rebates or other contractual arrangements with drug manufacturers, drug vendors or others in connection with said program. Said plan may require a utilization review program to restrict inappropriate or excessive usage. Said plan may include cooperation with the group insurance commission or the medical assistance program in establishing and administering the program.

No later than October fifteenth, nineteen hundred and ninety-three, said secretary shall file with the joint committee on insurance and with the house and senate committees on way and means said study and plan pursuant to this section. Said study shall provide the recommendations of the secretary, a detailed explanation of the estimated costs of implementing the plan recommended, a breakdown of the persons to be served and the costs incurred in serving such persons, and such other information as the secretary may include. Said study and plan may list various options or alternative programs and the estimated costs of implementing such options or alternatives. Said study may also consider requiring all insurers who offer non-group medicare supplemental insurance to limit reimbursement for prescription drugs to those drugs contained in a formulary authorized by the law.

SECTION 366. The group insurance commission is hereby authorized and directed to review the feasibility and fiscal soundness for the commonwealth of entering into an administrative services or similar contract with health maintenance organizations, preferred provider organizations, independent practice associations, and other health care organizations. The intent is to achieve savings on premiums paid to said organizations by having the commonwealth self insure and pay said organizations an administrative fee only. The results of said review shall be reported by the commission to the clerks of the house and senate and the house and senate committees on ways and means on or before December thirty-first, nineteen hundred and ninety-three.

SECTION 367. The department of youth services is hereby directed to develop a plan, in compliance with the requirements of the federal Adoption Assistance and Child Welfare Act of 1980, for the provision of foster care maintenance payments, and to submit said plan for the approval of the Secretary of Health and Human Services of the United States.

SECTION 368. The commissioner of the department of youth services is hereby authorized and directed to promulgate rules and regulations as necessary to comply with the provisions of the Adoption Assistance and Child Welfare Act of 1980, after August first, nineteen hundred and ninety-three and not later than November first, nineteen hundred and ninety-three.

SECTION 369. The commissioner of insurance is hereby authorized and directed to conduct a study of discrimination by non-profit hospital and medical service corporations in contracting with hospitals of the commonwealth. Said report shall be filed with the house and senate committees on ways and means on or before December thirty-first, nineteen hundred and ninety-three.

SECTION 370. The commissioner of insurance is hereby authorized and directed to implement a study on the feasibility of a program of training for local police departments to investigate automobile accidents and the possibility of assessing those companies which offer automobile insurance in the commonwealth for the costs of such program. Said commissioner shall report the results of such study by filing the same with the clerks of the senate and house of representatives not later than April fifteenth, nineteen hundred and ninety-four.

SECTION 371. (*a*) The division of capital planning and operations, with the advice of the task force defined in subsection (*g*), is hereby directed to develop a master plan for the Boston state hospital site as a guide to the redevelopment of said site. The commissioner may consider the development guidelines adopted by the citizens advisory committee in May nineteen hundred and ninety-three in the formulation of the master plan. Said master plan shall include the following:

(1) A description and site plans of the property, a narrative and graphic presentation of the characteristics of the existing conditions of the site, boundaries of legally protected wetlands, and boundaries of open space for recreational as well as buffer zones between the abutting neighborhoods and the redevelopment of the Boston state hospital site;

(2) A determination of the structural soundness of buildings on the site, and recommendations for demolition or securing unsound or unsafe buildings, as appropriate;

(3) A management and maintenance plan that will provide for care of grounds, open space, buffer areas or other land areas critical to the operation and appearance of land uses on the redevelopment site;

(4) Consideration of areawide traffic impact on neighborhoods abutting the site; provided, that the primary purpose of planning and related traffic changes shall be the improvement of pedestrian safety and automobile access to the site;

(5) Evaluation by the Massachusetts Bay Transportation Authority of the transit needs of the Mattapan, Dorchester, Roxbury and Jamaica Plain neighborhoods created by future redevelopment uses;

(6) Identification of all environmentally sensitive areas and agriculturally significant soils and, where appropriate, a description of mechanisms to protect conservation restrictions, easements, covenants, and to provide protection and community access; provided, that early attention to state environmental review requirements shall be part of the planning and land disposition process;

(7) A determination of appropriate parcelization, land use, community benefits, and development guidelines to maximize the economic potential of the site, job creation opportunities and the option of parcelization for future use or development of a portion of the site by the department of mental health;

(8) A complete feasibility analysis that compares the costs and benefits of alternative land uses and their community benefits, including, but not limited to, office space, light manufacturing, housing, mental health facilities, public and private educational facilities public health, hospital or research facilities, open space, agricultural, recreational, and related uses, and takes into consideration the continuing operation of the programs of agencies of the commonwealth on contiguous parcels and specifications of public-private finance options; provided, that said feasibility analysis shall include a comparison of the costs and benefits of diversification of land uses on the Boston state hospital site and shall, to the extent feasible, minimize any reliance on or use of public financing.

(9) Job creation and job training goals, including job number and wage level targets for the employment of residents of Boston state hospital area neighborhoods.

Upon completion and adoption of the master plan, the commissioner shall submit a copy of said master plan to the joint legislative committee on housing and urban development, the joint legislative committee on state administration, the house and senate committees on ways and means and the inspector general. Said master plan shall be completed no later than October first, nineteen hundred and ninety-three.

(b) The task force defined in subsection (*f*), through the division of capital planning and operations, may advise any developer in seeking grants and other financial aid where such advice contributes to achieving the intent of the redevelopment guidelines.

(c) The division of capital planning and operations is hereby authorized to expend a sum not to exceed five hundred thousand dollars for the purpose of preparing said master plan, requests for proposals, and land disposition agreements, including, but not limited to, hiring, planning, engineering, real estate, marketing, and legal consultants, conducting surveys, studies, appraisals, and preparing an environmental impact report, if required, to determine the costs, benefits, and guidelines for the development of the parcels and for preparing public information and providing for public participation in the development process. The division may enter into memorandums of agreement with municipal or regional governments or authorities prepare said master plan.

(*d*) There is hereby established a Boston state hospital interagency task force, which shall consist of the secretary of economic affairs, the secretary of transportation and construction, the secretary of environmental affairs, the secretary of health and human services and the secretary of administration and finance, or their designees. Said task force shall be charged with advising the division of capital planning and operations in the development of the master plan for the Boston state hospital site, as required by this section.

SECTION 372. There shall be a special commission on historic preservation to study the preservation and revitalization of the commonwealth's historic and cultural heritage. The commission shall be comprised of seventeen members, who shall serve without compensation. The commission shall consist of the secretary of environmental affairs or his designee; the secretary of economic affairs or his designee; the secretary of communities and development or his designee; the secretary of transportation or his designee; the secretary of the commonwealth or his designee; the state historic preservation officer or his designee; a chairman of the joint committee on natural resources and agriculture of the general court, selected by said committee; a chairman of the joint committee on commerce and labor of the general court, selected by said committee; five public members from the historic preservation community to be chosen by the governor; and four members of the general court, two from the senate to be chosen by its president, and two from the house of representatives to be selected by its speaker. The chairman of the joint committee on natural resources and agriculture shall act as chair of the commission.

The commission shall review and make recommendations to the governor and the general court regarding the appropriate scope of, and the mechanisms for the involvement of, the various agencies currently involved in historic preservation and revitalization of the historic and cultural resources of the commonwealth.

The commission shall report to the general court the results of its investigation and study, and its recommendations, if any, by filing its report with the clerks of the house of representatives and of the senate not later than December thirty-first, nineteen hundred and ninety-three.

SECTION 373. There is hereby established a special commission to consist of five members of the house of representatives, five members of the senate, the inspector general, the state auditor, and the secretary of environmental affairs for the purpose of making an investigation and study relative to the implementation of chapter thirty-six of the acts of nineteen hundred and ninety-two. Said commission shall hold a series of at least three public hearings in communities other than in the Wachusett Watershed.

The commission shall issue a report by June thirtieth, nineteen hundred and ninety-four. Said report shall contain legislation to be proposed amending or repealing said statutes, if said commission shall find such repeal or modification reasonable and appropriate.

SECTION 374. A special commission is hereby established for the purpose of making an investigation and study relative to improving procedures governing the summary

process. Such investigation and study shall include a complete analysis of the following: whether a more definite method should be prescribed for giving notice of the eviction process; the time frame in which property owners may be permitted to initiate summary process actions; whether housing courts or courts of appropriate jurisdiction should allow a discretionary basis or require tenants offering a counterclaim or defense to an eviction complaint as a condition thereof to deposit into the court any rent being withheld from the landlord; whether an aggrieved tenant should be entitled to withhold rent on account thereof prior to such time as the board of health or other appropriate agency has certified that such condition constitutes a violation of state sanitary code or the landlord has had a reasonable opportunity to correct such condition after receiving notice thereof; whether the quiet enjoyment of tenants in multi-unit buildings has been impaired by the cumbersome nature of the summary process procedure, as well as, discouraged the construction of additional rental housing, particularly for those of low to moderate income. Said commission shall consist of three members of the senate, one of whom shall serve as cochairman, three members of the house of representatives, one of whom shall serve as cochairman, one person designated by each of the following: the Greater Boston Real Estate Board, the Rental Housing Association, the Massachusetts Housing Finance Agency, the Massachusetts Association of Realtors, the Massachusetts Bar Association, the Massachusetts Law Reform Institute and the Executive Office of Communities and Development; and three persons designated by each of the following: the Massachusetts Tenants Organization and the Massachusetts Affordable Housing Coalition. Said commission shall appoint an Executive Director and shall expend such sums as may be appropriated therefor to compensate said Executive Director, and for other purposes consistent herewith, up to a limit of thirty-five thousand dollars, provided however, that all such expenditures shall be borne by voluntary contributions from persons engaged in the Rental Housing Industry. 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 to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before March thirty-first, nineteen hundred and ninety-four.

SECTION 375. A special commission to consist of one member of the senate, one member of the house of representatives, and seven persons to be appointed by the governor, one of whom shall be an owner of a state or federally subsidized housing development, one of whom shall represent the Massachusetts Municipal Association, one of whom shall represent the Massachusetts Water Resources Authority, one of whom shall represent the executive office of communities and development, one of whom shall represent the Massachusetts Tenants Organization, one of whom shall be a commercial property owner, and one of whom shall represent a local water and sewer rate setting authority is hereby established for the purpose of making an investigation and study relative to billing of state and federally subsidized housing units for water and sewer charges. Said study shall include, but not be limited to, the adverse financial impact of billing state and federally subsidized

developments at a commercial water and sewer rate and the potential benefits of mandating that said developments be billed at residential rate. Said commission shall file a report of the findings of the commission no later than October fifteenth, nineteen hundred and ninety-three, together with proposed legislation.

SECTION 376. The secretary of the executive office of communities and development shall convene and chair a task force for the purpose of developing a plan to meet the housing needs of families with HIV infected and affected children. Said task force shall assess through focus groups and other means the unmet housing needs of families with children infected and affected by AIDS; and said task force shall develop a plan, based on that need, to meet their housing needs. Said plan shall include a mechanism for funding and enforcement of laws prohibiting housing discrimination.

The task force shall be comprised of the following members: two members of the senate chosen by the president of the senate; three members of the house chosen by the speaker of the house; the secretary of the executive office of communities and development, the secretary of health and human services, the commissioner of public health, the commissioner of mental health, the commissioner of the department of social services, the commissioner of the Massachusetts commission against discrimination, the director of medicaid, a representative of the federal department of housing and urban development, a local public health official, a representative of a local housing authority, a provider of pediatric HIV specialty care, a provider of primary care to families with HIV, a representative of the visiting nurses association, an architect with experience in accessible housing, and four parents of HIV infected children.

Said task force shall submit its policy and program recommendations to the house committee on ways and means, the senate committee on ways and means, the joint committee on health care, and the legislative children's caucus by April fifteenth, nineteen hundred and ninety-four.

SECTION 377. A special commission, to consist of three members of the senate, one of whom shall be a member of the minority party, three members of the house of representatives, one of whom shall be a member of the minority party, the secretary of the executive office of health and human services or his designee, the commissioner of the department of public health or his designee, the commissioner of the department of social services or his designee, the commissioner of the department of mental health or his designee, the commissioner of the division of insurance or his designee, the commissioner of the office for children or his designee, the commissioner of the division of medicaid or his designee, and ten persons to be appointed by the governor, one of whom shall represent the Massachusetts Healthy Families Coalition, one of whom shall represent the Children's Trust Fund, one of whom shall represent the Massachusetts Committee for Children and Youth, one of whom shall represent the Massachusetts Society for the Prevention of Cruelty to Children, one of whom shall represent the Massachusetts Chapter of the American Academy of Pediatrics, one of whom shall represent the Association of Massachusetts Parent

Aid Programs, one of whom shall represent the Massachusetts Hospital Association, one of whom shall represent the Massachusetts Nurses Association, one of whom shall represent the Massachusetts Maternal Child Coordinators Network, and one whom shall represent the Massachusetts League of Neighborhood Health Centers, is hereby established for the purpose of developing a plan to implement a statewide voluntary neonatal home visiting program. Said commission shall report to the general court the results of its investigation and study and recommendations, including drafts of legislation, if any, by filing the same with the clerk of the house of representatives on or before December thirty-first, nineteen hundred and ninety-three.

SECTION 378. There shall be a commission established to consist of fifteen members; five of whom shall be members of the house of representatives appointed by the speaker of the house; three of whom shall be members of the senate appointed by the president of the senate, and seven of whom shall be appointed by the governor: one of whom shall be a representative of the Massachusetts Medical Society; one of whom shall be a representative of the Massachusetts Society of Psychiatric Hospitals; one of whom shall be a representative of the Massachusetts Hospital Association; one of whom shall be a representative of Blue Cross/Blue Shield of Massachusetts; one of whom shall be a representative of the Massachusetts Association of HMOs; one of whom shall be a representative of the commercial insurance industry to be designated by the Life Insurance Association of Massachusetts in conjunction with the Health Insurance Association of America; one of whom shall be the secretary of the executive office Health and Human Services, or his designee. Said commission shall study utilization review and its effectiveness and shall make a report to the legislature no later than June thirtieth, nineteen hundred and ninety-four.

SECTION 379. The governor shall appoint an eleven member commission for the purpose of making recommendations to the general court regarding third party reimbursement by health insurers to mental health professionals and making inpatient and outpatient treatment of biologically based mental illness equivalent to the treatment of other physical illnesses and diseases. One appointee of the governor shall be a member of the alliance of the mentally ill and one appointee by the governor shall be a member of the board of allied mental health and human services professionals. Said commission shall evaluate the cost effectiveness and quality of care of all mental health professionals and make recommendations in the form of legislation to the general court as to which mental health professional should receive statutory third party reimbursement. Said commission shall also evaluate the potential ramifications of inpatient and outpatient treatment of biologically based mental illness equivalent to the treatment of other physical illnesses and diseases. The commission shall file its recommendations together with any recommendations of legislation with the clerk of the house of representatives on or before October first, nineteen hundred and ninety-three.

SECTION 380. The higher education coordinating council is hereby authorized and directed to assemble a task force for the purpose of conducting a study relative to the development and implementation of statutory language to establish a fair share funding formula for the allocation of state support for public institutions of higher education. Said study shall determine, for each institution of higher education, the ratio of the full educational cost per student to be borne by the state and the ratio to be borne by the student. Said study shall also investigate the advisability and feasibility of funding the public system of higher education on a two-year budget cycle. In addition, said task force shall report on the effectiveness of implementing formula funding for public higher education. Said task force shall be comprised of fifteen members and shall include the secretary of administration and finance or his designee, two members of the house of representatives who shall be appointed by the Speaker of the house of representatives, one representative who shall be appointed by the house minority leader, two members of the senate who shall be appointed by the senate president, one member of the senate who shall be appointed by the senate minority leader, three members who shall be appointed by the Massachusetts public higher education executive council of presidents and chancellors, and five members who shall be appointed by the higher education coordinating council, provided, however, that at least two shall be full-time students currently enrolled in a degree program at an institution of public higher education in the commonwealth. Said task force shall submit a report on its findings and a plan to implement said findings to the higher education coordinating council no later that May first, nineteen hundred and ninety-four.

SECTION 381. A special commission to consist of two members of the senate, three members of the house of representatives and six persons to be appointed by the governor, three of whom shall be representatives of the business community, two of whom shall be employees of the department of environmental protection, and one of whom shall be a representative of the National Fire Prevention Association, is hereby established for the purpose of making an investigation and study including, but not limited to, the existence of any health hazards from lawn and fire sprinkler systems and the feasibility and cost effectiveness of requiring backflow protection for such systems.

The commission may obtain from qualified sources at no cost to the commission, any available technical assistance and support to assist in the evaluation and analysis of statistical data bearing on the degree of hazard these sprinkler application pose to the public water supply, and to develop cost benefit criteria by which the need for backflow prevention can be established for each application.

Said commission shall report to the general court the results of its investigations 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 the first Wednesday in January, nineteen hundred and ninety-four.

SECTION 382. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established a special commission consisting of two members of the

senate, five members of the house of representatives, the secretary of public safety or his designee, the chairman of Massachusetts fire training council or his designee, the director of the Massachusetts firefighting academy or his designee, the president of the Fire Chief's Association of Massachusetts or his designee, and the president of the Professional Firefighters of Massachusetts or his designee for the purpose of conducting a study of the feasibility of establishing a system of requiring the completion of a course of study approved by the Massachusetts fire training council for all persons appointed to the position of full-time firefighter in the cities, towns and fire districts of the commonwealth.

The commission shall report the results of its study and its recommendations, if any, together with drafts of legislation necessary to carry out its recommendations by filing the same with the clerks of the house of representatives and the senate on or before December thirty-first, nineteen hundred and ninety-three. The members of the commission shall serve without compensation.

SECTION 383. There is hereby established a special task force, to consist of six members of the house of representatives, one of whom shall be the house chairman of the joint committee on commerce and labor, one of whom shall be the house chairman of the joint committee on public service, both of whom shall serve as co-chairmen, and the other four of whom shall be appointed by the speaker of the house of representatives, three members of the senate, one of whom shall be the senate chairman of the joint committee on commerce and labor, one of whom shall be the senate chairman of the joint committee on public service and one of whom shall be appointed by the president of the senate, and seven persons one of whom shall be the president or his designee of the American Federation of State, County and Municipal Employees, one of whom shall be the president or his designee, of the National Association of Government Employees, one of whom shall be the director or his designee of the governor's office of employee relations, one of whom shall be the president or his designee of the Massachusetts Association of Corrections Officers, one of whom shall be the president or his designee of the Service Employees International Union, Local 509, and one of whom shall be the director of the Massachusetts board of conciliation and arbitration and one of whom shall be the commission of the public employee retirement administration for the purpose of determining whether or not to require that workers' compensation be a subject of mandatory collective bargaining between the commonwealth and its unionized employees. Said task force shall commence deliberations no later than September first, nineteen hundred and ninety-three. The task force shall report to the clerk of the house of representatives the results of its study and its recommendations, together with drafts of legislation, if necessary, to carry its recommendations into effect by filing the same with the clerk of the house of representatives on or before the first of December, nineteen hundred and ninety-three.

SECTION 384. The commissioner of the department of labor and industries shall appoint a task force which shall report to the joint committee on commerce and labor by October first, nineteen hundred and ninety-three recommendations for appropriate changes

in the law to eliminate the need for suspension of the application or operation of any provision in chapter one hundred and forty-nine of the General Laws. The task force shall include the commissioner and six members to be appointed by the governor, one of whom represents education, two of whom represent employers of minors over the age of sixteen, one of whom represents the AFL-CIO, one of whom represents a child advocacy organization, and one of whom shall be a citizen representative.

SECTION 385. Notwithstanding the provision of any general or special law to the contrary, there is hereby established a special commission for the purpose of studying the feasibility of mergers or acquisitions of one or more investor-owned electric utilities. The special commission shall consist of eleven members: the secretary of consumer affairs or his designee, the commissioner of the division of energy resources, the attorney general or his designee, three members of the senate appointed by the senate president, three members of the house of representatives appointed by the speaker of the house, and two members of the public appointed by the governor. The commission shall be co-chaired by the commissioner of the division of energy resources and the senate chairman on energy. The commission shall investigate and study the feasibility of mergers or acquisitions of one or more investor-owned electric utilities within the commonwealth by one or more other investor owned electric utilities servicing the commonwealth. The commission shall investigate and study the impact that such mergers or acquisitions would have on such matters as electric rates for all classes of rate payers within the contemplated service territory. The commission shall file with the clerks of the senate and house of representatives, and the department of public utilities, a final report of its findings and recommendations, with accompanying legislation, if any, no later than the first Tuesday in March, nineteen hundred and ninety-four. Upon filing of the report, the department of public utilities is directed to open a generic hearing to consider and implement the recommendations of the report as appropriate.

SECTION 386. Commencing on July thirty-first, nineteen hundred and ninety-three, the supreme judicial court, appeals court and the trial court of the commonwealth shall provide the reports required by sections twenty-nine and thirty of chapter two hundred and eleven of the General Laws, sections eighteen and nineteen of chapter two hundred and eleven A of the General Laws, and sections twenty-one and twenty-two of chapter two hundred and eleven B of the General Laws.

SECTION 387. The lottery commission is hereby authorized and directed to implement the game known as Keno. The commission shall make an investigation and study of the implementation of Keno and file a plan of implementation with the house and senate committees on ways and means by August sixteenth, nineteen hundred and ninety-three. Said commission shall implement Keno on October first, nineteen hundred and ninety-three.

Said commission shall implement Keno so as to either include the participation of the charitable gaming licensees who conduct beano, so called, in the operation of Keno or if necessary, to develop a separate Keno game for use by such charitable gaming licensees exclusively. A license to operate the game known as Keno, upon the full implementation

of said game, shall be available to any licensee, licensed under section twelve of chapter one hundred and thirty-eight of the General Laws or under section twenty-seven of chapter ten of the General Laws, provided that such licensee does not owe a financial obligation to the commonwealth, and such licensee has not been convicted of a felony. A license to operate the game known as Keno shall not be issued to any person, business, corporation or other entity, except as provided for herein.

Said commission shall submit to the house and senate committees on ways and means a progress report on the implementation of keno gaming on or before December first, nineteen hundred and ninety-three.

SECTION 388. The department of public welfare (1) shall provide a cost estimate and a report to the joint committee on human service and elderly affairs detailing the families in transition program (FIT) established pursuant to section one B of chapter one hundred and eighteen of the General Laws, inserted by section one hundred and fifty-one of this act, no later than October fourth, nineteen hundred and ninety-three; (2) shall no later than October fourth, nineteen hundred and ninety-three seek any necessary federal waivers and assurance of federal financial participation from the federal department of health and human services to operate the FIT demonstration as set forth in said section one B; (3) shall implement to demonstration promptly, subject to appropriation and the grant of waivers and assurance of federal financial participates from the department of health and human services; and (4) shall provide reports to said joint committee on an annual basis following implementation containing program data sufficient to evaluate the effectiveness of the FIT demonstration to assist recipients of aid under this chapter to obtain and retain paid employment and child support and to support their families without cash assistance under this chapter.

SECTION 389. The department of public welfare is hereby authorized and directed to apply for any waivers necessary under the Social Security Act, or other provisions of federal law, to implement the objectives and provisions of TEMP as set forth in section one A of chapter one hundred and eighteen of the General Laws, inserted by section one hundred and fifty-one of this act. The department shall implement this program on January first nineteen hundred and ninety four by establishing it in limited geographic areas, including not more than one urban area, and one suburban or rural area. The department is directed to submit by October fourth, nineteen hundred and ninety three a report to the joint committee on the human services and elderly affairs detailing the program as submitted for Federal approval and specifying the funding necessary to operate the program.

SECTION 390. Except as otherwise provided in this act, the provisions of this act shall take effect as of July first, nineteen hundred and ninety-three.

This bill was returned on July 19, 1993, 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:

Chap. 110

Items Disapproved:

SECTION 2

0810-0045	2220-1000	8900-0007
1599-9010	3145-1000	

Section 2B

1599-9500

SECTIONS 10, 12, 21, 22, 30, 37, 46, 47, 48, 52, 71, 72, 73, 74, 75, 78, 79, 87, 88, 90, 91, 93, 94, 95, 96, 97, 101, 109, 115, 118, 119, 120, 132, 133, 143, 144, 145, 149, 150, 151, 152, 156, 162, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 182, 183, 184, 185, 186, 188, 190, 191, 192, 193, 194, 215, 216, 218, 219, 220, 229, 230, 231, 232, 241, 242, 250, 253, 262, 269, 275, 284, 288, 291, 294, 296, 299, 303, 318, 320, 326, 329, 331, 333, 334, 337, 339, 343, 345, 347, 358, 369, 372, 373, 374, 378, 379, 383, 386, 388, 389

SECTION 2 *Items Reduced*

Item	Reduce by	Reduce to	Item	Reduce by	Reduce to
0612-1010	5,000,000	911,887,384	2440-0010	258,859	22,136,392
0699-1901	385,000	46,397,200	2440-6000	130,000	536,294
0699-1903	186,750	22,466,850	2444-9005	120,000	2,280,000
0699-3901	2,237,750	269,033,427	3222-9024	453,026	59,998,405
0699-3903	2,980,500	358,469,680	3322-8878	111,702	2,735,208
0699-6800	788,250	94,765,431	5911-1000	547,527	6,710,769
0699-6900	921,750	110,814,228	5920-8000	1,089,000	3,536,077
1101-2380	500,000	8,605,334	6005-0012	3,000,000	176,054,200
1102-3210	200,000	5,917,796	6005-0015	1,668,000	31,856,090
1102-3301	100,000	10,170,819	6006-0003	68,713	585,644
1108-1000	50,000	3,380,908	6010-0001	1,094,000	73,028,524
1108-1011	93,965	211,724	8100-0007	1,100,000	11,347,108
2050-0100	11,191	161,051	8314-1200	4,000,000	4,500,000
2100-2000	140,000	7,470,821	8900-0001	500,000	213,483,712
2100-3000	472,000	9,894,852	8900-0002	291,865	4,381,351
2410-1000	60,437	1,148,308	8910-0000	5,350,000	182,516,919
2410-1001	50,000	50,000	9230-0150	193,015	1,546,008

SECTION 2 *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording stricken
1231-0100	200,000	4,998,486	"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;"
4408-1000	12,300,000	88,385,992	"to otherwise eligible participants in the vocational rehabilitation program of the Massachusetts rehabilitation commission, to otherwise eligible students under age twenty-one who are regularly attending full time a grade, high school, technical or vocational school not beyond the secondary level" and "provided further, that in initially implementing the program for the fiscal year, 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 ninety-one;" and "thirty days" and "provided further, that said 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 proposed changes in eligibility requirements or benefit levels or both;"
4510-0600	162,111	2,623,301	"including the payment of fringe and indirect costs for employees compensated under this program, "
7052-0006	35,000	540,000	";provided, that thirty-five thousand dollars of the amount appropriated herein shall be expended for a portion of the costs to be incurred by the town of Belchertown for architectural plans and drawings to be prepared for a school building project in the town; and provided further, that this thirty-five thousand dollars shall be considered an advance payment of the reimbursement the town receives from the commonwealth for said building project under the provisions of chapter six hundred forty-five of the acts of nineteen hundred forty-eight"
8900-0015	1,513,173	880,966	"provided further, that the remaining appropriation shall be made available to contracted residential services currently accredited by the American Correction Association, and that such contracted residential services are utilized to maximum capacity;"

SECTION 2 *Items reduced in amount and by striking the wording and inserting in place thereof the following*

Item	Reduce by	Reduce to	Wording stricken
4800-1111	15,800,000	9,200,000	*Wording stricken*
			"for the purposes of the foster care program and subject to the provisions of item 4800-0030 of section 2 of this act may expend an amount not to exceed twenty-two million, two hundred thousand dollars from federal revenues collected pursuant to the provisions of

Title IV-a and Title XIX of the social security act;"

Wording inserted

"for the purposes of the foster care program and subject to the provisions of item 4800-0030 of section two of this act may expend an amount not to exceed six million, four hundred thousand dollars from federal revenues collected pursuant to the provisions of Title IV-A and Title XIX of the Social Security Act;"

7070-0065 3,000,000 58,000,000 *Wording Stricken*

"provided further, that of the sum appropriated herein, not less than four million dollars shall be obligated for the purposes of the Massachusetts plan,"

Wording Inserted

"provided further, that of the sum appropriated herein, not less than one million dollars shall be obligated for the purposes of the Massachusetts Plan,"

SECTION 1 *Wording disapproved*

"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 2 *Wording disapproved*

0640-0010 "; provided further, that the funds made available herein shall be the only funds made available for advertising lottey games; and provided further, that no non-appropriated funds shall be expended for the purposes of advertising

lottery games"

1201-0100 "provided further, that the department is hereby authorized and directed to redeploy existing personnel so as to maintain a staffing level at the western Massachusetts regional office equal to the staffing level in place as of January first nineteen hundred ninety-one;"

and

': provided further, that the department shall maintain regional offices in Pittsfield, Brockton, and Hyannis for the purposes of tax collection, taxpayer assistance, small business seminars, and auditing; provided further that a minimum of four hundred twenty-five positions be allocated exclusively to auditing and verifying the correctness of returns filed, including a minimum of ninety multi-state auditors and two hundred seventy field auditors"

4000-0210 "which are attributable to services provided to clients within protective or supportive day care programs, so-called;"

4202-0001 "thirty days"

4202-0002 "thirty days"

4202-0003 "thirty days"

4202-0004 "thirty days"

4202-0005 "thirty days"

4202-0006 "thirty days"

4800-0041 "provided further, that the group care daily rate paid for subsidies in fiscal year nineteen hundred-ninety-four shall be equal to the daily rate paid in fiscal year nineteen hundred ninety-three;"

5011-0200 "provided, that funds appropriated herein shall only be expended pursuant to the provisions of section thirty-seven of this act;"

5930-1000 "provided further, that notwithstanding the provisions of any general or special law to the contrary, the division of capital planning and operations shall continue to provide uninterrupted sewerage service to residents of the

town of Belchertown who are currently attached to the sewerage system of Belchertown state school; provided further, that said division shall not increase the town's current financial obligation to the operation of the sewerage treatment plant before June thirtieth, nineteen hundred ninety-four;"

8000-0500 "provided, that notwithstanding the provision of any general or special law to the contrary the architectural board is hereby authorized and directed to charge one hundred twenty-five dollars for variance hearings conducted by the board; and"

8400-0001 "provided however, that no funds from this item shall be spent for any change to the existing system for immediate issuance of permanent motor vehicle operators licenses; and"

8900-0003 "provided further, that all inmates incarcerated at the Norfolk county jail and house of corrections shall be deemed to be incarcerated within a correctional facility located in the town of Dedham; and"

9000-2102 "Provided further, that if the total federal grants awarded to applicants exceeds two million dollars, each award under the partnering program shall be reduced proportionately;"

SECTION 2 *The words "including not more than X positions", where X stands for the number of positions stated in the respective items are disapproved in the following items.*

0332-3900	0528-0100	1104-1091	2520-0100
3143-2027	3143-3036	3747-0001	

SECTION 2 *The words "including not more than X positions", where X stands for the number of positions stated in the respective items are disapproved in the following items:*

0320-0003	0330-2000	0331-2400	0331-3300	0332-1600	0332-2600
0320-0010	0330-2205	0331-2500	0331-3400	0332-1700	0330-2700
0321-0001	0330-3200	0331-2600	0331-3500	0332-1800	0332-2800
0321-0100	0330-3700	0331-2700	0332-0100	0332-1900	0332-2900
0321-1500	0331-0100	0331-2800	0332-1100	0332-2000	0332-3000
0321-2000	0331-0600	0331-2900	0332-1200	0332-2100	0332-3100
0322-0100	0331-2100	0331-3000	0332-1300	0332-2300	0332-3200
0330-0100	0331-2200	0331-3100	0332-1400	0332-2400	0332-3300
0330-0300	0331-2300	0331-3200	0332-1500	0332-2500	0332-3400

0332-3500	0332-7600	0340-0200	0340-2100	1104-6601	2511-3000
0332-3600	0332-7700	0340-0230	0511-0000	1104-6607	2511-4000
0332-3700	0332-7800	0340-0235	0511-0200	1107-2400	2515-1000
0332-3800	0332-7900	0340-0295	0511-0230	1107-2500	2518-1000
0332-4000	0333-0002	0340-0300	0511-0250	1108-1000	3000-0100
0332-4100	0333-0100	0340-0330	0511-0260	1108-1011	3100-0200
0332-4200	0333-0200	0340-0335	0517-0000	1108-2500	3222-9005
0332-4300	0333-0300	0340-0395	0521-0000	1108-3000	3222-9024
0332-4400	0333-0400	0340-0400	0524-0000	1108-4010	4000-0100
0332-4500	0333-0500	0340-0430	0526-0100	1108-5100	4000-0190
0332-4600	0333-0600	0340-0435	0610-0000	1108-6100	4000-0300
0332-4700	0333-0700	0340-0495	0612-0100	1110-1000	4100-0010
0332-4800	0333-0800	0340-0500	0630-0000	1120-4005	4100-0020
0332-4900	0333-0900	0340-0530	0640-0000	1150-5100	4100-0030
0332-5000	0333-0911	0340-0535	0640-0300	1201-0160	4100-0040
0332-5100	0333-1000	0340-0595	0710-0000	1231-0100	4100-0050
0332-5200	0333-1100	0340-0600	0710-0100	1310-1000	4110-0001
0332-5300	0333-1111	0340-0630	0810-0000	1410-0010	4110-1000
0332-5400	0333-1200	0340-0635	0810-0014	2000-0100	4110-1020
0332-5500	0333-1300	0340-0695	0810-0021	2020-0100	4110-2000
0332-5600	0333-1400	0340-0700	0810-0031	2050-0100	4110-4000
0332-5700	0334-0001	0340-0730	0810-0035	2060-0100	4120-1000
0332-5800	0335-0001	0340-0735	0810-0045	2100-0005	4120-3000
0332-5900	0336-0002	0340-0795	0810-0201	2210-0100	4120-4000
0332-6000	0336-0100	0340-0800	0810-0338	2220-1000	4120-5000
0332-6100	0336-0200	0340-0830	0810-0399	2220-2205	4120-6000
0332-6200	0336-0300	0340-0835	0810-1031	2260-8870	4125-0100
0332-6300	0336-0400	0340-0895	0840-0100	2300-0100	4130-0001
0332-6400	0336-0500	0340-0900	0900-0100	2300-0101	4130-0002
0332-6500	0337-0002	0340-0930	0910-0200	2310-0200	4130-0005
0332-6600	0337-0100	0340-0935	0920-0300	2310-0500	4180-0100
0332-6700	0337-0200	0340-0995	1000-0001	2315-0100	4180-0101
0332-6800	0337-0300	0340-1000	1100-1100	2320-0100	4190-0100
0332-6900	0337-0400	0340-1030	1100-1103	2330-0100	4190-0101
0332-7000	0339-1001	0340-1035	1100-5500	2350-0100	4200-0010
0332-7100	0339-2100	0340-1095	1101-2100	2350-0101	4237-1010
0332-7200	0340-0100	0340-1100	1101-2380	2410-1000	4238-1000
0332-7300	0340-0130	0340-1130	1102-3210	2420-1400	4400-1000
0332-7400	0340-0135	0340-1135	1102-3301	2460-1000	4510-0100
0332-7500	0340-0195	0340-1195	1104-1000	2511-0100	4510-0600

4510-0710	5055-0000	7113-0100	7518-0100	8600-0001	9210-0001
4510-0750	5095-0000	7114-0100	8000-0000	8700-0001	9212-0001
4512-0103	5911-1000	7115-0100	8000-0020	8800-0001	9215-0001
4512-0200	5911-2000	7116-0100	8000-0105	8800-0100	9218-0100
4512-0500	5920-1000	7117-0100	8000-0110	8850-0015	9221-1000
4513-1000	5920-2000	7118-0100	8000-0160	8900-0001	9221-1100
4513-1002	5920-8000	7220-0004	8000-0161	8900-0002	9222-0100
4513-1005	5930-1000	7502-0100	8000-0500	8900-0004	9230-0001
4516-1000	6000-0100	7503-0100	8100-0000	8900-0009	9230-0150
4518-0100	6006-0003	7504-0100	8100-0100	8900-0015	9270-0001
4540-0900	6010-0001	7505-0100	8100-0200	8950-0001	9272-0001
4600-1000	6020-2505	7506-0100	8200-0200	8950-0002	9275-0600
4600-1050	7000-9101	7507-0100	8311-1000	9000-0100	9400-0100
4800-0015	7005-0001	7508-0100	8312-1000	9000-1801	9411-0100
4800-0025	7010-0005	7509-0100	8314-1000	9000-1900	9412-0100
4800-0050	7028-0031	7510-0100	8314-1100	9000-2000	9415-0100
4800-0150	7066-0000	7511-0100	8314-1300	9000-2200	9420-0100
4800-1100	7070-0031	7512-0100	8315-1000	9095-0003	9421-0100
5011-0100	7100-0200	7514-0100	8350-0100	9095-0004	9430-0100
5042-5000	7109-0100	7515-0100	8400-0001	9110-0100	9440-0200
5046-0000	7110-0100	7516-0100	8400-0100	9200-0100	
5051-0100	7112-0100				

SECTION 2 *The words "; provided, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed X dollars" where X stands for the dollar amount in the respective items are disapproved in the following items:*

0320-0001	0331-0100	0332-2100	0332-3500	0332-4800	0332-6100
0320-0003	0331-0600	0332-2300	0332-3600	0332-4900	0332-6200
0320-0010	0332-0100	0332-2400	0332-3700	0332-5000	0332-6300
0321-0001	0332-1100	0332-2500	0332-3800	0332-5100	0332-6400
0321-0100	0332-1200	0332-2600	0332-3900	0332-5200	0332-6500
0321-2000	0332-1300	0332-2700	0332-4000	0332-5300	0332-6600
0322-0100	0332-1400	0332-2800	0332-4100	0332-5400	0332-6700
0330-0100	0332-1500	0332-2900	0332-4200	0332-5500	0332-6800
0330-0300	0332-1600	0332-3000	0332-4300	0332-5600	0332-6900
0330-2000	0332-1700	0332-3100	0332-4400	0332-5700	0332-7000
0330-2205	0332-1800	0332-3200	0332-4500	0332-5800	0332-7100
0330-3200	0332-1900	0332-3300	0332-4600	0332-5900	0332-7200
0330-3700	0332-2000	0332-3400	0332-4700	0332-6000	0332-7300

0332-7400	0333-1400	1310-1000	4510-0750	7504-0100	8600-0001
0332-7500	0334-0001	2210-0100	4516-1000	7505-0100	8850-0001
0332-7600	0335-0001	2220-1000	4518-0100	7506-0100	8850-0015
0332-7700	0336-0002	2260-8870	4600-1000	7507-0100	8900-0009
0332-7800	0336-0100	2300-0100	4600-1050	7508-0100	9000-0100
0332-7900	0336-0200	2310-0500	5920-1000	7509-0100	9000-2200
0333-0002	0336-0300	2315-0100	6006-0003	7510-0100	9095-0003
0333-0100	0336-0400	2350-0101	6020-2505	7511-0100	9095-0004
0333-0200	0336-0500	2440-4500	7000-9101	7512-0100	9210-0001
0333-0300	0337-0002	2511-0100	7005-0001	7514-0100	9212-0001
0333-0400	0337-0100	2511-3000	7070-0065	7515-0100	9215-0001
0333-0500	0337-0200	2515-1000	7109-0100	7516-0100	9218-0100
0333-0600	0337-0300	3747-0001	7110-0100	7518-0100	9221-1000
0333-0700	0337-0400	4000-0190	7112-0100	8000-0000	9230-0150
0333-0800	0339-1001	4100-0010	7113-0100	8000-0105	9272-0001
0333-0900	0339-2100	4100-0020	7114-0100	8000-0160	9400-0100
0333-0911	0900-0100	4100-0030	7115-0100	8000-0161	9411-0100
0333-1000	0910-0200	4100-0040	7116-0100	8100-0100	9420-0100
0333-1100	0920-0300	4110-0001	7117-0100	8100-0200	9421-0100
0333-1111	1102-3210	4110-1020	7118-0100	8100-0300	9430-0100
0333-1200	1108-2500	4180-0101	7502-0100	8311-1000	
0333-1300	1108-6100	4190-0101	7503-0100	8350-0100	

SECTION 2 *The words "; provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs founded herein shall not exceed X dollars" where X stands for the dollar amount stated in the respective items are disapproved in the following items:*

0321-1500	2050-0100	2300-0101	2518-1000	9200-0100	9412-0100
0640-0300	2060-0100	2310-0200	4100-0050	9210-0001	9415-0100
1108-1011	2100-3010	2320-0100	7119-0100	9212-0001	9440-0200
1108-5100	2100-3011	2330-0100	7519-0100	9230-0001	
2020-0100	2200-0100	2410-1000	9000-2000	9230-0150	

SECTION 2 *The words";and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed X dollars" where X stands for the dollar amount stated in the respective items are disapproved in the following items:*

0331-2100	0331-2300	0331-2500	0331-2700	0331-2900	0331-3100
0331-2200	0331-2400	0331-2600	0331-2800	0331-3000	0331-3200

0331-3300	1120-4005	4120-3000	4512-0500	5920-8000	8314-1300
0331-3400	1150-5100	4120-4000	4513-1000	5930-1000	8315-1000
0331-3500	1201-0160	4120-5000	4513-1002	6000-0100	8400-0001
0612-0100	1231-0100	4120-6000	4513-1005	6010-0001	8400-0100
0630-0000	1410-0010	4125-0100	4580-1000	7010-0005	8700-0001
0640-0000	2000-0100	4130-0001	4800-0025	7028-0031	8800-0001
1000-0001	2100-0005	4130-0002	4800-0050	7066-0000	8800-0100
1100-1100	2350-0100	4130-0005	4800-0150	7070-0031	8900-0001
1100-1103	2420-1400	4180-0100	4800-1100	7100-0200	8900-0002
1100-5500	2440-5000	4190-0100	5011-0100	8000-0020	8900-0004
1101-2100	2440-6000	4200-0010	5011-0200	8000-0110	8900-0010
1101-2380	2460-1000	4237-1010	5042-5000	8000-0500	8900-0015
1102-3301	2511-4000	4238-1000	5046-0000	8100-0000	8950-0001
1104-1000	4000-0100	4400-1000	5051-0000	8100-0006	8950-0002
1107-2400	4000-0300	4510-0100	5055-0000	8100-0007	9000-1801
1107-2500	4110-1000	4510-0600	5095-0000	8200-0200	9110-0100
1108-1000	4110-2000	4510-0710	5911-1000	8312-1000	9222-0100
1108-3000	4110-4000	4512-0103	5911-2000	8314-1000	9230-0001
1108-4010	4120-1000	4512-0200	5920-2000	8314-1100	9270-0001
1110-1000					

SECTION 2 *The words "; and provided further, that the expenditures made from the AA subsidiary, so called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed X dollars, including not more that Y positions, not including short term seasonal employees" where X stands for the dollar amount stated in the respective items and Y stands for the number of positions stated in the item are disapproved in the following item:*

1201-0100

SECTION 2 *The words "; provided, that the expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed X dollars, including not more than Y positions, not including year round seasonals" where X stands for the dollar amount stated in the respective items and Y stands for the number of positions stated in the item are disapproved in the following items:*

2100-1000

SECTION 2 *The words "; and provided further, that the expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed X dollars, including not more than Y positions, not including year round seasonals" where X stands for the dollar amount stated in the respective items and Y stands for the number of positions stated in the item are disapproved in the following items:*

2100-2000
2100-3000
2440-0010

SECTION 2 *The words "; and provided further, that expenditures made from the AA subsidiary, so-called, of this item 4590-0900 of section two of this act, for the personnel costs associated with the purposes of the programs funded herein shall not exceed X dollars", where X stands for the dollar amount stated in the item are disapproved in the following item:*

4540-0900

SECTION 2 *The words "; and provided further, that expenditures made from the AA subsidiary, so-called, of this item 4540-0900 for the personnel costs associated with the purposes of the programs funded herein shall not exceed X dollars", where X stands for the dollar amount stated in the item are disapproved in the following item:*

4590-0900

SECTION 2 *The words"; provided, that the expenditures made from the AA subsidiary, so-called, of this item and item 4800-0015 of section two of this act for the personnel costs associated with the purposes of the programs funded herein shall not exceed X dollars", where X stands for the dollar amount stated in the item are disapproved in the following item:*

4800-0000

SECTION 2 *The words "; and provided further, that expenditures made from the AA subsidiary, so-called, of this item 4800-0000 for the personnel costs associated with the purposes of the programs funded herein shall not exceed X dollars", where X stands for the dollar amount stated in the item are disapproved in the following item:*

4800-0015

SECTION 2 *The words "; provided, that no contract or contract amendment shall be authorized in the fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts Management Accounting and Reporting System, so-called" are disapproved in the following item:*

5920-6000

SECTION 2 *The words "; provided, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called" are disapproved in the following items:*

1410-0010	4125-0100	4202-0003	4238-1000	5051-0100	5920-5000
4120-3000	4180-0100	4202-0004	4800-0150	5055-0000	7010-0005
4120-4000	4190-0100	4202-0005	5011-0100	5911-1000	8950-0001
4120-5000	4202-0001	4202-0006	5046-0000	5920-3000	9400-1100
4120-6000	4202-0002	4237-1010			

SECTION 2 *The words "; provided, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called" are disapproved in the following items:*

1410-0013	5046-1000	5046-3000	7000-9406	7030-1500	7035-0002
4200-1111					

SECTION 2 *The words "; provided, that, notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the*

amount made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called" are disapproved in the following item:

4110-2000

SECTION 2 *The words "; provided, that, notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called" are disapproved in the following items:*

9000-2100 9000-2101

SECTION 2 *The words "; provided further, that, notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called" are disapproved in the following items:*

0321-1500	4000-0210	4120-2000	4512-0225	7028-0031	9110-1633
1410-0012	4000-0230	4401-1000	4513-1000	7028-0302	9110-1660
1410-0100	4000-0300	4405-2000	4530-9000	9110-1603	9110-1900
1410-2500	4110-1000	4406-3000	4800-1200	9110-1630	9400-1700
4000-0200	4110-3010	4500-1010			

SECTION 2 *The words "; provided further, that, notwithstanding the provisions of any general or special law to the contrary, no further rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amount made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called" are disapproved in the following item:*

7061-0012

SECTION 2 *The words "; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called" are disapproved in the following items:*

0640-0300 9000-1820 9000-1900 9000-1920 9081-7011

SECTION 2 *The words "; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called" are disapproved in the following items:*

1101-2100 9000-1801

SECTION 2 *The words "; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called" are disapproved in the following items:*

1107-2500 2100-0005 2100-2000 4000-0100 7070-0031 7100-0200

SECTION 2 *The words "; provided further, that, notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; and provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost*

exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called" are disapproved in the following items:

4000-0310 4403-2100 4590-0300 6006-0003

SECTION 2 *The words "; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called" are disapproved in the following items:*

3100-0200	4512-0103	4516-1000	4800-0017	5011-0200	5920-8000
3143-2027	4512-0200	4540-0900	4800-0020	5042-5000	5930-1000
3143-3036	4512-0500	4570-1500	4800-0030	5095-0000	8800-0001
4200-0010	4513-1002	4590-0900	4800-0041	5911-2000	8900-0004
4400-1000	4513-1005	4800-0016	4800-1400	5920-2000	8900-0015
4510-0110					

SECTION 2 *The words"; provided further, that expenditures made from the MM subsidiary, so-called, of this item for the contracted provider service costs associated with the purposes of the programs funded herein shall not exceed X dollars" where X stands for the dollar amount stated in the respective items, are disapproved in the following items:*

4200-0010	4202-0006	4512-0225	4530-9000	4800-0030	5920-2000
4202-0001	4237-1010	4512-0500	4570-1500	4800-1200	5920-6000
4202-0002	4238-1000	4513-1000	4590-0300	4800-1400	5920-8000
4202-0003	4500-1010	4513-1002	4800-0016	4800-1450	5930-1000
4202-0004	4512-0103	4513-1005	4800-0017	5911-1000	8900-0004
4202-0005	4512-0200	4516-1000	4800-0020	5911-2000	

SECTION 2 *The words "; and provided further, that expenditures made from the MM subsidiary, so-called, of this item for the contracted provider service costs associated with the purposes of the programs funded herein shall not exceed X dollars" where X stands for the dollar amount stated in the respective items, are disapproved in the following items:*

4510-0110 5920-3000 5920-3000

SECTION 2 *The words "; provided further, that expenditures made from the MM subsidiary, so-called, of this item and item 4590-0900 for the contracted provider service costs associated with the purposes of the programs funded herein shall not exceed X dollars" where X stands for the dollar amount stated in the respective items, are disapproved in the following item:*

4540-0900

SECTION 2 *The words "; provided further, that expenditures made from the MM subsidiary, so-called, of this item and item 4540-0900 for the contracted provider service costs associated with the purposes of the programs funded herein shall not exceed X dollars" where X stands for the dollar amount stated in the respective items, are disapproved in the following item:*

4590-0900

SECTION 2 *The words "; provided further, that expenditures made from the MM subsidiary, so-called, of this item for the contracted provider service costs associated with the purposes of the programs funded herein shall not exceed X dollars" where X stands for the dollar amount stated in the respective items, are disapproved in the following item:*

4800-0041

SECTION 2 *The words "; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item, without further appropriation for said purpose; provided further, that expenditures made from the MM subsidiary, so-called, of this item for the contracted provider service costs associated with the purposes of the programs funded herein shall not exceed X dollars; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called" where X stands for the dollar amount stated in the respective items, are disapproved in the following item:*

4800-1111

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 19, 1993 at 11 o'clock and two minutes, A.M.

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 26, 1993, the House of Representatives and the Senate in concurrence passed the following items:
SECTION 2 4408-1000, 8900-0007, 8900-0015 8910-0000

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on September 27, 1993, the House of Representatives and the Senate in concurrence passed the following item:
SECTION 2 0810-0045

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on September 29, 1993, the House of Representatives and on December 14, 1993, the Senate in concurrence passed the following section:
SECTION 320

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on October 4, 1993, the House of Representatives and on December 14, 1993, the Senate in concurrence passed the following item and section:
SECTION 2 1108-1011

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on January 4, 1994, the House of Representatives and the Senate in concurrence passed the following section:
SECTION 192

Chapter 111. AN ACT AUTHORIZING THE CONSERVATION COMMISSION OF THE TOWN OF NORFOLK TO CONVEY A CERTAIN PARCEL OF CONSERVATION LAND TO THE TOWN OF NORFOLK FOR MUNICIPAL PURPOSES, AND PROVIDING FOR THE TRANSFER OF CERTAIN TOWN OWNED LAND TO THE CONSERVATION COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. The town of Norfolk, acting by and through its conservation commission, is hereby authorized to convey a certain parcel of land acquired for conservation purposes and under the management and control of the conservation commission of said town to the inhabitants of said town for municipal purposes. Said parcel of land is shown as Parcel "A" on a plan of land entitled "Plan of Land in Norfolk dated October 27, 1992 by Landmark Engineering of New England Inc. R.L.S., P.E., 224 Dedham Street, Norfolk, MA 02056", being a portion of the land described in a plan of land recorded with the Norfolk county registry of deeds, Book 4278, Page 597.

SECTION 2. In consideration of the conveyance described in section one, the town of Norfolk shall convey a certain parcel of town owned land to the control and management of the conservation commission under the provisions of section eight C of chapter forty of the General Laws. Said parcel of land is shown as Parcel "B" on a plan of land entitled "Plan of Land in Norfolk dated October 27, 1992 by Landmark Engineering of New England, Inc. R.L.S., P.E., 224 Dedham Street, Norfolk, MA 02056", being a portion of Lots 1 and 2 of Plan 3783D recorded in the Norfolk Registry District of the Land Court.

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

Approved July 21, 1993.

Chapter 112. AN ACT VALIDATING THE PROCEEDINGS OF THE ANNUAL TOWN CAUCUS HELD IN THE TOWN OF BECKET ON APRIL SEVENTH IN NINETEEN HUNDRED AND NINETY-TWO.

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 Becket at its annual town caucus held on April seventh, nineteen hundred and ninety-two and all actions taken pursuant thereto are hereby ratified, validated, and confirmed to the same extent as if the warrant for the meeting had been published and posted as required by law.

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

Approved July 26, 1993.

Chapter 113. AN ACT AUTHORIZING THE CITY OF LOWELL TO CONVEY A CERTAIN PARCEL OF CONSERVATION LAND.

Be it enacted, etc., as follows:

SECTION 1. The city of Lowell, acting by and through its city council, is hereby authorized to convey a certain parcel of land located in said city acquired for conservation purposes to the commonwealth, by and through its department of environmental management, to be used for conservation and recreation purposes.

Said parcel of land being described as follows:

City-Owned land on the southerly side of Pawtucket Boulevard. Said parcel is shown as Lot A on a Plan entitled, "Compiled Subdivision Plan of Land in Lowell, Mass. belonging to city of Lowell, April 25, 1989, city engineers office, City Hall, Lowell, Mass."

Excepted and excluded from this conveyance by the city of Lowell are all easements for wires, pipes, conduits, poles and other appurtenances for the conveyance of water, sewage, gas, oil, electricity and telephone communication now lawfully in or on the premises hereby conveyed, and further excepting and excluding from this conveyance the following rights, easements and takings:

(1) 30' wide drainage easement owned by the City of Lowell and shown on the plan referenced above;

(2) New England Power Co. easement as shown on the plan referenced above and as may be described in the following easements, all recorded with Middlesex North District Registry of Deeds:

(a) Easement to Massachusetts Electric Co., Book 1359, Page 508;

(b) Easement to Massachusetts Electric Co., Book 2401, Page 640;

(c) Easement to Massachusetts Electric Co., Book 2401, Page 665;

(d) Easement to Massachusetts Electric Co., Book 2401, Page 660;

(e) Easement to New England Telephone and Telegraph, Book 2401, Page 670.

(3) Taking by the Massachusetts Department of Public Works for Pawtucket Boulevard (Route 113) recorded with said Deeds, Book 1347, Page 91;

(4) Taking by the Massachusetts Department of Public Works for Pawtucket Boulevard (Route 113) recorded with said Deeds, Book 1537, Page 477.

(5) Taking by the Massachusetts Department of Public Works for Pawtucket Boulevard (Route 113) recorded with said Deeds, Book 4819, Page 6.

(6) Grants and flowage rights of the Proprietors of the Locks and Canals, recorded with Middlesex North District Registry of Deeds as follows:

Book 171 Page 344
Book 213 Page 21
Book 213 Page 495
Book 208 Page 568
Book 208 Page 569
Book 271 Page 404
Book 271 Page 406

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

Approved July 27, 1993.

Chapter 114. AN ACT RELATIVE TO EXTENDING THE TIME WITHIN WHICH REFERENDUM ELECTIONS ARE HELD IN THE TOWN OF MILLBURY.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 337 of the acts of 1992 is hereby amended by striking out subsection (*c*) and inserting in place thereof the following subsection:-

(*c*) Within fourteen days of the filing and including the time for certification by the board of registrars of a referendum petition, the selectmen shall call a special election which shall be held not less than thirty-five days and no more than forty-five days after issuing the call; provided, however, that if a regular or special election is to be held not more than sixty days following the date such petition is filed, said selectmen may provide that the question or questions involved be presented to the voters at the same election.

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

Approved July 27, 1993.

Chapter 115. AN ACT RELATIVE TO HOLYOKE GERIATRIC AUTHORITY.

Be it enacted, etc., as follows:

Section 8 of chapter 554 of the acts of 1971, as amended by section 1 of chapter 1097 of the acts of 1973, is hereby further amended by adding the following subsection:-

(*q*) To establish and maintain an insurance fund to pay workmen's compensation under the provisions of sections thirteen A and thirteen C of chapter forty of the General Laws, as if it were a city or town; provided, however, that acceptance of said sections by the authority shall not be required.

Approved July 28, 1993.

Chapter 116. AN ACT PROVIDING FOR PAYMENTS IN LIEU OF TAXES BY THE SOUTH ESSEX SEWERAGE DISTRICT IN THE CITY OF SALEM.

Be it enacted, etc., as follows:

SECTION 1. Section 7 of chapter 339 of the acts of 1925 is hereby amended by

striking out the second paragraph, added by chapter 493 of the acts of 1978, and inserting in place thereof the following paragraph:-

Said district shall pay to the city of Salem an annual payment in lieu of taxes for all lands, facilities and other property of said district within said city, including, without limitation, all lands and buildings to be acquired and facilities to be constructed in connection with the provision of so-called secondary treatment, in accordance with the following schedule: on July first, nineteen hundred and ninety-three the sum of ninety-six thousand three hundred dollars; on July first, nineteen hundred and ninety-four the sum of one hundred forty-five thousand eight hundred dollars; on July first, nineteen hundred and ninety-five the sum of two hundred eighty-four thousand two hundred fifty dollars; on July first, nineteen hundred and ninety-six the sum of four hundred thirty-six thousand three hundred fifty dollars; on July first, nineteen hundred and ninety-seven and on July first of each year thereafter, the sum of five hundred thousand dollars. Such annual payments shall be assessed by the district against, and such assessments shall be paid by, all members of the district with the exception of the city of Salem, such payments to be apportioned among such members in the same ratio as the yearly flow of sewage of each such member bears to the yearly combined flow of sewage of the district. In the year two thousand said board shall review the amount of the annual payment in lieu of taxes for the appropriateness of an increase in such payment and if it finds an increase to be warranted, shall petition the general court for an amendment hereto.

SECTION 2. This act shall take effect as of the first day of July, nineteen hundred and ninety-three.

Approved July 28, 1993.

Chapter 117. AN ACT AUTHORIZING THE TOWN OF HOPEDALE TO EXECUTE A CERTAIN LEASE TO HOPEDALE COUNTRY CLUB, INC.

Be it enacted, etc., as follows:

Notwithstanding the provisions of chapter thirty B of the General Laws or any other general or special law to the contrary, the town of Hopedale is hereby authorized to lease for a term of ninety-nine years the land and improvements commonly known as the Hopedale Country Club to Hopedale Country Club, Inc., a nonprofit corporation, such lease to be approved as to form by the attorney general.

Approved July 28, 1993.

Chapter 118. AN ACT RELATIVE TO THE NUMBER OF SCHOOL COMMITTEE MEMBERS IN THE CITY OF TAUNTON.

Be it enacted, etc., as follows:

SECTION 1. Section 23 of chapter 448 of the acts of 1909, as amended by section 1 of chapter 70 of the acts of 1952, is hereby further amended by striking out the first two sentences and inserting in place thereof the following two sentences:- The school committee of said city shall consist of the mayor, ex officio, and six members elected as herein provided. Four members shall constitute a quorum.

SECTION 2. This act shall be submitted to the voters of the city of Taunton at the city election to be held in the year nineteen hundred and ninety-three 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-three, entitled 'An act relative to the number of school committee members in the city of Taunton', be accepted?".

If a majority of votes cast in answer to said question is in the affirmative, then this act shall take full effect but not otherwise.

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

Approved July 28, 1993.

Chapter 119. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF EASTON.

Be it enacted, etc., as follows:

Subsection (*a*) of section 7-12 of the charter of the town of Easton, 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, in line 6, the words "twenty-four (24)" and inserting in place thereof the following words:- forty-eight (48).

Approved July 28, 1993.

Chapter 120. AN ACT AUTHORIZING EXPENDITURES FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND NINETY-FOUR.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the expenditure of certain funds, 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. For the purpose of making available for expenditure in fiscal year nineteen hundred and ninety-four certain balances of authorizations which would otherwise revert on June thirtieth, nineteen hundred and ninety-three, the expiration dates of the items listed in section two are hereby extended through June thirtieth, nineteen hundred and ninety-four.

SECTION 2.

0121-7890	1102-7870	1102-8844	1102-9880	2000-9843	2120-8885
0330-7872	1102-7871	1102-8846	1102-9881	2100-7871	2120-8886
0330-7884	1102-7872	1102-8847	1102-9882	2100-7890	2120-8891
0330-7891	1102-7873	1102-8860	1102-9884	2100-8840	2120-9841
0330-8890	1102-7880	1102-8861	1102-9890	2120-6882	2120-9842
0330-8891	1102-7881	1102-8862	1102-9891	2120-7848	2120-9843
0331-8842	1102-7882	1102-8869	1102-9892	2120-7849	2120-9844
0332-8811	1102-7883	1102-8870	1102-9893	2120-7871	2120-9845
0332-8812	1102-7884	1102-8871	1102-9894	2120-7873	2120-9847
0333-8841	1102-7885	1102-8872	1102-9895	2120-7875	2121-8881
0431-8811	1102-7886	1102-8873	1102-9896	2120-7876	2121-8882
0431-8833	1102-7887	1102-8874	1102-9897	2120-7878	2121-8883
0431-8835	1102-7888	1102-8875	1102-9898	2120-7880	2121-8884
1100-1560	1102-7890	1102-8877	1102-9899	2120-7881	2121-8885
1100-1561	1102-7891	1102-8878	1593-0058	2120-7882	2121-8886
1100-7850	1102-7892	1102-8880	1593-0237	2120-7883	2121-8887
1100-8758	1102-7893	1102-8882	1593-0379	2120-7884	2121-8888
1100-8860	1102-7894	1102-8883	1593-0382	2120-7885	2121-8889
1100-8880	1102-7895	1102-8888	1595-0265	2120-7886	2121-9881
1101-7890	1102-7896	1102-8889	1599-7882	2120-7887	2121-9882
1101-7891	1102-7897	1102-8890	2000-7881	2120-7891	2121-9883
1101-7892	1102-7899	1102-8891	2000-8830	2120-7892	2121-9884
1101-7893	1102-8791	1102-8892	2000-8840	2120-8803	2121-9885
1102-0890	1102-8792	1102-8893	2000-8842	2120-8805	2121-9886
1102-6896	1102-8801	1102-8894	2000-8846	2120-8812	2121-9887
1102-7840	1102-8804	1102-8895	2000-8881	2120-8825	2122-8841
1102-7841	1102-8806	1102-8896	2000-8882	2120-8841	2122-8842
1102-7842	1102-8812	1102-8897	2000-8883	2120-8844	2122-8844
1102-7843	1102-8813	1102-8898	2000-8884	2120-8848	2122-8846
1102-7844	1102-8814	1102-8899	2000-8885	2120-8861	2122-8848
1102-7845	1102-8819	1102-9802	2000-8886	2120-8871	2122-9840
1102-7846	1102-8822	1102-9837	2000-8887	2120-8881	2122-9841
1102-7847	1102-8841	1102-9841	2000-8888	2120-8882	2130-8771
1102-7848	1102-8842	1102-9845	2000-8889	2120-8883	2130-8772
1102-7849	1102-8843	1102-9847	2000-9841	2120-8884	2150-6844

2150-6847	2260-8880	2440-7870	2440-9812	3722-8866	4306-8892
2150-6849	2260-9881	2440-7871	2440-9813	3722-8870	4311-1834
2150-7841	2260-9882	2440-7875	2440-9842	3722-8871	4311-7880
2150-7871	2260-9883	2440-7879	2440-9843	3722-8872	4311-7881
2150-7872	2260-9884	2440-7881	2440-9844	3722-8873	4311-7882
2150-7873	2260-9885	2440-7882	2440-9845	3722-8874	4311-7890
2150-7874	2260-9886	2440-7883	2440-9846	3722-8875	4311-7892
2150-7875	2270-8771	2440-7884	2440-9848	3722-8876	4311-8813
2150-7876	2270-8772	2440-7885	2440-9872	3722-8879	4311-8830
2150-7878	2270-8791	2440-7886	2441-8840	3722-9015	4311-8835
2150-7879	2270-8811	2440-7890	2443-7880	3722-9030	4311-8841
2150-7880	2270-8812	2440-7891	2444-7872	3722-9301	4311-8860
2150-7882	2270-8813	2440-7892	2444-8812	3724-9001	4311-9841
2150-7883	2270-8821	2440-7893	2444-8842	4000-7880	4312-3865
2150-7885	2300-8840	2440-7894	2449-7350	4000-7890	4312-8831
2150-7888	2300-8842	2440-7895	2449-7370	4000-8840	4312-8842
2150-7890	2300-8881	2440-7896	2449-8754	4000-8860	4312-8843
2150-7891	2310-7871	2440-7897	2449-8755	4000-8863	4313-5895
2150-8831	2310-7880	2440-7898	2490-0006	4001-8860	4313-8811
2150-8845	2310-7891	2440-7899	2490-0007	4010-8831	4313-8831
2150-8848	2310-7892	2440-8794	2490-0008	4043-8870	4313-8841
2150-8881	2310-8840	2440-8795	2490-0009	4170-7890	4314-5896
2150-8884	2310-8842	2440-8796	2490-0010	4180-7880	4314-8751
2150-8885	2320-7880	2440-8798	2490-0012	4180-7881	4314-8812
2150-8886	2320-7881	2440-8802	2490-0013	4180-7882	4314-8872
2150-9845	2320-8813	2440-8812	2511-8881	4180-7883	4314-9812
2150-9897	2320-8840	2440-8819	2511-8885	4180-7884	4314-9878
2200-7880	2320-8843	2440-8840	2681-8751	4180-7890	4315-5891
2200-7883	2320-8881	2440-8843	2681-9029	4180-7891	4315-7882
2200-7884	2320-9880	2440-8844	3722-7870	4180-7892	4315-8841
2200-7886	2350-7880	2440-8845	3722-7871	4190-7880	4315-8862
2200-7887	2410-7872	2440-8848	3722-8841	4190-7881	4315-8891
2200-7888	2410-8801	2440-8873	3722-8842	4190-7882	4315-8892
2200-7890	2410-8802	2440-8881	3722-8843	4190-7883	4316-7871
2240-8801	2420-7880	2440-8882	3722-8844	4190-7884	4316-7880
2240-8881	2420-7881	2440-8883	3722-8845	4190-7890	4316-8813
2250-1001	2420-7882	2440-8884	3722-8846	4200-7880	4316-8843
2250-7874	2420-7884	2440-8885	3722-8861	4200-7890	4337-7881
2250-8844	2420-8881	2440-8886	3722-8862	4200-7891	4342-8841
2250-8881	2440-7846	2440-8887	3722-8863	4238-7881	4343-5892
2260-8830	2440-7848	2440-8888	3722-8864	4238-8841	4343-8831
2260-8840	2440-7849	2440-8889	3722-8865	4238-8871	4343-8892

4343-9841	6001-8610	7109-7893	7220-7894	7416-7871	7508-7890
4344-8865	6001-8620	7109-8846	7220-7895	7452-7872	7508-7891
4344-8866	6001-8626	7109-8848	7220-7896	7452-7873	7509-7871
4344-8868	6001-8635	7110-7880	7220-7897	7452-7880	7509-7891
4344-8869	6001-8800	7110-7890	7220-7898	7452-7891	7510-7881
4344-8888	6001-8805	7110-7891	7220-8847	7452-7892	7510-7890
4345-8892	6001-8835	7111-7880	7310-7872	7452-7893	7510-7891
4349-7881	6001-8845	7111-7890	7310-7873	7452-7894	7510-7892
4349-7882	6005-8880	7111-7891	7310-7880	7452-8841	7511-8751
4349-7883	6006-8881	7111-7894	7310-7881	7490-8721	7511-8801
4349-7884	6020-7891	7112-8842	7310-7890	7490-8722	7511-8802
4510-7880	6032-4037	7113-7871	7310-7891	7490-8751	7511-8841
4510-7881	6032-4038	7113-7880	7310-7892	7502-7871	7511-8842
4510-7890	6033-2061	7113-7890	7310-7893	7502-7880	7512-7881
4516-7890	6033-2071	7113-7891	7310-7895	7502-7890	7512-7890
4532-7872	6033-2091	7113-7892	7410-7873	7502-7891	7512-7891
4533-7890	6033-3011	7114-7871	7410-7880	7502-7893	7512-7892
4536-7880	6033-7011	7114-7880	7410-7890	7502-8840	7514-7890
4536-7890	6033-7051	7114-7890	7410-7891	7503-7890	7514-7891
4537-7890	6033-8061	7114-7891	7410-7892	7503-0883	7515-7892
4537-7891	6059-0000	7114-7892	7410-7893	7503-0890	7516-7890
4540-8881	7000-7890	7114-7893	7410-7894	7503-7871	7516-7891
4540-8882	7000-9881	7114-8801	7410-7895	7503-7891	7516-8841
5011-7880	7010-8880	7115-7871	7410-7896	7503-7892	7516-8843
5011-8801	7027-7888	7115-7880	7410-7897	7503-9890	7518-7871
5011-8802	7027-7890	7115-7890	7410-7898	7504-7871	7518-7880
5011-8811	7052-8860	7115-7891	7410-8772	7504-7872	7518-7890
5011-8812	7052-8881	7115-7892	7410-8781	7504-7890	7518-7892
5011-8841	7066-7890	7116-7872	7410-8784	7504-7891	8000-8841
5011-8842	7070-8811	7116-7880	7410-8801	7504-7892	8200-7871
5095-5870	7100-7871	7116-7890	7410-8842	7504-8842	8200-7880
5095-6870	7100-7880	7116-7891	7410-8843	7505-7871	8200-7881
5377-7871	7100-7881	7116-7892	7410-8845	7505-7890	8200-8842
5377-7872	7100-7882	7116-7893	7410-8846	7505-7891	8312-7880
5377-8841	7100-7891	7116-8842	7410-8848	7505-8843	8312-7892
5377-8842	7100-7892	7117-7890	7411-7880	7506-7880	8350-7880
5911-7890	7100-8881	7117-8771	7411-7881	7506-7890	8350-7881
5911-7891	7109-7871	7118-7891	7411-7883	7507-7872	8700-7880
5911-7892	7109-7880	7118-7893	7411-7891	7507-7890	8700-7892
5911-7893	7109-7881	7220-7871	7411-7892	7507-7891	8800-7890
5911-7894	7109-7890	7220-7880	7411-7893	7507-8841	8800-7891
6000-3025	7109-7891	7220-7893	7411-7894	7508-7871	8900-1835

8911-0890	8912-8897	8916-8843	8949-7881	9300-2801	9300-3909
8911-1890	8914-7890	8943-5896	8949-7884	9300-3901	9801-7880
8911-2890	8914-8751	8943-7896	9110-7881	9300-3902	9801-7890
8911-9890	8914-8872	8943-8831	9200-8870	9300-3905	9801-7891
8912-8891	8915-8891	8943-9896			

SECTION 3. This act shall take effect as of July first, nineteen hundred and ninety-three.

Approved July 29, 1993.

Chapter 121. AN ACT AUTHORIZING THE ESTABLISHMENT OF A MUNICIPAL LIGHT BOARD IN THE TOWN OF WELLESLEY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Wellesley is hereby authorized to establish by by-law a municipal light board, consisting of five members, three of whom shall be the members of the board of public works of said town and two of whom shall be appointed by the board of selectmen of said town, which shall have the powers and duties of municipal light commissioners under the General Law. Said municipal light board shall appoint a manager of the municipal light plant and such staff as it deems necessary. Said board shall have overall authority and responsibility with respect to the management and operation of said town's municipal light plant.

SECTION 2. Of the two members of said board initially appointed by the board of selectmen of the town of Wellesley one member shall be appointed for a term of three years and one member to be appointed for a term of two years. Their successors shall be appointed for a term of three years. Members may serve for more than one term, as shall be determined by the appointing authority. The terms of the three members of said board who are members of the board of public works of said town shall be coterminous with their terms as members of the board of public works.

SECTION 3. Upon the appointment and qualification of the members of the municipal light board in addition to the members of the board of public works of the town of Wellesley, all duties, responsibilities and obligations of the board of public works of the town relative to the management of the municipal light plant shall be transferred to said board as provided by by-laws.

The rights of an employee of the board of public works of said town shall not be impaired by the implementation of this act.

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

Approved July 29, 1993.

Chapter 122. AN ACT RELATIVE TO PROMOTIONAL EXAMINATIONS IN THE FIRE DEPARTMENT OF THE CITY OF HOLYOKE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section fifty-nine of chapter thirty-one of the General Laws, no examination for the title of lieutenant in the fire department of the city of Holyoke shall be open to a private on such force until such person has been employed as a private for at least three years after certification.

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

Approved July 29, 1993.

Chapter 123. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF SAUGUS.

Be it enacted, etc., as follows:

SECTION 1. Section 34 of the charter for the town of Saugus is hereby amended by striking out, in line 2, the word "January" and inserting in place thereof the following word:- February.

SECTION 2. Section 35 of said charter is hereby amended by striking out, in line 4, the word "February" and inserting in place thereof the following word:- March.

Approved July 29, 1993.

Chapter 124. AN ACT RELATIVE TO ENVIRONMENTAL PROTECTION BY ENSURING A SAFE WATER SUPPLY FOR DRINKING AND OTHER PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 111 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after section 5Q, added by section 6 of chapter 132 of the acts of 1992, the following section:-

Section 5R. For the purpose of this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Commercial establishment", any premises used for the purpose of carrying on or exercising any trade, business, profession, vocation, or commercial or charitable activity including, but not limited to, laundries, hospitals, including veterinary facilities, biological research facilities, and food or restaurant establishments.

"Commissioner", the commissioner of the department of public health.

"Household cleansing product", any product, soap or detergent used for domestic or commercial cleaning purposes, including, but not limited to, the cleansing of fabric, dishes, food utensils and household and commercial premises. Household cleansing product shall not include: (i) foods, drugs and cosmetics, including personal care items such as toothpaste, shampoo and hand soap; (ii) products labeled, advertised, marketed and distributed for use primarily as poisons, such as pesticides or herbicides; (iii) liquid products labeled, advertised, marketed and distributed for use primarily as environmental surface cleaners in commercial establishments and which have elemental phosphorus content that does not exceed 0.5 percent of the product by weight, and more than 0.1 percent in the use dilution.

"Person", any proprietor of a commercial establishment, corporation, municipality, the commonwealth or any of its departments, agencies or subdivisions, and any partnership, unincorporated association or other legal entity.

"Phosphorus", elemental phosphorus.

"Trace quantity", an incidental amount of phosphorus which is not part of the household cleansing product formulation, is present only as a consequence of manufacturing and does not exceed 0.5 percent of the content of the product by weight, expressed as elemental phosphorus.

No household cleansing product which contains a phosphorus compound in concentrations in excess of a trace quantity, except those used in dishwashing machines, commercial laundries, for cleansing medical and surgical equipment, food and beverage processing equipment, and dairy equipment shall be distributed, sold, offered or exposed for sale at retail, wholesale, or used in a commercial establishment in the commonwealth after July first, nineteen hundred and ninety-four.

No household cleansing product which contains a phosphorus compound in concentrations in excess of 8.7 percent by weight expressed as elemental phosphorus, used in dishwashing machines, commercial laundries, for cleansing medical and surgical equipment and food and beverage processing equipment, shall be distributed, sold, offered or exposed for sale at retail, wholesale, or used in a commercial establishment in the commonwealth after July first, nineteen hundred and ninety-four.

The provisions of this section shall not be construed to limit the phosphorus content of household cleansing products used in agricultural production and for cleansing equipment used in processing of agricultural products, or to prohibit the distribution, sale or use of trisodium phosphate for clean-up following lead paint removal or for the cleaning of lead dust.

The provisions of this section shall not apply to any municipality or the commonwealth or any department, agency or subdivision thereof when in the performance of official duties relating to conducting procedures necessary for safety tests to determine the presence of lead or other compounds.

The manufacturer of a cleansing product used primarily in industrial manufacturing, production and assembling processes or any user of the product may apply to the commissioner to have the product excluded from regulation under this chapter. Such appli-

cation shall contain sufficient evidence to show that the cleansing product is used primarily in industrial manufacturing, production and assembling processes and that there is no reasonably available alternative to the user. Such exclusion, if granted, shall extend only to the use of the product in industrial manufacturing production and assembling processes. Such exclusion, if granted, shall be for a specified period of time and may be extended by the commissioner upon further application by the industrial manufacturer or user.

Manufacturers of household cleansing products distributed, sold or offered for sale in the commonwealth shall furnish to the commissioner for public record such information regarding such products as the commissioner may require, in such form as prescribed by the commissioner. For each household cleansing product, such information shall include but shall not be limited to:

(1) the amount of elemental phosphorus by weight as measured to the nearest one-tenth of one percent;

(2) a list naming each ingredient which equals or exceeds five percent of the contents of the product by weight and specifying the content by weight of each ingredient to the nearest percent;

(3) a list naming each ingredient which does not equal or exceed five percent of the contents of the product by weight; provided, however, that ingredients which are present in trace quantities need not be included on such list unless the commissioner specifically requires the listing of one or more of such ingredients by weight to the nearest percent; and

(4) the nature and extent of investigations and research performed by or for the manufacturer concerning the effects on human health and the environment of such product or such ingredients. Ingredients shall be listed using the generic chemical name which conforms with generally accepted rules of chemical nomenclature.

Such manufacturers shall furnish such information at such times as may be required by the commissioner. Such information shall be available to the public at the offices of the commissioner with the exception of portions which the manufacturer determines, subject to the approval of the commissioner, would be, if disclosed, seriously prejudicial to the manufacturer's legitimate interest in trade secrets and economics of operation.

Any person who uses a cleaning agent in violation of this section shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars.

Any person who sells, or distributes a cleaning agent in violation of this section shall be punished by a fine of not less than one thousand dollars and not more than five thousand dollars for each twenty-four hour period during which such violation occurs. The department of public health may seize any cleansing agent held for sale or distribution in violation of this section. The seized cleansing agents shall be forfeited.

SECTION 2. Notwithstanding any other provisions of this act, a household cleansing product shall not be deemed to be distributed, sold, offered or exposed for sale because of the inclusion of the product in a sales catalog printed and distributed on or before the effective date of this act; provided, however, that the product is not sold or distributed

after July first, nineteen hundred and ninety-four; and provided, further, that after said effective date, such catalogues shall identify products included therein as "not for sale or distribution in the commonwealth.".

Approved July 30, 1993.

Chapter 125. AN ACT LIMITING CONSECUTIVE MAYORAL TERMS IN THE CITY OF TAUNTON.

Be it enacted, etc., as follows:

SECTION 1. Section 4 of chapter 448 of the acts of 1909, as most recently amended by section 2 of chapter 407 of the acts of 1941, is hereby further amended by adding the following sentence:- No person shall hold the office of mayor for more than six consecutive two year terms or twelve consecutive years.

SECTION 2. This act shall be submitted for acceptance to the voters of the city of Taunton at the city election to be held in the year nineteen hundred and ninety-three in the form of the following question, which shall be placed on 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-three, entitled 'An Act limiting consecutive mayoral terms in the city of Taunton', be accepted?".

If a majority of votes cast in answer to said question is in the affirmative, then this act shall take full effect, but not otherwise.

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

Approved July 30, 1993.

Chapter 126. AN ACT AUTHORIZING THE CITY LIBRARY ASSOCIATION OF SPRINGFIELD TO INTRODUCE AN ADMISSIONS FEE TO ITS MUSEUMS AT THE QUADRANGLE.

Be it enacted, etc., as follows:

SECTION 1. Chapter 142 of the acts of 1864 is hereby further amended by striking out section 4, as amended by section 2 of chapter 155 of the acts of 1902, and inserting in place thereof the following section:-

Section 4. So long as said corporation shall allow the inhabitants of the city of Springfield free access to its library at reasonable hours, and shall further allow said inhabitants the free use of its books on its premises and for home reading under such reasonable regulations and restrictions as may be imposed by the directors of said corporation, said city may appropriate and pay annually toward defraying the expenses of

carrying on the work of said corporation, as authorized by its charter, such sums as the city may judge proper.

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

Approved July 30, 1993.

Chapter 127. AN ACT RELATIVE TO APPOINTMENT TO CERTAIN POSITIONS IN THE TOWN OF LYNNFIELD.

Be it enacted, etc., as follows:

SECTION 1. The charter of the town of Lynnfield, 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 section 9-3-3 and inserting in place thereof the following section:-

Section 9-3-3. The person appointed by the selectmen in accordance with the provisions of paragraph 5-1-1(b) as director of finance and administrative services may be appointed by the selectmen to any one or more of the positions named in paragraph 9-3-2 or the selectmen may appoint any one or more other persons to any one or more of said positions.

SECTION 2. This act shall be submitted for acceptance to the voters of the town of Lynnfield at the next annual town election in the form of the following question which shall be placed on the official ballot at such election:

"Shall an act passed by the general court in the year nineteen hundred and ninety-three, entitled 'An Act relative to appointment to certain positions in the town of Lynnfield', 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.

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

Approved August 2, 1993.

Chapter 128. AN ACT RELATIVE TO THE TOWN ADMINISTRATOR OF THE TOWN OF LYNNFIELD.

Be it enacted, etc., as follows:

SECTION 1. Paragraph 3-2-1 of the charter of the town of Lynnfield which charter 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, in line 5, the words "executive assistant" and inserting in place thereof the following words:- town administrator.

SECTION 2. Paragraph 3-4-1 of said charter is hereby amended by striking out, in lines 2 and 7, the words "executive assistant" and inserting in place thereof, in each instance, the following words:- town administrator.

SECTION 3. Paragraph 4-3-2 of said charter is hereby amended by striking out, in lines 1 and 2, the words "Executive Assistant" and inserting in place thereof the following words:- town administrator.

SECTION 4. Said charter is hereby further amended by striking out paragraph 5-1-1 and inserting in place thereof the following paragraph:-

5-1-1 The board of selectmen shall have the power to appoint:

(*a*) The following officers, each for a term of two years: a town counsel, a town administrator and a town accountant.

SECTION 5. Chapter 5 of said charter is hereby amended by striking out section 6 and inserting in place thereof the following section:-

Section 6 - Qualifications of the Town Administrator

5-6-1 The town administrator shall have executive and administrative qualifications and shall have education by training, experience or scholastic achievement to perform the duties of the office.

SECTION 6. Section 7 of said chapter 5 of said charter is hereby amended by striking out, in line 1, the words "executive assistant" and inserting in place thereof the following words:- town administrator.

SECTION 7. Paragraph 5-7-1 of said charter is hereby amended by striking out, in line 1, the words "executive assistant" and inserting in place thereof the words:- town administrator.

SECTION 8. Said chapter 5 of said charter is hereby further amended by striking out section 8 and inserting in place thereof the following section:-

Section 8 - Removal of the Town Administrator

5-8-1 The town administrator may be removed in the course of his two year term, in accordance with the following procedures.

5-8-2 The removal of the town administrator shall be by a resolution of the board of selectmen to this effect, provided that no such resolution shall be adopted within sixty days after any town election that shall have caused a change in the composition of the board.

5-8-3 The adoption of said resolution shall serve to suspend the town administrator for a period of not more than forty-five days, during which his salary shall continue to be paid. A copy of such resolution shall be delivered to the town administrator who shall have five days in which to request a public hearing. If a hearing shall be requested, the board shall schedule it within two weeks, to be held in a public place. The board shall advertise the hearing in a newspaper of local circulation and cite its purpose, location, time and date.

5-8-4 The moderator, or if he is unable to be present, such person as he shall designate, shall preside at such hearing.

5-8-5 At any such hearing, the reasons for the removal shall first be read aloud. The town administrator shall then be allowed to respond, either personally or through counsel.

The board of selectmen and the town administrator shall be allowed to call witnesses, and to subpoena any and all town records.

5-8-6 Final removal of any town administrator shall be effected by the affirmative vote of three members of the board of selectmen, at a public meeting of the board held within seven days of such public hearing, if the town administrator shall have requested one. Or, if he shall not have requested one, final removal may be effected by the affirmative vote of three members of the board held not sooner than fourteen days after the vote initiating the removal. The salary of the town administrator shall continue to be paid for a period of thirty days after the vote affecting his removal from office.

SECTION 9. Paragraph 7-5-1 of said charter is hereby amended by striking out, in line 3, the words "executive assistant" and inserting in place thereof the following words:- town administrator.

SECTION 10. Paragraph 7-5-2 of said charter is hereby amended by striking out, in line 2, the words "executive assistant" and inserting in place thereof the following words:- town administrator.

SECTION 11. Paragraph 7-6-1 of said charter is hereby amended by striking out, in lines 3 and 4, the words "executive assistant" and inserting in place thereof the following words:- town administrator.

SECTION 12. Paragraph 7-6-2 of said charter is hereby amended by striking out, in line 2, the words "executive assistant" and inserting in place thereof the following words:- town administrator.

SECTION 13. Paragraph 9-1-2 of said charter is hereby amended by striking out, in line 3, the words "executive assistant" and inserting in place thereof the following words:- town administrator.

SECTION 14. This act shall be submitted for acceptance to the voters of the town of Lynnfield at the next annual town election in the form of the following question which shall be placed on the official ballot at such election:

"Shall an act passed by the general court in the year nineteen hundred and ninety-three, entitled 'An Act relative to the town administrator of the town of Lynnfield', 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.

SECTION 15. This act shall take effect upon its passage.

Approved August 2, 1993.

Chapter 129. 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, certain parcels of land located in the town of Hingham described as lots one to four, inclusive, sixty-eight to seventy-one, inclusive, twelve, thirteen, fifteen, and sixteen as shown on a plan entitled "Conservatory Park Definitive Subdivision Plan", dated September twenty-fifth, nineteen hundred and eighty-nine revised through October seventh, nineteen hundred and ninety-one, shall be included in the Hingham north sewer district.

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

Approved August 2, 1993.

Chapter 130. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF WESTMINSTER AS THE KEITH NIVALA MEMORIAL BRIDGE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately designate a certain bridge in the town of Westminster as the Keith Nivala Memorial Bridge, 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 bridge located on state highway Route 2A over the Whitman river in the town of Westminster shall be designated and known as the Keith Nivala Memorial Bridge, in honor of police officer Keith Nivala who lost his life while on duty for the Westminster police department. The department of highways shall erect and maintain a suitable marker on said bridge bearing said designation in compliance with the standards of said department

Approved August 2, 1993.

Chapter 131. AN ACT AUTHORIZING THE TOWN OF FALMOUTH TO CONVEY A CERTAIN PARCEL OF CONSERVATION LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of Falmouth is hereby authorized, acting by and through its board of selectmen, to convey a certain parcel of land, located in said town, presently held in trust under the management and control of the conservation commission to Antone Souza, Carol Souza and Gloria Souza. Said parcel is shown as Parcel C on a plan of land entitled "Preliminary Plan of Land located in Falmouth - Mass" dated May 4, 1992 and prepared by Ferreira Associates of Falmouth.

SECTION 2. In consideration for the conveyance authorized in section one, Antone Souza, Carol Souza and Gloria Souza shall convey a certain parcel of land located in the town of Falmouth to said town which parcel shall be held in trust under the management and

control of the conservation commission. Said parcel is shown as Parcel B on the plan described in section one.

Approved August 2, 1993.

Chapter 132. AN ACT PROVIDING FOR THE EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES FACILITY CONSOLIDATIONS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide funds for the consolidation of health and human services facilities, 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. To provide for a program of facility consolidation, including the study, design, construction, reconstruction, renovation, and improvement to various state institutions and properties, and related project administration costs, and for the purchase of certain property, including furnishings, equipment, and renovations to such property consistent with the recommendations of the governor's special commission on the consolidation of health and human services institutional facilities, hereinafter called the special commission, the sums set forth in section two of this act, for the several purposes and subject to the conditions in this act, are hereby made available, subject to the provisions of law regulating the disbursement of public funds and the approval thereof. Any capital expenditure authorized by this act shall be exempt from the provisions of sections twenty-five C to twenty-five G, inclusive, of chapter one hundred and eleven of the General Laws or any other general or special law requiring determination of need. The secretary of health and human services shall submit to the house and senate committees on ways and means a report, on or before February first of each year, a multi-year spending plan summarizing the expenditures on each item of authorization and the status of all such projects authorized by section two of this act.

SECTION 2.

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Item

4000-8000 For the costs of closure, security, maintenance and mothballing, so-called, associated with the closure and consolidation of facilities of the executive office of health and human services as recommended by the special commission; provided, that no funds shall be expended from this item for the closure or consolidation of the Western Massachusetts Hospital $12,000,000

4000-8100 For the cost of emergency repairs, emergency demolition, and emergency remediation of environmental hazards at facilities of the executive office of health and human services necessary for the preservation of the public health, safety, and welfare pursuant to a plan filed by the division of capital planning and operations with the house and senate committees on ways and means within thirty days of the effective date of this act $5,000,000

4000-8300 For the implementation of a centralized food service system at the various agencies within the executive office of health and human services $950,000

Department of Public Health.

4530-8200 For renovations to the stable building and elevator repairs at the Boston Center for Disease Control $180,000

4530-8300 For parking improvements, office renovations various minor improvements, and essential maintenance projects at Tewksbury Hospital $300,000

4530-8310 For sprinkler and fire system repairs and other life safety system improvements at Tewksbury Hospital $4,375,000

4530-8400 For certain capital improvements to the Shattuck Hospital, including one million six hundred thousand dollars for power plant repairs, one million three hundred thousand dollars for elevator upgrades, two million six hundred fifty thousand dollars for improvements to the sprinkler system, two million eighty-seven thousand eight hundred ninety-five dollars for the replacement, repair and purchase of equipment, one million two hundred thousand dollars for the modernization of the electrical distribution system, and the replacement of the hot/cold water feed system, two million six hundred seven thousand three hundred sixty dollars for the modernization of the air handling units, one million thirty thousand dollars for repairs and replacement of doors and locks, renovations to the entrance and flooring replacement, four hundred thirty thousand dollars for lots and driveway improvements and reconstruction of the loading dock, and one hundred fifty-five thousand dollars for renovations to the vacuum pump system, asbestos removal, the replacement of humidistats and for a piped medical gas system for the operating room $13,060,255

4530-8490 For renovations and improvements to mental health units to provide handicapped access, asbestos removal, and other es-

sential maintenance, for renovations to mental health inpatient day programming units, and for renovations and utility improvements to the Parker Street Shelter West at the Shattuck Hospital $2,200,000

4530-8500 For certain capital improvements to the Massachusetts Hospital School, including three hundred thousand dollars for life safety and fireline repairs, two hundred thousand dollars for asbestos removal and underground fuel tank replacement, four hundred fifty thousand dollars for window repairs, two hundred thousand dollars for CFC replacement, two hundred forty thousand dollars for power plant, water tank and stack repairs, a stem distribution system at Gates Cottage, and a heating distribution system for the Bradford Hospital at the Massachusetts Hospital School, two hundred forty thousand dollars for improvements to the sprinkler and fire alarm systems, three hundred eighty thousand dollars for upgrades to the electrical system, repairs to the generator, and cooling tower repairs, two hundred seventy-three thousand dollars for sewer line replacement and the replacement of the hot water tank, ninety-nine thousand five hundred dollars for lightning suppression equipment, security system improvements, patient unit renovations, and one hundred fifty-eight thousand dollars for repairs to the Pergola Bridge, American Disabilities Act compliance $2,540,500

4530-8600 For sewage treatment at the Western Massachusetts Hospital ... $810,000

4530-8610 For water distribution improvements at the Western Massachusetts Hospital $405,000

4530-8620 For roof repairs at the Western Massachusetts Hospital $340,000

4530-8630 For electrical system upgrades at the Western Massachusetts Hospital $670,000

4530-9999 For contingency costs of projects authorized in this act for the department of public health; provided, that funds authorized herein may be transferred to other department items of authorization in this act to pay for unanticipated costs in excess of the amounts so authorized; and provided further, that the house and senate committees on ways and means shall be notified in writing of any amounts transferred from this item and the purpose for said transfer $700,000

Department of Mental Health.

5500-8100 For inpatient unit life safety code renovations and roof repairs at the Pocasset Mental Health Center $780,000

5500-8200 For life safety system improvements and essential maintenance projects at the Corrigan Mental Health Center $485,000

5500-8300 For life safety code improvements to inpatient units, including, upgrades to the fire alarm and smoke evacuation systems, the installation of sprinkler systems to meet building code compliance requirements, handicapped accessibility improvements, and upgrades to the heating, ventilation, air conditioning, and electrical systems to meet HCFA/JCAHO requirements at the Solomon Carter Fuller Mental Health Center $9,000,000

5500-8400 For life safety code improvements to inpatient units to meet HCFA/JCAHO certification requirements including, upgrades to the fire alarm system, the installation of a fire sprinkler system, the air conditioning, heating, and ventilation systems, elevators, and other essential maintenance projects at the Lindemann Mental Health Center $6,200,000

5500-8500 For upgrades to inpatient and clinical research facilities including, handicapped accessibility, paving and walkways, site utilities including water, steam, mechanical and electrical systems, and essential maintenance to building envelope including windows, roofs, and masonry at the Massachusetts Mental Health Center $1,730,000

5500-8600 For essential maintenance and inpatient unit renovations at the Quincy Mental Health Center $180,000

5500-8700 For life safety improvements to inpatient unit including, handicapped accessibility, paving and walkways, repairs to mechanical and electrical systems, and essential maintenance to the building envelope including, windows, roofs, and masonry at the Harry C. Solomon Mental Health Center $2,400,000

5500-8800 For life safety improvements and essential maintenance at the Franklin County Mental Health Center $490,000

5500-8893 For selected demolition and asbestos and hazardous waste removal and abatement, and for site preparation at the Northampton State Hospital $5,000,000

5500-8900 For deferred maintenance at the Brockton Mental Health Center $865,000

5500-9000 For repairs to the water and electrical site utility systems, renovations to the building envelope including windows, roofs,

and masonry, including fifty thousand dollars for maintenance, repair and replacement costs at the Odyssey Family Treatment Center, and improvements to life safety systems to meet HCFA/JCAHO requirements at the Medfield State Hospital $1,000,000

5500-9100 For life safety code improvements, essential maintenance, and inpatient unit renovations to the Besse, Goss, and Chambers Buildings at the Taunton State Hospital $4,300,000

5500-9200 For roof repairs to the Daniel and Hennessey Buildings and sewage line tie-in at Westborough State Hospital $1,400,000

5500-9210 For site utility needs of the Westborough State Hospital Masterplan $2,150,000

5500-9220 For renovation or new construction, whichever may be deemed most cost effective, at the clinical and ancillary buildings at Westborough State Hospital $2,460,000

5500-9230 For renovation or new construction, whichever may be deemed most cost effective, to inpatient facilities in the Hennessey building at Westborough State Hospital $7,130,000

5500-9240 For renovation or new construction, whichever may be deemed most cost effective, to inpatient facilities at the Danielle building at Westborough State Hospital $6,750,000

5500-9250 For the renovation and new construction to the power plant, service, and maintenance buildings at Westborough State Hospital $2,410,000

5500-9400 For inpatient facility renovations at the Bryan building or new construction for inpatient facilities for the mentally ill in the Worcester area $16,300,000

5500-9410 For the renovations and new construction of the University of Massachusetts Research and Development Center for Persons with Mental Health Diseases and Disorders $7,800,000

5500-9420 For the state contributions to the construction costs of a University of Massachusetts Psychiatric Treatment Research Center $18,000,000

5500-9430 For site utility work associated with the Worcester Area Masterplan $2,540,000

5500-9999 For contingency costs of projects authorized in this act for the department of mental health; provided, that funds authorized herein may be transferred to other department items of authorization in this act to pay for unanticipated costs in excess of the amounts so authorized; for the acquisition and upgrading of information systems, including the purchase and installation of certain computer equipment, and for the costs

associated with certain software development projects, including the salaries and other personnel costs related to said projects; provided, that said systems and projects may include, without limitation, the client registration and enrollment system and the communications infrastructure for the department of mental health; for unexpected emergencies; and provided further, that the house and senate committees on ways and means shall be notified in writing of any amounts transferred from this item and the purpose for said transfer . $5,000,000

Department of Mental Retardation.

5800-8100 For roof repairs at the Fernald State School $500,000

5800-8110 For water pump and fire protection improvements at the Fernald State School $240,000

5800-8120 For replacement or renovations to the power plant, the distribution system and the utility system at the Fernald State School $3,250,000

5800-8200 For roof repairs at the Wrentham State School $400,000

5800-8210 For a utility study at the Wrentham State School $250,000

5800-8300 For a site utility needs including electrical and water system improvements at the Monson Development Center $3,500,000

5800-8400 For hazardous waste cleanup at the Dever State School $350,000

5800-8500 For roof repairs at the Glavin Regional Center $500,000

5800-8510 For masonry repairs at the Glavin Regional Center $500,000

5800-8520 For exterior door replacement at the Glavin Regional Center $50,000

5800-8600 For roof repairs at the Hogan Regional Center $300,000

5800-8610 For sewage pump station repairs and water table mitigation at the Hogan Regional Center $200,000

5800-8700 For handicapped access improvements at the Templeton Colony $1,000,000

5800-8800 For renovations to the waste water treatment plant and the water system at the Belchertown State School; provided, that no money shall be expended from this item unless and until the town of Belchertown accepts full legal operation and ownership of said waste water treatment plant; provided further, that notwithstanding the provisions of chapter seven of the General Laws, the division of capital planning and operations is hereby authorized and directed to convey by deed approved as to form by the attorney general to said town, a certain parcel of land which shall contain said waste water treatment plant and adjacent land essential to its operation and easements necessary for access to said parcel; and provided further, that said town shall bear all costs associated with the

conveyance of said parcel $1,300,000
Local Aid Fund 100.0%

5800-8810 For selected demolition and asbestos and hazardous waste removal and abatement at the Belchertown State School $5,000,000

5800-9000 For the installation of a sewer line at Foxboro campus $450,000

5800-9999 For contingency costs of projects authorized in this act for the department of mental retardation; provided, that funds authorized herein may be transferred to other department items of authorization in this act to pay for unanticipated costs in excess of the amounts so authorized and for unexcepted emergencies; and provided further, that the house and senate committees on ways and means shall be notified in writing of any amounts transferred from this item and the purpose for said transfer $600,000

SECTION 3. To meet the expenditures necessary in carrying out the provisions of section two of this act, 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, not exceeding one hundred sixty-six million two hundred ninety thousand seven hundred fifty-five dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Human Services Consolidation Capital Outlay Loan, Act of 1993, and shall be issued for a maximum term of 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 no later than June thirtieth, two thousand and nineteen. All interest and payments on account of principal of such obligations shall be payable from the General Fund, unless otherwise specified. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

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 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 term, 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. All interest and payments on account of principal of such obligations shall be payable from the General Fund, unless otherwise specified.

SECTION 5. Item 5655-8841 in section 2 of chapter 723 of the acts of 1983 is hereby amended by striking out, in line 7, the figure "1,545,000" and inserting in place thereof the following figure:- 1,539,094.

SECTION 6. Section 11 of said chapter 723 is hereby amended by striking out, in line 4, the words "nine thousand thirty-five" and inserting in place thereof the following words:- three thousand one hundred and twenty-nine.

SECTION 7. Item 5011-8874 in section 2 of chapter 167 of the acts of 1987 is hereby amended by striking out, in line 24, the figure "3,200,000" and inserting in place thereof the following figure:- 3,150,534.

SECTION 8. Item 5011-8875 in section 2 of chapter 167 of the acts of 1987 is hereby amended by striking out, in line 9, the figure "1,200,000" and inserting in place thereof the following figure:- 1,081,721.

SECTION 9. Item 5011-8876 in said section 2 of said chapter 167 is hereby amended by striking out, in line 49, the figure "45,500,000" and inserting in place thereof the following figure:- 8,453,508.

SECTION 10. Item 5011-8877 in said section 2 of said chapter 167 is hereby amended by striking out, in line 45, the figure "15,000,000" and inserting in place thereof the following figure:- 1,276,154.

SECTION 11. Item 5011-8878 in said section 2 of said chapter 167 is hereby amended by striking out, in line 39, the figure "13,750,000" and inserting in place thereof the following figure:- 678,508.

SECTION 12. Item 5011-8879 in said section 2 of said chapter 167 is hereby amended by striking out, in line 44, the figure "8,000,000" and inserting in place thereof the following figure:- 1,468,178.

SECTION 13. Item 5011-9873 in said section 2 of said chapter 167 is hereby amended by striking out, in line 43, the figure "15,000,000" and inserting in place thereof the following figure:- 6,468,266.

SECTION 14. Item 5095-8870 in said section 2 of said chapter 167 is hereby amended by striking out, in line 6, the figure "29,015,000" and inserting in place thereof the following figure:- 25,057,857.

SECTION 15. Item 5095-8871 in said section 2 of said chapter 167 is hereby amended by striking out, in line 36, the figure "6,696,000" and inserting in place thereof the following figure:- 993,991.

SECTION 16. Item 5095-8872 in said section 2 of said chapter 167, as most recently amended by chapter 409 of the acts of 1990, is hereby further amended by striking out, in line 47, the figure "62,000,000" and inserting in place thereof the following figure:- 19,253,227.

SECTION 17. Item 5095-8873 in said section 2 of said chapter 167 is hereby amended by striking out, in line 35, the figure "21,856,000" and inserting in place thereof the following figure:- 2,990,192.

SECTION 18. Item 5095-8874 in said section 2 of said chapter 167 is hereby amended by striking out, in line 35, the figure "19,200,000" and inserting in place thereof the following figure:- 5,151,702.

SECTION 19. Item 5095-8875 in said section 2 of said chapter 167 is hereby amended by striking out, in line 36, the figure "24,324,000" and inserting in place thereof the following figure:- 20,719,380.

SECTION 20. Item 5095-8876 in said section 2 of said chapter 167 is hereby amended by striking out, in line 35, the figure "26,528,000" and inserting in place thereof the following figure:- 5,387,571.

SECTION 21. Item 5095-8877 in said section 2 of said chapter 167 is hereby amended by striking out, in line 35, the figure "13,256,000" and inserting in place thereof the following figure:- 2,284,698.

SECTION 22. Item 5095-8878 in said section 2 of said chapter 167 is hereby amended by striking out, in line 34, the figure "4,200,000" and inserting in place thereof the following figure:- 517,621.

SECTION 23. Section 5 of said chapter 167 is hereby amended by striking out, in lines 5 and 6, the words "three hundred and sixty-nine million four hundred and eighty-five thousand" and inserting in place thereof the following words:- one hundred sixty-five million six hundred ninety-three thousand one hundred and eight.

SECTION 24. Item 2200-7880 in section 2D of chapter 199 of the acts of 1987 is hereby amended by striking out, in line 2, the words "in Westborough".

SECTION 25. Item 5011-7890 in section 2E of chapter 164 of the acts of 1988 is hereby amended by striking out, in line 9, the figure "2,500,000" and inserting in place thereof the following figure:- 1,395,331.

SECTION 26. Section 95 of said chapter 164 is hereby amended by striking out, in lines 3 and 4, the words "ten million, three hundred and ninety-six thousand" and inserting in place thereof the following words:- nine million two hundred twenty-three thousand two hundred eighty-one.

Approved August 2, 1993.

Chapter 133. AN ACT RELATIVE TO THE APPOINTMENT OF A CHIEF OF POLICE IN THE TOWN OF PROVINCETOWN.

Be it enacted, etc., as follows:

SECTION 1. The position of chief of police of the town of Provincetown shall be exempt from the provisions of chapter thirty-one of the General Laws.

SECTION 2. Notwithstanding the provisions of section ninety-seven A of chapter forty-one of the General Laws relative to the term of appointment of chief of police, upon the occurrence of a vacancy in the office of chief of police in the town of Provincetown, the town manager with the approval of the board of selectmen of said town is hereby authorized to appoint a chief of police under a contract for a term of years not to exceed five years and subject to all other provisions of said section ninety-seven A. Such appointment shall be made in accordance with the procedures set forth in the town charter.

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

Approved August 4, 1993.

Chapter 134. AN ACT AUTHORIZING THE TOWN OF WALPOLE TO RECEIVE AND ADMINISTER THE PROPERTY OF THE TERRACE HILL CEMETERY CORPORATION.

Be it enacted, etc., as follows:

SECTION 1. The Terrace Hill Cemetery Corporation, a corporation duly established by law in the commonwealth, hereinafter called the corporation, may, by deed duly executed, convey and transfer to the town of Walpole, and said town is hereby authorized and empowered to receive, and thereafter to hold and maintain, but for cemetery purposes only, and subject to all rights heretofore existing in any burial lots, the real and personal property of said corporation not subject to any trust, and thereupon, and upon the transfer of the trust funds as hereinafter provided, said corporation shall be dissolved; and the cemetery of the association shall be and become a public burial place, ground or cemetery. Said real property is described as Assessor's Parcels F529 and F33-A, containing 8.21 acres more or less. Said conveyance is contingent upon a title search and the preparation of a plan delineating the parcels by metes and bounds.

SECTION 2. Insofar as authorized by a decree of a court of competent jurisdiction and in compliance with the terms and conditions of such decree, said town may receive from said corporation a conveyance and transfer of, and administer, all funds or other property held by said corporation in trust for the perpetual care of the lots in the cemetery and for other purposes, and also any property devised or bequeathed to said corporation under the will of any person living at the time of said transfer or conveyance or under the will of any deceased person not then probated. Interest and dividends accruing on funds deposited in trust with any savings bank under authority of section twenty-five of chapter one hundred and sixty-eight of the General Laws, or with any other banking institution, for the benefit of said corporation, or of any lots in the cemetery may, after such conveyance, be paid by such bank or institution to the treasurer of said town; and upon such payment said treasurer shall use the same for the purposes of said trusts.

SECTION 3. All real and personal property and property rights, acquired by said town from said corporation under authority of this act, shall be held and managed by said town in the same manner in which cities and towns are authorized by law to hold and manage property for cemetery purposes; provided, however, that all rights which any persons have acquired in the cemetery of said corporation or any lots therein shall remain in force to the same extent as if this act had not been passed and such transfer had not occurred. The records of said corporation shall be delivered to the clerk of said town and such clerk is hereby authorized to certify copies thereof.

Approved August 4, 1993.

Chapter 135. AN ACT DEDICATING A CERTAIN BUILDING IN THE CITY OF TAUNTON IN MEMORY OF THE LATE JUSTICE ERNEST I. ROTENBERG.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the building in the city of Taunton housing the Bristol probate and family court facilities shall be dedicated in memory of Justice Ernest I. Rotenberg, the late first justice of the Bristol county division of the probate and family court department of the trial court. The commissioners of the county of Bristol shall cause a suitable marker bearing such designation to be attached thereto.

Emergency Letter: August 12, 1993 @ 3:24 P.M. Approved August 5, 1993.

Chapter 136. AN ACT AUTHORIZING THE TOWN OF MANSFIELD TO ESTABLISH A CAPITAL EXPENDITURES FUND.

Be it enacted, etc., as follows:

SECTION 1. The town of Mansfield is hereby authorized to establish and maintain a special fund to be known as the Capital Expenditures Fund. Such fund shall be maintained by the town treasurer as a separate account. The treasurer may deposit and invest such funds in the manner authorized by sections fifty-four and fifty-five of chapter forty-four of the General Laws. Any interest or income earned thereon shall be credited to and become a part of said fund.

The town of Mansfield may appropriate in any fiscal year an amount not to exceed five percent of the amount raised in the previous fiscal year by the taxation of real estate and tangible personal property into said fund by a majority vote at an annual or special town meeting. The aggregate amount in said fund at any one time shall not exceed one percent of the equalized valuation of the town as defined in section one of said chapter forty-four.

The town of Mansfield may appropriate money from the fund by a two-thirds vote of an annual or special town meeting for any purpose for which the town would be authorized to borrow money under the provisions of sections seven and eight of said chapter forty-four.

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

Approved August 5, 1993.

Chapter 137. AN ACT ESTABLISHING THE BROCKTON 21ST CENTURY CORPORATION.

Be it enacted, etc., as follows:

SECTION 1. As used in this act, the following words shall, have the following meanings unless the context requires otherwise:-

"Corporation", Brockton 21st Century Corporation, established in section three.

"Financial institution", banking corporation or institution, trust company, savings bank, cooperative bank, savings or loan association, insurance company or related corporation partnership, foundation or other institution engaged primarily in lending or investing funds.

"Incorporators", Winthrop Farwell, David Curtis, John K. Holmgren, Gerald J. Kelleher, George W. Baldwin, and James W. Burke.

SECTION 2. It is hereby declared that unused, underused or underdeveloped areas exist in parts of the city of Brockton including, but not limited to, the downtown business district, Campello business district and Montello business district; that each such area constitutes a serious and growing menace, injurious and inimical to the safety, health, morals and welfare of the residents of said city; that each such area constitutes an economic liability, substantially impairs or arrests the sound growth of said city and retards the economic well-being of the commonwealth; that each such area has decreased the value of private investments and threatens the sources of public revenue; that redevelopment of each such area in accordance with an economic development plan for the elimination of such substandard conditions and prevention of their recurrence is necessary to retain existing commercial enterprises, to attract new commercial development and to promote the sound economic growth of said city; that the existence of said unused, underused or underdeveloped areas renders persons unwilling to do business in said city; that the menace of such unused, underused or underdeveloped areas is beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operation of private enterprise without the aids herein provided including, but not limited to preventing recurrence of such conditions in each such area, improving sites for commercial uses and disposing of property for redevelopment incidental to the foregoing; that the exercise of powers by the corporation and any assistance that may be given by said city or other public body in connection therewith are public uses and purposes for which public money may be expended; and that the acquisition, planning, clearance, development, rehabilitation or rebuilding of such unused, underused and underdeveloped areas for commercial purposes are public benefits for which private property may be regulated by wholesome and reasonable order, law and direction and for which public funds may be expended for the welfare of said city and the commonwealth.

It is hereby further found and declared that there exists in said city of Brockton a condition of underemployment which causes hardship to many individuals and families, wastes vital human resources, increases the public assistance burdens, impairs the security of family life, impedes the economic and physical development of said city and adversely affects the welfare and prosperity of the people; underemployment has been caused in substantial part by commercial companies moving from said city, that many existing commercial facilities within said city are obsolete and inefficient; that such facilities are un-

derutilized or vacated, thereby creating additional underemployment; that such obsolescence and abandonment of existing facilities are causing serious injury to the economy of said city; that the commercial sector of the economy provides one of the best opportunities for jobs at higher wages for the inhabitants of said city; that new commercial sites are required to attract and house new commercial development and to retain existing commercial operations in need of expansion space; that the unaided efforts of private industry have not provided and cannot provide the necessary commercial sites within the urban environment due to the problems encountered in the assembly of suitable building sites, the provision of adequate public services, the unavailability of private capital for development and the inability of private enterprise alone to plan, finance and coordinate commercial development projects.

SECTION 3. The shareholders of the corporation are hereby constituted a body corporate under the name of Brockton 21st Century Corporation. Said corporation shall be subject to and have the powers and privileges conferred by the provisions of chapter one hundred and fifty-five of the General Laws, sections eighteen, twenty-seven, thirty-one, thirty-three and thirty-four of chapter one hundred and fifty-six B of the General Laws and section four of chapter one hundred and eighty of the General Laws except insofar as said provisions are inconsistent with or otherwise restricted or limited by the provisions of this act.

SECTION 4. The principal office of the corporation shall be located in the city of Brockton.

SECTION 5. The purposes of the corporation shall be to correct the conditions found to exist in the city of Brockton, as set forth in section two, to promote the common good and general welfare of said city, to improve the living standards of the citizens thereof by fostering the improvement of their employment opportunities, and to solicit, encourage and induce business organizations and educational institutions to locate in said city, with an emphasis on expanding the tax base of said city.

The corporation shall assist and promote the development and expansion of business activities and business organizations in said city, including, but not limited to, the downtown business district, the Campello business district and the Montello business district.

In furtherance of the purposes named herein and in addition to the powers conferred on said corporation under the provisions of section three, said corporation shall, subject to the restrictions and limitations hereinafter provided, have the following powers:

(*a*) to accept, acquire, other than by eminent domain, receive and hold by bequest, devise, grant, gift, purchase, exchange, lease, transfer, judicial order or decree or otherwise, for any of its objects and purposes, any property, both real and personal, from any source including grants, loans or advances for or in aid of said corporation from any federal agency or agency of the commonwealth or any political subdivision thereof;

(*b*) to sell, convey, mortgage, lease, transfer, exchange, or otherwise dispose of any such property, both real and personal, that the objectives and purposes of said corporation may require, subject to such limitations as may be prescribed by law;

(*c*) to borrow money and, from time to time, to make, accept, endorse, execute and issue bonds, debentures, promissory notes, bills of exchange and other obligations of said corporation for monies borrowed or in payment for property acquired or for any of the other purposes of said corporation and to secure the payment of any such obligations by mortgage, pledge, deed, indenture, agreement or other instrument of trust, or by lien upon, assignment of or agreement in regard to all or any part of the property, rights or privileges of said corporation whether now owned or hereafter to be acquired;

(*d*) to make loans to any person, firm, corporation, joint stock company, association or trust located or doing business in said city of Brockton, for the purpose of promoting and developing business activities;

(*e*) to acquire improved and unimproved real estate for the purpose of constructing retail, commercial and residential or other business establishments thereon, for the purpose of disposing of such real estate for the construction of retail, commercial or other business establishments as the objects and purposes of said corporation may require; nothing contained herein shall be construed to grant to said corporation the power of eminent domain;

(*f*) to acquire, construct, reconstruct, alter, maintain, sell, convey, transfer, mortgage, pledge or otherwise dispose of retail, commercial, industrial, residential or business establishments as the objects and purposes of said corporation may require;

(*g*) to acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the bonds, debentures, notes or other securities and evidence of interest in or indebtedness of, any person, firm, corporation, joint stock company, association or trust and, while the owner or holder thereof, to exercise all the rights, powers and privileges of ownership;

(*h*) to cooperate with and avail oneself of the facilities and programs including, but not limited to, those of the Small Business Development Corporation, the Massachusetts office of business and development, the United States Department of Commerce, the New England Regional Commission and any similar governmental agencies, provided, however, that at no time shall said corporation apply for governmental funds in competition with any department, agency or instrumentality of said city of Brockton, without the express written consent of the mayor of said city;

(*i*) to receive stocks, bonds, donations and gifts and to otherwise raise money for the above purposes;

(*j*) to elect, appoint and employ officers, agents and employees to make contracts and incur liabilities for any of the purposes of said corporation;

(*k*) to employ consultants;

(*l*) to promote said city of Brockton as a retail, commercial, industrial, professional and financial center.

Said corporation shall not participate or intervene in any political campaign on behalf of any candidate for public office or publish or distribute any statements with respect thereto. Notwithstanding any other provision of this act, neither the members, directors, officers, stockholders, nor said corporation shall participate in any of the prohibited transactions, as

defined in section 503 of the Internal Revenue Code, as the same may, from time to time, be amended nor shall said corporation accumulate income or engage in any activities if the accumulation of income or the activities so engaged in are or would be within the prohibitions of section 504 of said Internal Revenue Code, as the same may be, from time to time, amended, nor shall said corporation be operated at any time for the primary or sole purpose of carrying on a trade or business for profit.

SECTION 6. The authorized capital stock of the corporation shall consist of one thousand shares of non-dividend paying common capital stock without a par value. The shareholders may at any time, by majority vote, issue any part or all of said stock upon such terms as they shall determine or, by majority vote, the shareholders may delegate to the directors the power by majority vote to issue any part or all of said stock upon such terms as they shall determine. None of the earnings or profits of said corporation shall accrue to or be paid to the stockholders of common capital stock as dividends or profits in any form.

SECTION 7. Notwithstanding any rule at common law or any authorization, limitation or any such other provision of any general or special law, or any provision in their respective charters, agreements of associations, articles of organization, or trust indentures, all domestic corporations organized for the purpose of carrying on business within the commonwealth including, without implied limitation, any electric or gas company as defined in section one of chapter one hundred and sixty-four of the General Laws, any railroad corporation as defined in section one of chapter one hundred and sixty of the General Laws, financial institutions, trustees and the city of Brockton, are hereby authorized to acquire, purchase, hold, sell, assign, transfer or otherwise dispose of any stocks, bonds, securities or other evidence of indebtedness of said corporation and to make contributions to said corporation without the approval of any regulatory authority of the commonwealth.

Any contribution made under the provisions of this section to said corporation shall be in addition to the contributions authorized by section twelve C of chapter one hundred and fifty-five of the General Laws and by any other provisions of any general or special law.

SECTION 8. In order to carry out the purposes and exercise the powers of the corporation, the city of Brockton may raise and appropriate, or may borrow in aid of said corporation, such sums as may be necessary to make a loan or grant to said corporation.

SECTION 9. The shareholders of the corporation shall have the powers of said corporation to elect directors as provided in section ten and to exercise such other powers of said corporation as may be conferred on the shareholders by the by-laws.

SECTION 10. The board of directors of the corporation shall be elected annually and shall have the following powers of said corporation: (*a*) to set a fiscal year for the operation of said corporation; and (*b*) to make, amend or repeal the by-laws in whole or in part.

SECTION 11. The business and affairs of the corporation shall be managed and conducted by a board of directors. Said board shall consist of up to fifteen members, one of whom shall be the mayor of the city of Brockton, one of whom shall be the chief financial officer of said city of Brockton, one of whom shall be the Brockton planning director and

one of whom shall be a member of the city council, elected annually by that body, at the first meeting in January. The remaining voting members shall be elected annually from among the shareholders of said corporation. There shall be elected by and from said board of directors a president, treasurer, secretary or clerk, and an executive committee of five active members. Said board of directors shall be empowered to retain an executive director and such other support staff as may be necessary.

Directors and officers shall not be responsible for losses unless the same shall have been occasioned by the willful misconduct of such directors and officers.

SECTION 12. The corporation shall not deposit any of its funds in a banking institution unless such institution has been designated as a depository by a vote of a majority of the directors present at an authorized meeting of the board of directors, exclusive of any director who is an officer or director of the depository so designated. Said corporation shall not receive money on deposit.

SECTION 13. The corporation shall make reports of its condition not less than annually to the state secretary, which report shall be published in a newspaper of general circulation in the city of Brockton within sixty days of the close of said corporation's fiscal year. The state secretary shall make copies of such reports available to the commissioner of insurance and to the commissioner of banks and said corporation shall also furnish such other information as may, from time to time, be required by the state secretary.

SECTION 14. The first meeting of the corporation shall be called by a notice signed by three or more of the incorporators, stating the time, place, and purpose of the meeting, a copy of which notice shall be mailed or delivered to each incorporator at least five days before the day appointed for the meeting. Said first meeting may be held without such notice upon agreement in writing to that effect signed by all of the incorporators. There shall be recorded in the minutes of the meeting a copy of said notice or of such unanimous agreement of the incorporators.

At such first meeting, the incorporators shall organize by the choice, by ballot, of a temporary clerk, by the adoption of by-laws, by the election by ballot of directors and by action upon such matters within the powers of said corporation as the incorporators may see fit. The temporary clerk shall be sworn and shall make and attest a record of the proceedings until the clerk has been chosen and sworn. One-half plus one of the incorporators shall be a quorum for the transaction of business.

Whenever the certificate required by section thirteen of chapter one hundred and fifty-five of the General Laws has been filed in the office of the state secretary, said secretary shall issue and deliver to the incorporators a certified copy of the provisions of this act, under the seal of the commonwealth, and said corporation shall then be authorized to commence business, and stock thereof to the extent herein or hereafter duly authorized, may, from time to time, be issued.

SECTION 15. The corporation shall not be subject to any of the provisions of chapter sixty-three of the General Laws, nor shall said corporation be liable for any taxes

based upon or measured by income which may be enacted by the general court. The securities, evidences of indebtedness, and shares of stock issued by said corporation and income therefrom shall, at all times, be free from taxation by the commonwealth.

Any stockholder or holder of any securities, evidences of indebtedness or shares of the capital stock of the corporation who realizes a loss from the sale, redemption or other disposition of any securities, evidences of indebtedness or shares of the capital stock of said corporation, including any such loss realized on a partial or complete liquidation of said corporation, and who is not entitled to deduct such loss in computing any of such stockholder's or holder's taxes to the commonwealth, shall be entitled to credit against any taxes subsequently becoming due to the commonwealth from such stockholders or other holders, a percentage of such loss equivalent to the highest rate of tax assessed on corporations for the year in which such loss occurs in accordance with the provisions of chapter sixty-three of the General Laws.

SECTION 16. The provisions of chapter one hundred and ten A of the General Laws shall not apply to the shares of capital stock, bonds, debentures, notes, evidences of indebtedness, or any other securities of the corporation.

SECTION 17. This charter may be amended by the affirmative vote of two-thirds of the shareholders entitled to vote; provided, however, that no such amendment which is inconsistent with the general purposes expressed herein or which eliminates or restricts the right of the state secretary to examine the corporation or the obligation of said corporation to make reports as provided in section thirteen shall be made without the approval of the general court; and, provided further, that no amendment of this charter which affects a stockholder's voting right shall be made without the consent of such stockholder affected by such amendment.

Within thirty days after any meeting at which amendments to this charter have been adopted, articles of amendment sworn to by the president, treasurer, and a majority of the directors setting forth such amendment and the adoption thereof, shall be submitted to the state secretary who shall examine them and if said state secretary determines that such amendments conform to the requirements of this act, he shall so certify and endorse his approval thereon. Thereupon, the articles of amendment shall be filed in the office of the state secretary and no such amendment shall take effect until such articles of amendment shall have been filed as aforesaid.

Prior to or within sixty days after the effective date of any legislative amendment to this charter, the approval of such amendment shall be voted on by the stockholders of said corporation at a meeting duly called for such purpose. If such amendment is not approved by the affirmative vote of two-thirds of the stockholders entitled to vote, any stockholder who has voted against the approval of such amendment, if entitled to vote or, if not entitled to vote, has registered his disapproval, in writing, with said corporation at or before said meeting may, within thirty days after said meeting, make a written demand upon said corporation for payment of his stock.

SECTION 18. The corporation may, upon the affirmative vote of two-thirds of its members, petition for its dissolution by order of the supreme judicial or superior court, in the manner provided in section fifty of chapter one hundred and fifty-five of the General Laws. Upon dissolution of said corporation the stockholders, if any, shall be paid on a pro rata basis that percentage of the assets of said corporation in excess of the obligations of said corporation which the amounts paid into said corporation for all stock bears to the sum of (1) such amounts paid into said corporation for all the stock and (2) the amounts of all donations made to said corporation; provided, however, that in no event shall a stockholder be paid upon such dissolution more than the amount paid into said corporation for his stock.

SECTION 19. If the corporation shall fail to commence operations within three years from the effective date of this act, then the provisions of this act shall cease to be effective.

SECTION 20. This act shall take effect upon its passage.

Approved August 5, 1993.

Chapter 138. AN ACT RELATIVE TO A CERTAIN APPLICATION FOR A SCHOOL CONSTRUCTION GRANT FILED BY THE BLACKSTONE-MILLVILLE REGIONAL SCHOOL DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any of the provisions of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight to the contrary, the board of education is hereby authorized and directed to accept, process and act upon a certain application of the Blackstone-Millville regional school district, dated December seventh, nineteen hundred and ninety-two and filed with said board of education on December tenth, nineteen hundred and ninety-two, for a school construction grant, a major reconstruction project, under the provisions of said chapter six hundred and forty-five, for replacing the roof at the Blackstone-Millville regional junior/senior high school as if said application had been filed with, and accepted by, said board of education prior to the start of construction.

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

Approved August 5, 1993.

Chapter 139. AN ACT FURTHER REGULATING THE CLASSIFICATION FOR RETIREMENT PURPOSES OF CERTAIN INDIVIDUALS.

Be it enacted, etc., as follows:

Section 3 of chapter 32 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "employees", the first time it appears,

in line 328, the following words:- who shall include managers and assistant managers; employees of the Massachusetts Port Authority who are employed as licensed electricians, utility technicians, steam engineers, watch engineers, boiler operators, or steam firemen, and supervisors of said employees, at an electrical generating or distribution plant.

Approved August 6, 1993.

Chapter 140. AN ACT RELATIVE TO THE COTUIT FIRE DISTRICT.

Be it enacted, etc., as follows:

Section 3 of chapter 328 of the acts of 1926, as amended by section 2 of chapter 244 of the acts of 1935, is hereby further amended by inserting after the first sentence the following sentence:- The prudential committee of said district is hereby authorized to appoint persons to the positions of clerk and treasurer for terms of three years.

Approved August 6, 1993.

Chapter 141. AN ACT AUTHORIZING THE LEASING OF REAL ESTATE BY FIRE DISTRICTS.

Be it enacted, etc., as follows:

Chapter 48 of the General Laws is hereby amended by inserting after section 77 the following section:-

Section 77A. A fire district may hold real estate for the public use of its inhabitants and may by its prudential committee let or lease for not more than ten years, on such terms as said committee may determine, land, a public building or part thereof.

Approved August 6, 1993.

Chapter 142. AN ACT AUTHORIZING MUNICIPALITIES TO ACCEPT CREDIT CARDS FOR GOLF FEES.

Be it enacted, etc., as follows:

Section 5F of chapter 40 of the General Laws is hereby amended by adding the following paragraph:-

Notwithstanding the provisions of any general or special law to the contrary, a city or town may accept credit cards for payment for golf greens fees for the use of a golf course; provided, however, that any person who pays by credit card shall not be charged an amount

greater than the amount charged to other persons.

Approved August 6, 1993.

Chapter 143. AN ACT RELATIVE TO PRELIMINARY ELECTIONS IN THE TOWN OF BARNSTABLE.

Be it enacted, etc., as follows:

SECTION 1. Section 7-1 of the charter of the town of Barnstable, 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 the second paragraph and inserting in place thereof the following paragraph:-

On the seventh Tuesday preceding every regular town election, there shall be held a preliminary election for the nomination of candidates.

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

Approved August 6, 1993.

Chapter 144. AN ACT PROVIDING A CERTAIN EXEMPTION FOR THE TOWN OF WARREN.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Warren shall have one precinct for the purpose of forming congressional, state representative, state senatorial or councillor districts, but shall have two polling places for the purpose of any state or municipal election.

Approved August 11, 1993.

Chapter 145. AN ACT FURTHER REGULATING MANUFACTURED HOUSING COMMUNITIES.

Whereas, The deferred operation of this act would tend to defeat its purpose which is to immediately clarify the laws relative to manufactured housing communities, 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 6 of the General Laws is hereby amended by striking out

section 108, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 108. There shall be a manufactured home commission, hereinafter called the commission, consisting of five members, not more than three of whom shall be of the same political party, to be appointed by the governor, with the advice and consent of the council. At least one of the appointees shall reside in a manufactured housing community and at least one shall be an owner of a manufactured housing community. There shall also be two ex-officio members consisting of the secretary of the executive office of communities and development or a designee and the attorney general or a designee. The commission shall identify issues pertaining to manufactured housing communities, the owners of such communities, and the owners of manufactured homes and shall develop recommendations for means of dealing with these issues. In conjunction with the executive office of communities and development, the commission may develop proposals for specific zoning standards to be applicable to new manufactured housing communities in order to ensure that all such new communities are well designed, attractive, and suited to meeting the needs of manufactured home owners. In conjunction with the executive office of communities and development, the commission may also formulate proposals for local taxation of manufactured homes and manufactured home sites so that municipal tax revenues meet the cost of a municipality's hosting a manufactured housing community. The commission may also receive complaints from manufactured home owners and owners of manufactured housing communities and if appropriate, may make recommendations for their resolution. The commission shall file a report annually with the governor, the general court, the secretary of the executive office of communities and development and the attorney general about its activities and recommendations if any, together with drafts of legislation necessary to carry such recommendations into effect. The members of the commission shall be appointed initially for terms of one, two, three, four, and five years respectively, as the governor may designate. Upon the expiration of the terms of a member, his or her successor shall be appointed by the governor, with the advice and consent of the council, for a term of five years. Members of the commission shall receive no compensation for their services, but shall be reimbursed for necessary travelling expenses incurred in the performance of their duties.

SECTION 2. Section 32B of chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Such application shall include a true and complete copy of the rules and regulations then in effect for an existing manufactured housing community or, if the application is for an original license, the rules and regulations for the proposed manufactured housing community, together with a certificate from the owner or operator of the community certifying, under the penalties of perjury, that the owner or operator has complied with paragraph (5) of section thirty-two L, that the attorney general and the secretary of communities and development have been in receipt of such rules and regulations and any amendments or additions thereto for at least sixty days, and that neither the attorney general nor the secretary of communities and development has disapproved any portion of such rules and regulations.

SECTION 3. Section 32D of said chapter 140, as so appearing, is hereby amended by inserting after the word "cabin", in line 5, the following words:- or in a conspicuous place at the office of the manager on the site.

SECTION 4. Section 32E of said chapter 140, as so appearing, is hereby amended by striking out, in line 2, the words ", manufactured housing community".

SECTION 4A. Said section 32E of said chapter 140, as so appearing, is hereby further amended by adding the following paragraph:-

Whoever conducts, controls, manages or operates any manufactured housing community subject to sections thirty-two A to thirty-two C, inclusive, which is not licensed under section thirty-two A to thirty-two B or which is not managed or operated in compliance with sections thirty-two A to thirty-two S, inclusive, shall be punished by a fine of one hundred dollars for each day in which such violation occurs or continues.

SECTION 5. Section 32G of said chapter 140, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- 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 of a manufactured home occupying space during the preceding month or the tenant or subtenant of such space and designating the manufactured homes and the home owners or tenants of the space or such subtenants 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.

SECTION 6. Section 32I of said chapter 140, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "and occupant of a manufactured home or motor vehicle renting space at such park" and inserting in place thereof the following words:- of a manufactured home or motor vehicle renting space in such community and each tenant of such space or subtenant of which the tenant may have notified the operator.

SECTION 7. The second paragraph of section 32J of said chapter 140, as so appearing, is hereby amended by striking out, in line 25, the word "sale." and inserting in place thereof the following:- sale;

(5) in the case of an existing tenancy at will, to create a new tenancy at will at an increased rent in accordance with the provisions of section twelve of chapter one hundred and eighty-six.

SECTION 8. Said section 32J of said chapter 140, as so appearing, is hereby further amended by adding the following paragraph:-

A resident who has been evicted from a manufactured housing community shall have one hundred and twenty days after such eviction in which to sell the resident's manufactured home, subject to the terms of this paragraph. Such resident shall be responsible for the rental amount accruing during the period prior to such sale and shall maintain the manufactured home and lot during such period, on the terms and conditions of the lease or other rental agreement in effect prior to the occurrences of the default or termination of the term of occupancy which resulted in the eviction. If such manufactured home remains on the lot during such period, the owner of the manufactured housing community shall have a lien on

the home to the extent such rental amount is not paid or such maintenance is not performed and to the extent of any additional past sums owed to the owner as set forth on any final eviction order issued by a court of competent jurisdiction. Such lien may be perfected by filing in the offices of the town clerk and secretary of state a uniform commercial code statement, prepared by the owner and signed by the former resident at the request of the owner following the issuance of such eviction order. If the former resident fails to sign such statement within ten days after receipt of such statement from the owner, such resident shall not be entitled to the benefits of this paragraph for so long as such failure continues, provided that nothing in the foregoing is intended to prevent the former resident from preparing and filing such a statement. During such one hundred and twenty day period, no person shall reside in such home and the former resident shall use good faith efforts to sell the home.

SECTION 9. Section 32L of said chapter 140, as so appearing, is hereby amended by striking out paragraph (3) and inserting in place thereof the following paragraph:-

(3) A manufactured housing community owner, directly or indirectly engaged in the business of selling manufactured homes, shall not impose any conditions of rental or occupancy which restrict a resident or prospective resident in his choice of a manufactured home dealer unless the lot on which the home is to be placed is being leased or rented for the first time. A manufactured housing community owner shall not impose any conditions of rental or occupancy which restrict the resident in his choice of a seller of fuel, furnishings, goods, services or accessories connected with the rental or occupancy of a manufactured home lot, provided, however, that such seller is in compliance with applicable law and rules and regulations of the community approved by the attorney general and the secretary of communities and development or otherwise then in effect pursuant to paragraph (5) of section thirty-two L of chapter one hundred and forty, including rules imposing reasonable insurance requirements. A manufactured housing community licensee may impose reasonable conditions relating to central fuel and gas meter systems in the community, provided, however, that the charges for such fuel shall not exceed the average prevailing price in the locality.

SECTION 10. Paragraph (5) of said section 32L of said chapter 140, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- If any manufactured housing community owner 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 approval to the attorney general and the secretary of communities and development at least sixty days prior to the effective date of such promulgation, addition, deletion or amendment.

SECTION 11. Said paragraph (5) of said section 32L of said chapter 140, as so appearing, is hereby further amended by adding the following sentence:- If neither the attorney general nor said secretary takes any action prior to the proposed effective date of such rules or amendment or addition thereto, such rules may be enforced by the manufactured housing community licensee until such time as the attorney general or said

secretary subsequently disapproves such rules or portions thereof which disapproval shall apply only prospectively, provided that nothing in this sentence shall preclude a private party from challenging such rules or portions thereof in a court of competent jurisdiction prior to or after such disapproval.

SECTION 12. Paragraph (7) of said section 32L of said chapter 140, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Failure to comply with the provisions of sections thirty-two A to thirty-two S, inclusive, shall constitute an unfair or deceptive practice under the provisions of paragraph (a) of section two of chapter ninety-three A.

SECTION 13. Paragraph (7A) of said section 32L of said chapter 140, as so appearing, is hereby amended by inserting after the word "pending", in line 62, the following words:- change of use or.

SECTION 14. Said paragraph (7A) of said section 32L of said chapter 140, as so appearing, is hereby further amended by striking out the fifth, sixth, seventh and eighth sentences and inserting in place thereof the following eleven sentences:- The manufactured housing community owner shall pay to any tenant who is entitled to receive notice pursuant to paragraph (8) at the tenant's election, either (a) his actual relocation costs or (b) the appraised value of the tenant's manufactured home. Relocation costs shall include the costs of disconnecting and moving the home to the new community selected by the resident within the one hundred mile radius, reconnecting the home with all hook-ups so that it is substantially in the same condition as before the move, with any required and comparable appurtenances, and the reasonable costs of suitable lodging until the move and installation are completed. The appraised value of the manufactured home shall be the fair market value of the home and any existing appurtenances but excluding the value of the underlying land, determined by an independent appraiser agreed to by the community owner and the tenant. If the parties are unable to agree on an independent appraiser within thirty days, either may have recourse to the secretary of communities and development or the secretary's designee, who shall appoint such appraiser within thirty days. The parties shall share the cost of the appraisal equally. In making such determination, the appraiser shall assess fair market value based on the price which a willing and able buyer intending to reside in the home would pay for the home and any existing appurtenances, but excluding the value of the underlying land and shall assume that the home is and will continue to be located on a lot which is leased in a duly licensed manufactured housing community, with all hook-ups and existing appurtenances in place for use and occupancy by the resident. In addition, if the home is then actually located on a lot rented to the home owner by the same person or a predecessor or affiliate of such person or predecessor who sold the home in question within the past ten years to the home owner or a predecessor of such owner, then the appraisal also shall take into account the value to the tenant, if any, which is attributable to a below-market contract rental for the balance of the ten years from the date of sale at the rate at which the lot is leased before delivery of the relocation notice, as increased in accordance with the lease and after its expiration by an annual factor not to exceed the increase in the consumer price index

set forth in this paragraph for the twelve-month period immediately preceding delivery of the relocation notice. Otherwise no value shall be attributed to actual existing below-market or above-market rental rates. This paragraph shall not be construed to authorize an early termination of an otherwise enforceable lease with a fixed term or to restrict a tenant's rights at law or in equity with respect thereto. Payment of the appraised value or of the estimated relocation costs, as the case may be, shall be made to the tenant no later than the tenant's departure from the manufactured housing community with adjustments made for the total actual relocation costs upon completion of relocation. Any manufactured housing community owner shall provide a rental agreement to each tenant who is entitled to receive notice pursuant to this section.

SECTION 15. Said paragraph (7A) of said section 32L of said chapter 140, as so appearing, is hereby further amended by inserting after the word "year", in line 98, the following words:- ; provided, however, that if there is a rent control ordinance in existence such increase shall be subject to the provisions of said ordinance and in no event shall any owner whose notice of discontinuance or change of use is not given in good faith be entitled to any increase in rent otherwise permitted hereunder.

SECTION 16. Said section 32L of said chapter 140, as so appearing, is hereby further amended by striking out paragraphs (8) and (9) and inserting in place thereof the following two paragraphs:-

(8) A manufactured housing community owner shall give at least fifteen days written notice, delivered by certified or registered mail, to each manufactured housing community tenant, that the owner will be appearing before a governmental board, commission or body to request a permit for a good faith change of use or discontinuance of the manufactured housing community. No change of use or discontinuance shall be approved or otherwise be effective unless the owner has demonstrated that such change of use or discontinuance is in good faith and the burden of proving such good faith shall be on the owner. Upon a change of use or discontinuance approved by a governmental board, commission, or body, or with respect to a change or discontinuance that requires no local governmental permit or permits, the manufactured housing community owner 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 owner's determination that a change of use or discontinuance will occur. The owner shall disclose and describe in the notice the nature of the change of use or discontinuance and the reasons therefor.

(9) The manufactured housing community owner shall give each prospective tenant written notice prior to the inception of tenancy that the owner is requesting a change of use or discontinuance before local governmental bodies, or that a change of use or discontinuance has been granted, or that a change of use or discontinuance which requires no governmental approval will occur, noting the effective date of change of use or discontinuance.

SECTION 17. Section 32N of said chapter 140, as so appearing, is hereby amended by inserting after the word "resident", in lines 3, 11, 14, 18 and 20, in each instance, the following words:- or group of residents.

SECTION 18. Said chapter 140 is hereby further amended by striking out section 32P, as so appearing, and inserting in place thereof the following section:-

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. Said writing shall contain a bona fide, good faith offer to each new tenant and to each person renewing or extending any existing arrangement or agreement for occupancy of premises in a manufactured housing community for a rental agreement with a term of five years or, where a valid notice of discontinuance is in effect at the time of such offer the balance of the period remaining before the effective date of the discontinuance, at fair market rental rates subject to any applicable rent control restrictions, as an alternative to any other proposed term lengths. 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 or occupancy 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 the attorney general and the secretary of communities and development and either a copy of the approvals thereof by the attorney general and said secretary or a certificate signed by the owner stating that neither the attorney general nor said secretary has taken any action with respect thereto within the period set forth in paragraph (5) of section thirty-two L of chapter one hundred and forty. 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 said rules and regulations cannot be enforced.

You may continue to stay in the community as long as you pay rent and abide by the rules and regulations. You may only be evicted for nonpayment of rent, violation of law or for substantial violation of the rules and regulations of the community. 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 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.

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.

Any group of more than fifty percent of the tenants residing in the manufactured housing community has certain rights under section thirty-two R of chapter one hundred and forty, to purchase the community in the event the owner intends to accept an offer to sell or lease the community in the future. If you wish to receive further information about the financial terms of such a possible purchase, you may so notify the owner at any time by signing the attached Request for Information and returning it to the owner in person or by certified mail. Such request for information shall not obligate you to participate in any purchase of the community. For a proposed sale or lease by the owner which will result in a change of use or a discontinuance of the community you will receive information at least two years before the change becomes effective. Otherwise, Requests for Information or similar notices from more than fifty percent of the tenants residing in the community must be on file with the owner before the owner is required to give you information concerning the financial terms of a sale or lease.

This law is enforceable by the consumer protection division of the attorney general's office.

REQUEST FOR INFORMATION

The undersigned, a tenant in the manufactured housing community known as _____ and located at _____, Massachusetts desires to receive information concerning any proposed sale or lease of the community as required under Section 32R of Chapter 140 of the General Laws. I understand that this request shall not obligate me to participate in any purchase or lease of the community, but is only a request for information. This notice is being delivered to the owner or owner's manager either in person or by certified mail on _____(date)_____.

(Tenant - Name)

SECTION 19. Said chapter 140 is hereby further amended by striking out section 32R, as so appearing, and inserting in place thereof the following section:-

Section 32R. (a) A manufactured housing community owner shall give notice to each resident of the manufactured housing community of any intention to sell or lease all or part of the land on which the community is located for any purpose. Such notice shall be mailed by certified mail, with a simultaneous copy to the attorney general, the secretary of communities and development, and the local board of health, within fourteen days after the date on which any advertisement, listing, or public notice is first made that the community is for sale or lease and, in any event, at least forty-five days before the sale or lease occurs; provided, that such notice shall also include notice of tenants rights under this section.

(b) Before a manufactured housing community may be sold or leased for any purpose that would result in a change of use or discontinuance, the owner shall notify each resident of the community, with a simultaneous copy to the attorney general, the secretary of communities and development, and the local board of health, by certified mail of any bona fide offer for such a sale or lease that the owner intends to accept. Before any other sale or lease other than leases of single lots to individual residents, the owner shall give each resident such a notice of the offer only if more than fifty percent of the tenants residing in such community or an incorporated home owners' association or group of tenants representing more than fifty percent of the tenants residing in such community notifies the manufactured housing community owner or operator, in writing, that such persons desire to receive information relating to the proposed sale or lease. Any notice of the offer required to be given under this subsection 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 payment or, in the case of an offer to rent, the capitalized value of the annual rent and the terms and conditions of the offer.

(c) A group or association of residents representing at least fifty-one percent of the manufactured home owners residing in the community which are entitled to notice under paragraph (b) shall have the right to purchase, in the case of a third party bona fide offer to purchase that the owner intends to accept, or to lease in the case of a third party bona fide offer to lease that the owner intends to accept, the said community for purposes of continuing such use thereof, provided it (1) submits to the owner reasonable evidence that the residents of at least fifty-one percent of the occupied homes in the community have approved the purchase of the community by such group or association, (2) submits to the owner a proposed purchase and sale agreement or lease agreement on substantially equivalent terms and conditions within forty-five days of receipt of notice of the offer made under subsection (b) of this section, (3) obtains a binding commitment for any necessary financing or guarantees within an additional ninety days after execution of the purchase and sale agreement or lease, and (4) closes on such purchase or lease within an additional ninety days after the end of the ninety-day period under clause (3).

No owner shall unreasonably refuse to enter into, or unreasonably delay the execution or closing on a purchase and sale or lease agreement with residents who have 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 paragraph (b). Failure of the residents to submit such a purchase and sale agreement or lease within the first forty-five day period, to obtain a binding commitment for financing within the additional ninety day period or to close on the purchase or lease within the second ninety-day period, shall serve to terminate the rights of such residents to purchase or lease the manufactured housing community. The time periods herein provided may be extended by agreement. Nothing herein shall be construed to require an owner to provide financing to such residents except to the extent such financing would be provided to the third party offeror in the case of a sale or lease for a use which would result in a change of use or discontinuance or to prohibit an

owner from requiring such residents who are offering to lease a community to provide a security deposit, not to exceed the lesser of one-year's rent or the amount which would have been required to be provided by the third party offeror, to be kept in escrow for such purposes during the term of the lease. A group or association of residents which has the right to purchase hereunder, at its election, may assign its purchase right hereunder to the city, town, housing authority, or agency of the commonwealth for the purpose of continuing the use of the manufactured housing community.

(d) The right of first refusal created herein shall inure to the residents for the time periods hereinbefore provided, beginning on the date of notice to the residents under paragraph (b). The effective period for such right of first refusal shall obtain separately for each substantially different bona fide offer to purchase or lease the community, 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 residents was required by said paragraph (b), 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 a notice is not required pursuant to said paragraph (b). No right of first refusal shall apply to a government taking by eminent domain or negotiated purchase, a forced sale pursuant to a foreclosure by an unrelated third party, transfer by gift, devise or operation of law, or a sale to a person who would be an heir at law if there were to be a death intestate of a manufactured housing community owner.

(e) In any instance where the residents of the manufactured housing community are not the successful purchaser or lessee of such manufactured housing community, the seller or lessor of such community shall provide evidence of compliance with this section by filing an affidavit of compliance with the attorney general, the secretary of communities and development, the local board of health, and the official records of the county where the property is located within seven days of the sale or lease of the community. Any lease of five years or less shall specifically require that such lessee shall not discontinue or change the use of the manufactured housing community during the term of such lease.

(f) In any instance of a sale or lease for which a notice from the owner of the manufactured housing community is not required to be, and is not, given under paragraph (b) and within one year of such sale or lease the new owner or lessee delivers a notice of change of use or discontinuance under paragraph (8) of section thirty-two L, such notice shall provide each tenant in the manufactured housing community with at least four years prior notice of the effective date of the proposed change of use or discontinuance.

SECTION 20. Said chapter 140 is hereby further amended by inserting after section 32R the following section:-

Section 32S. The attorney general from time to time shall promulgate such rules and regulations as he deems necessary for the interpretation, implementation, administration and enforcement of sections thirty-two A to thirty-two S, inclusive. Such authority shall be in addition to, and not in derogation of, the attorney general's authority to promulgate rules and

regulations under section two of chapter ninety-three A with respect to manufactured housing communities.

SECTION 21. Sections fourteen, fifteen and sixteen of this act shall apply to pending and future notices of discontinuance.

Approved August 13, 1993.

Chapter 146. AN ACT RELATIVE TO VOTING PRECINCTS IN THE CITY OF WESTFIELD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, ward five, precinct five-B of the city of Westfield shall be one precinct for the purpose of forming congressional, representative, senatorial or councillor districts, but shall have two polling places for the purpose of any state or municipal election, provided, however, that one said polling place shall be located to the south of the Westfield River, to serve voters residing in ward five, precinct five-B south of said river and the other said polling place shall be located to the north of the Westfield River, to serve voters residing in ward five, precinct five-B north of said river.

SECTION 2. The city clerk of the city of Westfield and the board of registrars of voters of the city of Westfield are empowered to take all necessary actions to assure compliance herewith, including but not limited to such actions as assure the accuracy of the voting lists as located at each polling place as enumerated herein.

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

Approved August 16, 1993.

Chapter 147. AN ACT RELATIVE TO THE CO-OPERATIVE BANK INVESTMENT FUND.

Be it enacted, etc., as follows:

SECTION 1. Section 3 of chapter 482 of the acts of 1984 is hereby amended by striking out the last paragraph, as amended by chapter 285 of the acts of 1991, and inserting in place thereof the following paragraph:-

For the purpose of this section, the term "co-operative bank" shall include a savings bank incorporated in the commonwealth and subject to the provisions of chapter one hundred and sixty-eight of the General Laws, a trust company incorporated in the commonwealth and subject to the provisions of chapter one hundred and seventy-two of the General Laws, a credit union incorporated in the commonwealth and subject to the provisions of chapter one hundred and seventy-one of the General Laws, the company, as defined in section one of

chapter one hundred and seventy-eight A of the General Laws and subject to the provisions of said chapter one hundred and seventy-eight A, and any national bank, national banking association and 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 foregoing entities or of any co-operative bank.

SECTION 2. Section 9 of said chapter 482 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Such reports shall also show all the securities held in the portfolio as of the reporting date.

Approved August 16, 1993.

Chapter 148. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MICHAEL NADWORNY, AN EMPLOYEE OF THE DEPARTMENT OF SOCIAL SERVICES.

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 department of social services, 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, rule or regulation to the contrary, the department of social services is hereby authorized and directed to establish a sick leave bank for Michael Nadworny, an employee of said department. Any employee of said department may voluntarily contribute one or more of his sick, personal or vacation days to said sick leave bank for use by said Michael Nadworny.

The foregoing was laid before the Governor on the fifth day of August, 1993 and after ten days had the force of law as prescribed by the Constitution as it was not returned with his objections thereto within that time.

Chapter 149. AN ACT AUTHORIZING THE TOWN OF TISBURY TO PROVIDE CERTAIN HOUSING FOR PERSONS OF LOW AND MODERATE INCOME.

Be it enacted, etc., as follows:

SECTION 1. The town of Tisbury is hereby authorized to construct, maintain, repair, equip, furnish, rent and manage within said town four units of housing for residents of said town of low income on land owned by said town described as parcel #25-E-24 on the Tisbury assessors' map. In constructing such housing, the town may use the services of unpaid students who are aged sixteen years or older and who participate pursuant to the vocational education program at the Martha's Vineyard regional high school, in accordance

with any applicable regulations promulgated by the department of education concerning the use of vocational education students for similar such projects; provided, however, that any plumbing, electrical wiring or heating work to be performed by such students shall be performed under the direct supervision of a person licensed by the commonwealth in such work. Such housing shall be under the jurisdiction and control of the board of selectmen. Said town of Tisbury may contract with the Dukes county housing authority for the maintenance and management of such housing.

SECTION 2. The housing for persons of low income described in section one may be transferred to the Dukes county housing authority by agreement between the town of Tisbury and said authority and with the approval of the executive office of communities and development pursuant to section thirty-one of chapter one hundred and twenty-one B of the General Laws. In the event of such transfer, preference in tenant selection may be given to residents of the town of Tisbury so long as the housing does not receive state subsidies.

SECTION 3. The proceeds of the bonds or notes authorized by vote of the town of Tisbury adopted under Article 8 of the warrant at the special town meeting held on the tenth day of November, nineteen hundred and ninety-two and any other funds that may be appropriated for such purposes, from time to time, whether by borrowing or otherwise, may be used by the town of Tisbury to provide housing as authorized by section one.

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

Approved August 18, 1993.

Chapter 150. AN ACT FURTHER REGULATING THE RATES OF PILOTAGE FOR THE PORT OF BOSTON.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate the rate of pilotage for the port 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:

SECTION 1. Chapter 103 of the General Laws is hereby amended by striking out section 31, as appearing in the 1992 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 $36.00.

For vessels over 3500 to 7000 Gross Tons $42.00.

For vessels over 7000 to 15000 Gross Tons $47.50.

For vessels over 15000 to 25000 Gross Tons $49.50.

For vessels over 25000 to 35000 Gross Tons $50.50.

For vessels over 35000 to 45000 Gross Tons $52.25.

For vessels over 45000 Gross Tons $56.00.

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 pilotage.

(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 full 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 pilotage.

(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. These surcharge funds shall be placed in an escrow fund that will be overseen by the Massachusetts state pilot commissioners office and shall be used in addition to proceeds realized from the sale of a present pilot vessel. An audited statement of the fund will be made available to industry representatives on a quarterly basis.

SECTION 2. Said section 31 of said chapter 161 is hereby further amended by striking out the first paragraph, as appearing in 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 $37.00.

For vessels over 3500 to 7000 Gross Tons $44.00.

For vessels over 7000 to 15000 Gross Tons $50.00.

For vessels over 15000 to 25000 Gross Tons $52.25.

For vessels over 25000 to 35000 Gross Tons $53.50.

For vessels over 35000 to 45000 Gross Tons $55.00.

For vessels over 45000 Gross Tons $59.00.

SECTION 3. Section two shall take effect on June first, nineteen hundred and ninety-four.

Approved August 19, 1993.

Chapter 151. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND NINETY-THREE 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 for fiscal year nineteen hundred and ninety-three, the sums set forth in section two are hereby appropriated for the several purposes and subject to the conditions specified in chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two, including fund designations in said chapter one hundred and thirty-three, and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in said chapter one hundred and thirty-three, for the fiscal year ending June thirtieth, nineteen hundred and ninety-three. The sums so appropriated shall be in addition to amounts available for said purposes.

SECTION 2.

JUDICIARY.

Social Law Library.

Item		
0321-2205		$200,000

Boston Municipal Court.

0335-0001		$647,854

DISTRICT ATTORNEYS.

0340-0100		$348,142
0340-0130		$36,404
0340-0135		$52,965
0340-0195		$243,990
0340-0200		$302,858
0340-0230		$22,856
0340-0235		$30,713
0340-0295		$217,334
0340-0300		$221,593
0340-0330		$23,808
0340-0395		$83,712
0340-0400		$209,559
0340-0430		$17,026
0340-0435		$3,490

0340-0495	$113,632
0340-0500	$117,666
0340-0530	$54,216
0340-0535	$3,992
0340-0595	$97,447
0340-0600	$38,709
0340-0630	$18,220
0340-0635	$54,718
0340-0695	$37,744
0340-0700	$148,370
0340-0795	$82,559
0340-0800	$125,694
0340-0895	$105,045
0340-0900	$162,184
0340-0930	$38,279
0340-0935	$13,738
0340-0995	$142,840
0340-1000	$60,316
0340-1030	$12,811
0340-1035	$920
0340-1095	$81,965
0340-1100	$47,092
0340-1130	$15,609
0340-1135	$14,537
0340-1195	$60,523
0340-2100	$87,717

TREASURER AND RECEIVER GENERAL.

Massachusetts Cultural Council.

0640-0300	$150,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Office of the Secretary.

1100-1100	$250,000

Division of Capital Planning and Operations.

1102-3214	$4,000,000

Bureau of State Office Buildings.

1102-3302	$600,000

Office of Employee Relations.

1108-3200 ..... $220,000

Division of Administrative Law Appeals.

1110-1000 ..... $65,000

Department of Revenue.

1201-0100 ..... $2,500,000
1201-0160 ..... $4,992,093

Reserves.

1599-0036 ..... $1,624,413
1599-3384 ..... $1,326,348

EXECUTIVE OFFICE OF COMMUNITIES AND DEVELOPMENT.

3711-9111 ..... $1,325,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Department of Public Welfare.

4403-2100 ..... $3,784,000

Department of Social Services.

4800-1400 ..... $1,000,000

BOARD OF LIBRARY COMMISSIONERS.

7000-9101 ..... $30,159
7000-9401 ..... $1,799,478
7000-9402 ..... $10,480
7000-9406 ..... $51,645
7000-9501 ..... $1,239,025
7000-9506 ..... $369,213

EXECUTIVE OFFICE FOR EDUCATION.

Office of the Secretary.

7005-0003 ..... $150,000
7005-1000 ..... $118,655

Higher Education Coordinating Council.

7100-0200 ..... $6,155,741
7109-0100 ..... $287,496
7110-0100 ..... $240,833

7112-0100	$188,232
7113-0100	$129,076
7114-0100	$296,389
7115-0100	$188,418
7116-0100	$191,918
7117-0100	$124,071
7118-0100	$111,223
7502-0100	$93,374
7503-0100	$116,651
7504-0100	$93,184
7505-0100	$76,644
7506-0100	$143,177
7507-0100	$104,168
7508-0100	$182,567
7509-0100	$88,583
7510-0100	$153,964
7511-0100	$176,870
7512-0100	$114,838
7514-0100	$201,113
7515-0100	$108,674
7516-0100	$158,968
7518-0100	$145,419
7520-0423	$64,049

EXECUTIVE OFFICE OF PUBLIC SAFETY.
Military Division.

8700-0001	$125,000

EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.
Office of the Secretary.

9000-1900	$1,709,908
9000-1920	$812,206

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth herein shall be appropriated from the General Fund, unless specifically designated otherwise, and shall be for the several purposes and subject to the conditions specified herein and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two for the fiscal year ending June thirtieth, nineteen hundred and ninety-three.

JUDICIARY.

Committee for Public Counsel.

Item

0321-1511 For the compensation of private counsel assigned under the provisions of subsection (b) of 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; provided, that funds appropriated herein shall be expended only for services rendered prior to July first, nineteen hundred and ninety-three $9,521,984

0321-1521 For all fees and costs, as defined in section twenty-seven A of chapter two hundred and sixty-one of the General Laws, 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 by said section twenty-seven A; provided, that funds appropriated herein shall be expended only for fees and costs incurred prior to July first, nineteen hundred and ninety-three $264,901

District Courts.

0332-7301 For repairs to the roof of Gardner district court $32,000

Local Aid Fund 80.0%

General Fund 20.0%

TREASURER AND RECEIVER GENERAL.

Office of the Treasurer and Receiver General.

0611-5011 For payments pursuant to resolve three of the acts of nineteen hundred and ninety-three $48,750

State Lottery Commission.

0640-0011 For the purpose of advertising associated with the state lottery program; provided, that twenty-five percent of this appropriation shall be transferred from the state lottery fund to the General Fund quarterly; provided further, that none of the funds appropriated herein shall be expended for any print, radio or television advertising which does not include a conspicuous statement of the actual odds of winning each possible prize of the advertised game; provided further, that none of the funds appropriated herein shall be expended for direct marketing concentrated to a greater extent on low-income persons or communities than to other persons or communities; and provided further, that the state lottery commission

shall report in writing to the house and senate committees on ways and means, not later than November first, nineteen hundred and ninety-three, its plan for expending the funds appropriated herein, with particular attention to the effect of advertising on low-income populations $2,000,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Department of Personnel Administration.

1108-1005 Notwithstanding any general or special law to the contrary, for a reserve for a five percent salary adjustment for all managers whose salaries are set forth in section forty-six C of chapter thirty of the General Laws; and to establish a merit pool of two percent to be distributed based upon a performance evaluation program approved by the secretary for administration and finance; provided, that said salary adjustment and merit pool shall be effective and implemented on October first, nineteen hundred and ninety-three; provided further, that the secretary for administration and finance shall file with the joint committee on public service an evaluation report on the distribution of said merit pool on or before May first, nineteen hundred and ninety-four; and provided further, that the secretary for administration and finance shall study and make recommendations on benefits affecting said managers including an estimate of any related costs to the joint committee on public service and the house and senate committees on ways and means $10,200,000

Reserves.

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, 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; 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 $6,020,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Department of Environmental Protection.

2200-0199 For reimbursement of legal expenses incurred in the defense of an employment discrimination claim against a department of environmental protection manager, where the court has found the claim against the manager and the department without merit, in accordance with a pre-existing agreement pursuant to section nine of chapter two hundred and fifty-eight of the General Laws that made reimbursement subject to appropriation $60,000

Metropolitan District Commission.

2440-0100 For the study and the preparation of plans, if necessary, and for the general restoration, rehabilitation and construction by the commission, and any costs related thereto, including, but not limited to materials, furnishings and equipment at the Veterans Memorial Rink, the LoConte Rink, and the Murphy Memorial Rink; provided, that, of the amount appropriated herein, a total of not less than seven hundred and fifty thousand dollars shall be expended for costs associated with the Veterans Memorial Rink and the LoConte Rink and not less than two hundred and fifteen thousand dollars shall be expended for costs associated with the Murphy Memorial Rink . $965,000

Local Aid Fund 100.0%

2440-0120 For repairs and renovations of the pine banks park in the cities of Malden and Melrose, pursuant to chapter three hundred and ninety-three of the acts of nineteen hundred and five, and chapter one hundred and sixty-two of the acts of nineteen hundred and six $50,000

Local Aid Fund 100.0%

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Department of Public Welfare.

4400-1018 The department of public welfare may expend an amount not to exceed one million two hundred thousand dollars from accrued federal reimbursement for a program of error rate reduction activities designed to reduce the food stamp quality control error rate $1,200,000

4400-4010 For the payment of prior fiscal year expenses for a program of medical services for disabled children and adults; provided, that all expenditures made from this item shall be subject to the provisions of item 4400-4000 of section two of chapter

one hundred and thirty-eight of the acts of nineteen hundred and ninety-one $1,600,000

4405-2010 For the payment of prior fiscal year expenses incurred by rest home vendors pursuant to the provisions of item 4405-2000 of section two of chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one $50,000

4408-1010 For the payment of prior fiscal year expenses of health services provided to recipients of emergency aid to the elderly, disabled, and children; provided, that all expenditures made from this item shall be subject to the provisions of item 4408-1000 of section two of chapter two hundred and fifty-five of the acts of nineteen hundred and ninety-one, as amended by section forty-eight of chapter four hundred and ninety-five of the acts of nineteen hundred and ninety-one $550,000

Department of Mental Health.

5046-0004 For prior year payments for care of mentally ill patients at the Cambridge hospital replacement units for the department of mental health $80,000

5046-2000 For services to the homeless mentally ill to fund certain programs recommended by the report of the interagency task force on the homeless mentally ill $3,300,350

EXECUTIVE OFFICE OF EDUCATION.

Higher Education Coordinating Council.

7119-0100 For the operation of the state colleges governed by the higher education coordinating council component of the state program; provided, that the higher education coordinating council is hereby directed to allocate funds from this item to items 7109-0100, 7110-0100, 7112-0100, 7113-0100, 7114-0100, 7115-0100, 7116-0100, 7117-0100, and 7118-0100 of section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three according to an allocation plan which shall be developed by said council and filed with the house and senate committees on ways and means within forty-five days of the passage of this act; provided further, that funds appropriated herein may be expended for the purposes of health and welfare obligations; provided further, that the chairman of the higher education coordinating council shall require said institutions to provide communications accessibility for the deaf and hard of hearing where necessary $439,427

7519-0100 For the operation of the state community colleges governed by the higher education coordinating council component of the community colleges program; provided, that the higher education coordinating council is hereby directed to allocate funds from this item to items 7502-0100, 7503-0100, 7504-0100, 7505-0100, 7506-0100, 7507-0100, 7508-0100, 7509-0100, 7510-0100, 7511-0100, 7512-0100, 7514-0100, 7515-0100, 7516-0100, 7518-0100 of section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three according to an allocation plan which shall be developed by said council and filed with house and senate committees on ways and means within forty-five days of the passage of this act; provided further, that funds appropriated herein may be expended for the purposes of health and welfare obligations; provided further, that the chairman of the higher education coordinating council shall require said institutions to provide communications accessibility for the deaf and hard of hearing where necessary $489,548

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Department of State Police.

8100-0057 For the training and related costs of not more than two hundred police cadets; provided, that no funds shall be expended from this item prior to March first, nineteen hundred and ninety-four $1,845,840

Highway Fund 85.0%

General Fund 15.0%

EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.

Office of the Secretary.

9000-2000 For the expenses of the organization specified in section one hundred and thirty-nine to make an investigation and study relative to the construction of a film and video sound stage in the city of Boston $150,000

9000-2110 For the further expenses of the Massachusetts international trade council $128,243

Massachusetts Tourism Fund 100.0%

SECTION 2C. I. For the purpose of making available in fiscal year nineteen hundred and ninety-four balances of appropriations which otherwise would revert on June thirtieth, nineteen hundred and ninety-three, the unexpended balances of the maintenance appropriation items listed below, not to exceed the amount specified below for each item,

are hereby re-appropriated for the fiscal year nineteen hundred and ninety-four. Amounts in this section are re-appropriated for the purposes of 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 re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section two of the general appropriation act and section two A of supplemental appropriation acts for the fiscal year ending June thirtieth, nineteen hundred and ninety-three; provided, however, that for items neither with purposes and conditions specified below nor appearing in said sections two or two A, the amounts in this section are re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section two or two A of this act or in prior appropriation acts. Amounts in this section are re-appropriated from the fund or funds designated below for each item; provided, that for items for which no fund is so designated, the amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in section two of the general appropriation act or section two A of supplemental appropriation acts for the fiscal year ending June thirtieth, nineteen hundred and ninety-three; provided, that for items neither with a fund designated below nor appearing in said sections two or two A, the amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in section two of this act or in prior appropriation acts.

JUDICIARY.

Social Law Library.

Item		
0321-2205		$200,000
	Trial Court.	
0330-4100		$3,300,000
0332-7301		$32,000
	Boston Municipal Court.	
0335-0001		$647,854
	DISTRICT ATTORNEYS.	
0340-0100		$848,142
0340-0130		$36,404
0340-0135		$52,965
0340-0195		$243,990
0340-0200		$302,858
0340-0230		$22,856
0340-0235		$30,713

0340-0295	$217,334
0340-0300	$221,593
0340-0330	$23,808
0340-0395	$83,712
0340-0400	$209,559
0340-0430	$17,026
0340-0435	$3,490
0340-0495	$113,632
0340-0500	$117,666
0340-0530	$54,216
0340-0535	$3,992
0340-0595	$97,447
0340-0600	$38,709
0340-0630	$18,220
0340-0635	$54,718
0340-0695	$37,744
0340-0700	$148,370
0340-0795	$82,559
0340-0800	$125,694
0340-0895	$105,045
0340-0900	$162,184
0340-0930	$38,279
0340-0935	$13,738
0340-0995	$142,840
0340-1000	$60,316
0340-1030	$12,811
0340-1035	$920
0340-1095	$81,965
0340-1100	$47,092
0340-1130	$15,609
0340-1135	$14,537
0340-1195	$60,523
0340-2100	$87,717

EXECUTIVE.

Governor's Office.

0411-1000	$600,000

TREASURER AND RECEIVER GENERAL.

Office of the Treasurer.

0611-5011	$48,750

State Lottery Commission.

0640-0011 ..... $2,000,000

Massachusetts Cultural Council.

0640-0300 ..... $150,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Office of the Secretary.

1100-1100 ..... $250,000

Department of Personnel Administration.

1108-1005 ..... $10,200,000

Division of Administrative Law Appeals.

1110-1000 ..... $65,000

Department of Revenue.

1201-0100 ..... $2,500,000
1201-0160 ..... $4,992,093
1231-0111 ..... $75,000

Appellate Tax Board.

1310-1000 ..... $45,000

Reserves.

1599-0036 ..... $1,624,413

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Office of the Secretary.

2010-0100 ..... $470,968

Department of Environmental Management.

2100-0005 ..... $528,000
2100-3015 ..... $3,424

Department of Environmental Protection.

2200-0104 ..... $30,000
2200-0199 ..... $60,000

Department of Fisheries, Wildlife and Environmental Law Enforcement.

2320-0100 ..... $155,000

Metropolitan District Commission.

2440-0011	$698,652
2440-0100	$965,000
2440-0120	$50,000
2440-0500	$72,106
2440-8998	$66,038
2440-8999	$243,933

Department of Food and Agriculture.

2520-0107	$1,262,898

State Reclamation Board.

2520-0300	$45,003

EXECUTIVE OFFICE OF COMMUNITIES AND DEVELOPMENT.

Office of the Secretary.

3100-0200	$332,412
3711-9111	$3,325,000
3722-9100	$1,000,000
3747-0001	$16,649

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Department of Social Services.

4800-1400	$1,000,000

Department of Mental Health.

5046-2000	$3,300,350

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Department of Highways.

6010-0050	$3,000,000

BOARD OF LIBRARY COMMISSIONERS.

7000-9101	$30,159
7000-9401	$1,799,478
7000-9402	$10,480
7000-9406	$51,645
7000-9501	$1,239,025
7000-9506	$369,213

EXECUTIVE OFFICE OF EDUCATION.

Office of the Secretary.

7005-0003	$150,000

Department of Education.

7053-1925	$74,772

Higher Education Coordinating Council.

7100-0200	$6,155,741
7109-0100	$287,496
7110-0100	$240,833
7112-0100	$188,232
7113-0100	$129,076
7114-0100	$296,389
7115-0100	$188,418
7116-0100	$191,918
7117-0100	$124,071
7118-0100	$111,223
7119-0100	$439,427
7502-0100	$93,374
7503-0100	$116,651
7504-0100	$93,184
7505-0100	$76,644
7506-0100	$143,177
7507-0100	$104,168
7508-0100	$182,567
7509-0100	$88,583
7510-0100	$153,964
7511-0100	$176,870
7512-0100	$114,838
7514-0100	$201,113
7515-0100	$108,674
7516-0100	$158,968
7518-0100	$145,419
7519-0100	$489,548

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Office of the Chief Medical Examiner.

8000-0105	$126,000

Department of State Police.

8100-0057	$1,845,840

Emergency Management Agency.

8800-0032	$2,600,000

Governor's Highway Safety Bureau.

8850-0001 ..... $15,000

EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.

Office of the Secretary.

9000-0200 ..... $2,750,000
9000-0210 ..... $250,000
9000-1850 ..... $5,000,000
9000-1900 ..... $1,709,908
9000-1920 ..... $812,206
9000-2000 ..... $150,000
9000-2110 ..... $128,243

Department of Employment and Training.

9081-0400 ..... $500,000
9081-7044 ..... $776,121

EXECUTIVE OFFICE OF CONSUMER AFFAIRS.

Division of Banks.

9221-1000 ..... $250,000

Division of Insurance.

9222-7800 ..... $250,000

Board of Medicine.

9230-9000 ..... $250,000

Department of Public Utilities.

9270-0001 ..... $100,000

SECTION 2C. II. For the purpose of making available in fiscal year nineteen hundred and ninety-four certain balances from retained revenues, so-called, which otherwise would revert on June thirtieth, nineteen hundred and ninety-three, the unexpended balances of the 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-four. Amounts in this section are re-authorized for the purposes of and subject to the conditions stated below for each item; provided, that for items for which purposes and conditions are not specified below, the 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 and section two A of supplemental appropriation acts for the fiscal year ending June thirtieth, nineteen hundred and ninety-three; provided, that for items neither with purposes and conditions specified below nor appearing in said sections two or two A, the 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 this act or in prior appropriation acts. Amounts in this section are re-authorized from the fund or funds designated below for each item; provided, that for items for which no fund is so designated, the amounts in this section are re-authorized from the fund or funds designated for the corresponding item in section two of the general appropriation act or section two A of supplemental appropriation acts for the fiscal year ending June thirtieth, nineteen hundred and ninety-three; and provided further, that for items neither with a fund designated below nor appearing in said sections two or two A, the amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in section two of this act or in prior appropriation acts.

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Office of the Secretary.

Item		
2001-1001	.....	$20,000
2001-1002	.....	$11,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Department of Public Welfare.

4400-1018	.....	$1,200,000

SECTION 3. Of the balance remaining in account number 7052-0003, three hundred thirty-two thousand five hundred thirty dollars is hereby transferred to account number 7052-0004.

SECTION 4. Chapter seven B of the General Laws is hereby repealed.

SECTION 5. Section 1F of chapter 15 of the General Laws, as appearing in the section 2 of chapter 71 of the acts of 1993, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The commissioner shall receive a salary of ninety thousand dollars.

SECTION 6. Section 1G of said chapter 15, as appearing in section 3 of said chapter 71, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There shall be established advisory councils to the board in the following areas: early childhood education; life management skills; home economics; educational personnel; fine arts education; gifted and talented education; math and science education; racial imbalance; parent and community education and involvement; special education; bilingual education; technology education; vocational-technical education; adult basic education; global education and comprehensive health education and human service programs.

SECTION 7. Section 4 of chapter 15A of the General Laws, as most recently amended by section 19 of chapter 71 of the acts of 1993, is hereby further amended by striking out the ninth paragraph.

SECTION 8. Section 33 of chapter 15A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 2, the word "ninety-four" and inserting in place thereof the following word:- ninety-five.

SECTION 9. Section 18 of chapter 21A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 380, the word "two M" and inserting in place thereof the word:- two P.

SECTION 10. Said chapter 21A is hereby further amended by striking out section 18A, inserted by section 70 of chapter 110 of the acts of 1993, and inserting in place thereof the following section:-

Section 18A. (a) As used in this section, the following words shall have the following meanings unless the context otherwise requires:

"Advisory committee", the advisory committee on administration of the federal safe drinking water assessment.

"Act", the federal safe drinking water act, as amended from time to time, including regulations promulgated under said act.

"Assessment", the federal safe drinking water act assessment established by this section.

"Commissioner", the commissioner of the department of environmental protection.

"Department", the department of environmental protection.

"End suppliers", suppliers of water who provide water directly to users.

"Receipts", monies received by the department which are proceeds from the assessment.

"Suppliers of water", suppliers of water as defined in the federal safe drinking water act.

"Users", all consumers of water, whether public or private or taxed or tax-exempt, provided by end suppliers.

"Withdrawal", the withdrawal, purchase or pumping of water by an end supplier.

(b) Notwithstanding any general or special law to the contrary, the department is authorized and directed to establish a federal safe drinking water act assessment to assist the department in providing technical compliance assistance to and otherwise to regulate all suppliers of water pursuant to the act in the manner set forth in this section. Collection of the assessment may begin on or after July first, nineteen hundred and ninety-three. Matters relating to the rate, collection, cost, enforcement and application and other administrative features of the assessment shall be in accordance with regulations of the department adopted pursuant to section two of chapter thirty A, after consultation with the advisory committee. Such regulations, in addition to such further matters reasonably incidental to the administration of the assessment as may be determined by the department shall:

(i) provide that the assessment shall be remitted to the department by the end supplier;

(ii) set and provide for periodic revision of, the rate of assessment at a uniform level not to exceed one cent per one thousand gallons of withdrawal, such that receipts in the aggregate are reasonably related to defraying the department's direct and indirect costs for monitoring, inspections, technical assistance, reporting and enforcement activities necessary to ensure compliance with the act and any regulations of the department adopted to implement the act;

(iii) establish the timing of assessments, collection and remittances;

(iv) establish the manner in which end suppliers engaged in the distribution of water shall apportion and collect amounts necessary to defray the assessment, and their administrative costs relating thereto up to but not more than five percent of the outstanding assessment for all users for the applicable assessment period in the aggregate, from users without further action of the department of public utilities; provided, however, that each end supplier shall have the option of determining how its invoice to users shall show such defraying amounts and the frequency of invoicing;

(v) establish reasonable mechanisms for collection and enforcement including but not limited to:

(A) the imposition of penalties not to exceed five thousand dollars per day for failure of end suppliers to remit proper receipts to the department;

(B) the setting of a reasonable rate of interest, which shall not be exclusive of applicable penalties, if any, to be borne by the end supplier on overdue remittances; and

(C) the establishment of reasonable audit and reporting procedures;

(vi) establish a program providing for payments in lieu of assessments for any end supplier which cannot meter its withdrawal to the satisfaction of the department, until satisfactory metering has been installed.

Amounts payable as assessments, administrative costs and payments in lieu of assessments shall be recovered to the maximum practical extent from charges to users. Nothing in this section shall limit the authority of the department of public utilities to rule on the propriety of any rates charged by any end suppliers subject to its jurisdiction; provided, however, that in making such a ruling, the department of public utilities shall consider the amount of the assessment; and, provided further, that such ruling shall not impose any condition inconsistent with the provisions of this section or any regulations adopted hereunder.

Compliance with any requirement imposed by the department of public utilities shall not exempt any end supplier from the requirements of this section or regulations adopted hereunder. The department of public utilities shall monitor the manner in which investor-owned end suppliers engaged in the distribution of water apportion and collect amounts necessary to defray the assessment and applicable administrative costs;

(vii) establish the assessment rate by October first of each year for the following fiscal year. End suppliers shall be notified by mail of the assessment rate by November first of each year. The department shall mail bills to end suppliers during the month of July of each year for that fiscal year.

(c) All receipts shall be deposited in the Environmental Permitting and Compliance Assurance Fund established pursuant to section two P of chapter twenty-nine, and used solely for the purposes set forth therein; provided, however, that receipts shall be separately accounted for and shall be used solely for administering the act and furthering its purposes. Any unexpended balance may be used to defray the amount of the assessment in future fiscal years. Regulations establishing the assessment pursuant to this section shall not be in effect in any fiscal year in which the department fails to provide from state funds, other than those collected under the terms of this section, a match of seventy-five percent of the amount of the federal grant attributable to the implementation of the act.

(d) In the event that the requirements of this section conflict with applicable federal requirements pertaining to the establishment and collection of the assessment by the department, such federal requirements shall take precedence over any conflicting requirements of this section and the department shall have the authority to establish, by regulation, and to collect such assessment in accordance with applicable federal requirements.

(e) The department shall establish an advisory committee on administration of the federal safe drinking water assessment.

The representative organizations may nominate persons for consideration and the commissioner shall appoint such persons to the advisory committee as deemed desirable in accordance with this section, which members shall serve until successors shall be appointed and qualified by the commissioner. No state employee shall be appointed to the advisory committee and no person appointed to the advisory committee shall be deemed to be a state employee for purposes of any other general or special law. Members of the advisory committee shall serve without compensation except for reimbursement of their direct expenses of travel from their place of abode to the regular meetings of the advisory committee. The commissioner's appointees shall include one representative from each of the following categories of organizations, two of which such designated representatives who are water utility personnel shall serve, under the same terms and conditions as members of the committee established pursuant to section eighteen of chapter twenty-one A: a Massachusetts statewide water works nonprofit association, a New England regional water works nonprofit association, a nonprofit association representing rural water systems, a regional water works association, a nonprofit association representing investor-owned water companies, two statewide environmental organizations, organizations representing non-community water suppliers, the Massachusetts Municipal Association, an organization representing industry and one member who shall be appointed the commissioner. The total membership of the committee shall not exceed eleven, a majority of which shall be comprised of water utility personnel. In addition to consulting with the advisory committee prior to adoption of regulations implementing this section, the department shall review with the advisory committee the operation of the assessment program authorized by this section at least quarterly.

(f) The committee and the department shall undertake the additional responsibility to ensure that regular public service announcements are released to inform the public as to the requirements and costs associated with the act. The committee, with administrative support from the department, shall produce an annual report on the assessment program for the house and senate committees on ways and means and the joint committee on natural resources and agriculture, with a summary of all findings and action taken mailed to all end suppliers.

(g) The department shall not collect water quality annual compliance assurance fees for public water supplies.

SECTION 11. Chapter 22 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following section:-

Section 20. The department of public safety is hereby authorized and directed to promulgate rules and regulations governing the operation of carriage horses.

SECTION 12. Section 2J of chapter 29, as so appearing, is hereby amended by striking out, in line 4, the word "eleven" and inserting in place thereof the word:- sixteen.

SECTION 13. Section 3 of chapter 29, as appearing in the 1990 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following section:-

Section 3. (a) Every officer having charge of any state agency which receives a periodic appropriation from the commonwealth, including all periodic appropriations to be met from state revenues shall, within sixty days of the passage of the general appropriations act, submit to the budget director and to the senate and house committees on ways and means a comprehensive first financial plan for the current fiscal year. Said first financial plan shall report spending and revenue collection in conformance with the account structure and program format established by the general appropriations act and shall include the following:

(1) statements showing the amounts expended, by account and by subsidiary, for the preceding fiscal year;

(2) statements showing, by account and by subsidiary, the amount appropriated for the current fiscal year;

(3) any planned interchanges between subsidiary accounts prescribed in accordance with section twenty-seven for the current fiscal year;

(4) statements showing total estimated spending, by account and by subsidiary, for the current fiscal year, including estimates of deficiencies and overdrafts, if any; provided, however, that said officer shall submit to the budget director and the senate and house committees on ways and means, with his financial plans, detailed management plans designed to reduce or eliminate the need for deficiencies or overdrafts;

(5) statements showing estimates, by account and by subsidiary, of the amounts required for ordinary maintenance during the ensuing fiscal year, with an explanation of any increased appropriations recommended and with citations of statutes relating thereto together with a statement indicating the priorities assigned to each program by such officer;

(6) statements showing, by revenue account, the amount of revenues collected during the preceding fiscal year, the estimate of revenues to be collected during the current fiscal year, and the estimate of revenues to be collected from the same or any additional sources in the ensuing fiscal year, with recommendations as to any changes in the management, practices, rules, regulations or laws governing such state agency which would effect an increase in revenue from operations, fees, taxes or other sources or which would facilitate the collection thereof;

(7) such other information on expenditures, revenues, activities, output measures or performance measures of any such state agency as may be required by rule or regulation of the commissioner, and any other information, including the priorities assigned to each program by such officer, required at any time by the budget director, or prescribed by the general court in the general appropriations act or any supplemental appropriation acts;

(8) a statement showing, by account and by collective bargaining unit, the number of permanent, temporary and part-time positions authorized for the state agency in his charge and the volume of work performed in the preceding fiscal year, and justifying his request for permanent, temporary and part-time positions in the ensuing fiscal year in relation to the volume of work expected to be performed by such state agency.

(b) Within forty-five days of the submission of the governor's annual budget recommendation made pursuant to section seven H, each such officer shall submit to the budget director and the senate and house committees on ways and means a revised financial plan for the current fiscal year. Said revised financial plan shall report spending and revenue collection for the current fiscal year through the end of the second quarter in conformance with the account structure and program format established by the general appropriations act and shall include the following:

(1) statements showing the amounts expended through the end of the second quarter, by account and by subsidiary;

(2) any planned interchanges between subsidiary accounts prescribed in accordance with section twenty-seven for the remainder of the current fiscal year;

(3) statements showing the status of the implementation of management plans developed to reduce or eliminate deficiencies or overdrafts identified in the preparation of the first financial plans;

(4) statements showing total estimated spending, by account and by subsidiary, for the current fiscal year, including revised estimates of deficiencies and overdrafts, if any;

(5) statements showing, by revenue account, the revenues collected through the end of the second quarter and a revised estimate, if necessary, of total revenues to be collected during the current fiscal year.

SECTION 14. Said chapter 29 is hereby further amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. Every officer having charge of any state agency who, in his annual reports or otherwise, recommends or petitions for the expenditure of money by the commonwealth from any source of revenue, including expenditures to be met by assessments or from bond revenues or trust funds, for any purpose not covered by the estimates to be submitted under

section three shall, within sixty days of the passage of the general appropriations act, submit detailed estimates thereof to the budget director and to the senate and house committees on ways and means, together with any other information required by said budget director or prescribed by the general court in the general appropriations act or any supplemental appropriation acts. Such estimates and other information relating to such state agency, before being submitted to the budget director, shall first be submitted to the appropriate secretary, if any, on or before a date set by him, but in no case later than sixty days after the passage of the general appropriations act; provided, however, that said secretary shall review the same and make such additions thereto, deletions therefrom and modifications therein as he deems appropriate; and, provided, further, that prior to making any additions, deletions, or modifications, said secretary shall conduct public hearings, for which he shall give five days' public notice prior thereto, on all items for which he shall submit to the governor a recommendation for an appropriation of one million dollars or more.

All copies of such statements and information relative to the expenditures from bond revenues shall be submitted to the commissioner of capital planning and operations on or before the aforementioned date. Said commissioner shall evaluate them as to the priority, necessity and feasibility of the requests contained therein in relation to the long range capital facilities development plans, capital facilities development plans, and capital facilities projects contained therein, as defined by section thirty-nine A of chapter seven. Said commissioner shall submit his evaluation to the officer providing such estimates and information, to the appropriate secretary, budget director and senate and house committees on ways and means.

SECTION 15. Said chapter 29 is hereby further amended by striking out section 5F, as so appearing, and inserting in place thereof the following two sections:-

Section 5F. Every officer having charge of any state agency which receives a periodic appropriation from the commonwealth shall, within sixty days of the passage of the general appropriations act and at such other times as may be specified by the commissioner, submit to the budget director and to the senate and house committees on ways and means a department financial plan for the current fiscal year in accordance with the provisions of section three.

The budget director shall provide to the comptroller and the senate and house committees on ways and means information from department financial plans for the purpose of developing estimates of monthly cash flow and for the purpose of preparing monthly reports of planned and actual expenditure and planned and actual revenue for each major state program, department and executive or other constitutional office.

Section 5G. Every officer having charge of any state agency which receives a periodic or other appropriation from the commonwealth shall, on a quarterly basis, submit to the budget director and to the senate and house committees on ways and means a report comparing actual spending rates and revenue collection rates to those rates projected in the financial plans submitted pursuant to this chapter. Said reports shall include statements showing spending and revenue information in conformance with the account and program format established by the general appropriations act. Within thirty days after the receipt of

such reports, the budget director shall classify each agency as being at a low, medium or high risk of exceeding spending levels authorized in the general appropriations act or any supplemental appropriations act. The budget director shall recommend to the commissioner and the governor a corrective action plan for each agency found to be at a medium or high risk of exceeding authorized spending levels as defined herein so as to ensure that every agency receiving a periodic or other appropriation from the commonwealth complies with the provisions of this chapter.

Every such officer shall revise financial plans submitted pursuant to this chapter if actual spending rates or revenue collection rates indicate that financial plans submitted pursuant to section three no longer accurately reflect total estimated spending or revenue collections. Revisions to said financial plans shall be submitted to the budget director and to the senate and house committees on ways and means together with a corrective action plan to reduce or eliminate such deficiencies and overdrafts.

SECTION 16. Section 9B of chapter 29 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking in the first paragraph, in lines 22 and 23, the words "and senate committees", and inserting in place thereof the following word:- committee.

SECTION 17. Said section 9B of said chapter 29, is hereby further amended by striking in the first paragraph, in line 23, the words "a report", and inserting in place thereof the following:- for approval, a request, and submit to the senate committee on ways and means a notification report.

SECTION 18. Said section 9B of said chapter 29, is hereby further amended by striking in the first paragraph, in line 44 the words "and senate committees", and inserting in place thereof the following word:- committee.

SECTION 19. Said section 9B of said chapter 29 is hereby further amended by striking in the fourth paragraph, in line 45, the words "a report", and inserting in place thereof the following:- for approval, a request, and submit to the senate committee on ways and means a notification report.

SECTION 20. Section 27 of said chapter 29 is hereby amended by striking in lines 9 and 10 the words "the joint committees on ways and means" and inserting in place thereof the following words:- the house committee on ways and means; provided, that no such subsidiary account may be increased or decreased by the interchange of funds with any other such subsidiary account, nor shall any new subsidiary account be established, without the prior approval of said committee; provided further, that the budget director shall file a request for approval, with said committee, no less than fifteen days prior to the need for said interchange or establishment of any subsidiary,.

SECTION 21. Said chapter 29, as so appearing, is hereby amended by striking out section 29 and inserting in place thereof the following section:-

Section 29. The personnel administrator shall file with the house committee on ways and means a schedule of positions, hereinafter called a "personnel schedule", for each such item of appropriation. Said personnel schedule shall include, but not be limited to; title code; positions name; functional title; position number; full or part time status; projected

weekly salary and such additional information as may be requested by the said committee for each such vacant and filled position and shall file the pay plan of the commonwealth pursuant to section forty-five of chapter thirty with the said committee as a part of the annual appropriation request filed by the governor pursuant to section seven H of this chapter. Said personnel schedule and said pay plan on file shall be amended, as necessary or appropriate, by said committee to conform to the general appropriation act or any other appropriation act. Said committee, as soon as appropriate after the general appropriation act or any other appropriation act has the force of law conformably to the constitution, shall file with the personnel administrator, the comptroller and with the budget director, a certified copy of the personnel schedule aforesaid which relates to said acts.

The comptroller shall not authorize payment of regular compensation, including paid leave, vacation, salary in lieu of vacation, payments in lieu of maintenance, holiday pay, overtime pay, and salary differentials for any positions in excess of those positions provided for in the personnel schedule or for any position not on a personnel schedule on file and approved by the house committee on ways and means. Each state agency or office of the judiciary receiving an annual appropriation pursuant to the provisions of this chapter shall not fill a total number of positions which exceeds the number of positions as specifically provided for in each such item of appropriation. For the purposes of this section, "positions" shall mean a full-time equivalent office or position in which one or more persons are currently employed, but shall not include the positions of board members or commissioners who are not full-time state employees, an authorized position created by statute or under the civil service law whether the incumbent holding the position is on a permanent, provisional, or temporary appointment, excess quota positions and all authorized positions other than seasonal as defined in section one of chapter thirty-one and positions for a period of ninety days or less.

No funds shall be expended for excess quota positions without the written approval of the house committee on ways and means.

No expenditures shall be made from any revenue retention account, as defined by section one of this chapter, until a personnel schedule, if applicable, and an expenditure subsidiary classification schedule have been established therefor by the house committee on ways and means.

SECTION 22. Section 31E of said chapter 29, as appearing in section 25 of chapter 71 of the acts of 1993, 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, a state employee, during working hours and at such times as are approved by his supervisor and in accordance with regulations promulgated hereunder, may, without loss of salary, provide voluntary services at a public elementary, secondary or vocational-technical school to assist the improvement of a student's or school's educational program; provided, however, that said voluntary services do not exceed seven hours per month.

SECTION 23. Section 39K of chapter 30 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "commonwealth", in line 9, the following words:- , including local housing authorities.

SECTION 24. Section 45 of chapter 30 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting at the end of the first sentence the following words:- ; provided, that said office and position classification plan and said pay plan shall be filed with the house committee on ways and means as part of the annual appropriation request filed by the governor, pursuant to section seven H of chapter twenty-nine; provided further, that said plans shall be amended by said committee, as necessary or appropriate; provided further, that said plans shall remain in full force and effect and there shall be no changes to said plans without the approval of the said committee; and provided further, that said plans, as amended and approved, shall be forwarded by the said committee to the department of personnel administration, the comptroller and the budget director.

SECTION 25. Said section 45 of said chapter 30 is hereby further amended by striking out the words, in line 78, "joint committee" and inserting in place thereof the following words:- house committee.

SECTION 26. Said section 45 of said chapter 30 is hereby further amended by striking out clause (4) and inserting in place thereof the following new clause:-

(4) Each appropriation act, as filed by the governor and as enacted by the general court, shall contain, in each item of appropriation, subject to the provisions of this act, a specific number of authorized and funded positions, as defined in section twenty-nine of chapter twenty-nine. No authorization to establish, allocate, reallocate, transfer, or reclassify any permanent, temporary, seasonal, or excess quota position subject to the classification and pay plans provided for in this section shall be effected, unless and until the personnel administrator receives approval from the house committee on ways and means. The personnel administrator shall submit monthly schedules to the said committee for the purposes of requesting personnel authorizations. Said schedules shall be prepared by the personnel administrator and shall include the request, comment and recommendation of the appointing authority. Said committee shall notify the personnel administrator within thirty days of said request of any authorization requested in said monthly schedule that have been approved. Subject to the provisions of section sixty-six of chapter twenty-nine, no requests shall be included in said monthly schedule to hire or charge personnel to any item of appropriation that would cause said item to be deficient, require a subsequent appropriation in addition to the amounts available in the current fiscal year, or create any additional liability or ongoing commitment in excess of available funds.

SECTION 27. The first paragraph of subsection (d) of section 19 of chapter 32B of the General Laws as added by section 103 of chapter 110 of the acts of 1993 is hereby amended by striking out the words "the paragraph below" and inserting in place thereof the following words:- this subsection.

SECTION 28. Section 3 of chapter 40 of the General Laws, as so appearing, is hereby amended by inserting, in line 42, after the word "town" the following words:- ; and, provided further, that in any city or town that accepts this proviso, any such balance shall remain in said account and may be expended for the upkeep and maintenance of any facility under the control of the school committee.

SECTION 29. Section 2A of chapter 60A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "time", in line 15, the following words:- not later than six years after the initial excise tax issuance was made,.

SECTION 30. Section 6 of chapter 64H of the General Laws, is hereby amended by striking out, in lines 441 and 442, as appearing in the 1992 Official Edition, the words "or Namibia".

SECTION 31. The first paragraph of section 9 of chapter 64K of the General Laws, inserted by section 127 of chapter 110 of the acts of 1993, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A dealer who violates the provisions of this chapter shall be subject to a penalty of one hundred percent of the tax in addition to the tax imposed by section eight.

SECTION 32. Section 2 of chapter 70 of the General Laws, as appearing in section 32 of chapter 71 of the acts of 1993, is hereby amended by striking out the definition of "Equity gap" and inserting in place thereof the following definition:-

"Equity gap", the positive difference, if any, between (1) the positive difference, if any between the preliminary local contribution and the gross standard of effort and (2) the positive difference, if any, between the sum of the preliminary local contribution, base aid, minimum aid and federal impact aid and the foundation budget amount. The equity gap shall be defined separately for each municipality's share of each district of which it is a member.

SECTION 33. The definition of "Gross overburden amounts" in said section 2 of said chapter 70, as so appearing, is hereby amended by striking out, in the second sentence, the words "one and one-half" and inserting in place thereof, the following words:- one and ninety-five one hundredths.

SECTION 34. Said section 2 of said chapter 70, as so appearing, is hereby further amended by striking out the definition of "Minimum required local contribution" and inserting in place thereof the following definition:-

"Minimum required local contribution", the sum of (1) the preliminary local contribution, and (2) the foundation aid percent multiplied by the standard of effort gap in any fiscal year. This sum shall be reduced by the overburden aid amount, if any, and the excess debt service amount, if any; provided, however, that for any municipality in which net school spending is greater than the foundation budget, in no case shall the sum of the minimum required local contribution and the base aid and the minimum aid result in a reduction of net school spending to an amount less than the foundation budget amount. The minimum required local contribution shall be defined separately for each municipality's share of each district to which it belongs.

SECTION 35. Said section 2 of said chapter 70, as so appearing, is hereby further amended by striking out the definition of "Municipal revenue growth factor" and inserting in place thereof the following definition:-

"Municipal revenue growth factor", the increase in local general revenues calculated by subtracting one from the quotient calculated by dividing the sum of (1) the maximum levy limit for the fiscal year estimated by multiplying the levy limit of the prior fiscal year by a factor equal to one hundred two and one-half percent plus the average of the percentage increases in the levy limit due to new growth over the last three available years as certified by the department of revenue; provided, however, that if the highest percentage during the three years exceeds the average of the other two years' percentages by more than two percentage points, then the lowest three of the last four years shall be used for this calculation; (2) the amount of general revenue sharing aid for the fiscal year, and (3) other recurring receipts not including user fees or other charges determined by the division of local services of the department of revenue to be associated with the provision of specific municipal services for the prior fiscal year by the sum of (1) the actual levy limit for the prior fiscal year; (2) the amount of general revenue sharing aid received for the prior fiscal year; and (3) other recurring receipts not including user fees or other charges determined by the division of local services of the department of revenue to be associated with the provision of specific municipal services, actually collected by the municipality for the fiscal year preceding the prior fiscal year; provided, however, that for the purposes of this calculation, the levy limit shall exclude any amounts generated by overrides applicable to any year after the fiscal year ending June thirtieth, nineteen hundred and ninety-three; and, provided further, that in the absence of an actual levy limit for the prior fiscal year, the actual levy limit for the prior fiscal year shall be estimated by multiplying the actual levy limit of the fiscal year preceding the prior fiscal year by a factor equal to one hundred two and one-half percent plus the average of the percentage increases in the levy limit due to new growth as specified above; and, provided further, that in the absence of an actual levy limit for the prior fiscal year, the maximum levy limit for the fiscal year shall be calculated by multiplying the estimated levy limit of the prior fiscal year by a factor equal to one hundred two and one-half percent plus the average of the percentage increases in the levy limit due to new growth as specified above; provided, however, that said factor shall not be greater than the factor determined by subtracting one from the quotient calculated by dividing total state school aid for the current fiscal year by total state school aid for the prior fiscal year.

SECTION 36. Said section 2 of said chapter 70, as so appearing, is hereby further amended by striking out the definition of "Preliminary local contribution" and inserting in place thereof the following definition:-

"Preliminary local contribution", the lesser of (1) the local contribution of the prior fiscal year increased by a percentage equal to the municipal revenue growth factor and (2) the gross standard of effort amount; provided, however, that for any municipality in which net school spending is less than the foundation budget amount and the prior year local contribution is greater than the gross standard of effort amount, the preliminary local contribution shall not be less than the local contribution in fiscal year nineteen hundred and

ninety-three except that said contribution may be reduced proportionately to any reductions in the total municipal budget; and, provided further, that for any municipality in which net school spending is greater than the foundation budget, in no case shall the sum of the preliminary local contribution and the base aid and the minimum aid result in a reduction of net school spending to an amount less than the foundation budget amount. The preliminary local contribution shall be defined separately for each municipality's share of each district to which it belongs.

SECTION 37. Said section 2 of said chapter 70, as so appearing, is hereby further amended by striking out the definition of "Standard of effort" and inserting in place thereof the following definition:-

"Standard of effort", for any year, shall be the lesser of (1) the gross standard of effort for that year and (2) the foundation budget for the year minus the sum of base aid and federal impact aid for that year. The standard of effort for any municipality shall be allotted among the districts to which that municipality belongs.

SECTION 38. Said section 2 of said chapter 70, as so appearing, is hereby further amended by striking out the definition of "Standard of effort gap" and inserting in place thereof the following definition:-

"Standard of effort gap", the positive difference in any fiscal year between the standard of effort in the fiscal year and the preliminary local contribution in that fiscal year. The standard of effort gap for a municipality shall be allotted among the districts to which that municipality belongs.

SECTION 39. Subsection (f) of section 12B of chapter 76 of the General Laws, as appearing in section 61 of chapter 71 of the acts of 1993, is hereby amended by inserting in the second sentence, after the word "district" the following words:- for such education as is required by such non-resident student.

SECTION 40. Subsection (g) of said section 12B of said chapter 76, as so appearing, is hereby amended by inserting, after the words "subsection (f)" the following words:- ; provided, however, that each public school district which admits children under the provisions of this section 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; and, provided further, that such certification shall be made on October first of each year and April first of each year. 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 this section 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.

SECTION 41. Section 12B of said chapter 76 is hereby further amended by striking out subsection (n) and inserting in place thereof the following subsection:-

(n) Subject to appropriation, any sending district for which the provisions of subsection (f) result in a reduction in state aid shall be eligible to apply for a school choice reimbursement from the commonwealth. If net school spending in a sending district is greater than said foundation budget as defined in chapter seventy, the amount of said reimbursement shall be the above foundation reimbursement amount for that fiscal year. If net school spending in a sending district is less than said foundation budget, the amount of said reimbursement shall be equal to one hundred percent of the positive difference, if any, between (i) the amount transferred pursuant to subsection (f), and (ii) the product of the number of students leaving the sending district and the average per pupil expenditure in the sending district for such education as is required by such nonresident student, for the period the child shall attend; provided, however, that if any district has exempted itself from the provisions of said chapter seventy by accepting section fourteen of said chapter seventy, the district shall be ineligible for a reimbursement under this subsection; provided, further, that if any district in which net school spending is greater than the foundation budget becomes a sending district for the first time in fiscal year nineteen hundred and ninety-five or any year thereafter, the reimbursement amount for that district in the first year that it is a sending district shall be the fiscal year nineteen hundred and ninety-four reimbursement amount; the reimbursement amount for the district in its second year as a sending district shall be the fiscal year nineteen hundred and ninety-five reimbursement amount. Said reimbursement application shall be submitted to the department of education on or before October first of each year 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, however, that any community or regional school district that has a previously approved plan need not refile said plan; and, provided further, that approval of said plan by said board shall act as a condition precedent to the distribution of said reimbursement to the applicant community or regional school district. Under no circumstances shall the total amount expended pursuant to subsections (h) and (i) and to reimburse sending districts pursuant to this paragraph, be greater than twenty million dollars. If, in any year, the total amount that would be required to reimburse said cities at said rates would be greater than twenty million dollars, then the reimbursement rates shall be reduced proportionately to those rates at which the total cost does not exceed twenty million dollars.

SECTION 42. Section 2D of chapter 132A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following paragraph:-

(4) To effect improvements at public recreation facilities, including improvements through the commonwealth's shared energy savings program and to expend, without further appropriation, monies received as a result of the improvements from a trust for facilities, the costs associated with said improvements, including contingency costs authorized under section forty-three F of chapter seven. The department shall develop and submit to the sec-

retary of administration and finance and the house and senate committees on ways and means an analysis of all expenditures from said trust on or before each September first for the prior fiscal year.

SECTION 43. The first paragraph of section 114B of chapter 140 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- A creditor may, pursuant to an open-end credit plan, charge, receive and collect a delinquency charge on any payment not paid in full within fifteen days of its due date in an amount equal to ten percent of the outstanding balance or ten dollars, whichever is less; provided, however, that no such delinquency charges shall be charged, received or collected unless the creditor, at least thirty days prior thereto, shall have mailed a notice informing its borrowers of the change in terms of such plan providing for the charging, receiving and collecting of a delinquency charge and disclosing the amount of such delinquency charge that may be imposed as part of said open-end credit plan.

SECTION 44. The third paragraph of said section 114B of said chapter 140, as so appearing, is hereby amended by adding the following sentence:- Any such delinquency charge shall not be included in the computation of said finance charge.

SECTION 45. Section 51 of chapter 143 of the General Laws as appearing in the 1992 Official Edition is hereby amended by striking out the second and third sentences.

SECTION 46. Section 148B of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 3, each time it appears, the word "section" and inserting in place thereof, in each instance, the following word:- chapter.

SECTION 47. Section 13 of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out, in lines 7 and 8, the word "hospitalization".

SECTION 48. Said section 13 of said chapter 152, as so appearing, is hereby further amended by inserting after the word "administered", in line 12, the following words:- , excluding services performed in any setting licensed to provide hospital services.

SECTION 49. Section 10 of chapter 209A of the General Laws, added by section 217 of chapter 110 of the acts of 1993, is hereby amended by striking out the words "Domestic Violence Victims' Assistance Fund" and inserting in place thereof the words:- General Fund.

SECTION 50. The first paragraph subsection (b) of section 27A of chapter 218 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following sentence:- Jurors shall be drawn from the county in which trial is held.

SECTION 51. Clause (1) of subsection B of section 27 of chapter 255D of the General Laws, as so appearing, is hereby amended by striking out the last sentence, and inserting in place thereof the following sentence:- An installment seller or a holder of a revolving credit agreement may, pursuant to such agreement, charge, receive and collect a delinquency charge on any payment not paid in full within fifteen days of its due date in an amount equal to ten percent of the outstanding balance or ten dollars, whichever is less; provided, however, that no such delinquency charge shall be charged, received or collected

unless said installment seller or holder, at least thirty days prior thereto, shall have mailed a notice informing its installment buyers of the change in terms of such agreement providing for the charging, receiving and collecting of such delinquency charge and disclosing the amount of such delinquency charge that may be imposed under said agreement.

SECTION 52. Clause (3) of said subsection B of said section 27 of said chapter 255D, as so appearing, is hereby amended by adding the following sentence:- Any such delinquency charge shall not be included in the computation of said finance charge.

SECTION 53. Section 17 of chapter 465 of the acts of 1956, as amended by section 2 of chapter 332 of the acts of 1978, is hereby further amended by striking out, in lines 15 to 25, inclusive, the words ", and no property of the authority shall be taxed to a lessee thereof under section three A of chapter fifty-nine of the General Laws; provided, however, that anything herein to the contrary notwithstanding, lands of the Authority, except lands acquired by the commonwealth under the provisions of chapter seven hundred and five of the acts of nineteen hundred and fifty-one situated in that part of the city called South Boston and constituting part of the Commonwealth Flats, and land acquired by the Authority which were subject to taxation on the assessment date next preceding the acquisition thereof, shall, if leased for business purposes" and inserting in place thereof the following words:- and, anything herein to the contrary notwithstanding, no property of the Authority used for air transportation purposes shall be taxed to a lessee thereof under section three A of chapter fifty-nine of the General Laws, provided, that lands of the Authority shall, if leased for business purposes other than air transportation.

SECTION 54. Item 7220-7893 in section 2 of chapter 208 of the acts of 1988 is hereby amended by inserting after the word "College", in line 12, the following words:- ; provided, that for the purpose of establishing a parking facility, the sum of two million five hundred thousand dollars shall be expended from this item for the purchase or acquisition, including, if necessary, by eminent domain under said chapter seventy-nine, of land and buildings thereon located on Broadway street in the city of Lowell and consisting of approximately 7.4 acres, for the preparation of plans and designs, for demolition, development and construction, and for any costs, incidental to or associated with the aforesaid.

SECTION 55. Section 7 of chapter 33 of the acts of 1991 is hereby amended by inserting after the words "nineteen hundred and eighty-eight," in line 14, the following words:- and section ten of chapter two hundred and eight of the acts of nineteen hundred and eighty-eight.

SECTION 56. Item 2520-0107 in section 2 of chapter 145 of the acts of 1991 is hereby amended by inserting after the word "measures", in line 5, the following words:- ; and provided further, that a portion of the appropriation may be expended for implementation of the state-wide rabies monitoring and control plan; and provided further, that at least one hundred twenty thousand dollars be used for an experimental rabies prevention program on Cape Cod to be administered in conjunction with Tufts University and the department of food and agriculture.

SECTION 57. Item 4403-2100 in section 2 of chapter 133 of the acts of 1992 is hereby amended by inserting after the word "ninety-two", in line 26, the following words:- ; and provided, further, that one hundred twenty-five thousand dollars shall be made available for expenditure in fiscal year nineteen hundred and ninety-four for said pilot program.

SECTION 58. Item 7100-0200 of said section 2 of said chapter 133 is hereby amended by inserting after the word "positions", in line 54, the following words:- ; provided, further, that not less than three hundred thousand dollars shall be expended by the university of Massachusetts for planning, feasibility studies, fundraising and facility start-up for a center for materials reuse, including staffing, provided that said funds shall be made available for expenditure in fiscal year nineteen hundred and ninety-four.

SECTION 59. Section 2A of said chapter 133 is hereby amended in item 4000-0702 by inserting after the word "needs", in line 14, the following words:- ; provided, that the department of social services shall pay twenty-two thousand two hundred seventy-five dollars for start-up costs incurred by Springfield Center for Hampden County Courts.

SECTION 60. Section 2B of said chapter 133 is hereby amended by striking out item 1108-6201 and inserting in place thereof the following item:-

1108-6201 For the cost of workers' compensation costs paid to public employees,including costs for prior fiscal years; provided, that the secretary of administration and finance shall charge, pursuant to section fourteen of this act, other items of appropriation or state agencies for costs incurred on behalf of said agencies; provided, further, that said secretary shall identify charges by said item of appropriation; provided further, that said secretary shall file quarterly reports with the house and senate committees on ways and means detailing said items, including federal grants and trust accounts, that have not yet paid their charges, and the reasons therefor, within three weeks of the close of each quarter; provided further, that no funds shall be expended from this item that would cause said item to be deficient $70,230,000

SECTION 61. Said section 2B of said chapter 133 is hereby further amended by striking out item 7053-2101 and inserting in place thereof the following item:-

7053-2101 For the costs of USDA commodity foods pursuant to federal law requirements $100,000

SECTION 62. Paragraph (j) of section 114 of chapter 412 of the acts of 1991 is hereby amended by inserting after the word "fifty E", in line 4, the following words:- provided, however, that notwithstanding any provisions of this chapter to the contrary, all subject matter relating to wages, hours and standards of productivity and performance, and any other terms or conditions of employment, except for matters pertaining to section thirteen, section twenty-five and twenty-six of chapter twenty-two C of the General Laws, shall be subject to the provisions 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.

SECTION 63. Section 3 of chapter 267 of the acts of 1992 is hereby amended by striking out, in line 2, the word "twenty-first" and inserting in place thereof the following word:- twentieth.

SECTION 64. Said section 3 of said chapter 267 is hereby further amended by striking out, in line 5, the word "twenty-eighth" and inserting in place thereof the following word:- twenty-seventh.

SECTION 65. Section 4 of said chapter 267 is hereby amended by striking out, in line 2, the word "twenty-first" and inserting in place thereof the following word:- twentieth.

SECTION 66. Said section 4 of said chapter 267 is hereby further amended by striking out, in line 5, the word "twenty-eighth" and inserting in place thereof the following word:- twenty-seventh.

SECTION 67. Section 5 of said chapter 267 is hereby amended by striking out, in line 7, the word "twenty-first" and inserting in place thereof the following word:- twentieth.

SECTION 68. Said section 5 of said chapter 267 is hereby further amended by striking out, in line 10, the word "twenty-eighth" and inserting in place thereof the following word:- twenty-seventh.

SECTION 69. Section 6 of said chapter 267 is hereby amended by striking out, in line 2, the word "twenty-first" and inserting in place thereof the following word:- twentieth.

SECTION 70. Said section 6 of said chapter 267 is hereby further amended by striking out, in line 5, the word "twenty-eighth" and inserting in place thereof the following word:- twenty-seventh.

SECTION 71. Section 7 of said chapter 267 is hereby amended by striking out, in line 4, the word "twenty-first" and inserting in place thereof the following word:- twentieth.

SECTION 72. Said section 7 of said chapter 267 is hereby further amended by striking out, in line 7, the word "twenty-eighth" and inserting in place thereof the following word:- twenty-ninth.

SECTION 73. Section 40 of chapter 50 of the acts of 1993 is hereby repealed.

SECTION 74. Item 6030-7202 in section 2A of said chapter 50 is hereby amended by inserting after the word "contract" in line 5, the following words:- ; and, provided further, that an amount not to exceed nine hundred thousand dollars may be transferred to item 6030-7201 in order to cover any deficiencies related to snow and ice expenditures.

SECTION 75. The second paragraph of section 70 of chapter 71 of the acts of 1993 is hereby amended by inserting, in the first sentence, after the words "Child Care," the following words:- a member representing the YMCAs, a member representing the Massachusetts Independent Child Care Organization,.

SECTION 76. The last sentence of section 73 of said chapter 71, is hereby amended by striking out the words "December, nineteen hundred and ninety-three" and inserting in place thereof the following words:- September, nineteen hundred and ninety-four.

SECTION 77. The fifth sentence of section 74 of said chapter 71 is hereby amended by striking out the words "December first, nineteen hundred and ninety-three" and inserting in place thereof the following words:- June first, nineteen hundred and ninety-four.

SECTION 78. The last sentence of section 78 of said chapter 71 is hereby amended by striking out the words "June first, nineteen hundred and ninety-three" and inserting in place thereof the following words:- December twenty-ninth, nineteen hundred and ninety-three.

SECTION 79. The last sentence of section 80 of said chapter 71 is hereby amended by striking out the words "September thirtieth, nineteen hundred and ninety-three" and inserting in place thereof the following words:- December twenty-ninth, nineteen hundred and ninety-three.

SECTION 80. The first paragraph of section 83 of chapter 71 of the acts of 1993 is hereby amended by inserting after the words "as a teacher in the Boston retirement system, as provided by subdivision (4) of section three of said chapter thirty-two," the following words:- as a teacher in nonpublic schools who has received creditable service according to subdivision four A of section three of said chapter thirty-two,.

SECTION 81. Section 2 of chapter 110 of the acts of 1993 is hereby amended in item 0332-5300 by striking out the wording "including not more than one hundred and three positions" and inserting in place thereof the following:- including not more than one hundred and twenty-three positions.

SECTION 82. Item 0332-5700 of said section 2 is hereby amended in by striking the wording "two million two hundred thirty-nine thousand five hundred forty-five dollars, including not more than sixty-two positions" and inserting in place thereof the following:- dollars, two million four hundred sixty-nine thousand one hundred nineteen dollars, including not more than seventy-nine positions.

SECTION 83. Item 0640-0010 of said section 2 is hereby amended by inserting, after the word "quarterly", the following words:- ; provided, that none of the funds appropriated herein shall be expended for any print, radio or television advertising which does not include a conspicuous statement of the actual odds of winning each possible prize of the advertised game; provided further, that none of the funds appropriated herein shall be expended for direct marketing concentrated to a greater extent on low-income persons or communities than on other persons or communities; and provided further that the state lottery commission shall report in writing to the house and senate committees on ways and means, not later than November first, nineteen hundred and ninety-three, its plan for expending the funds appropriated herein, with particular attention to the effect of advertising on low-income populations.

SECTION 84. Item 0920-0300 of said section 2 is hereby amended in by striking out the words "four hundred eighty-seven thousand seven hundred twenty-eight dollars, including not more than thirteen positions" and inserting in place thereof the following:- five hundred fifty thousand dollars, including not more than fifteen positions.

SECTION 85. Said section 2 is hereby further amended by striking out item 2010-0100 and inserting in place thereof the following item:-

2010-0100 For the recycling coordination program for the operation of the Springfield recycling facility and to further promote recycling activities in the commonwealth; provided, that not less than one hundred thousand dollars shall be expended for a public education campaign encouraging participation in existing curbside pick-up recycling programs in the city of Boston . . $1,950,000

SECTION 86. Item 2100-0005 of said section 2 is hereby amended by inserting, after the word "Mansfield", the following language:- ; provided further, that the department may expend fifty thousand dollars for the reconstruction of Godfrey brook, an existing waterway located in the town of Milford.

SECTION 87. Said section 2 is hereby further amended by striking item 2300-0100 and inserting in place thereof the following:-

2300-0100 For the office of the commissioner, including not more than eleven positions $499,882

General Fund	62.5%
Environmental Law Enforcement Fund	12.5%
Marine Fisheries Fund	12.5%
Public Access Fund	12.5%

SECTION 88. Item 2330-0311 of said section 2 is hereby amended by adding, after the word "data", the following words:- ; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported on the Massachusetts management accounting and reporting system, so-called.

SECTION 89. Item 3144-0003 in said section 2 is hereby amended by adding, after the word "services", the following words:- for the West Broadway housing authority task force.

SECTION 90. Item 4000-0600 of said section 2 is hereby amended by striking out the words "; provided, that expenditures for section 2176 home and community-based waiver services shall be made from this item; provided further, that said expenditures shall not exceed ten million dollars;" and inserting in place thereof the words:- ; provided, that expenditures from this item for section 2176 home and community-based waiver services provided through an interagency agreement with the executive office of elder affairs shall not exceed ten million dollars; and provided further, that expenditures for said section 2176 home and community-based waiver services provided through an interagency agreement with the department of mental retardation may also be paid from this item.

SECTION 91. 4000-0600 of said section 2 is hereby further amended by inserting after the words "managed care program", the following words:- ; provided further, that any chronic disease or rehabilitation hospital which meets the requirements of the division to participate in said managed care program, may elect to participate or not.

SECTION 92. Item 4000-0702 of said section 2 is hereby amended by striking out the words "those persons at risk of becoming eligible for the aid to families with dependent children program;" and inserting in place thereof the words "those persons eligible for supportive day care;".

SECTION 93. Item 4130-0001 of said section 2 is hereby amended by inserting after the word "system" the following words:- ; provided further, that any office for children licensing regulations, criteria, and standards relating to child care provider training shall be no less stringent than any regulations, criteria, and standards promulgated or in effect on January first, nineteen hundred and ninety-three; provided however, that nothing contained herein shall be construed to limit the office's authority to issue variances or grant licenses or certificates on a probationary basis as provided in 102 CMR 8.00 as in effect on May twenty-eighth, nineteen hundred and ninety-three.

SECTION 94. Item 4190-0100 of said section 2 is hereby amended by striking out the figure "11,427,219" and inserting in place thereof the figure:- 11,552,219.

SECTION 95. Item 4406-3000 of said section 2 is hereby amended by inserting after the words "Long Island Shelter in Boston" the following words:- ; provided further, that not more than six hundred and twenty-seven thousand dollars shall be obligated for a contract with the Middlesex shelter for the homeless.

SECTION 96. Said section 2 of said chapter 110 is hereby further amended by striking out item 4590-0300 and inserting in place thereof the following item:-

Item

4590-0300 For the smoking prevention and cessation program pursuant to chapter two hundred and fifty-four of the acts of nineteen hundred and ninety-two; provided, that priority be given to funding programs in communities with high smoking rates among women; provided further, that not less than sixteen million dollars shall be paid from this item to the department of education for grants to cities, towns, and regional school districts for comprehensive health education programs including education on smoking prevention; provided further, 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; provided further, that not less than six million dollars shall be expended from this item for a school health service program including enhanced school and health centers; provided further, that the department of public health and the department of education jointly establish standards and criteria for funded school health service programs; provided, however, that notwithstanding the provisions of chapter twenty-nine of the General Laws, any other provision of this

act or the provisions of any other special or general law to the contrary, of the amount appropriated herein not more than thirty-three million dollars shall be allotted prior to February first, nineteen hundred and ninety-four and no further amounts shall be allotted unless the total amount of revenue credited to the Health Protection Fund since its creation, as of said February first equals or exceeds one hundred and eighteen million dollars; provided further, that on January thirtieth, nineteen hundred and ninety-four, the comptroller and the secretary of administration and finance shall certify their revenue estimates for the Health Protection Fund for the period between February first, nineteen hundred and ninety-four and June thirtieth, nineteen hundred and ninety-four; provided further, that said estimate shall take into account the effects of the anti-smoking campaign in estimating said revenues; provided further, that said revenue estimates shall be filed with the house and senate committees on ways and means; provided further, that not more than twenty-two million dollars shall be expended from this item prior to the filing of such revenue certification by the comptroller and the secretary of administration and finance; and provided further, that if the total revenue of said fund is less than said one hundred and eighteen million dollars as of said February first, then there shall be allotted not more than an amount determined by reducing twenty-one million dollars by the product of one and a half multiplied by the difference between one hundred and eighteen million and the total amount of revenue credited to the health protection fund between January first, nineteen hundred and ninety-three and February first, nineteen hundred and ninety-four; and, provided further, that notwithstanding the provisions of any general or special law to the contrary, funds credited to the Health Protection Fund shall be the only funds expended for the purposes authorized by this item $54,000,000

Health Protection Fund 100.0%

SECTION 97. Item 5055-0000 of said section 2 is hereby amended by striking the wording "three million nineteen thousand sixty-two dollars," and inserting in place thereof the following:- three million eighty-one thousand sixty-two dollars.

SECTION 98. Item 5920-2000 of said section 2 is hereby amended by striking out, in line 8, the word "more" and inserting in place thereof the following word:- less.

SECTION 99. Item 7032-0500 of said section 2 is hereby amended by adding after the words "school committee" the following words:- ; provided further, that the department is hereby authorized to expend funds from this item pursuant to section one L of chapter sixty-nine of the General Laws; provided further, that not more than one percent of the amount appropriated herein may be spent for the costs of administration; and, provided further, that the department shall file a spending plan for the amounts appropriated herein with the joint committee on education, the house and senate committees on ways and means and the secretary of education not later than September first, nineteen hundred and ninety-three.

SECTION 100. Said section 2 is hereby further amended by striking out item 7052-0006 and inserting in place thereof the following item:-

7052-0006 For grants and reimbursements for cities, towns, regional school districts and counties under the provisions of chapter six hundred forty-five of the acts of nineteen hundred and forty-eight, for (a) educational, engineering and architectural services for regional school districts, (b) surveys made of school building needs and conditions, (c) matching stabilization fund payments, (d) costs of leasing buildings for vocational programs and originally equipping and furnishing said buildings for vocational programs, and (e) payments associated with admission to a regional school district; provided, that thirty-five thousand dollars of the amount appropriated herein shall be expended for a portion of the costs to be incurred by the town of Belchertown for architectural plans and drawings to be prepared for a school building project in said town; and, provided further, that said thirty-five thousand dollars shall be considered an advance payment of the reimbursement the town receives from the commonwealth for said building project under the provisions of said chapter six hundred forty-five of said acts of nineteen hundred and forty-eight $575,000

Local Aid Fund 100.0%

SECTION 101. Item 7061-0008 in said section 2 of said chapter 110 is hereby amended by striking out the figure and inserting in place thereof the following:- 1,432,831,704.

SECTION 102. Item 8100-0007 of said section 2 is hereby amended by adding after the figure the following:-

Local Aid Fund 80.0%
Highway Fund 16.0%
General Fund 4.0%

SECTION 103. Item 8200-0200 of said section 2 is hereby amended by adding after the figure the following:-

Local Aid Fund 100.0%

SECTION 104. Section 2B of said chapter 110 is hereby amended by striking out item 1108-6201 and inserting in place thereof the following item:-

1108-6201 For the cost of workers' compensation paid to public employees, including costs for prior fiscal years; provided, that the secretary of administration and finance shall charge, pursuant to section fourteen of this act, other items of appropriation or state agencies for costs incurred on behalf of said agencies; provided further, that said secretary shall identify charges by said item of appropriation; provided further, that said secretary shall file quarterly reports with the house and senate committees on ways and means detailing said items, including federal grants and trust accounts, that have not yet paid their charges, and the reasons therefor, within three weeks of the close of each quarter; provided further, that no funds shall be expended from this item that would cause said item to be deficient $72,499,079

SECTION 105. Said section 2B is hereby further amended by inserting after the words "EXECUTIVE OFFICE OF EDUCATION" the following:-

Department of Education.

7053-2101 For the costs of USDA commodity foods pursuant to federal law requirements $100,000

SECTION 106. Section 3 of said chapter 110 is hereby amended by striking out the words "Whitman-Hanson ... $12,117,867" and "Farmington River ... $190,721" and inserting in place thereof the following:-

Whitman-Hanson ... $12,660,381 and Farmington River ... $202,138.

SECTION 107. Said chapter 110 is hereby further amended by striking out section 11 and inserting in place thereof the following section:-

Section 11. The group insurance commission is hereby authorized and directed to develop a chargeback plan which takes into account health insurance costs per employee to replace the system of agency chargebacks most recently in use. Said commission shall examine the possibility of developing incentives, either as part of said chargeback plan or otherwise, to encourage employees to enroll in more cost-effective health insurance plans. Said commission shall submit a report of its plan, together with drafts of legislation necessary to carry said plan into effect, to the house and senate committees on ways and means and to the secretary of administration and finance, not later than October thirty-first, nineteen hundred and ninety-three.

SECTION 108. The third paragraph of section 14 of said chapter 110 is hereby amended by striking out, in the first sentence, the words "section two" and inserting in place thereof the following words:- section two B.

SECTION 109. Section 20 of said chapter 110 is hereby amended by adding the following sentence:- The board, officer or commission responsible for setting sewer charges in every city, town, district or water and sewer commission that either receives aid itself or is a member of a regional entity that receives aid pursuant to this section shall certify to the division of local services of the department of revenue that it has reduced sewer charges to reflect its share of any aid distributed hereunder.

SECTION 110. Chapter 110 of the acts of 1993 is hereby amended by inserting after section 389 the following section:-

Section 389A. Sections 135, 136, 137, and 138 of this act shall apply to all takings of real estate or of any interest therein by eminent domain in which the right to damages vests after July first, nineteen hundred and ninety-three.

SECTION 111. Said chapter 110 is hereby further amended by striking out section 160 and inserting in place thereof the following two sections:-

Section 160. Section 84 of said chapter 119, as so appearing, is hereby amended by inserting after the word "welfare", in line 26, the following words:- and best interest.

Section 160A. Said section 84 of said chapter 119, as so appearing, is hereby further amended by inserting after the word "training;" in line 27, the following words:- , and said court shall also find that reasonable efforts were made to prevent or eliminate the need for the defendant's removal from his home or that an emergency situation made such efforts impossible.

SECTION 112. The fifth paragraph of section 271 of said chapter 110 is hereby amended by striking out the word "act" and inserting in place thereof the following word:- section.

SECTION 113. The seventh paragraph of section 274 of said chapter 110 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The methods prescribed by the division in determining prices shall incorporate cost containment standards and shall be fair to both governmental units and providers.

SECTION 114. Said chapter 110 is hereby further amended by striking out section 276 and inserting in place thereof the following section:-

Section 276. Notwithstanding the provisions of any general or special law to the contrary, the commissioner of revenue is hereby authorized to waive any penalty imposed under the provisions of chapter sixty-two C of the General Laws for a period pursuant to this section and may forego the assessment of tax under said chapter sixty-two C for any period beginning on or before January first, nineteen hundred and eighty-six with respect to any of the following taxpayers:

(a) a nonresident subject to the tax imposed under chapter sixty-two of the General Laws who has failed to file returns reporting income from sources within the commonwealth, within the meaning of section five A of said chapter sixty-two, as required by section six of chapter sixty-two C, for all taxable years beginning after January first, nineteen hundred and eighty-six and on or before January first nineteen hundred and ninety-two, if such nonresident files all required returns and pays all taxes and interest required to be shown on said returns during the special filing period;

(b) a foreign corporation subject to the tax imposed under chapter sixty-three of the General Laws that has failed to file the returns required by section twelve of chapter sixty-two C for all taxable years beginning after January first, nineteen hundred and eighty-six and on or before January first, nineteen hundred and ninety-two, if such corporation files all required returns and pays all taxes and interest required to be shown on said returns during the special filing period; and

(c) a person subject to the tax imposed by chapter sixty-four I who has failed to report the purchase of any item of tangible personal property or service with respect to which said tax is required to be shown on a return due under subsection (i) of section sixteen of chapter sixty-two C after January first, nineteen hundred and eighty-six and on or before January first, nineteen hundred and ninety-two, if such person reports all such purchases and pays all such taxes and interest thereon during the special filing period.

For the purposes of this section, the term "special filing period" shall mean a period of three consecutive calendar months chosen by said commissioner in his discretion; provided, however, that such three month period shall begin at any time on or after July first, nineteen hundred and ninety-three and shall end no later than June thirtieth, nineteen hundred and ninety-four. Said commissioner shall prescribe such forms as are necessary to implement the provisions of this section and may require taxpayers to file such forms in addition to the returns and other information required by this section. The provisions of this section shall be binding on the commissioner and the taxpayer; provided, however, that said commissioner shall be authorized to assess additional taxes and penalties with respect to matters covered by this section as provided in said chapter sixty-two C where the taxpayer reports false or fraudulent information on the forms and returns required under this section.

SECTION 115. Said chapter 110 is hereby further amended by striking out sections 309, 310 and 311 and inserting in place thereof the following three sections:-

Section 309. The department of social services is hereby authorized and directed to develop and implement a comprehensive in service training program for its employees in regard to domestic violence. Said program shall include, but not be limited to, training in the detection and prevention of domestic violence and the utilization of existing counseling and referral services.

Section 310. Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the Massachusetts bay transportation authority is hereby authorized and directed to remove surface rail tracks, and all related poles, wires and other structures incidental thereto, not currently in regular use by the authority along the surface rail route commonly known as the "A-line", on or before June thirtieth, nineteen hundred and ninety-four. Use of said tracks for transportation purposes shall be deemed to have been abandoned as of December thirty-first, nineteen hundred and sixty-nine and said tracks shall be deemed not to serve anticipated future use. The removal of said surface rail tracks shall be conducted concurrently with the resurfacing or other major improvements undertaken on the relevant municipal roadways by such municipalities.

Section 311. The Massachusetts bay transportation authority is hereby authorized and directed to enter into an interagency lease agreement with North Shore community college for fair rental value, for the lease of thirteen thousand seven hundred square feet of space located in the Massachusetts bay transportation authority Lynn parking garage which shall be utilized as classroom space.

SECTION 116. Section 315 of said chapter 110 is hereby amended by striking the last sentence and inserting in place thereof the following sentence:- In addition to said funds, Worcester Polytechnic Institute shall receive the amount appropriated in item 7005-0003 of section two of this act; provided that, the secretary of education is hereby authorized and directed to enter into an agreement with Worcester Polytechnic Institute to operate a school of excellence in mathematics and science for public high school students in fiscal year nineteen hundred and ninety-four.

SECTION 117. Section 316 of said chapter 110 is hereby amended by striking out the second and third sentences and inserting in place thereof the following sentences:- Any city or town that used qualifying revenue amounts in a fiscal year that are not reasonably projected to be available for use in the next year, or that will be required to use revenues for extraordinary non-school related expenses for which it did not have to use revenues in the preceding fiscal year, may appeal to the department of revenue no later than October first, nineteen hundred and ninety-three for an adjustment of its local contribution. If the claim is determined to be valid, the department of revenue shall reduce proportionately the prior year local contribution amount based on the amount of shortfall in revenue or reduce the current year minimum required local contribution amount proportionately based on the amount of increase in extraordinary expenditures in the current fiscal year, provided, however, that no adjustment to the local contribution on account of an extraordinary expense raised in the budget of the fiscal year beginning on July first nineteen hundred ninety-three shall affect the calculation of the local contribution in subsequent fiscal years.

SECTION 118. Section 322 of said chapter 110 is hereby amended by striking out the words "nine million eight hundred seventy-six thousand one hundred and eighty-six" and inserting in place thereof the words:- ten million, two hundred and seventy-one thousand, two hundred and thirty-three.

SECTION 119. Said chapter 110 is hereby further amended by inserting after section 387 the following section:-

Section 387A. The provisions of section fifty-four of this act shall take effect as of July first, nineteen hundred and ninety-two.

SECTION 120. Notwithstanding the provisions of any general or special law to the contrary, any unexpended balance of the items of appropriation contained in the general appropriation act and any supplemental appropriation acts for fiscal year nineteen hundred and ninety-three for the trial court department of the judiciary shall be placed into item number 0330-4100 and such funds in an amount not to exceed three million three hundred thousand dollars in said account shall be available for expenditure in fiscal year nineteen hundred and ninety-four subject to the provisions of said account appropriated in the general appropriation act for fiscal year nineteen hundred and ninety-four.

SECTION 121. Notwithstanding the provisions of any general or special law to the contrary, any unexpended balance of item 2320-0101 contained in the general appropriation act and any supplemental appropriation acts for fiscal year nineteen hundred and ninety-three shall be transferred into item number 2320-0100 and such funds in an amount not to exceed one hundred fifty-five thousand dollars in said account shall be available for expenditure in fiscal year nineteen hundred and ninety-four subject to the provisions of said item 2320-0101.

SECTION 122. Notwithstanding the provisions of any general or special law to the contrary, the state comptroller is hereby authorized to transfer from the following items such amounts as would otherwise be unexpended on June thirtieth, nineteen hundred and ninety-three, to those of the following items which would otherwise have insufficient amounts to meet debt service payments for the fiscal year ending June thirtieth, nineteen hundred and ninety-three; provided, however, that each amount transferred shall be charged to such funds as specified in the item to which said amount is transferred: 0699-0090, 0699-0100, 0699-1901, 0699-1902, 0699-1903, 0699-3901, 0699-3902, 0699-3903, 0699-6800, 0699-6801, 0699-6900, 0699-8300, 0699-8301, 0699-8302, 0699-9100, 0699-9200.

SECTION 123. The powers and duties conferred upon the division of water pollution control, and upon the director of the division of water pollution control or his authorized representative or delegate by chapter twenty-one of the General Laws shall be exercised by the commissioner of the department of environmental protection, or his authorized representative or delegate, respectively. The commissioner is hereby directed to file within one hundred and eighty days, proposed legislation making any necessary corrective changes in said chapter twenty-one.

SECTION 124. Notwithstanding the provisions of any general or special law to the contrary, the entire gross square footage of any building or structure owned by the commonwealth and subject to the provisions of section twenty-six A of chapter one hundred and forty-eight of the General Laws shall comply with the provisions of said section not later than March thirtieth, nineteen hundred and ninety-seven.

SECTION 125. Notwithstanding any general or special law to the contrary, the studies and reports required by sections two hundred and five, two hundred and twenty, two hundred and twenty-one, two hundred and twenty-two and two hundred and twenty-three of chapter three hundred and seventy-nine of the acts of nineteen hundred and ninety-two may be filed on or before December thirty-first, nineteen hundred and ninety-four.

SECTION 126. Notwithstanding the provisions of any general or special law to the contrary and in order to promote the public good, the state retirement board is hereby authorized and directed to retire George E. DeRome, a police officer of the metropolitan district commission police who as a result of permanent and crippling injuries sustained while in the performance of his duties on November sixteenth, nineteen hundred and eighty-three, is totally and permanently incapacitated for further services as a police officer, at a yearly amount of pension equal to the regular rate of compensation he would have been entitled to receive had he continued service as a metropolitan district commission police of-

ficer at the grade held by him at the time of his retirement.

Such retirement shall become effective as of the date following the last day on which he was entitled to receive regular compensation.

Upon the death of George E. DeRome, if Paula DeRome, his wife, survives him, the state retirement board is authorized and directed to pay to her as long as she remains unmarried, an annuity in the amount of three-fourths of the pension payable to George E. DeRome at the time of his death.

Upon the retirement of George E. DeRome, the state retirement board shall forthwith pay him all amounts standing to his credit in the annuity savings fund of the state retirement system.

The provisions of section one hundred of chapter forty-one of the General Laws shall continue to apply to said George E. DeRome, relative to his receiving such indemnification by said commission for all hospital, medical and related expenses that have been or may be incurred after the date of his retirement as a result of the aforementioned incapacity.

SECTION 127. Notwithstanding any general or special law or rule to the contrary any employees of the Bureau of Special Investigations who had been separated from a position within the office of Bureau of Special Investigations because of lack of work or lack of money or abolition of positions shall be reinstated in the same positions or positions similar to those formerly held by them according to seniority, so that employees senior in length of service, shall be retained the longest and reinstated first. Said employees separated from such positions shall be reinstated prior to the appointment of any other applicants to fill such positions or similar positions, provided that the right to such reinstatement shall lapse at the end of the five-year period following the date of such separation.

SECTION 128. Notwithstanding the provisions of chapter seventy of the General Laws or any other general or special law to the contrary, any municipality whose expenditures for fiscal year nineteen hundred and ninety-three are in excess of its foundation budget for the school districts for which it belongs, may apply to the commissioner of education for a reduction in its preliminary local contribution so that the increase in said preliminary local contribution is no less than the amount of minimum aid received by the municipality in any fiscal year. The commissioner may grant said waiver to municipalities upon determining that the municipality is offering a full array of educational programs and support services. The commissioner's consideration shall include whether pupils are charged to participate in programs and activities and whether there exists a significantly high level of student performance as determined by state assessment instruments; provided, that the commissioner shall draft regulations stipulating criteria for said waiver; and, provided further, that said regulations shall be filed with the joint committee on education, arts and humanities at least forty-five days prior to the effective date of said regulations.

SECTION 129. Notwithstanding section sixteen B of chapter seventy-one of the General Laws or any other general or special law to the contrary, in nineteen hundred and ninety-three only, if a regional school district budget is not approved by at least two-thirds

of the member municipalities as required by said section sixteen B, the regional school district committee may, with the approval of the commissioner of education, have an additional forty-five days, beyond the initial thirty-day period, to reconsider, amend and reapportion said budget.

SECTION 130. Notwithstanding the provisions of section twenty-seven C of chapter twenty-nine of the General Laws or any other general or special law to the contrary, all children residing on Fort Devens, a federal reservation, who have been admitted to a public school under the provisions of section twelve B of chapter seventy-six of the General Laws shall, for the purposes of said section twelve B and section six of chapter one hundred thirty-three of the acts of nineteen hundred and ninety-two, be considered residents of the municipality that is currently receiving funds pursuant to P.L. 81-874, Title 20 United States Code section 236 for said students. This section shall expire upon the closure of Fort Devens.

SECTION 131. Notwithstanding the provisions of any general or special law to the contrary, the state comptroller is hereby authorized and directed to transfer funds from item 1108-5230 of section two of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two to the item of appropriation listed below. The funds so transferred shall be for the purposes of and subject to the conditions established in item 1108-5220 of said section two of said chapter one hundred and thirty-three.

1108-5220 ..... $400,000

SECTION 132. Notwithstanding any general or special law or rule or regulation to the contrary, the commissioner of revenue shall determine the fair cash value of the land owned by the commonwealth in the town of New Braintree and used for purposes of a state police academy, and reimbursement for loss of taxes on said land shall be made to the town of New Braintree in accordance with section thirteen of chapter fifty-eight of the General Laws, as if said land were one of the commonwealth lands listed in said section thirteen of said chapter fifty-eight of the General Laws.

SECTION 133. Notwithstanding any general or special law to the contrary, regional school districts receiving local aid payments pursuant to chapter seventy of the General Laws that had previously been paid to a member community shall credit each community with such aid in determining its fiscal year nineteen hundred and ninety-four member assessment. Said member assessment shall be reduced to reflect the amount of state school aid allocated from the member community to the regional school district. Said assessments shall be further reduced by the amount of any equity aid received by the regional district pursuant to said chapter seventy. The department of education may, for good cause shown, determine an alternate amount for reduction of said assessments if such adjustment is necessary to effectuate the purposes of this section. Notwithstanding the provisions of section three of chapter one hundred and ten of the acts of nineteen hundred and ninety-three, the department may withhold any state and federal funds from said regional districts if they fail to comply with the requirements imposed pursuant to this section.

SECTION 134. Any new assessments created by section one D, one F, one I, one J and one K of chapter sixty-nine of the General Laws, as amended by section twenty-nine of chapter seventy-one of the acts of nineteen hundred and ninety-three, shall be implemented by the department of education for the school years nineteen hundred and ninety-four and nineteen hundred and ninety-five.

SECTION 135. Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, no order of conditions issued pursuant to the provisions of section forty of chapter one hundred and thirty-one of the General Laws or any local ordinance or bylaw by the conservation commission of the town of Plymouth or the town of Duxbury that permits activities for the protection of the environment of the barrier beach known as Duxbury beach within the said towns of Plymouth and Duxbury, being that beach fronting the Atlantic Ocean running from Gurnet Road in Duxbury to the Gurnet and Saquish landfall in Plymouth, and particularly for the protection against or prevention of beach, dune or coastal erosion including, without limitation, planting, construction of snow fencing or post and cable or barrier dune or portions thereof, and maintenance and reconstruction and repair of any sacrificial or barrier dune or portions thereof, and maintenance and reconstruction of existing structures including, without limitation fencing, plantings, boardwalks, parking areas and roadways, or for the construction and maintenance of a roadway for off-road vehicles to provide access to and egress from Gurnet and Saquish landfill, or related to active or passive recreation on Duxbury Beach including, without limitation, bathing, picnicking, hiking, swimming, hunting in season, fishing and the operation of off-road vehicles, or for the protection of threatened or endangered wildlife species on Duxbury beach, shall be stayed during the pendency of a judicial or administrative appeal.

The activities permitted by any order of conditions shall be authorized to continue during the pendency of an appeal, but only if such activities conform to the conditions set forth in such order of conditions and any superseding order of conditions issued pursuant to section forty of chapter one hundred and thirty-one of the General Laws.

The provisions of this act shall cease to apply to any activities described herein with respect to which all administrative appeal periods have elapsed and all administrative proceedings have been completed and a final order of conditions or a final superseding order of conditions has issued. Nothing contained herein shall be construed to stay of a final decision of an administrative body not subject to further administrative appeal or of a judicial body.

SECTION 136. Notwithstanding the provisions of item 9110-1633 in section 2 of chapter 110 of the acts of 1993 or any other special or general law to the contrary, contracts between the Executive Office of Elder Affairs and home care corporations or other qualified bidders for the administration of the home care program, so-called, shall include reasonable costs for rent.

SECTION 137. Notwithstanding any general or special law to the contrary, any former per diem court officer who has been subsequently appointed or made a full-time court officer shall, for the purposes of establishing seniority, be credited with any time served in said per diem capacity.

SECTION 138. Notwithstanding any general or special law to the contrary, any collective bargaining agreement entered into by any county that receives funds from the commonwealth and any recognized collective bargaining unit shall be deemed to be approved.

SECTION 139. There is hereby commissioned a study to be contracted out and overseen by the Massachusetts film office within the executive office of economic affairs. Said study shall be contracted out by the Massachusetts film office to the organization, Massachusetts Organizations Vying for the Industry of Entertainment, herein referred to as MOVIE. The main purpose of said study shall be an evaluation of the feasibility of constructing a film and video sound stage in the city of Boston. Such study shall include but not be limited to: (1) an analysis of the costs of renovating existing structures, or constructing new buildings, to house said sound stage; (2) a study to determine whether a viable market exists to justify construction of said sound stage; (3) to examine the potential revenues which might be drawn by the construction of a sound stage in the city of Boston. MOVIE, in the course of its investigation and study, shall take into account the implications of the construction of said sound stage on the people and property of neighboring communities and adjacent parcels of land.

MOVIE shall have access to any data from the Massachusetts film office it deems necessary to conduct its duties. No member of MOVIE or its staff shall employ any such data for any purpose other than carrying out the duties set forth in this section.

The results of said study shall be reported to the general court together with recommendations and drafts of legislation necessary to carry said recommendations into effect by submitting a copy of said report to the clerk of the senate and the clerk of the house of representatives.

SECTION 140. The board of education shall have the authority to issue standard certificates to all persons who apply for certificates prior to October first, nineteen hundred and ninety-four and who meet the requirements for certification adopted by the board as set forth in its regulations for the certification of educational personnel. All regulations necessary to implement the provisions of section thirty-eight G of chapter seventy-one of the General Laws, as appearing in section forty-one of chapter seventy-one of the acts of nineteen hundred and ninety-three, shall be promulgated by the department of education not later than December thirty-first, nineteen hundred and ninety-three and, not later than October first, nineteen hundred and ninety-four, shall apply to all persons who apply for certificates.

SECTION 141. The department of public health shall name one of the grants in the breast cancer research grant program, authorized in item 4570-1500 of section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three, as the "Suzanne Sheats Breast Cancer Research Fellowship".

SECTION 142. The secretary of administration and finance and the state budget director are hereby authorized and directed to conduct a study relative to the costs associated with completing Medicaid final retrospective rate settlements, including net liabilities owed to nursing homes, hospitals, home health agencies and other providers whose reimbursement rates are set by the rate setting commission and liabilities owed as a result of rate appeals. Said study shall calculate the entire outstanding final rate liability for the years preceding nineteen hundred and ninety-one and shall develop a payment schedule to liquidate said liabilities. Said study shall be filed with the senate and house committees on ways and means no later than December thirty-first, nineteen hundred and ninety-three; provided, however, that said secretary and director may file a partial report concerning total net liabilities owed to a single category of provider prior to completion of the study of net liability owed to all providers. Notwithstanding the provisions of any general or special law to the contrary, no payments of said final rates shall be made until the completion of said study and until the general court specifically appropriates additional funds for said purpose.

SECTION 143. The department of highways is hereby prohibited from any further privatization of said department of highway functions for a period of ninety days from the effective date of this act.

SECTION 144. A special commission on historic preservation is hereby established. The special commission shall be comprised of twenty-four members who shall serve without compensation. Notwithstanding any provision of section six of chapter two hundred and sixty-eight A to the contrary, the commission shall consist of: the secretary of environmental affairs or his designee; the secretary of economic affairs or his designee; the secretary of communities and development or his designee; the secretary of transportation or his designee; the secretary of state of the commonwealth or his designee; the state historic preservation officer or his designee; the chairmen of the legislature's joint committee on natural resources and agriculture; the chairmen of the legislature's joint committee on commerce and labor; five public members from the historic preservation community to be chosen by the governor; five public members from the development and real estate community, including owners of historic property, to be chosen by the governor; and four members of the general court, two from the senate to be chosen by the senate president, and two from the house of representatives to be chosen by the speaker of the house. The chairmen of the natural resources and agriculture committee shall act as co-chairs of the commission.

Said commission shall review and make recommendations to the administration and the legislature regarding the appropriate scope of, and the mechanisms for the involvement of, the various agencies currently involved in historic preservation and revitalization of the historic and cultural resources of the commonwealth.

Said commission shall report to the general court the results of its investigation and study, and its recommendations, if any, by filing its report with the clerk of the house of representatives and with the clerk of the senate six months from the enactment of this legislation.

SECTION 145. The comptroller is hereby authorized and directed to promulgate

rules and regulations to ensure that, effective July first, nineteen hundred and ninety-three, agencies are informed that no payment of prior year deficiencies, so-called, will be made until such time, as such comptroller has certified to the house and senate committees on ways and means that sufficient funds, excluding interest costs, were available and did revert in the prior fiscal year in which said deficiency occurred.

SECTION 146. The rules and regulation to be promulgated by the department of environmental protection pursuant to subsection (b) of section eighteen A of chapter twenty-one A of the General Laws, shall be completed no later than one hundred and eighty days after the effective date of section ten of this act.

SECTION 147. The rules and regulations to be promulgated by the department of public safety pursuant to section twenty of chapter twenty-two of the General Laws, inserted by section eleven of this act, shall be completed by January first, nineteen hundred and ninety-four; provided, that said department shall adopt emergency regulations governing carriage horses in the interim period.

SECTION 148. Sections fifty-seven to sixty-one, inclusive, of this act shall take effect on July first, nineteen hundred ninety-two.

SECTION 149. Sections eighty-one to one hundred and nineteen, inclusive, of this act shall take effect as of July first, nineteen hundred and ninety-three.

SECTION 150. Except as otherwise provided, the provisions of this act shall take effect upon its passage.

Approved August 19, 1993.

Chapter 152. AN ACT AUTHORIZING THE BUILDING AND MAINTENANCE OF A RADIO BROADCASTING SYSTEM IN FRANKLIN COUNTY TO AID IN ALL PUBLIC SERVICES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 657 of the acts of 1955 is hereby amended by striking out sections 1 to 3, inclusive, and inserting in place thereof the following four sections:-

Section 1. The county commissioners of Franklin county, subject to appropriation, are hereby authorized to expend such sums as may be necessary for the establishment, construction, periodic modernization, or replacement of a radio broadcasting system for the purpose of public services, including but not limited to emergency medical services, police services, and fire services, as they may be required within the county of Franklin. The dispatch and coordination center shall be located initially in the town of Greenfield with secondary centers in such other towns in Franklin county as may be determined in the future. The main transmitter site shall be located initially in the town of Shelburne on Shelburne Mountain. Transmission towers, remote transmitters, and appurtenant structures may be constructed at other sites within Franklin county as deemed necessary for adequate radio coverage for public services within the said county and to allow interfacing with other public

service entities in adjacent states and counties.

Section 2. The system of radio broadcasting authorized to be established by section one shall be administered and operated by personnel of the Franklin County Emergency Dispatch Cooperative or its successors and the costs of their services shall be borne by said Cooperative. Nonmember municipalities in Franklin county shall not be charged for emergency medical services coordination or public safety mutual aid dispatching services.

Section 3. The county commissioners of Franklin county are hereby authorized to expend such other sums as may be necessary, subject to appropriation, for maintenance and repair of the aforesaid radio broadcasting system and for those costs of operation which are not provided in section two. The capital expenses of section one and the ongoing maintenance, repair, and infrastructure expenses of this section shall be assessed and collected against the towns of Franklin county in the manner provided by chapter thirty-five of the General Laws for the assessment and collection of the county tax except insofar as these expenses may be reduced by any grants or gifts, which may be made available to said county for such purposes.

Section 4. In order to carry out the intent of this act, the county commissioners of Franklin county are authorized hereby to exercise the powers of eminent domain under chapter seventy-nine of the General Laws to acquire land and the rights in land in Franklin county as they may deem necessary. Any such land and facilities shall be made available by the county to other state, county or local agencies, with priority to public safety entities, for similar purposes; provided, however, that such additional facilities do not interfere with existing operations. It shall be the responsibility of the intervening entity to demonstrate that its operations at the site will be compatible with existing operations.

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

Approved August 30, 1993.

Chapter 153. AN ACT AUTHORIZING THE LICENSING AUTHORITY OF THE TOWN OF PALMER TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

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 of the town of Palmer 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 Russell Baker and Co., Inc., dba Route #20 Sports Bar 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 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 September 2, 1993.

Chapter 154. AN ACT RELATIVE TO THE BOARD OF DIRECTORS OF THE MUTUAL SAVINGS CENTRAL FUND, INC.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately effect required changes in the board of directors of the Mutual Savings Central Fund, Inc., 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 44 of the acts of 1932 is hereby amended by striking out sections 2, 2A and 3 and inserting in place thereof the following three sections:-

Section 2. The officers of the corporation shall be a president, one or more vice-presidents, a treasurer, a clerk and a board of directors consisting of four public directors elected in accordance with section three and unless otherwise provided for in the by-laws of the corporation, such additional number of directors, not to exceed twelve, who shall serve as representatives of member banks, elected in accordance with section two A. All officers shall be elected by the directors. At all meetings of the corporation and of the election districts, each member bank shall be represented by such person as its board of trustees, board of directors, board of investment or executive committee shall designate, and each member bank shall have one vote for each ten million dollars or fraction thereof of excess deposits as shown by its latest report to the commissioner or the corporation. The directors may adopt by-laws and amendments thereto for the conduct of the business of the corporation, but any additions, deletions or other amendments thereto adopted shall be subject to the approval of a majority of the member banks. Such by-laws may provide for and fix the time and place of meetings of the directors, which shall be at least quarterly, and of the corporation, define the duties of the officers, establish an executive committee of not less than five directors with such powers as the directors shall determine, and may provide for such other officers and committees as they deem advisable. Such by-laws, with the approval of the commissioner, may also provide for the election of fewer than twelve directors as representatives of member banks or of fewer than four public directors; provided, however, that not less than twenty-five percent of the members of the board of directors of the corporation shall consist of public directors. Such by-laws, with the approval of the commissioner, may further provide for changes in or elimination of any one or more of the election districts from which directors representing member banks are elected. The directors may fill vacancies in the board until the next election. The board of directors shall

have full control of the business of the corporation. The executive committee shall have full control of the business of the corporation between meetings of the directors. Any action required or permitted to be taken at any meeting of the directors may be taken without a meeting if all directors entitled to vote on the matter consent to the action in writing and the written consent or consents are filed with the records of the meetings of the directors. Such consents shall be treated for all purposes as votes at a duly called and held meeting. The board of directors of the corporation or any committee thereof may participate in a meeting of such board or committee by means of a conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at such meeting.

Section 2A. Unless otherwise provided in the by-laws pursuant to section two, the board of directors shall consist of sixteen members, twelve of whom shall be elected from among the trustees, directors and officers of the member banks as hereinafter provided, and four of whom shall be public directors elected in accordance with section three. For the purpose of the election of directors who shall serve as representatives of the member banks and unless otherwise provided for in the by-laws, each of the counties of Essex, Hampden, Middlesex, Suffolk and Worcester shall constitute an election district, the counties of Barnstable, Bristol, Dukes County, Nantucket, Norfolk and Plymouth, as a group, shall constitute an election district, and the counties of Berkshire, Franklin and Hampshire, as a group, shall constitute an election district. Unless otherwise provided in the by-laws, each election district shall elect one director from among the trustees, directors or officers of the member banks whose main offices are located in each such election district, and all member banks, as a group, shall elect five at-large directors from a list of trustees, directors or officers of member banks nominated by such banks and filed with the board of directors not later than sixty-days prior to the annual meeting of the corporation; provided, however, that no more than two directors elected pursuant to this section shall be trustees, directors or officers of member banks whose main offices are located in the same election district. Directors representing the election districts shall be elected at the annual meeting of the election districts, and at-large directors shall be elected at the annual meeting of the corporation. The directors representing the election districts and the at-large directors shall each be divided into two classes, which classes shall be as nearly equal in number as possible. At the next annual meeting of each of the election districts and the corporation following the effective date of this section, one class of directors shall be elected for a one year term and one class of directors shall be elected for a two year term, and thereafter, each class of directors shall be elected for a two year term.

Section 3. The annual meeting of the corporation shall be called by the clerk at such time and place as may be designated by the directors. In addition to the directors elected pursuant to section two A, the member banks, at such meeting, shall elect the appropriate number of public directors, as provided for in section two, from a list of persons nominated by said banks, none of whom shall be corporators, directors, trustees, officers or employees of a banking institution, as defined in section one of chapter one hundred and sixty-seven A

of the General Laws. No more than two public directors shall be residents of the same election district. Each public director shall be elected for a term of two years. Such public directors shall be divided into two classes, which classes shall be as nearly equal in number as possible. At the next annual meeting of the corporation following the effective date of this section, one class of such directors shall be elected for a one year term and one class for a two year term, and thereafter, each class of directors shall be elected for a two year term. Each member bank may nominate persons to be a public director by filing the same with the board of directors not later than sixty days prior to the annual meeting of the corporation at which such directors are to be elected; provided, however, that any such person nominated shall be qualified by training and experience in one of the following fields: business, insurance, investments, real estate, accounting or law.

Approved September 10, 1993.

Chapter 155. AN ACT RELATIVE TO THE PRELIMINARY ELECTION IN THE CITY OF MEDFORD IN NINETEEN HUNDRED AND NINETY-THREE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of the charter of the city of Medford or of any general or special law to the contrary, there shall be no preliminary election in said city of Medford, as otherwise required, on September twenty-first, nineteen hundred and ninety-three, for the office of school committee member for a two year term and the 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 10, 1993.

Chapter 156. AN ACT PROVIDING FOR THE RECALL OF ELECTED OFFICIALS IN THE CITY OF TAUNTON.

Be it enacted, etc., as follows:

SECTION 1. Any holder of an elective office in the city of Taunton with more than six months remaining in the term for which he was elected may be recalled therefrom by the registered voters of the city of Taunton as hereinafter provided.

SECTION 2. Any five hundred or more voters may file with the city clerk an affidavit containing the name of the officer whose recall is sought and a statement of the grounds of recall. At least fifty names of voters shall be from each of the wards into which the city is divided. The city clerk shall thereupon deliver to the voters making such affidavit

petition blanks demanding such recall, printed forms of which he shall keep available. The blanks shall be issued by the city clerk with his signature and official seal attached thereto. They shall be dated, shall be addressed to the municipal council, shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought, the office from which such recall is sought and the grounds for recall as stated in the affidavit, and they shall demand the election of a successor to said office. A copy of the affidavit shall be entered in a record book to be kept in the office of the city clerk. The recall petitions shall be returned and filed with the city clerk within twenty days following the date of the filing of the affidavit, signed by at least fifteen percent of the voters and containing their names and addresses; provided, however, that not more than twenty-five percent of the total number shall be from any one ward.

The city clerk shall, within twenty-four hours of receipt of such petition, submit them to the board of registrars of voters who shall forthwith certify thereon the number of signatures that are names of voters of the city of Taunton.

SECTION 3. If the petition shall be certified by the city clerk to be sufficient, said clerk shall forthwith submit the same with his certificate to the municipal council. Upon its receipt of the certificate, said municipal council shall forthwith give written notice of such petition and certificate to the officer whose recall is sought. If said officer does not resign his office within five days after delivery of such notice, the municipal council shall order an election to be held not less than sixty nor more than ninety days after the date of the city clerk's certificate of the sufficient petition. If, however, any other city election is to occur within one hundred days after the date of such certificate, said municipal council shall hold the recall election on the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall proceed as provided in this act, and the ballots for candidates shall, notwithstanding a recall provision to the contrary, be counted.

SECTION 4. Any officer whose recall is sought may not be a candidate to succeed himself in the recall election. The nomination of candidates, the publication of the warrant for the recall election and the conduct of same shall be in accordance with the provision of law relating to elections, unless otherwise provided herein.

SECTION 5. Ballots used in 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 proposition shall appear the word "candidates" and the names of candidates nominated as required in section forty-two of chapter fifty-four of the General Laws. 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 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 herein.

If the incumbent is recalled in the 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 five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacated.

SECTION 7. No recall petition shall be filed against an officer within three months after he 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 recall was submitted to the voters.

SECTION 8. This act shall be submitted for acceptance to the voters of the city of Taunton at the next municipal election in the form of the following question which shall be placed upon the official ballot to be used in said city at said election:- "Shall an act passed by the general court in the year nineteen hundred and ninety-three, entitled 'An Act providing for the recall of elected officials in the city of Taunton', be accepted?"

If a majority of the votes to said question is in the affirmative, said act shall take effect, but not otherwise.

Approved September 17, 1993.

Chapter 157. AN ACT RELATIVE TO NOMINATIONS FOR TOWN OFFICES IN THE TOWN OF AMHERST.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section seven of chapter fifty-three of the General Laws or any other general or special law to the contrary, the town of Amherst is hereby authorized to require that every nomination paper of a candidate for elective office in the town of Amherst shall be submitted to the registrars of voters of the town where the signers appear to be voters on or before five o'clock post meridian of the seventh day preceding the day on which it must be filed with the town clerk.

Approved September 23, 1993.

Chapter 158. AN ACT EXEMPTING THE LEASING OF CERTAIN LAND IN THE TOWN OF ROCKPORT FROM CERTAIN BIDDING LAWS.

Be it enacted, etc., as follows:

SECTION 1. The town of Rockport is hereby exempt from the provisions of chapter thirty B of the General Laws with respect to the leasing of town owned real property at Long Beach located in said town of Rockport.

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

Approved September 23, 1993.

Chapter 159. AN ACT EXEMPTING THE POSITION OF CHIEF OF THE POLICE DEPARTMENT OF THE TOWN OF BEDFORD FROM THE PROVISIONS OF CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of chief of the police department of the town of Bedford 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 the police department of the town of Bedford on the effective date of this act.

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

Approved September 23, 1993.

Chapter 160. AN ACT RELATIVE TO THE ELECTION OF TOWN MEETING MEMBERS IN THE TOWN OF BURLINGTON.

Be it enacted, etc., as follows:

SECTION 1. Subsection (*b*) of section 2 of chapter 686 of the acts of 1970 is hereby amended by striking out, in lines 6, 13, 25, 29, 30, 31, 33 and 35, the word "district", each time it appears, and inserting in place thereof, in each instance, the following word:- precinct.

SECTION 2. Said subsection (*b*) of said section 2 of said chapter 686 is hereby further amended by striking out, in line 19, the word "fourteen" and inserting in place thereof the following word:- twenty-one.

SECTION 3. Said chapter 686 is hereby further amended by striking out section 3 and inserting in place thereof the following section:-

Section 3. The board of selectmen shall, pursuant to the provisions of chapter fifty-four of the General Laws, divide the town into the minimum number of precincts.

SECTION 4. The first paragraph of section 4 of said chapter 686 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- At the annual town election held in the year nineteen hundred and ninety-four and at each town election next following a redivision of the town into precincts, eighteen town meeting members shall be elected from each such precinct.

SECTION 5. Said first paragraph of said section 4 of said chapter 686 is hereby further amended by striking out, in line 3, in line 5, the second time it appears, and in line 7 the word "three" and inserting in place thereof, in each instance, the following word:- six.

SECTION 6. Said section 4 of said chapter 686 is hereby further amended by striking out, in lines 4, 5, 7, 13 and 31 the word "district", each time it appears, and inserting in place thereof, in each instance, the following word:- precinct.

SECTION 7. Said section 4 of said chapter 686 is hereby further amended by striking out the second and third paragraphs and inserting in place thereof the following two paragraphs:-

Every five years, commencing with the year two thousand, the registrars of voters shall determine the number of representative town meeting members to which each precinct shall be entitled at subsequent elections. The number of town meeting members to which each precinct shall be entitled of the total of one hundred and eight members shall be in the same ratio as the population of each precinct bears to the population of the town as a whole.

Whenever the town is redivided, the terms of all incumbent town meeting members shall be terminated and the provisions of this section shall apply insofar as applicable.

SECTION 8. Subsection (*b*) of section 9 of said chapter 686 is hereby amended by striking out, in line 5, the word "district" and inserting in place thereof the following word:- precinct.

Approved September 27, 1993.

Chapter 161. AN ACT TO REORGANIZE THE DEPARTMENT OF PUBLIC WELFARE TO MAKE THE OPERATION OF GOVERNMENT MORE EFFICIENT.

Be it approved by the Senate and House of Representatives in General Court assembled, pursuant to Article LXXXVII of the Amendments to the Constitution, and by the Authority of the same, as follows:

SECTION 1. Chapter 6A of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting, after section 16, the following section:-

Section 16A. There shall be a division of medical assistance within the executive office of health and human services. Such division shall be in the charge of a commissioner who shall be known as the commissioner of medical assistance. The commissioner of medical assistance shall administer the provisions of chapter one hundred and eighteen E.

Any agency within the executive office of health and human services engaging in any activity or implementing any policy involving the delivery of services reimbursable under chapter one hundred and eighteen E, certification or licensure of providers of services under such chapter, or identification of individuals eligible for medical assistance under such chapter, shall seek review by the commissioner of medical assistance prior to engaging in any such activity or implementing any such policy.

SECTION 2. The first paragraph of section 2 of chapter 18, as appearing in the 1990 Official Edition, is hereby amended by inserting after the words medical care in line 8 the following words:- , except that such assistance shall not include medical assistance provided under chapter one hundred and eighteen E;.

SECTION 3. Paragraph (B)(h) of section 2 of chapter 18, as appearing in the 1990 Official Edition, is hereby amended by deleting, in lines 49 and 50 the words "chapters one hundred and eighteen and one hundred and eighteen E" and inserting in place thereof the following words:- chapter one hundred and eighteen.

SECTION 4. Section 5C of chapter 18, as appearing in the 1990 Official Edition is hereby amended by deleting, in lines 6 and 7 the words "or section fourteen of chapter one hundred and eighteen E".

SECTION 5. Section 5C of chapter 18, as so appearing, is hereby further amended by deleting the last sentence and inserting in place thereof the following sentence:- All vouchers submitted by a vendor shall be signed under the penalties of perjury.

SECTION 6. The second paragraph of Section 5G of chapter 18, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word department, in line 7, the following words:- and the division of medical assistance.

SECTION 7. The second paragraph of section 5G of chapter 18, as so appearing, is hereby further amended by inserting after the word department, in line 8, the following words:- or the division of medical assistance.

SECTION 8. The second paragraph of Section 5G of chapter 18, as so appearing, is hereby further amended by adding at the end thereof the following sentence:- If the monies available for such repayment are insufficient to satisfy in full any competing claims of both the department and the division of medical assistance, the department and the division each shall be entitled to its respective pro rata share of such monies as are available for such repayment.

SECTION 9. The third paragraph of section 5G of chapter 18, as so appearing, is hereby further amended by inserting after the word department, in line 19, the following words:- or the division of medical assistance.

SECTION 10. The third paragraph of Section 6 of chapter 18, as appearing in the 1990 Official Edition, is hereby amended by deleting, in lines 28 through 31, the following sentence:- Such report shall include recommendations of methods to reduce the costs of the medical assistance program administered by the department under chapter one hundred and eighteen E.

SECTION 11. Section 10 of Chapter 18, as appearing in the 1990 Official Edition, is hereby amended by deleting, in line 19, the following words:- or XIX.

SECTION 12. Section 10 of Chapter 18, as so appearing, is hereby further amended by inserting after the last sentence the following sentence:- Prior to undertaking any activity or implementing any policy which would affect expenditures for medical assistance under chapter one hundred and eighteen E, including but not limited to identifying individuals eligible for such assistance under said chapter, the commissioner shall assure that such activity or policy is reviewed by the commissioner of medical assistance.

SECTION 13. Section 7 of Chapter 18B, as appearing in the 1990 Official Edition, is hereby amended by inserting, after paragraph (k), the following paragraph:-

(l) Prior to undertaking any activity or implementing any policy which would affect expenditures for medical assistance under chapter one hundred and eighteen E, including but not limited to identifying individuals eligible for such assistance under said chapter, the commissioner shall assure that such activity or policy is reviewed by the commissioner of medical assistance.

SECTION 14. Section 2 of Chapter 19, as appearing in the 1990 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:-

Prior to undertaking any activity or implementing any policy which would affect expenditures for medical assistance under chapter one hundred and eighteen E, involving the delivery of services reimbursable under said chapter, certification and licensure of providers of services under said chapter, or identifying individuals eligible for such assistance under said chapter, the commissioner shall assure that such activity or policy is reviewed by the commissioner of medical assistance.

SECTION 15. Section 2 of Chapter 19B, as appearing in the 1990 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:-

Prior to undertaking any activity or implementing any policy which would affect expenditures for medical assistance under chapter one hundred and eighteen E, involving the delivery of services reimbursable under said chapter, certification and licensure of providers of services under said chapter, or identifying individuals eligible for such assistance under said chapter, the commissioner shall assure that such activity or policy is reviewed by the commissioner of medical assistance.

SECTION 16. Section 2 of Chapter 111, as appearing in the 1990 Official Edition, is hereby amended by inserting at the end thereof the following paragraph:-

Prior to undertaking any activity or implementing any policy which would affect expenditures for medical assistance under chapter one hundred and eighteen E, including but not limited to the certification and licensure of providers of services under said chapter, the commissioner shall assure that such activity is reviewed by the commissioner of medical assistance.

SECTION 17. The General Laws are hereby amended by striking out Chapter 118E and inserting in place thereof the following chapter:-

Chapter 118E.

Division of Medical Assistance

Section 1. The division of medical assistance, established under section sixteen A of chapter six A, is hereby designated as the single state agency responsible for administering the programs of medical assistance established under this chapter. All actions of the division shall be taken by the commissioner, or at the direction of the commissioner, by such agents or subordinate officers as he or she shall determine.

Section 2. The secretary of health and human services, designated pursuant to section three of chapter six A, shall appoint, with the approval of the governor, a commissioner of medical assistance who shall serve at the pleasure of the secretary and may be removed by the secretary at any time, subject to the approval of the governor. The commissioner shall have such educational qualifications and such administrative and other experience as the secretary of health and human services determines to be necessary for the performance of the duties of commissioner. The commissioner shall appoint and may remove such agents and subordinate officers as the commissioner may deem necessary and may establish such subdivisions within the division as the commissioner deems appropriate from time to time. 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.

Section 3. The commissioner shall appoint a deputy commissioner and such assistant commissioners, not to exceed four in number, as the commissioner may determine to be necessary or desirable to carry out the work of the division. The deputy and assistant commissioners shall be assigned areas of responsibility to be specified by the commissioner. The deputy and assistant commissioners shall have such educational qualifications and such administrative and other experience as the commissioner determines to be necessary for the performance of the duties of those offices.

The positions of deputy commissioner and assistant 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. If the office of the commissioner becomes vacant, the deputy commissioner shall discharge the duties and have the powers of the commissioner. During the absence or disability of the commissioner, the deputy commissioner shall discharge the duties and have the powers of the commissioner; and, if the office of the deputy commissioner is vacant or if the deputy commissioner is absent or disabled at the same time as the commissioner, an assistant commissioner designated by the commissioner shall discharge the duties and have the powers of the commissioner.

Section 4. The commissioner shall appoint a general counsel who shall be a member of the Massachusetts bar. The general counsel may hire such additional legal counsel and such other personnel, subject to appropriation, as may be deemed necessary to perform the functions of the office of general counsel.

Section 5. The commissioner may establish regional or local offices at such locations

in the commonwealth as the commissioner may deem necessary to ensure the effective administration of the medical assistance programs established under this chapter. Such locations may include, but shall not be limited to, the regional or local offices of the department of public welfare.

Section 6. There shall be a medical care advisory committee which shall advise the division about health and medical care services. The committee shall have the opportunity to participate in policy development and program administration. The commissioner shall appoint members to the advisory committee on a rotating and continuous basis in such numbers and for such terms as the commissioner deems appropriate; provided that the committee shall include board-certified physicians and other representatives of the health professions who are familiar with the medical needs of low-income population groups and with the resources available and required for their care, members of consumers' groups, including medical assistance recipients, and the commissioner of the department of public welfare.

The division shall provide the committee with such staff and technical assistance as is necessary to enable the committee to make effective recommendations, and such financial arrangements as are necessary to make possible the participation of recipient members.

Section 7. In addition to all powers conferred on state agencies, the division shall have the following powers:

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

b. to make contracts and execute all instruments necessary or convenient for carrying out its business;

c. to acquire, own, hold, dispose of, and encumber personal property and to lease real property in the exercise of its powers, and the performance of its duties;

d. 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, association, or other entity;

e. to charge and collect fees, rentals and other charges as reasonable and necessary for carrying out its business;

f. to receive and administer any funds granted, given or bequeathed to its use or for a special purpose as indicated in the gift, grant, or order or decree of a court;

g. to do all acts and things necessary or convenient to carry out the powers otherwise granted under this chapter; and

h. to review, prior to implementation, any activity or policy of any agency within the executive office of human services involving the delivery of services reimbursable under this chapter, certification or licensure of providers of services under this chapter, or identification of individuals eligible for medical assistance under this chapter.

Section 8. As used in this chapter the following terms and phrases shall, unless the context clearly requires otherwise, have the following meanings:

a. "Division", the division of medical assistance within the Executive Office of Health and Human Services.

b. "Institution", any licensed hospital, any licensed nursing home, or any public medical institution which meets the requirements of the Secretary.

c. "Medicaid", the jointly funded state and federal medical assistance program established pursuant to Title XIX under section nine of this chapter.

d. "Medical assistance", payment by the department, or its agent, or any predecessor or successor agency, of all or part of the cost of the medical care and services provided to recipients of any program established under this chapter.

e. "Person", any individual who resides in the commonwealth, or any individual residing outside the commonwealth who is deemed to be a resident of the commonwealth under Title XIX.

f. "Provider", any institution, agency, individual, or other legal entity qualified under the laws of the commonwealth to perform the medical care or services for which medical assistance is available under this chapter.

g. "Public medical institution", any medical institution supported in whole or in part by public funds, either federal, state or municipal staffed by professional, medical and nursing personnel and providing medical care, in accordance with standards established through licensing or approval by the department of public health.

h. "Reside", to occupy an established place of abode with no present intention of definite and early removal, but not necessarily with the intention of remaining permanently, but in no event shall the word "reside" be construed more restrictively or less restrictively than as defined by the Secretary under Title XIX.

Confinement of a person in any nursing home, hospital, or other medical institution in the commonwealth shall not, in and of itself, be sufficient evidence to qualify such person as a resident under this chapter.

i. "Secretary", the Secretary of the United States Department of Health and Human Services, except as that term is used in section two of this chapter.

j. "Title XIX", Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq.

Section 9. There is hereby established, pursuant to and in conformity with the provisions of Title XIX, a program of medical assistance, hereafter referred to in this chapter as Medicaid, for certain residents of the commonwealth.

Medicaid benefits 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. Such 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 such persons meet the financial eligibility requirements of Title XIX; provided, further, that said benefits shall be available to otherwise eligible persons seeking admission to and residents of long-term care facilities whose income and resources are insufficient to meet the cost of their medical care as determined by the financial eligibility requirements of said program.

Section 10. The division shall establish a program of medical care and assistance for pregnant women and infants who are not otherwise eligible for medical assistance under this chapter and who lack private health insurance coverage or have a health insurance policy which does not cover all medically necessary care which is covered by the program established by this section. The division shall furnish such medical assistance to each such pregnant woman and infants residing in the commonwealth in accordance with standards of eligibility established in section 1902 of the Social Security Act, as amended by section 4101 of the Omnibus Budget Reconciliation Act of 1987 (P. L. 100-203); provided, however, that the income eligibility standards shall not be less than one hundred and eighty-five per cent of the non-farm income poverty guidelines as defined by the United States Office of Management and Budget.

The division shall, to the extent permitted by Title XIX, provide for Medicaid in the form of ambulatory care to pregnant women who are presumptively eligible for Medicaid for the period of time prescribed by federal law. The division 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 Medicaid and which shall set standards to be used by providers in determining presumptive eligibility.

Section 11. The division shall, within the limits of the funds which have been appropriated for the purposes of this chapter, cooperate with the appropriate federal authorities in the administration of Title XIX, under which federal funds are available to the commonwealth for Medicaid, and accept for the commonwealth any benefits thereof. The state treasurer shall be the custodian of such funds allocated to the commonwealth.

Section 12. In administering the medical assistance programs established under this chapter, the division shall formulate such methods, policies, procedures, standards and criteria, except medical standards and criteria, as may be necessary for the proper and efficient operation of those programs in a manner consistent with simplicity of administration and the best interests of recipients.

The division may enter into any types of contracts with providers of medical services as the division deems necessary to carry out the provisions of this chapter, including, but not limited to, selective contracts, volume purchase contracts, preferred provider contracts and managed care contracts; provided, that such contracts are reviewed by the rate setting commission and the executive office of administration and finance. The division may negotiate the rate of reimbursement to the provider under any such contract, and any such negotiated rate shall not be subject to the provisions of section thirty-two of chapter six A.

The division may take such further action, consistent with law and within the limits of available funds appropriated for the purposes of this chapter, as may be necessary for carrying out the purposes of this program in conformity with all requirements governing the availability of federal financial participation to the commonwealth under said Title XIX, including said provisions relative to notice and reimbursement, a uniform system of records and accounts to be kept by the regional or local offices and the manner and form of making reports to the division.

The division may adopt, promulgate, amend and rescind rules and regulations suitable or necessary to carry out the provisions of this chapter and said Title XIX and any amendments thereto, and as interpreted from time to time by the Secretary.

Such rules and regulations shall include provisions requiring providers of long term care services intending to withdraw from the medical assistance programs established by this chapter to provide for the continuing care or appropriate relocation of the medical assistance recipients residing in their facilities.

The division may require any long term care provider expressing its intention to withdraw from said programs whose facility is able to meet the standards for participation in said programs to enter into a standard provider contract with the division under which the provider continues to provide services only to those patients residing in its facility at the time the provider announces its intention to withdraw who are eligible for medical assistance or who become eligible for medical assistance during the term of the contract. Such rules and regulations shall also provide that any such provider who has withdrawn from said programs may not participate in said programs for a period of time, not exceeding five years, specified in said regulations.

Such rules and regulations shall also provide that any long term care provider whose facility is unable to meet the standards for participation in said programs shall continue to provide care to the medical assistance recipients residing in its facility until the provider has arranged for the complete relocation of all the medical assistance recipients residing in its facility in accordance with such rules and regulations and with the regulations of the department of public health.

Any provider who violates the provisions of this section by failing to provide care to a medical assistance recipient residing in its facility shall be subject to a fine of one thousand dollars for each violation.

As a method of providing medical assistance to recipients, the division is authorized to contract with any fiscal agent, institution, health insurer, health maintenance organization, health plan, management service or consultant firm consistent with the requirements of 42 CFR Part 434 to administer all or part of the services and benefits available under this chapter; or, to establish a health maintenance organization; provided, that said health maintenance organization shall be operated in accordance with applicable federal and state law.

Section 13. The division shall review, and approve or disapprove, any change in rates or in rate methodology proposed by the rate setting commission. The division shall review such proposed rate changes for consistency with division policy and federal requirements, and with the available funding authorized in the final budget for each fiscal year prior to certification of such rates by the commission; provided, that the division shall not disapprove a rate increase solely based on the availability of funding if the federal health care financing administration provides written documentation that federal reimbursement would be denied as a result of said disapproval and said documentation is submitted to the

house and senate committees on ways and means. The division shall, whenever it disapproves a rate increase, submit the reasons for disapproval to the commission together with such recommendations for changes. Such disapproval and recommendations for changes, if any, shall be submitted to the commission after the division is notified that the commission intends to propose a rate increase for any class of provider under Title XIX but in no event later than the date of the public hearing held by the commission regarding such rate change; provided that no rates shall take effect without the approval of the division. The commission and the division shall provide documentation on the reasons for increases in any class of approved rates that exceed the medical component of the consumer price index to the house and senate committees on ways and means. The commission shall supply the division with all statistical information necessary to carry out the division's review responsibilities under this section. Notwithstanding the foregoing, the division shall not review, approve, or disapprove any such rate set pursuant to chapter twenty-three of the acts of nineteen hundred and eighty-eight.

If projected payments from rates necessary to conform to applicable requirements of Title XIX are estimated by the division to exceed the amount of funding appropriated for such purpose in the budget for such fiscal year, the division and the commission shall jointly prepare and submit to the Governor a proposal for the minimum amount of supplemental funding necessary to satisfy the requirements of the state plan developed by the division under Title XIX.

Section 14. Pursuant to the second paragraph of section twelve, the division shall enter into negotiated rate contracts with nursing homes that recognize the acquisition cost, or portion thereof which exceeds the allowable basis under relevant regulations of the rate setting commission, as the allowable basis of fixed assets where there has been a change of ownership effective on or after January first, nineteen hundred and eighty-seven, provided that:

(a) (i) the new owner has received a determination letter from the Internal Revenue Service that it is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986; and

(ii) the new owner is a nonprofit hospital within the commonwealth licensed by the department of public health, or is a nonprofit organization affiliated with a nonprofit hospital which is organized and operated for the benefit of, to perform one or more functions of, or to carry out one or more of the purposes of the nonprofit hospital it is affiliated with, including operation of freestanding nursing homes licensed by the department of public health; and

(iii) the new owner demonstrates that on average not less than eighty-five percent of its patient population is a recipient of medical assistance under this chapter; and

(iv) the new owner demonstrates that in the nonprofit hospital it operates it has an average of administratively necessary patient days that is fifty percent of the regional average of administratively necessary patient days as calculated by the division; and

(v) the new owner demonstrates that in the nonprofit hospital it operates that on average it has not less than eighty percent occupancy of medical or surgical beds; and

(vi) the change of ownership did not occur between a person or organization which is associated or affiliated with or has control of or is controlled by the new owner or is related to the new owner or any director, trustee, partner, shareholder or administrator of the new owner by common ownership or control or in a manner specified in section 267(b) and (c) of the Internal Revenue Code of 1986; and

(vii) the change of ownership was made for reasonable consideration; and

(viii) the change in ownership was a bona fide transfer of all powers and indicia of ownership; and

(ix) the change of ownership manifested an intent to sell the assets of the facility rather than implement a method of financing, or refinancing; and

(x) the department of public health certifies the need for additional beds for publicly-assisted residents in the geographical area; and

(xi) such geographical area is reasonably isolated which isolation creates difficulties in obtaining access to nursing home care; and

(xii) the new owner obtains at least two independent appraisals of the property; and

(xiii) the division and the department of public health have determined that the transaction is necessary to ensure the safety of patients as evidenced by current or anticipated delicensure or decertification proceeding against the current owner; provided however, that the provisions of clauses (xii) and (xiii) of paragraph (a) shall only apply to nursing homes acquired after July first, nineteen hundred and ninety; or

(b) (i) the new owner acquired the facility from an acute care hospital to operate the nursing home pursuant to relief granted to the acute care hospital by the acute care hospital conversion board pursuant to section one hundred and one of chapter six A; and

(ii) the acute care hospital conversion board approves the new owner's acquisition cost; and

(iii) the new owner demonstrates that on average, not less than eighty-five percent of its patient population is receiving medical assistance under this chapter.

If the division is unable to calculate regional averages for administratively necessary patient days pursuant to clause (a)(iv) of this section, the new owner shall be able to receive the acquisition cost, or the portion thereof which exceeds the allowable basis under relevant regulations of the rate setting commission, as the allowable basis of the fixed assets as a result of a change of ownership if the new owner otherwise complies with clauses (i) to (iii), inclusive, and clauses (v) to (xiii), inclusive of paragraph (a).

Section 14A. The division shall treat admissions to acute care hospitals and chronic disease or rehabilitation hospitals as equivalent for purposes of reimbursing nursing homes to reserve beds for medical assistance recipients during brief absences from nursing homes by such recipients to obtain hospital care.

Section 15. The division shall provide Medicaid benefits for such medical care or

services as Title XIX and regulations adopted thereunder by the secretary require. The division may provide Medicaid benefits 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 division, 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 division 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 or her 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 division 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 16. The division shall establish a program of primary and supplemental medical care and assistance for certain disabled residents of the commonwealth who are not eligible for medical assistance pursuant to Title XIX of the federal Social Security Act. The benefits of such program shall be available to all such persons (1) who are not covered for medical costs relative to their disability by an employer's group health insurance plan, (2) who are not eligible for medical assistance under any work incentive programs with federal participation, and (3) who, if not engaged in substantial gainful activity, would meet all eligibility requirements for supplemental security income under the provisions of Title XVI of said Social Security Act at the time of application for said program of medical care and assistance. Subsequent to their enrollment in said program, such disabled residents may continue in enrollment in said program notwithstanding the fact that they no longer meet the financial requirements of said Title XVI in accordance with income requirements established by the division. The cost of such program shall be funded, in part, by premium contributions, co-payments, and deductibles contributed by enrollees according to a sliding scale schedule designed by the division.

The division shall further establish a program of assistance for persons forced to leave employment due to the onset or worsening of a severe and chronic disability or illness

or whose access to employer sponsored health insurance is jeopardized by a substantial reduction in work hours as a result of such disability or illness. The benefits of such program shall provide for assistance in paying health insurance premiums offered through a group plan of health insurance sponsored by the employer for those persons whose continuing disability or illness would likely result in their becoming eligible for benefits under this chapter; provided that the cost of such benefits shall be paid, in part, by payments from such persons according to a sliding fee schedule established by the division.

Section 16A. The division shall establish a program of medical care and assistance for certain disabled children of the commonwealth. The benefits of such program shall be available to children who are not eligible for medical assistance programs with federal financial participation and who would meet the disability requirements for supplemental security income under the provisions of Title XVI of the Social Security Act. The cost of such program shall be funded, in part, by premium contributions, co-payments and deductibles according to a sliding scale schedule designed by the division.

Section 17. Multiple source drugs listed in the Massachusetts list of interchangeable drug products established pursuant to the provisions of section thirteen of chapter seventeen of the General Laws and regulations adopted thereunder shall not be reimbursable except for the "Massachusetts maximum allowable cost", as defined by regulations of the department, unless the division grants prior authorization based upon the provision of written documentation by the practitioner to the division that satisfactorily demonstrates that a recipient's medical condition requires the use of a nongeneric drug or unless the practitioner writes on the face of the prescription in his or her own handwriting the words "brand name medically necessary" under the words "no substitution" in a manner consistent with applicable state law; provided that a pharmacist dispensing in accordance with this section shall be exempt from the provisions of the fourth paragraph of section twelve D of chapter one hundred and twelve.

Section 18. The division may purchase on behalf of any person eligible for medical assistance under this chapter medical insurance furnished in accordance with the provisions of chapter one hundred and seventy-five, one hundred and seventy-six A, one hundred and seventy-six B or one hundred and seventy-six G, provided that such medical insurance, in conjunction with any supplemental coverage that may be available to such person by the division under this chapter, would enable such person to obtain medical care and services comparable to those afforded any other similar eligible person under this chapter, at no greater cost to such person or the division. The third party liability unit of the division is hereby authorized to establish services and procedures which seek to maximize and coordinate the utilization of health care benefits provided under any such purchase of medical insurance for such person.

Section 19. The division 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 division and the departments of mental health and mental retardation, approves such services for such persons. The department of public health, in cooperation with the division and such 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.

The division shall establish methods of random posttreatment examination of recipients of medical care or services under this chapter in order to assure that the care or services for which the division is billed were actually performed as described.

Section 20. An application or reapplication by an individual for medical assistance shall be made to the division on forms prepared by the division. Such forms shall include but not be limited to the following:- the name, address and social security number of the applicant and the name, address and social security number of any member of the family sixteen years of age and older, the total income from wages, salaries, pensions, fees, tips, bonuses and all other sources of income of all such persons, the ownership and description of any motor vehicle or boat, or trailer, or similar assets readily convertible into cash owned by any member of the family. Such form shall require that the applicant provide information to determine his or her eligibility for medical assistance under penalty of perjury.

An institution furnishing services 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 division.

Section 21. Upon receipt of such application, the division shall make full inquiry concerning the eligibility of the applicant, his or her need for medical assistance and his or her 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 division may enter into an agreement with the secretary, or with any government or private agency, whereby the secretary or agency shall determine on behalf of the division the eligibility for medical assistance under this chapter of all or certain applicants for such assistance.

Section 22. In this section, the word "claimant" shall mean any person who suffers any loss from property damage, accident, illness, injury or otherwise for which monies may be provided by liability insurance, worker's compensation, or any other third party.

When any claimant receives payment from a liability or worker's compensation insurer or any other third party, the claimant shall repay to the division an amount equal to the benefits provided under any medical assistance program administered by the division to or on behalf of the claimant, the claimant's spouse or children, or any individual whom the claimant is required by law to support, but only to the extent that such benefits were provided as a result of the property damage, accident, illness, injury or other loss suffered by the claimant; and the application for and receipt of such benefits shall, after notification has been given to the third party, operate as a lien to secure repayment against monies which may be provided by liability insurance, worker's compensation, or any other third party up to the amount of such benefits. If the monies available for such repayment are insufficient to satisfy in full any competing claims of both the department and the division of medical assistance, the department and the division each shall be entitled to its respective pro rata share of such monies as are available for such repayment.

If benefits are provided under any medical assistance program administered by the division as a result of property damage, accident, illness, injury or loss for which a third party may be liable, the division shall require the person receiving such benefits to assign to the commonwealth an amount equal to the benefits so provided from the proceeds of any such claim against the third party.

A claimant shall notify the division in writing upon commencement by him or her of a civil action or other proceeding to establish the liability of any third party or to collect monies payable under accident, liability, or health insurance, worker's compensation, or from any other source by reason of the accident, injury or disability referred to in the preceding paragraph.

The commonwealth shall be subrogated to a claimant's entire cause of action or right to proceed against any third party and to a claimant's claim for monies to the extent of assistance provided under this chapter. The division, with the consent of the attorney general, may, by attorneys employed or selected by it, commence a civil action or other proceeding on behalf of the commonwealth to establish the liability of any third party or to collect such monies if a claimant does not commence such a civil action or other proceedings within nine months after the date of the accident, injury, or onset of disease or other disability.

Section 23. Notwithstanding any other provision of general or special law, rule or regulation, the division shall be subrogated to the right of any recipient of medical assistance under this chapter to proceed against any health care insurer that is or may be liable to pay for covered services obtained by a recipient of medical assistance to the extent of any medical benefits provided by the division on behalf of the recipient or his or her dependents.

A recipient of medical assistance or any person legally obligated to support and have actual or legal custody of a recipient of medical assistance shall inform the division of any health insurance available to such recipient upon initial application and redetermination for

eligibility for assistance and shall make known the nature and extent of any health insurance coverage to any person or institution that provides medical benefits to the recipient or his or her dependent.

No policy for health insurance for health care delivery administered, issued or renewed in the commonwealth shall contain any provision denying or reducing benefits to a person who is eligible for or who is receiving medical assistance under this chapter.

A provider of medical assistance under this chapter shall determine whether any recipient for whom it provides medical care or services that are or may be eligible for reimbursement pursuant to this chapter is a subscriber or beneficiary of a health insurance plan. The division is the payor of last resort, and accordingly a provider shall request payment for medical care or services it provides from a health insurer which is or may be liable for the medical care or services so provided, before payment is requested from the division.

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

Notwithstanding any provision of law, all health insurers doing business in the commonwealth shall provide information to the division to the extent sufficient to identify persons who are recipients of medical assistance under this chapter and who are also beneficiaries under any policy for health insurance in force and effect in the commonwealth.

Section 24. A treasurer of a savings bank, national bank, trust company, cooperative bank, benefit association, insurance company or safe deposit company authorized to do business in the commonwealth who, upon written request, signed by an authorized employee or agent of the division, unreasonably refuses to inform such employee or agent 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 medical assistance under this chapter, 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 medical assistance under this chapter to any authorized employee or agent of the division.

Section 25. For purposes of determining an individual's eligibility for Medicaid, 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 Medicaid benefits:

(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 division 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 division 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 division 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 amount required under Title XIX;

(4) cemetery plots purchased for the use of the applicant or recipient;

(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 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 an applicant or recipient is in excess of the exemptions allowed, the applicant or recipient, if otherwise eligible for Medicaid 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 Medicaid applicant or recipient, 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 Medicaid applicant or recipient under eighteen years of age who lives with his or her parent shall be deemed to include the income and assets of the parent of such applicant or recipient. The income and assets of any Medicaid applicant or recipient under eighteen years of age who does not live with his or her parents shall include only the income and assets that are actually contributed

to the applicant or recipient by the parent.

Notwithstanding the first paragraph of this section, the division may require Medicaid recipients to pay enrollment fees, premiums, deductibles, coinsurance, copayments or similar cost sharing charges as participants in managed care plans implemented by the division, 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 division 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 26. The division shall issue a numbered identification card to persons receiving medical assistance under this chapter. Such card shall bear the date of issue and shall be presented to providers as verification of eligibility for medical assistance. The division shall establish by rules and regulations such procedures as may be necessary for the purpose of recalling identification on termination of eligibility.

Section 27. If an individual has become eligible under this chapter, eligibility shall be reconsidered or redetermined:

(a) When required on the basis of information the division has obtained previously about anticipated changes in the individual's situation.

(b) Promptly within thirty days, after a report is obtained from any source which indicates that changes in the individual's circumstances may affect the amount of assistance to which he or she is entitled or may make him or her ineligible.

(c) Periodically, but at least once in every six months.

(d) If any recipient shall by gift, inheritance, or other manner acquire additional assets during any twelve month interval following determination of his or her eligibility, the recipient shall immediately report such acquisition to the division which shall immediately make a reevaluation of such recipient's eligibility.

Section 28. In determining the resources of an individual, there shall be included, consistent with Title XIX, any interest in real or personal property owned by such individual with regard to which such individual made an assignment or transfer at less than fair market value, provided, however, that this provision may be waived if the department determines that application of the provision would work an undue hardship on a particular individual. For purposes of making this determination, the amount of uncompensated value which is included in said resources shall be reduced by incurred medical bills, for which the individual is liable. Said medical bills cannot also be applied to excess income as provided in section twenty-five of this chapter. This section shall apply only to assignments or transfers made after June thirtieth, nineteen hundred and eighty-three.

Section 29. Whenever an individual who is receiving medical assistance under this chapter transfers an interest in real or personal property, such individual shall notify the division. Such notice shall include, at a minimum, the individual's name, social security number or, if different, medical assistance identification number, the date of transfer and the dollar value, if any, paid or received by the individual receiving benefits under this chapter.

Section 30. When the division determines that an applicant is eligible for Medicaid, it shall pay for eligible care and services furnished on or after the date of application. Payment shall be made to the person or institution supplying medical services. The date of application for Medicaid of an individual who has applied for financial assistance under the provisions of chapter one hundred and eighteen A or section one hundred and thirty-one of chapter six, shall be deemed to be the date of application for such financial assistance, whether or not such financial assistance is granted. If consistent with Title XIX of the federal Social Security Act and the regulations established thereunder, the division shall pay for eligible care and services furnished to an eligible applicant during the three months immediately prior to the month in which the applicant filed his or her application; provided, however, that, at the time such care or services are furnished to such individual, that individual upon application would have been eligible for Medicaid pursuant to this chapter.

Section 31. (Until June 30, 1995, this section reads as follows:)

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 or she received such assistance, or (b) from the estate of an individual who was sixty-five years of age or older when he or she 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 the surviving spouse, if any, and only at a time when he or she 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 March twenty-second nineteen ninety-one.

The division is authorized to solicit and collect contributions from relatives of any individual who is a patient in a long-term care institution and who is an applicant for or recipient of medical assistance under this chapter.

The division is authorized to establish contribution programs that shall entail mandatory or voluntary contributions; provided, however, that under a program of mandatory contributions, no contribution greater than two percent of the total medical assistance payment made annually by the department to the long-term care institution on behalf of said patient shall be required; provided, further, that no contributions shall be required of any person who is a member of a household with an income that is less than three hundred percent of the federal poverty standard; and provided, further, that for this purpose income shall be determined after any expenditures required by this chapter. The division may also solicit and collect voluntary contributions from any member of the general public who wishes to make such a contribution. For the purposes of this section, "relatives" of such

individual shall mean his or her spouse, his or her children by blood, marriage, or adoption, his or her grandchildren who have reached the age of twenty-one; or, where such individual is a minor in a long-term care institution, his or her parents and grandparents by blood or adoption.

The division shall send to the relatives of such individual, at least annually, an itemized list of all payments made by the medical assistance program on behalf of said individual, together with, in the case of a voluntary program, a request for voluntary contributions or, in the case of a mandatory program, a bill for two percent of such total charges which shall be the obligation of the relative to pay to the division. The division is authorized to request of all said individuals a listing of relatives and other pertinent information, and to promulgate regulations for the administration of the contributions programs. The division shall issue to each person who makes a contribution under this section a receipt for the contribution.

The making of such contributions by relatives of an applicant for or recipient of medical assistance shall not be a precondition of or requirement for obtaining or maintaining eligibility for medical assistance under this chapter, nor shall any such contributions be considered income or resources available to an applicant for or recipient of medical assistance if such contributions are made by an individual who is not a responsible relative as defined by the provisions of Title XIX of the Social Security Act as amended and the regulations promulgated thereunder.

Contributions made pursuant to the provisions of this section shall be deposited in the Long-Term Care Trust Fund established pursuant to section thirty-two A.

(From and after June 30, 1995, this section reads as follows:)

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 or she received such assistance, or (b) from the estate of an individual who was sixty-five years of age or older when he or she 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 the surviving spouse, if any, and only at a time when he or she has no surviving child who is under age twenty-one or is blind or permanently and totally disabled.

Section 32. (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 sworn statement that copies of said petition and death certificate have been sent to the division by certified mail. Within thirty days of a request by the division, an executor or administrator shall complete and send to the division by certified mail a form prescribed by the division and provide such further information as the division may require.

In the event a petitioner fails to send copies of the petition and death certificate to the division and the decedent received medical assistance: (1) when age sixty-five or older; or (2) at any time on or after March 22, 1991, regardless of age, while an inpatient in a nursing facility or other medical institution, any person receiving a distribution of assets from the decedent's estate shall be liable to the division to the extent of such distribution.

(b) The division may present claims against a decedent's estate as follows:

(1) the division may within four months after approval of the official bond of the executor or administrator file a written statement of the amount claimed under section thirty-one of this chapter with the registry of probate where the petition was filed and deliver or mail a copy thereof to the executor or administrator. The claim shall be deemed presented upon the filing of the claim in the registry of probate; or

(2) the division may within one year after the date of the death of the decedent commence an action under the provisions of section nine of chapter one hundred and ninety-seven.

As to claims presented by written statement as provided in subparagraph (1), an executor or administrator may mail a notice to the division stating that a claim has been disallowed in whole or in part. Failure of the executor or administrator to mail a notice of disallowance to the division within sixty days after presentation of the claims shall be deemed an allowance. If, after a decision disallowing a claim, the executor or administrator changes such decision, he or she shall notify the division in writing of such change. In the event of a disallowance in whole or in part, the division may commence an action against the executor or administrator in a court of competent jurisdiction within sixty days after receipt of said notice of disallowance.

A judgment in a proceeding in any court against an executor or administrator to enforce a claim by the division against a decedent's estate shall be an allowance of the claim.

(c) Unless otherwise provided in any judgment entered against the executor or administrator, claims allowed pursuant to this section shall bear interest at the rate provided under section six B of chapter two hundred thirty-one for the period commencing four months plus sixty days after approval of the official bond of the executor or administrator.

By petition filed in the probate court, the division, if its claim has been allowed as provided herein but not paid, may seek an order directing the executor or administrator to pay the claim to the extent that funds are available for payment and for such other relief as may be required.

(d) Notice of a petition by an executor or administrator for a license to sell real estate shall be given to the division in any estate where:

(1) The division has filed a written statement of claim with the registry of probate as provided in subsection (b); or

(2) The division has filed with the registry of probate a notice, as prescribed under subsection (a) of section nine of chapter one hundred ninety-seven, that an action has been commenced.

(e) In all cases where: (1) the division determines it may have a claim against a decedent's estate; (2) a petition for administration of the decedent's estate or for admission to probate of the decedent's will has not been filed; and (3) more than one year has passed from the decedent's date of death, the division is hereby authorized to designate a public administrator to be appointed and to serve pursuant to chapter one hundred ninety-four. Said

designation by the division shall include a statement of the amount claimed. This provision shall apply to all estates in which no petition for administration of the decedent's estate or for admission to probate of the decedent's will has been filed as of the effective date of this section, regardless of the decedent's date of death.

Section 32A. There is hereby established on the books of the commonwealth a Long-Term Care Trust Fund to which shall be deposited all contributions collected by the division pursuant to section thirty-one. All interest earned on the amount in said trust fund shall be deposited or retained in said trust fund.

Amounts from this trust fund may be expended, subject to appropriation, on care for recipients of long-term care benefits under this chapter or for services otherwise authorized pursuant to this chapter.

Section 33. Notwithstanding the provisions of sections thirty-one and thirty-two, a person receiving medical assistance who has obtained long term care insurance and whose coverage meets the requirements of 211 C.M.R. 65.00 shall not be liable for the payment of medical assistance correctly paid to or on such person's behalf. No mandatory contributions shall be required from such person's relatives pursuant to section thirty-one and no claims may be made by the division pursuant to sections thirty-one and thirty-two against such person's estate on account of assistance correctly paid.

Section 34. No lien or encumbrance of any kind except as may be permitted by the Secretary, shall be required from or imposed against the property of any individual prior to his death because of Medicaid benefits paid or to be paid on his behalf except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of a Medicaid recipient.

The division shall not be required to pay a recording fee for filing a notice of lien or encumbrance or a release or discharge of a lien or encumbrance under this section.

Section 35. No claim for medical care or services provided for under this chapter shall be reimbursed if any health insurance company, non-profit hospital service corporation, medical service corporation, or other health insurer is liable for such claim under the terms of a group or individual policy providing coverage for such claim to a person eligible for assistance under this chapter. The division shall establish procedures to ensure that no such unauthorized claims are paid, including the soliciting of information regarding alternative health coverage from all applicants and recipients.

Notwithstanding the provisions of any general or special law to the contrary, chronic hospitals and skilled nursing facilities shall seek certification for Title XVIII of the Social Security Act for those services reimbursed under Title XVIII of the Social Security Act.

Notwithstanding any law to the contrary, all health insurers governed by chapters one hundred and seventy-five, one hundred and seventy-six A, one hundred and seventy-six B, one hundred and seventy-six C, one hundred and seventy-six E, one hundred and seventy-six F, and one hundred and seventy-six G, shall provide information to the division which is necessary to carry out the purposes of this section, including the names and addresses of their policyholders or subscribers.

Section 36. Participation in the medical assistance programs established under this chapter shall be limited to providers of services who have not been convicted of larceny or fraud or any other crime in connection with such services, or the billing therefor and who:

(1) indicate their intention to the division to so participate;

(2) present evidence, satisfactory to the division, of their qualifications to provide such services;

(3) agree to accept, as payment in full, the amounts paid in accordance with the fee schedules provided for under this chapter;

(4) agree to comply with all laws, rules and regulations governing the operation of the programs;

(5) participation in the programs as a skilled nursing and/or intermediate care facility shall be limited to providers who:

agree to be responsible for all overpayments owed to the division, including, in the case of transfer of ownership, the overpayments of any and all previous owners.

Section 37. The division shall distribute to all providers a copy of the rules, regulations, standards, and laws governing the medical assistance programs established by this chapter and shall establish administrative sanctions against providers, including, but not limited to, administrative fines, and, suspension or termination from the programs, for any violations of said rules, regulations, standards or laws. The division shall notify the proper professional society and licensing agency of any such violations.

Section 38. Providers shall submit to the division a bill for goods sold and services rendered not later than ninety days after the goods are sold or the services rendered, and the division shall verify no less than ten percent of said bills with the recipient of said goods or services. The division shall require that the provider maintain proof, subject to audit, of the actual delivery to recipients of services and goods for which bills are submitted. The division shall verify the accuracy of bills submitted under this section through the application of statistical sampling methods.

Said bills shall be signed under the penalties of perjury; provided, however, that an institution, as defined in clause (c) of section eight, may, in lieu of this requirement, agree in writing with the commissioner that its books and records will be available for inspection at all reasonable times by the division with respect to services rendered under the medical assistance programs administered by the division. The division may establish regulations which provide exceptions to the ninety day billing limitation. Said regulations shall not permit payment of such bills submitted more than one year after the last day of the month in which the goods are sold or the services are provided.

The division may also promulgate regulations which establish procedures for providers to appeal erroneous denials by the division 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 division 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 division within thirty days, or some other time

period specified by the division, after the date that the division 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 division.

When the division has reason to believe that a provider has received payment to which he is not entitled, the division shall notify the provider of the facts on which it bases its belief, identifying the amount believed to have been overpaid and the reasons therefor, and shall accord the provider a reasonable opportunity to submit additional data and argument to support the provider's claim for reimbursement. After consideration and review of any such information submitted by the provider, the division shall make a final determination. Any amount determined to have been overpaid shall be recoverable under the provisions of this section unless the provider files a timely claim for an adjudicatory hearing raising a material dispute of fact or law. In such adjudicatory hearing, the burden shall be on the provider to demonstrate his entitlement to the payments denied by the division. After such hearing, the commissioner shall notify the provider of his decision with reasons therefor. The decision of the commissioner shall be final and is enforceable under this section unless stayed pursuant to a court order; provided, however, that the division has given written notice of the entry and filing provisions of this section to the provider prior to any notification from the division that it has reason to believe that the provider has received a payment to which he is not entitled. Said written notice shall state that the entry and filing provisions of this section are applicable only to those claims for which the division notifies the provider, subsequent to the date of said written notice, that payments are in dispute.

If the division's determination, or an administrative review thereof, has become final and the amount overpaid remains unpaid in full or in part, the commissioner may file with the clerk of the municipal court of the city of Boston, or in the district court in the judicial district where the provider has his principal place of business, a certificate or a copy thereof under official seal, stating: the name and address of the provider, the amount owed to the commonwealth as overpayment and in default, that the time in which administrative or judicial review is permitted has expired without appeal having been taken, or, if a claim has been filed under section fourteen of chapter thirty A, that the division's determination has not been stayed. Upon such filing of a certificate stating said information, such clerk shall assign a civil docket number to such certificate and enter judgment thereon in the civil docket as in a civil action. Such entry shall include the name of the provider identified in the certificate, the amount of such overpayment in default, and the date such certificate is filed. Such certificate shall be enforceable in the same manner and to the same extent as a judgment entered by a court of competent jurisdiction; provided, however, that the rules of court governing procedures in civil cases after the entry of judgment shall not apply to certificates entered as judgments as provided herein. Retroactive rate adjustments made to the rates of institutional providers pursuant to section thirty-two of chapter six A shall not be subject to the filing and entry dispositions of this section.

No physician shall submit a claim for goods or services rendered if said physician is a salaried employee of a hospital and the hospital submits a claim for such goods or services.

Section 39. Any person or institution which knowingly makes a false representation or, contrary to a legal duty to do so, knowingly fails to disclose any material fact to the division or its agents affecting eligibility or level of benefits for the purpose of causing any person, including the person making such representations, to be supported in whole or in part by the commonwealth, or for the purpose of procuring a payment under any medical assistance program administered by the division, shall be punished by a fine of not less than two hundred nor more than five hundred dollars or by imprisonment for not more than one year.

Nothing in this section shall be construed as preventing the institution of criminal proceedings for the violation of any other law of the commonwealth.

Section 40. Any person who furnishes items or services for which payment may be made under this chapter, who: (1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this chapter; or (2) knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment; or (3) having knowledge of the occurrence of any event affecting his or her initial or continued right to any such benefit or payment, or the benefit of any other individual in whose behalf he or she has applied for or is receiving such benefit or payment, conceals or fails to disclose such an event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized; or (4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefits or payment other than for the use and benefit of such person, 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.

Any person who does not furnish items of services for which payment may be made under this chapter, who violates any of the provisions of clauses (1) to (4), inclusive, shall be punished by imprisonment in a jail or house of correction for not more than two and one-half years or by a fine of not more than five thousand dollars or by both such fine and imprisonment.

Section 41. Whoever solicits or receives any remuneration, including any bribe or rebate, directly or indirectly, overtly or covertly, in cash or in kind in return for purchasing, leasing, ordering or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this chapter, or whoever offers or pays any remuneration, including any bribe or rebate, directly or indirectly, overtly or covertly, in cash or in kind to induce such person to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under this chapter 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.

This section shall not apply to a discount or other reduction in price obtained by a provider of services or other entity under this chapter if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this chapter or to any amount paid by an employer to an employee, who has a bona fide employment relationship with such employer, for employment in the provision of covered items or services.

Section 42. Whoever knowingly and willfully charges for any service provided to a patient under this chapter, money or other consideration at a rate in excess of the rates established in accordance with this chapter, 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.

Section 43. Whoever knowingly and willfully 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 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.

Section 44. If any person violates the provisions of this chapter, the attorney general or a district attorney may bring a civil action, either in lieu of or in addition to a criminal prosecution, and recover three times the amount of damages sustained including the costs of investigation and litigation. No action shall be brought under this section more than six years after it accrues.

Section 45. Any action brought under this chapter may be filed in the district or superior courts of Suffolk county.

Section 46. The remedies in sections thirty-nine to forty-five, inclusive, are in addition to and do not supersede any other available remedies.

Section 46A. Any provider procuring a payment under any medical assistance program administered by the division who violates any of the provisions of sections thirty-nine to forty-six, inclusive, shall be ineligible to participate further in the program for a period of three years next subsequent to the date of conviction for said violation; provided, however, that a vendor shall not be considered in violation of said sections thirty-nine to forty-six, inclusive, upon submission of proof, to the satisfaction of the commissioner, that such violation was due solely to a clerical or administrative error.

Section 47. Any applicant for or recipient of medical assistance, or the legal representative of such applicant or recipient, aggrieved by the failure of the division to grant medical assistance or by the failure of the division to approve or reject an application within the time limits established by section twenty-one or by the withdrawal of such assistance shall have a right to a hearing, after due notice, upon appeal to the division in the manner and form prescribed by the division; provided, however, such appeal is received by the division within thirty days after official notice of the action taken by the division has been received by the applicant or recipient. Such hearing shall be conducted by the commissioner of medical assistance or a referee designated by the commissioner within the board of hearings established under section forty-eight. The commissioner or the designated 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 the designated referee, shall be the decision of the division. Such appeals, hearings, and decisions shall be subject to the provisions of section forty-eight.

The division 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 division shall, upon request, be given reasonable notice and opportunity for a hearing as provided under this section. 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 division acts upon its own motion.

The commissioner, or the referee designated by the commissioner, shall render and issue his or her 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 or her designee, may for good cause shown, direct the director of the board of hearings to conduct a rehearing of the appeal. An order for such 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 for such rehearing, issue a superseding decision.

Section 48. There shall be within the division a board of hearings for the purpose of holding the hearings referred to herein and rendering decisions. Said board shall be under the supervision of a director appointed by the commissioner and shall be independent of all other subdivisions and personnel of the division.

Any person aggrieved by the failure of the division to render adequate medical assistance under any program of medical assistance administered by the division or to approve or reject an application for medical assistance thereunder within forty-five days after receiving such application, or aggrieved by the withdrawal of such assistance, or by coercive

or otherwise improper conduct on the part of his or her social worker, shall have a right to a hearing, after due notice, upon appeal to the commissioner.

A hearing held pursuant to this section shall be conducted by a referee designated by the director at a location convenient to the person appealing and shall be conducted as an adjudicatory proceeding under chapter thirty A. The director of the board of hearings shall be responsible for the fair and efficient operation of the board in conformity with state and federal laws and regulations and for the training of referees, scheduling of hearings and the compilation of decisions. Neither the director nor any other employee of the division shall review, interfere with, change or attempt to influence any hearing decision by a referee. A referee may subpoena witnesses, administer oaths, take testimony and secure the production of such books, papers, records and documents as may be relevant to such hearing. The person appealing shall have the opportunity to confront and cross-examine all adverse witnesses and to question or refute any testimony, evidence, materials, or legal arguments. The referee shall base his or her decision solely on the testimony, evidence, materials and legal rules adduced at the hearing. The referee may reopen a hearing for the purpose of considering further testimony, evidence, materials or legal rules before rendering his or her decision and shall, if he or she reopens the hearing, send seven days' written notice to all parties of the reopening and the reasons therefor, including the date, time and place of the resumed hearing, which shall be held at a location convenient to the person appealing. The decision of the referee shall be the decision of the division.

A referee shall render and issue a decision within ninety days after the date of the filing of the aggrieved person's appeal, except that when an aggrieved person appeals the rejection of his or her application for medical assistance, or the failure to act on said application, or the failure of the division to render emergency medical assistance, the referee shall render and issue a decision within forty-five days after the date of filing of said appeal. The decision of the division shall be subject to review in accordance with the provisions of chapter thirty A.

When a hearing is requested because of termination or reduction of assistance, involving an issue of fact, or of judgment relating to the individual case, between the agency and the appellant, assistance will be continued during the period of the appeal and through the end of the month in which the final decision on the hearing is reached. If assistance has been terminated prior to timely request for fair hearing, assistance will be reinstated.

Section 49. The use or disclosure of information concerning applicants and recipients shall be limited to purposes directly connected with the administration of the medical assistance programs established under this chapter and the names of applicants and recipients shall not be published.

Section 50. To the extent feasible the division may contract with one or more federal agencies or corporations authorized to do business in the commonwealth, including nonprofit hospital and medical service corporations, to carry out the necessary administrative functions of the medical assistance programs established under this chapter. The division may contract for the underwriting of all or any part of such medical assistance programs with such corporation.

Section 51. The division, in cooperation with the department of public health and in accordance with the regulations of the secretary, shall establish processes of utilization review for care or services for which medical assistance is available under this chapter.

The division shall establish data processing and collection procedures which will: (1) monitor eligibility of recipients; (2) assure that providers are neither paid twice for the same care or service nor paid in amounts in excess of fee schedules or other applicable limits; and (3) provide the statistical data necessary for effective utilization review.

A medical professional employee of the division, or person providing medical professional counsel or services to the division on a voluntary or paid basis or an employee of a division subcontractor, shall not be liable in a civil action for damages arising out of any act, omission, proceeding or undertaking in the performance, in good-faith, of duties or responsibilities relative to any utilization review authorized or established by this chapter or by regulations promulgated by the secretary.

Section 52. The division, in cooperation with the department of public health, shall establish and maintain standards and conditions of participation for providers of all medical care and services for which medical assistance is available under this chapter.

The department of public health, in cooperation with the division shall: (1) plan for and stimulate the development of new medical resources and the expansion of existing resources; (2) stimulate and assist providers of health care and services to develop new and improved methods of delivery of services and payment for services; and (3) expand and increase the services of the department of public health to extend and improve, as far as is practicable, the availability and accessibility of the care and services for which medical assistance is available under this chapter to all recipients of medical assistance, and the coordination of these services in such manner that the best interests of the recipients are served.

SECTION 18. The first paragraph of Section 46A of chapter 152, as appearing in the 1990 Official Edition, is hereby amended by inserting after the word or, in line 20, the following words:- the division of medical assistance under.

SECTION 19. The first paragraph of Section 46A of chapter 152, as so appearing, is hereby further amended by inserting after the word welfare, in line 22, the following words:- and the division of medical assistance.

SECTION 20. The first paragraph of Section 46A of chapter 152, as so appearing, is hereby further amended by inserting after the word welfare, in line 28, the following words:- , the division of medical assistance.

SECTION 21. The first paragraph of Section 46A of chapter 152, as so appearing, is hereby further amended by deleting after the word corporations, in line 33, the word "or", and inserting after the word welfare, in line 33, the following words:- or the division of medical assistance.

SECTION 22. The second paragraph of Section 46A of chapter 152, as so appearing, is hereby amended by inserting at the end of the first sentence, the following words:- ; provided that if the amount of the award or lump sum is insufficient to satisfy in

full any competing claims of both the department of public welfare and the division of medical assistance, the department and the division each shall be entitled to its respective pro rata share of such award or lump sum.

SECTION 23. Section 47 of chapter 152 of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by inserting after the words eighteen, and in line 6, the words:- the division of medical assistance under.

SECTION 24. Section 47 of chapter 152, as so appearing, is hereby further amended by deleting the word "and" in line 11, and inserting after the word welfare in line 12, the words:- and the division of medical assistance.

SECTION 25. Section 7 of chapter 193 of the General Laws, as most recently amended by section 523 of chapter 133 of the acts of 1992, is hereby further amended by striking the words "department of public welfare pursuant to subsection (e) of section sixteen A" and inserting in place thereof the following words:- division of medical assistance pursuant to subsection (e) of section thirty-two.

SECTION 26. Section 4 of chapter 194 of the General Laws, as most recently amended by section 524 of chapter 133 of the acts of 1992, is hereby further amended by striking the words "department of public welfare pursuant to subsection (e) of section sixteen A" and inserting in place thereof the following words:- division of medical assistance pursuant to subsection (e) of section thirty-two.

SECTION 27. Section 6 of chapter 194 of the General Laws, as most recently amended by section 525 of chapter 133 of the acts of 1992, is hereby further amended by striking the words "department of public welfare pursuant to subsection (e) of section sixteen A" and inserting in place thereof the words:- division of medical assistance pursuant to subsection (e) of section thirty-two.

SECTION 28. Section 16 of chapter 195 of the General Laws, as most recently amended by section 526 of chapter 133 of the acts of 1992, is hereby further amended by striking the words "department of public welfare" and inserting in place thereof the words:- division of medical assistance.

SECTION 29. Section 16 of chapter 195 of the General Laws, as most recently amended by section 526 of chapter 133 of the acts of 1992, is hereby further amended by striking the words "section sixteen A" and inserting in place thereof the words:- section thirty-two.

SECTION 30. Section 16A of chapter 195 of the General Laws, as most recently amended by section 527 of chapter 133 of the acts of 1992, is hereby further amended by striking the words "department of public welfare" and inserting in place thereof the words:- division of medical assistance.

SECTION 31. Section 16A of chapter 195 of the General Laws, as most recently amended by section 527 of chapter 133 of the acts of 1992, is hereby further amended by striking the words "section 16A" and inserting in place thereof the words:- section thirty-two.

SECTION 32. Section 1 of chapter 198 of the General Laws, as most recently amended by section 528 of chapter 133 of the acts of 1992, is hereby further amended by striking the words "department of public welfare" and inserting in place thereof the words:- division of medical assistance.

SECTION 33. The secretary of health and human services shall appoint a commissioner for medical assistance immediately following the effective date of this Act. Effective upon the approval of his or her appointment by the governor, said commissioner shall have all powers necessary to prepare for the orderly and timely implementation of this act, including the power to sign contracts for services and, subject to appropriation or the transfer of funds under section 34 of this Act, to employ staff and sign leases.

SECTION 34. Notwithstanding section twenty-two of chapter twenty-nine of the general laws or any other law to the contrary, funds appropriated to the department of public welfare for expenditures related solely to medical assistance or administration of medical assistance programs shall be transferred to the division of medical assistance.

Notwithstanding section twenty-two of chapter twenty-nine of the general laws or any other law to the contrary, the commissioner of public welfare and the commissioner of medical assistance shall reasonably and equitably apportion to the department and the division those funds appropriated to the department of public welfare for expenditures related both to medical assistance and public welfare financial assistance and the administration of said programs.

All questions regarding the identification, apportionment, and the times for the transfer of such funds shall be determined by the secretary of health and human services or his designee. Notwithstanding section twenty-two of chapter twenty-nine of the general laws or any other law to the contrary, such transfer shall be made at such times as are consistent with the provisions of section 40 of this Act.

SECTION 35. The commissioner of public welfare shall transfer to the division of medical assistance all books, papers, records, documents, equipment, land, interests in land, buildings, facilities, and other property, both personal and real which, immediately prior to the times set by section 40 of this Act for the implementation of this act, are in the custody of the department of public welfare, and relate solely to or are maintained for purposes related to medical assistance; provided, that all such property held in trust shall continue to be held in trust by the division of medical assistance.

The commissioner of public welfare and the commissioner of medical assistance shall reasonably and equitably apportion to the department and the division the rights to and responsibilities for those books, papers, records, documents, equipment, land, interest in land, buildings, facilities, and other property, both personal and real which, immediately prior to the times set by section 40 of this Act for the implementation of this act, are in the custody of the department of public welfare and relate to or are maintained for purposes related both to medical assistance and public welfare financial assistance; provided, that all such property held in trust shall continue to be held in trust by the department or the division.

All questions regarding the identification of such property, the apportionment of rights to and responsibilities for such property, and the times for the transfer of such property shall be determined by the secretary of health and human services or his designee. Such transfers shall be made at such times as are consistent with the provisions of section 40 of this Act.

SECTION 36. All employees of the department of public welfare who, on January 1, 1993, performed functions related solely to medical assistance regardless of to which division within the department of public welfare any such employee was allocated on that date, shall be transferred to the division of medical assistance. All employee positions which, on January 1, 1993 regardless of whether such positions were filled, were designated for functions related solely to medical assistance, regardless of to which division within the department of public welfare any such position was allocated on that date, also shall be transferred to the division of medical assistance.

The commissioner of public welfare and the commissioner of medical assistance shall reasonably and equitably apportion to the department and the division those employees of the department of public welfare who, on January 1, 1993, performed functions related both to medical assistance and public welfare financial assistance regardless of to which division within the department of public welfare any such employee was allocated on that date. The commissioner of public welfare and the commissioner of medical assistance also shall reasonably and equitably apportion to the department and the division those employee positions which, on January 1, 1993 regardless of whether such positions were filled, were designated for functions related both to medical assistance and public welfare financial assistance regardless of to which division within the department of public welfare any such position was allocated on that date.

All questions regarding the identification of such employees and employee positions, the apportionment of such employees and employee positions, and the times for the transfer of such employees and employee positions shall be determined by the secretary of health and human services or his designee. Such transfers shall be made at such times as are consistent with the provisions of section 40 of this Act.

SECTION 37. All employees of the department of public welfare who are allocated to the division of medical assistance pursuant to section 36 of this Act, shall be transferred to the division of medical assistance without impairment of civil service status, without interruption of service within the meaning of chapter thirty-one of the General Laws, without impairment of seniority, retirement or other rights of employees, without reduction in compensation or salary grade, and without change in union representation, notwithstanding any change in title or duties resulting from such transfer. Nothing in this section shall be construed to confer upon any employee any right not held immediately prior to the date of such transfer, or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited prior to such date.

SECTION 38. All duly existing contracts, leases, and obligations of the department of public welfare which relate solely to medical assistance and which are in force immediately prior to the time set by section 40 of this Act for the implementation of this act,

shall thereafter be performed by the division of medical assistance. This paragraph shall not affect any renewal provision or option to renew contained in any such lease in existence on the date of such transfer.

The commissioner of public welfare and the commissioner of medical assistance shall reasonably and equitably determine which agency appropriately shall perform those duly existing contracts, leases, and obligations of the department of public welfare which relate both to medical assistance and public welfare financial assistance and which are in force immediately prior to the time set by section 40 of this Act for the implementation of this act. This paragraph shall not affect any renewal provision or option to renew contained in any such lease in existence on the date of any transfer resulting from operation of this paragraph.

All questions regarding the identification of such contracts, leases and obligations, the responsibility for such contracts, leases and obligations and the times for the transfer of such contracts, leases and obligations to the division of medical assistance shall be determined by the secretary of health and human services or his designee. All such transfers shall take place at such times as said secretary or designee shall determine to be consistent with the provisions of section 40 of this Act.

SECTION 39. All petitions, hearings, and other proceedings duly brought before or against, and all prosecutions and legal and other proceedings duly begun by, the department of public welfare which relate solely to medical assistance and which are pending immediately prior to the times set by section 40 of this Act for the implementation of this act, shall continue unabated and remain in force notwithstanding the passage of this act, and shall be transferred to the division of medical assistance upon such dates as are determined by the secretary of health and human services or his designee to be consistent with the provisions of section 40 of this Act.

The commissioner of public welfare and the commissioner of medical assistance shall reasonably and equitably determine which agency shall appropriately assume responsibility for those petitions, hearings, and other proceedings duly brought before or against, and all prosecutions and legal and other proceedings duly begun by, the department of public welfare which relate both to medical assistance and public welfare financial assistance and which are pending immediately prior to the times set by section 40 of this Act for the implementation of this act. All such proceedings shall continue unabated and remain in force notwithstanding the passage of this act, and shall be transferred, if appropriate, upon such dates as are determined by the secretary of health and human services or his designee to be consistent with the provisions of section 40 of this Act. Any orders, rules, and regulations duly made, and all licenses, permits, certificates, and approvals duly granted, by the department of public welfare which arise from or relate to medical assistance and which are in force immediately prior to the times set by section 40 of this Act for the implementation of this act, shall remain in force and effect unless and until superseded, revised, rescinded, or cancelled in accordance with law, by the division of medical assistance.

All questions regarding the identification of and responsibility for such petitions, hearings, prosecutions, proceedings, orders, rules, regulations, licenses, permits, certificates and approvals shall be determined by the secretary of health and human services or his designee.

SECTION 40. Implementation of this act shall commence upon the date of its effect under Section 41 of this Act, with a transition period extending until one year from that date. The commissioner of medical assistance, with the approval of the secretary of health and human services, may make agreements with the commissioner of public welfare for the department of public welfare to carry out any of the functions included under section 17 of this Act. Notwithstanding any provisions of this Act to the contrary, powers and duties vested in the department of public welfare or any board, council or official of such department and powers and duties vested in the division of medical assistance under this act shall be exercised by the department of public welfare during such transition period until such time as such power or duty shall be implemented and assumed by the division of medical assistance.

SECTION 41. This Act shall take effect upon the expiration of sixty calendar days following its presentation to the general court pursuant to Article LXXXVII of the Massachusetts Constitution.

The foregoing was filed by the Governor with the General Court on May 17, 1993. Not having been disapproved in either the House of Representatives or the Senate and the General Court not having been prorogued, after 60 days it has the force of law as provided in Article LXXXVII of the Amendments to the Constitution, effective July 16, 1993.

Chapter 162. AN ACT AUTHORIZING THE CITY OF MELROSE TO USE AN OPTICAL SCANNER VOTING SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section thirty-four of chapter fifty-four of the General Laws or any other general or special law, rule or regulation to the contrary, the city of Melrose is hereby authorized to use an optical scanner voting system approved by the state secretary under the provisions of section thirty-two of said chapter fifty-four for the state primary and municipal elections to be held on November second, nineteen hundred and ninety-three and for the general election to be held on November thirtieth, nineteen hundred and ninety-three.

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

Approved September 29, 1993.

Chapter 163. AN ACT AUTHORIZING THE TOWN OF MANSFIELD TO DIVERT THE USE OF CERTAIN PARCELS OF LAND FROM PARKLAND TO HIGHWAY USE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section five of chapter seventy-nine of the General Laws or any other general or special law to the contrary, the town of Mansfield is hereby authorized to divert the use of three hereinafter described parcels of land, owned by and located in the town of Mansfield, from their present use as parkland to a highway use. These parcels are more particularly described as follows:

Parcel 1-T-1

Beginning at a point opposite and thirty and no hundredths (30.00) feet northerly from Station 00 + 49 on the construction baseline of Thomas Street as established by a plan referred to in section two of this act.

Thence northerly along a curve with a radius of twelve and eighty hundredths (12.80) feet, and a curve length of thirty-six and forty-seven hundredths (36.47) feet to a point being opposite and thirty-eight and no hundredths (38.00) feet southerly from Station 55 + 09 on said construction baseline of Chauncy Street;

Thence easterly along said southerly street line of Chauncy Street to a point twenty-six and eighty-seven hundredths (26.87) feet at a southwesterly bearing of seventy-one degrees, fifty-six minutes and forty-seven seconds (S 71° 56' 47" W);

Thence southerly along said westerly street line of North Main Street to a point twenty and thirty hundredths (20.30) feet at a northwesterly bearing of four degrees, three minutes and six seconds (N 04° 03' 06" W);

Thence westerly along said northerly streetline of Thomas Street on a curve with a radius of ten and no hundredths (10.00) feet and a curve length of fourteen and seventy-eight hundredths (14.78) feet;

Thence westerly along said northerly streetline of Thomas Street to the point of beginning.

The last described parcel contains four hundred thirty, more or less, (430+) square feet.

Parcel 1-T-2

Beginning at a point opposite and thirty-eight and no hundredths (38.00) feet northerly from Station 55 + 37 on the construction baseline of Chauncy Street as established by the plan referred to in section two of this act.

Thence northeasterly along a curve with a radius of thirty and no hundredths (30.00) feet and a curve length of three and forty-eight hundredths (3.48) feet;

Thence to a point three and ninety-nine hundredths (3.99) feet at a southeasterly bearing of fifty-two degrees, twelve minutes and fifty-five seconds (S 52° 12' 55" E);

Thence to a point five and no hundredths (5.00) feet at a southwesterly bearing of thirty-five degrees, twenty-one minutes and nineteen seconds (S 35° 21' 19" W);

Thence to a point four and no hundredths (4.00) feet at a northwesterly bearing of forty-nine degrees, eighteen minutes and fifty-three seconds (N 49° 18' 53" W);

Thence northerly along a curve with a radius of thirty and no hundredths (30.00) feet and a curve length of eighteen and eighty-five hundredths (18.85) feet;

Thence to a point five and twenty hundredths (5.20) feet at a northwesterly bearing of five degrees, fourteen minutes and nine seconds (N 05° 14' 09" W);

Thence to a point five and fifty-two hundredths (5.52) feet at a southwesterly bearing of eighty-four degrees, forty-five minutes and fifty-one seconds (S 84/ 45' 51" W);

Thence southerly along the westerly street line of North Main Street to a point twenty-one and ninety-eight hundredths (21.98) feet at a northwesterly bearing of four degrees, three minutes and six seconds (N 04° 03' 06" W);

Thence westerly along the northerly streetline of Chauncy Street on a curve with a radius of twenty-five and forty-three hundredths (25.43) feet and a curve length of twelve and fifty hundredths (12.50) feet;

Thence westerly along the northerly streetline of Chauncy Street to the point of beginning.

The last described parcel contains two hundred nine, more or less, (209+) square feet.

Parcel 1-T-3

Beginning at a point opposite and twenty-four and no hundredths (24.00) feet from Station 39 + 97 on the construction baseline of North Main Street as established by the plan referred to in section two of this act.

Thence to a point five and fifty hundredths (5.50) feet with a northeasterly bearing of eighty-two degrees, forty-two minutes, and thirty-two seconds (N 82° 42' 32" E);

Thence northerly along a curve with a radius of twenty-five and no hundredths (25.00) feet and a curve length of thirty-seven and seventy-three hundredths (37.73) feet;

Thence easterly along the southerly streetline of Crocker Street to a point ten and thirty-four hundredths (10.34) feet at a northeasterly bearing of seventy-seven degrees, twenty-three minutes and forty-two seconds (N 77° 23' 42" E);

Thence easterly along a curve with a radius of fifteen and no hundredths (15.00) feet and a curve length of twenty-five and eighty hundredths (25.80) feet;

Thence southerly along the westerly streetline of North Main Street to the point of beginning.

The last described parcel contains two hundred fifty-one, more or less, (251+) square feet.

SECTION 2. The parcels of land described in section one of this act are shown on a plan entitled, "Plan of land owned by the Town of Mansfield, Massachusetts showing parcels needed for highway purposes". Said plan is dated October nineteen hundred and ninety-two. This plan shall be kept on file with the chief engineer of the Massachusetts highway department.

Approved October 1, 1993.

Chapter 164. AN ACT RELATIVE TO THE ATHOL-ORANGE SOLID WASTE DISPOSAL DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. The agreement creating the Athol-Orange Solid Waste Disposal District is hereby ratified, validated and confirmed.

SECTION 2. The assessment of costs, charges or fees upon the member towns by the district shall not be subject to the provisions of section twenty A of chapter fifty-nine of the General Laws.

SECTION 3. The allocated share of the district's debt for each member town shall not be included in the towns total taxes assessed for the purposes of section twenty-one C of chapter fifty-nine of the General Laws.

SECTION 4. The Athol-Orange Solid Waste Disposal District may create and maintain from general revenues and bond proceeds and provide for the ultimate disposition of such reserve, replacement, maintenance and improvement funds and operating fund if funded from bond proceeds during the first twelve months of the operation of the district as it may deem necessary to enable said district to carry out its functions in an orderly fashion.

SECTION 5. Sections two and three of this act shall take effect upon their acceptance by a majority vote of the voters of the Athol-Orange Solid Waste Disposal District present and voting thereon at a district election as a ballot question.

Approved October 1, 1993.

Chapter 165. AN ACT ESTABLISHING A SICK LEAVE BANK FOR PATRICK M. SCHRAFFT, AN EMPLOYEE OF THE DIVISION OF INSURANCE.

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 division of insurance, 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, rule or regulation to the contrary, the division of insurance is hereby authorized and directed to establish a sick leave bank for Patrick M. Schrafft, an employee of said division. Any employee of said division may voluntarily contribute one or more of his sick, personal or vacation days to said sick leave bank for use by said Patrick M. Schrafft.

The foregoing was laid before the Governor on twentieth day of September, 1993 and after ten days it had the force of law as prescribed by the Constitution as it was not returned by him his objections thereto within that time.

Chapter 166. AN ACT PROVIDING FOR BIENNIAL AND ANNUAL MUNICIPAL ELECTIONS IN THE CITY OF TAUNTON.

Be it enacted, etc., as follows:

SECTION 1. Chapter 448 of the acts of 1909 is hereby amended by striking out section 1, as amended by section 1 of chapter 55 of the acts of 1948, and inserting in place thereof the following section:-

Section 1. Beginning with the year nineteen hundred and ninety-five, biennial municipal elections in the city of Taunton for the choice of mayor, and annual municipal elections for the choice of members of the school committee, municipal council, planning board, zoning board of appeals and Taunton lighting plant commission shall be held on the Tuesday next following the first Monday in November in every odd numbered year and on the date set for state wide elections in every even numbered year.

SECTION 2. Said chapter 448 is hereby further amended by striking out section 3, as amended by section 1 of chapter 407 of the acts of 1941, and inserting in place thereof the following section:-

Section 3. The municipal officers to be elected at city elections shall be the mayor; members of a single council, to consist of nine members, to be called the municipal council; members of the school committee; members of the planning board; members of the zoning board of appeals; and members of the Taunton municipal lighting plant commission.

SECTION 3. Said chapter 448 is hereby further amended by striking out section 5, as amended by section 1 of said chapter 407, and inserting in place thereof the following section:-

Section 5. On the fourth Tuesday preceding every biennial, annual, or special city election at which any officer mentioned in section four is to be elected, there shall be held a preliminary election or caucus for the purpose of nominating candidates for such offices as, under the provisions of this act, are to be filled at such biennial, annual, or special city election.

SECTION 4. This act shall be submitted for acceptance to the voters of the city of Taunton at the biennial municipal election in the year nineteen hundred and ninety-three in the form of the following question, which shall be placed upon the official ballot to be used in said city at said election:- "Shall an act passed by the general court in the year nineteen hundred and ninety-three, entitled 'An Act providing for biennial and annual municipal elections in the city of Taunton', be accepted?" If a majority of the votes in answer to said question is in the affirmative, then this act shall thereupon take full effect but not otherwise.

SECTION 5. This act shall take effect upon its passage.

Approved October 1, 1993.

Chapter 167. AN ACT PROVIDING FOR STAGGERED TERMS FOR MEMBERS OF THE TAUNTON MUNICIPAL LIGHT PLANT COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, in the year nineteen hundred and ninety-five, there shall be elected three commissioners of the Taunton municipal lighting plant. The candidate receiving the largest number of votes for commissioner shall be elected for a term of three years, the candidate receiving the next largest number of votes for a term of two years, and the candidate receiving the next largest number of votes for a term of one year. At the annual city election in nineteen hundred and ninety-six and every year thereafter there shall be elected one commissioner for a term of three years.

A vacancy on the Taunton municipal lighting plant commission occurring otherwise than by expiration of a term shall be filled by appointment of the city council and the remainder of the members of the commission until the next annual election, at which time such office shall be filled by election for the remainder of the unexpired term.

SECTION 2. This act shall be submitted to the voters of the city of Taunton at the city election to be held in the year nineteen hundred and ninety-three in the form of the following question, which shall be placed on the official ballot to be used for the election of city offices at said election:

"Shall an act passed by the general court in the year nineteen hundred and ninety-three, entitled 'An Act providing for staggered terms for members of the Taunton Municipal Light Plant Commission', 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, but not otherwise.

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

Approved October 4, 1993.

Chapter 168. AN ACT PROVIDING FOR STAGGERED TERMS FOR MEMBERS OF THE MUNICIPAL COUNCIL OF THE CITY OF TAUNTON.

Be it enacted, etc., as follows:

SECTION 1. Section 4 of chapter 448 of the acts of 1909, as amended by section 2 of chapter 407 of the acts of 1941, is hereby further amended by striking out, in line 5, the words "nine councilmen".

SECTION 2. Said section 4 of said chapter 448 is hereby further amended by adding the following three sentences:- In the year nineteen hundred and ninety-five there shall be elected nine councilmen. The three candidates receiving the largest number of votes for councilman shall be elected for a term of three years, the three candidates receiving the next largest number of votes for a term of two years, and the three candidates receiving the next largest number of votes for a term of one year. At the annual municipal election in nineteen hundred and ninety-six and every year thereafter, there shall be elected three councilmen for a term of three years.

SECTION 3. This act shall be submitted to the voters of the city of Taunton at the city election to be held in the year nineteen hundred and ninety-three 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-three, entitled 'An Act providing for staggered terms for members of the municipal council of the city of Taunton', be accepted?".

If a majority of the votes cast in answer to said question is in the affirmative then the act shall take full effect, but not otherwise.

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

Approved October 4, 1993.

Chapter 169. AN ACT PROVIDING FOR THE ELECTION OF THE PLANNING BOARD OF TAUNTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, in the year nineteen hundred and ninety-five there shall be elected seven members to the planning board of the city of Taunton. The three candidates receiving the largest number of votes for planning board shall be elected for a term of three years; the two candidates receiving the next largest number of votes for a term of two years; and the two candidates receiving the next largest number of votes for a term of one year. At the annual election in nineteen hundred and ninety-six and every year thereafter, there shall be elected two members of said planning board for a term of three years, except that every third year thereafter three members shall be so elected.

A vacancy on said planning board occurring otherwise than by expiration of a term shall be filled by appointment of the municipal council and the remainder of the members of said planning board until the next annual election, at which time such office shall be filled by election for the remainder of the unexpired term.

SECTION 2. Upon the qualification of the members of the planning board elected under the provisions of section one, the terms of present members of said board shall expire.

SECTION 3. This act shall be submitted to the voters of the city of Taunton at the city election to be held in the year nineteen hundred and ninety-three in the form of the following question, which shall be placed on 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-three, entitled 'An Act providing for the election of the planning board in the city of Taunton', 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, but not otherwise.

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

Approved October 4, 1993.

Chapter 170. AN ACT PROVIDING FOR THE ELECTION OF THE BOARD OF APPEALS IN THE CITY OF TAUNTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, in the year nineteen hundred and ninety-five there shall be elected five members of the zoning board of appeals of the city of Taunton. The two candidates receiving the largest number of votes for said zoning board of appeals shall be elected for a term of three years, the two candidates receiving the next largest number of votes for a term of two years, and the candidate receiving the next largest number of votes for a term of one year. At the annual election in nineteen hundred and ninety-six and every year thereafter there shall be elected two members of said zoning board of appeals for a term of three years, except that every third year thereafter one member shall be so elected.

A vacancy on the zoning board of appeals occurring otherwise than by expiration of a term shall be filled by appointment of the municipal council and the remainder of the members of said zoning board of appeals until the next annual election, at which time such office shall be filled by election for the remainder of the unexpired term.

SECTION 2. Upon the qualification of the members of the board of appeals elected under the provisions of section one, the terms of present members of said board shall expire.

SECTION 3. This act shall be submitted to the voters of the city of Taunton at the city election to be held in the year nineteen hundred and ninety-three in the form of the following question, which shall be placed on 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-three, entitled 'An Act providing for the election of the board of appeals in the city of Taunton', 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, but not otherwise.

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

Approved October 4, 1993.

Chapter 171. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF MASSACHUSETTS EMERGENCY RESPONDERS MEMORIAL DAY AND EMERGENCY MANAGEMENT WEEK.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15QQQ the following two sections:-

Section 15RRR. The governor shall annually issue a proclamation setting apart the second Sunday in May of each year as Massachusetts Emergency Responders Memorial Day to honor all paramedics, emergency medical and public safety personnel, national guard personnel on state active duty, disaster assistance volunteers, and emergency management personnel killed in the line of duty and recommending that said day be observed in an appropriate manner by the people.

Section 15SSS. The governor shall annually issue a proclamation calling for the proper observance of Emergency Management Week during the week following the second Sunday of May as a period for special attention to preparedness, response, recovery and mitigation to protect lives and property from natural and technological hazards. During said Emergency Management Week, public safety, emergency response and emergency management personnel shall make a reasonable effort to conduct public information programs, training exercises and other activities designed to educate and inform the public regarding the importance of preparedness for emergencies, mitigation, to reduce harmful effects of natural and technological hazards, and appropriate response and recovery actions in the event of emergencies in the home, workplace, neighborhood, community or region.

Approved October 6, 1993.

Chapter 172. AN ACT RELATIVE TO SEPARATION OR REDUCTION IN RANK OF CERTAIN PUBLIC EMPLOYEES IN THE CITY KNOWN AS THE TOWN OF WATERTOWN.

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 said chapter thirty-one or any other general or special law or rule or regulation to the contrary, if a permanent employee of the fire department of the city known as the town of Watertown serving in any position in a title above the lowest title is to be separated or reduced in rank due to abolition of the position or lack of money, each such employee shall be separated from such position according to such employee's seniority in title based on such employee's length of service in such title after permanent promotion in the department and any such employee shall be reinstated to such position previously held by such employee according to the same seniority system as provided herein.

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

Approved October 12, 1993.

Chapter 173. AN ACT AUTHORIZING HAMPDEN COUNTY TO REFUND CERTAIN NOTES.

Be it enacted, etc., as follows:

SECTION 1. For the purpose of refunding the three million two hundred thousand dollars principal amount of emergency loan notes maturing on October twenty-second, nineteen hundred and ninety-three, which notes were issued on October twenty-third, nineteen hundred and ninety-two to pay to that extent certain District Court of Eastern Hampden Court House Construction Loan, Act of 1987 notes issued under chapter four hundred and twenty-six of the acts of nineteen hundred and eighty-seven, on October twenty-fifth, nineteen hundred and ninety-one, the treasurer of Hampden county, with the approval of the county commissioners, may borrow upon the credit of the county such sums as may be necessary, not exceeding, in the aggregate, three million two hundred thousand dollars, and may issue bonds or notes of the county therefore, which shall bear on their face the words District Court of Eastern Hampden Court House Construction Refunding Loan, Act of 1993. Each authorized issue shall constitute a separate loan and such loans shall be payable in not more than sixteen years from their dates. The bonds or notes shall be signed by the county treasurer and countersigned by a majority of the county commissioners. The county may sell said securities at public or private sale, upon such terms and conditions and advertised in such manner as the county commissioners may deem proper, but not for less than their par value. Indebtedness incurred hereunder shall, except as herein provided, be subject to chapter thirty-five of the General Laws.

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

Approved October 12, 1993.

Chapter 174. AN ACT RELATIVE TO ZONING RESTRICTIONS WITHIN THE TOWN OF LUDLOW.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section three of chapter forty A of the General Laws or any other general or special law to the contrary, the town of Ludlow is hereby authorized to enact a by-law prohibiting construction of schools, day care centers and houses of worship in the aircraft flight overlay zone of said town.

Approved October 12, 1993.

Chapter 175. AN ACT FURTHER REGULATING SMOKING ON PUBLIC CONVEYANCES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 161A of the General Laws is hereby amended by adding the following section:-

Section 33. An officer of the authority may forthwith give to a person who violates the provisions of section forty-three A of chapter two hundred and seventy-two a written notice to appear before the clerk of the district court having jurisdiction at any time during office hours, not later than twenty-one days after the date of such violation. Such notice shall be signed by the officer and shall be signed by the offender in acknowledgment that the notice has been received. The officer shall deliver to the offender at the time and place of the violation a copy of said notice. Whenever it is not possible to deliver a copy of said notice to the offender at the time and place of the violation, said copy shall be mailed or delivered by the officer or by his commanding officer to the offender's last known address, within five days of the offense, exclusive of Sundays and legal holidays. Such notice mailed by the officer, his commanding officer, or the person so authorized to the last address of said offender shall be deemed a sufficient notice, and a certificate of the officer or person so mailing such notice that it has been mailed in accordance with this section shall be deemed prima facie evidence thereof and shall be admissible in any court of the commonwealth as to the facts contained therein. At or before the completion of each tour of duty, the officer shall give his commanding officer those copies of each notice of such violation he has taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer shall retain and safely preserve one of such copies and shall, at a time not later than the next court day after said delivery or mailing, deliver another of such copies to the clerk of the court before whom the offender has been notified to appear. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Any person so notified to appear before the clerk of a district court may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing, or by mail to such clerk, with the notice, and the sum of twenty-five dollars, such payment to be made only by postal note, money order, or check. Payment of such sum shall operate as a final disposition of the case. Proceedings under this paragraph shall not be criminal and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If any person notified to appear before the clerk of the district court fails to appear and pay the fine provided hereunder or, having appeared desires not to avail himself of the procedure hereinbefore provided for the non-criminal disposition of the case, the clerk shall notify the officer concerned, who shall forthwith make a criminal complaint. If any person fails to appear in accordance with the summons issued upon such complaint, the clerk shall send such person, by certified mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within twenty-one days from the sending of

such notice, the court shall issue a warrant for his arrest. If a person fails to appear within twenty-one days from the sending of such notice, the court shall issue a warrant for his arrest.

If, after an officer delivers a notice to an offender, the offender continues to violate said section forty-three A of said chapter two hundred and seventy-two, an officer of the authority may arrest such offender without a warrant. Any offender arrested under this section shall be subject to the fines and penalties provided under the provisions of said section forty-three A of said chapter two hundred and seventy-two.

SECTION 2. Chapter 272 of the General Laws is hereby amended by striking out section 43A, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 43A. Whoever, in or upon a railroad carriage, steamboat, or other public conveyance, or in a terminal or other facility of the Massachusetts Bay Transportation Authority, smokes or carries an open flame or lighted match, cigar, cigarette, or pipe shall be punished by imprisonment for not more than ten days or by a fine of not more than one hundred dollars, or both such fine and imprisonment.

Approved October 12, 1993.

Chapter 176. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF NATICK AS THE MATILDA "TILLY" CICCARELLI MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge on Marion street over Conrail in the town of Natick shall be designated and known as the Matilda "Tilly" Ciccarelli Memorial Bridge, in memory of the late Matilda Ciccarelli, a prominent Natick businesswoman. The department of highways shall erect suitable markers bearing such designation in compliance with the standards of said department.

Approved October 12, 1993.

Chapter 177. AN ACT EXEMPTING PETER KOLSON, A CITY COUNCILLOR IN THE CITY OF QUINCY, FROM A CERTAIN PROVISION OF LAW GOVERNING THE CONDUCT OF PUBLIC OFFICIALS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section twenty of chapter two hundred and sixty-eight A of the General Laws or any other general or special law to the contrary, Peter Kolson, an employee of the Quincy housing authority, shall not be prohibited

from holding his elected position as a city councillor in the city of Quincy and receiving compensation for his housing authority duties and for his duties as a city councillor in said city of Quincy.

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

Approved October 12, 1993.

Chapter 178. AN ACT RELATIVE TO PARKING FINES IN THE TOWN OF WELLFLEET.

Be it enacted, etc., as follows:

Notwithstanding the provision of section twenty A½ of chapter ninety of the General Laws or any other general or special law to the contrary, the town of Wellfleet, acting by and through its board of selectmen, is hereby authorized to establish a schedule of fines for violations subject to said section twenty A½ as follows: not to exceed twenty-five dollars for a ticket paid within twenty-one days; not to exceed thirty dollars for a ticket paid after twenty-one days and before the parking clerk has reported non-payment to the registrar of motor vehicles; and not to exceed thirty-five dollars for tickets paid thereafter.

Approved October 13, 1993.

Chapter 179. AN ACT RELATIVE TO THE ESTABLISHMENT OF REVOLVING FUNDS IN CITIES AND TOWNS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately allow cities and towns to establish a revolving fund for intergovernmental services, 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-three of chapter forty-four of the General Laws, any city or town may authorize the use of an intergovernmental revolving fund for the purpose of operating a multi-community yard waste processing or recycling program. This fund shall be accounted for separately from all other monies in such city or town and to which shall be credited only the receipts received in connection with the program supported by such revolving fund. Expenditures may be made from such revolving fund without further appropriation, subject to the provisions of this act; provided, however, that expenditures shall not be made or liabilities incurred from any such revolving fund in excess of the balance of the fund nor in excess of the total authorized expenditures from such

fund, nor shall any expenditure be made unless approved in accordance with sections forty-one, forty-two, and fifty-six of chapter forty-one.

The intergovernmental revolving fund shall be established only by those communities responsible for receiving revenues from the other cities and towns participating in a multi-community yard waste processing or recycling program. Participating communities shall make payments to the treasurer of the city or town establishing such fund, who shall deposit such monies into the intergovernmental revolving fund. Payments from participating communities shall be from properly authorized appropriations.

Interest earned on the intergovernmental revolving fund balance shall be treated as revenue of the town or city.

A revolving fund established under the provisions of this act shall be by vote of the board of selectmen or city council and mayor. Such authorization shall be made in the initial fiscal year and each fiscal year thereafter by the appropriating authority, and shall include a limit on the total amount which may be expended from such fund in that fiscal year. In any fiscal year the limit on the amount that may be spent from an intergovernmental revolving fund may be increased with the approval of the board of selectmen or city council and mayor. All receipts in connection with the operation of the yard waste processing or recycling program shall be credited to the revolving fund and the department responsible for operating the program, as designated by the city or town authorization, and shall be authorized to expend from such fund for the operation of a yard waste processor in accordance with the accepted procedures of the city or town for the disbursement of funds, including the approval of the mayor and city council or the town manager or board of selectmen. The city or town accountant shall submit annually a report of said account to the mayor and city council or the town manager and board of selectmen for review and a copy of said report shall be forwarded to the bureau of accounts.

At the end of each fiscal year any balance in the revolving fund shall be carried forward to the following fiscal year. The intergovernmental revolving fund may be dissolved after the payment of all expenses incurred by the city or town for the operation and maintenance of such program. Any balance shall be returned to the communities contributing to the fund in a manner equal to the portion of their contribution.

The director of accounts may issue guidelines further regulating intergovernmental revolving funds established under this act.

Approved October 13, 1993.

Chapter 180. AN ACT AUTHORIZING THE CITY OF WORCESTER TO UTILIZE A PORTION OF THE WORCESTER COMMON FOR THE WIDENING OF FRANKLIN STREET.

Be it enacted, etc., as follows:

The city of Worcester is hereby authorized to use a certain portion of the Worcester

Common for the purpose of realigning and widening Franklin and Main streets in said city. Said land is shown as "Parcel 1" on a plan entitled "Worcester Public Common, Plan of Land in Worcester, Massachusetts," scale 1" = 40', dated October 2, 1992, prepared by The BSC Group - Worcester, Inc., Worcester, Massachusetts, and recorded in the Worcester district registry of deeds in Plan Book 665 as Plan 12.

Approved October 13, 1993.

Chapter 181. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF TRURO.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 2 of the charter of the town of Truro, 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 the third paragraph and inserting in place thereof the following paragraph:-

A quorum for town meeting shall be seven percent of the registered voters as listed at the close of the registration period for town meeting, or the whole number nearest thereto. If a quorum is not reached, the moderator shall adjourn the meeting to a stated date, time, and place which shall be within seven days.

SECTION 2. Section 2 of chapter 3 of said charter is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

No person shall be candidate for, or hold concurrently, more than one elected town office, except for the offices of town clerk, treasurer and tax collector in accordance with section 3-1-2. Service as a representative from the town to a governmental body other than the town shall not be prohibited by this provision.

SECTION 3. Section 2 of chapter 4 of said charter is hereby amended by striking out the sixth paragraph and inserting in place thereof the following paragraph:-

The board of selectmen shall serve as the custodian of all town-owned property, except for properties of the town's board of library trustees, and shall plan for its preservation, maintenance, and protection, and shall plan for the timely replacement of capital facilities and infrastructure.

SECTION 4. Section 3 of said chapter 4 of said charter is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The board of selectmen shall appoint all members to all appointed multi-member bodies, except those to be appointed by the moderator, in accordance with sections 2-2-4, 2-2-5, 6-4-3a, 6-4-3b, of this charter and shall appoint all appointed representatives to governmental bodies other than the town except when otherwise provided by inter-municipal agreements. All appointments are to be made in accordance with the provisions of chapter 6 of this charter.

SECTION 5. Section 3 of chapter 5 of said charter is hereby amended by striking out paragraph 5-3-1 and inserting in place thereof the following paragraph:-

5-3-1. The town administrator shall be the chief administrative officer of the town and shall be responsible for administering and coordinating all appointed town employees, offices, and departments in accordance with sections four and five of this chapter, except those employees of the town's board of library trustees.

SECTION 6. Section 4 of said chapter 5 of said charter is hereby amended by adding the following paragraph:-

5-4-6. The town administrator shall appoint, as needed, the director, clerk, and employees of the council on aging, notwithstanding the provision of section eight B of chapter forty of the General Laws.

SECTION 7. The first paragraph of section 3 of chapter 6 of said charter is hereby amended by striking out clause (*e*) and inserting in place thereof the following clause:-

(*e*) A board of library trustees of five members, notwithstanding the provisions of section ten of chapter seventy-eight of the General Laws.

Approved October 14, 1993.

Chapter 182. AN ACT FURTHER REGULATING CIVIL INFRACTIONS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the collection of certain civil fines, 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 21 of the General Laws is hereby amended by striking out section 6F, as most recently amended by section 259 of chapter 133 of the acts of 1992, and inserting in place thereof the following section:-

Section 6F. If the director, his assistant or any environmental police officer, deputy environmental police officer, members of the state police, local police, local town law enforcement officials in shellfish beds over which they have jurisdiction, or harbormasters acting pursuant to authority arising under chapter ninety B, employed to enforce the sections contained in section six F½ determines that a violation thereof has occurred or is occurring, he may request the offender state his name and address.

Whoever, upon such request, refuses to state his name and address may be arrested without a warrant, or if he states a false name and address or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not more than two hundred dollars. Such officer may, as an alternative to instituting criminal proceedings, forthwith give to the offender a written notice to appear before the clerk of the district court

having jurisdiction at any time during office hours, not later than twenty-one days after the date of such violation.

Six copies of such notice shall be made and each shall contain the name and address of the offender and, if served with the notice in hand at the time of such violation, the number of his license, if any, to operate motor vehicles; the registration number of the vehicle or motorboat involved, if any; the number of the license, certificate of permit, if any, issued pursuant to chapter one hundred and thirty or chapter one hundred and thirty-one which is relevant to the violation; the specific offense or offenses charged and the time and place of the violation; and the time and place for his required appearance. Such notice shall be signed by the officer, and shall be signed by the offender in acknowledgment that the notice has been received. The officer shall deliver to the offender at the time and place of the violation a copy of said notice. At or before the completion of each tour of duty the officer shall forward to his commanding officer copies of each notice of such violation that he has issued during such tour. Said commanding officer shall promptly mail one copy of each notice to the director and shall retain and safely preserve one copy. Before the end of his tour of duty such issuing officer shall forward to the respective court before whom the offender has been notified to appear the court copy of each notice of such violation that he has issued during such tour. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Any person so notified to appear before the clerk of a district court may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing; or may mail to such clerk, with the citation, the fine provided therein, provided that it is the first offense for such violation within two calendar years.

At the time of such appearance said person shall provide the clerk with the notice issued by said officer and shall pay to the clerk the fine as provided in section six F½, such payment to be made only by cash, postal note, money order or certified check. Payment of such fine shall operate as a final disposition of the case. Proceedings under this paragraph shall not be deemed criminal; and a person notified to appear before the clerk of a district court shall not be required to report to any probation officer, and no record of the case shall be entered in the probation records. If at any time the court finds that the interests of justice so require, it may cause a warrant to be issued as provided in section thirty-two of chapter two hundred and eighteen.

If any person notified to appear before the clerk of the district court fails to so appear and pay the fine provided hereunder or, having appeared, desires not to avail himself of the procedure for the non-criminal disposition of the case, the clerk shall notify the officer concerned, who shall forthwith make a criminal complaint. If any person fails to appear in accordance with a summons issued upon such complaint, the clerk shall send to such person by certified mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within twenty-one days from the sending of such notice, the court shall issue a warrant for his arrest.

The director, his assistants, any environmental police officers, deputy environmental police officers, members of the state police, local police and shellfish constables in areas of their respective jurisdiction empowered to enforce the sections in section six F½ may seize any fish, birds, or mammals unlawfully taken or held which shall be forfeited to the commonwealth and disposed of by the director for the best interests of the commonwealth.

The commissioner of the department of fisheries, wildlife and environmental law enforcement shall adopt rules and regulations consistent with the provisions of this chapter and shall file said regulations in accordance with the provisions of section thirty-seven of chapter thirty.

All fines, penalties and forfeitures in actions under this section or section six F½ shall be paid to the general fund of the city or town in which the violation occurred; provided, however, that if the complaining officer is receiving compensation from the commonwealth, such fines, penalties and forfeitures shall be paid to the commonwealth; and provided, further, that if the complaining officer is an environmental police officer or deputy environmental police officer, such fines, penalties and forfeitures shall be retained by the division of law enforcement; and provided, further, that if the complaining officer is a chief park ranger or park ranger, such fines, penalties or forfeitures, in addition to those imposed pursuant to section sixteen of chapter two hundred and seventy, shall be forwarded to the department of environmental management to be deposited as revenue and shall be applicable to the department's retained revenue account. At the end of each fiscal year, the division of law enforcement shall pay the Inland Fish and Game Fund an amount equivalent to the sum of all fines, penalties and forfeitures received by the division of law enforcement during such fiscal year for violations of chapter one hundred and thirty-one or the regulation promulgated thereunder.

The director shall issue books of non-criminal citation forms to the enforcement personnel authorized under this section. The director is hereby authorized to charge a reasonable fee for such citation forms in accordance with the provisions of section three B of chapter seven.

SECTION 2. Said chapter 21 is hereby further amended by inserting after section 6F the following section:-

Section 6F½. A person notified to appear before the clerk of a district court as provided in section six F for a violation of section four A of chapter twenty-one, the regulations promulgated pursuant to section seventeen A of said chapter twenty-one, the regulations promulgated pursuant to the provisions of chapter ninety B, or the rules and regulations of the division of fisheries and wildlife regulating activity on land under the management of such division, may so appear within the time specified and pay a fine of fifty dollars.

A person notified to appear before the clerk of a district court as provided in section six F for a violation of section two, three, four, five, five A, six, seven, subsection (b) of section nine, section twelve, twelve A or thirteen A of chapter ninety B may so appear within the time specified and pay a fine of fifty dollars.

A person notified to appear before the clerk of a district court as provided in section six F for violation of subsections (b), (c) and (e) of section eight of said chapter ninety B may so appear within the time specified and pay a fine of one hundred dollars.

A person notified to appear before the clerk of a district court as provided in said section six F for violation of section seventeen A, thirty-three, thirty-four, thirty-six, thirty-nine, forty, fifty-one, sixty-nine, seventy, seventy-one, seventy-two, eighty-one, eighty-two or ninety-five of chapter one hundred and thirty may so appear within the time specified and pay a fine of fifty dollars.

A person notified to appear before the clerk of a district court as provided in said section six F for violation of section thirty-five, thirty-seven, thirty-eight, thirty-eight A, forty-one, forty-one A, forty-four, sixty-seven, sixty-eight, eighty, ninety-two, one hundred A or one hundred C of said chapter one hundred and thirty may so appear and pay a fine of one hundred dollars.

A person notified to appear before the clerk of a district court as provided in said section six F for a violation of section forty-seven and section seventy-five of chapter one hundred and thirty, or section sixty-five of chapter one hundred and thirty-one, may so appear within the time specified and pay a fine of two hundred dollars.

A person notified to appear before the clerk of a district court as provided in said section six F for a violation of section one, five, six, eight, ten, eleven, thirteen, sixteen, nineteen A, twenty-three to twenty-five, inclusive, twenty-six, twenty-seven, twenty-eight, thirty, thirty-two, thirty-three, thirty-six, thirty-eight, forty-four, forty-seven, forty-nine to fifty-four, inclusive, fifty-seven, fifty-nine, sixty-nine, seventy-one, seventy-two, seventy-six, seventy-seven, seventy-nine, eighty or eighty-two of chapter one hundred and thirty-one may so appear and pay a fine of fifty dollars.

A person notified to appear before the clerk of a district court as provided in said section six F for violations of section fifty-eight, sixty-six, sixty-seven, seventy, seventy-five A or eighty A of said chapter one hundred and thirty-one may appear and pay a fine of one hundred dollars.

SECTION 3. Said chapter 21 is hereby further amended by striking out section 6I, as most recently amended by section 262 of chapter 133 of the acts of 1992, and inserting in place thereof 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 F½ 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. At the beginning of each fiscal year the division of law enforcement shall pay to the Inland Fisheries and Game Fund an amount equivalent to the sum of all criminal fines or criminal penalties received by the division of law enforcement during the previous fiscal year for violations of chapter one hundred and thirty-one or the regulations promulgated thereunder, if the complaining officer was an environmental police officer.

SECTION 4. Chapter 40 of the General Laws is hereby amended by striking out section 21D, as amended by section 370 of said chapter 133, and inserting in place thereof the following section:-

Section 21D. Any city or town may by ordinance or by-law not inconsistent with this section provide for non-criminal disposition of violations of any ordinance or by-law or any rule or regulation of any municipal officer, board or department the violation of which is subject to a specific penalty.

Any such ordinance or by-law shall provide that any person taking cognizance of a violation of a specific ordinance, by-law, rule or regulation which he is empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings shall, or, if so provided in such ordinance or by-law, may, give to the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours, not later than twenty-one days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable in acknowledgment that such notice has been received.

The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to deliver a copy of said notice to the offender at the time and place of the violation, said copy shall be mailed or delivered by the enforcing person, or by his commanding officer or the head of his department or by any person authorized by such commanding officer, department or head to the offender's last known address, within fifteen days after said violation. Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be prima facie evidence thereof.

At or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give to his commanding officer or department head those copies of each notice of such a violation he has taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer or department head shall retain and safely preserve one copy and shall, at a time not later than the next court day after such delivery or mailing, deliver the other copy to the clerk of the court before which the offender has been notified to appear. The clerk of each district court and of the Boston municipal court shall maintain a separate docket of such notices to appear.

Any person notified to appear before the clerk of a district court as hereinbefore provided may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to the city or town clerk of the municipality within which the violation occurred together with the notice such specific sum of money not exceeding three hundred dollars as the town shall fix as penalty for violation of the ordinance, by-law, rule or regulation. Such payment shall if mailed be made only by postal note, money order or check. Upon receipt of such notice, the city or town clerk shall forthwith notify the district court clerk of such payment and the receipt by the district court clerk of such notification shall operate as a final disposition of the case. An appearance under this paragraph shall not be deemed to be a criminal proceeding. No person so notified to appear before the clerk of a district court shall be required to report to any probation officer, and no record of the case shall be entered in any probation records.

If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail himself of the procedure established pursuant to this section, he may, within twenty-one days after the date of the notice, request a hearing in writing. Such hearing shall be held before a district court judge, clerk, or assistant clerk, as the court shall direct, and if the judge, clerk, or assistant clerk shall, after hearing, find that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case by paying the specific sum of money fixed as a penalty as aforesaid, or such lesser amount as the judge, clerk or assistant clerk shall order, which payment shall operate as a final disposition of the case. If the judge, clerk, or assistant clerk shall, after hearing, find that violation alleged did not occur or was not committed by the person notified to appear, that finding shall be entered in the docket, which shall operate as a final disposition of the case. Proceedings held pursuant to this paragraph shall not be deemed to be criminal proceedings. No person disposing of a case by payment of such a penalty shall be required to report to any probation office as a result of such violation, nor shall any record of the case be entered in the probation records.

If any person so notified to appear before the clerk of a district court fails to pay the fine provided hereunder within the time specified or, having appeared, does not confess the offense before the clerk or pay the sum of money fixed as a penalty after a hearing and finding as provided in the preceding paragraph, the clerk shall notify the enforcing person who issued the original notice, who shall determine whether to apply for the issuance of a complaint for the violation of the appropriate ordinance, by-law, rule or regulation.

As used in this section the term "district court" shall include, within the limits of their jurisdiction, the municipal court of the city of Boston and the divisions of the housing court department of the trial court.

The notice to appear provided for herein shall be printed in such form as the chief justice of the municipal court of the city of Boston shall prescribe for said court, and as the chief justice of the district courts shall prescribe for the district courts. Said notice may also include notice of violations pursuant to section eleven C of chapter eighty-five, section eighteen A of chapter ninety, section one hundred and seventy-three A of chapter one hundred and forty and section sixteen A of chapter two hundred and seventy. Any fines imposed under the provisions of this section shall enure to the city or town for such use as said city or town may direct. This procedure shall not be used for the enforcement of municipal traffic rules and regulations. Chapter ninety C shall be the exclusive method of enforcement of municipal traffic rules and regulations.

SECTION 5. Chapter 85 of the General Laws is hereby amended by striking out section 11C, as amended by section 442 of said chapter 133, and inserting in place thereof the following section:-

Section 11C. Every city and town shall, pursuant to clause (16B) of section twenty-one of chapter forty, provide a non-criminal ticketing procedure against violators of the provisions of sections eleven A and eleven B and of any rule, regulation, ordinance or by-law of the city or town regulating the registration, equipment and operation of bicycles. Cities and towns shall print notices of such violations in tag form in the same manner as notices pursuant to section twenty A or twenty C of chapter ninety are printed for such cities and towns.

A police officer taking cognizance of any such violation may request the offender to state his true name and address. Whoever, upon such request, refuses to state his name and address, or states a false name and address or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not less than twenty nor more than fifty dollars. Any such offender so refusing to state his name and address may be arrested without a warrant, but no person shall be arrested without a warrant for any other such violation.

Every police officer who takes cognizance of such violations may give the offender a notice, which shall be in tag form, as provided in this section, to appear before the clerk of the district court having jurisdiction, at any time during office hours, not later than twenty-one days after the date of such violation. If the offender is under sixteen years of age, the officer may give such notice to the parent or guardian of the offender. All tags shall be prepared in triplicate and shall be prenumbered.

Said tag shall contain but shall not be limited to the following information: the registration number of the bicycle, if any; the name and address of the offender, if served with notice in hand at the time of such violation; the date, time, place and nature of the violation; the amount of the fine; instructions for the return of the tag; and a notice which reads as follows: This notice may be returned by mail, personally, or by an authorized person, and if property returned shall be deemed non-criminal. A court hearing may be ob-

tained upon the written request of the offender. Failure to obey this notice within twenty-one days after the date of the violation will result in the offender's appearance in court on a criminal complaint. Such notice shall be signed by the officer, and shall be signed by the offender whenever practicable in acknowledgment that the notice has been received. The officer shall, if possible, deliver to the offender at the time and place of the violation a copy of said notice. Whenever it is not possible to deliver a copy of said notice to the offender at the time and place of violation, said copy shall be mailed or delivered by the officer, or by his commanding officer or any person authorized by said commanding officer to the offender's last known address. The mailing of such notice by the officer, his commanding officer or the person so authorized, to the said offender shall be deemed a sufficient notice, and a certificate of the officer or person stating that such notice has been mailed in accordance with this section shall be deemed prima facie evidence thereof, and shall be admissible in any court of the commonwealth as to the facts contained therein.

At or before the completion of each tour of duty, the officer shall give to his commanding officer those copies of each notice of such a violation taken cognizance of during such tour. Said commanding officer shall retain and safely preserve one of such copies and shall at a time no later than the beginning of the next court day after receipt of such notice deliver another of such copies to the clerk of the court before whom the offender has been notified to appear. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Any person notified to appear before the clerk of a district court, as provided herein, may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing, or by mailing to such clerk the notice accompanied by the fine provided therein, such payment to be made only by postal note, money order or check made out to the clerk of the court. Returning the notice to the clerk of court and payment of the fine established shall operate as a final disposition of the case. Proceedings under this section shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If any person notified to appear before the clerk of the district court fail to appear or, having appeared, desire not to avail himself of the benefits of the procedure established by this section, the clerk shall, as soon as may be, notify the officer concerned, who shall forthwith make a complaint against the offender and follow the procedure established for criminal cases. If any person fails to appear in accordance with the summons issued upon such complaint, the clerk shall send such person by registered mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within twenty-one days from the mailing of such notice, a warrant for his arrest will be issued. If any person fails to appear within twenty-one days from the mailing of such notice the court shall issue a warrant for his arrest. The notice to appear, provided herein, shall be printed in such form as the chief justice for the Boston municipal court department and the chief justice for the district court department may prescribe for their respective departments; provided, however,

that any city or town may request that the notice prepared for said city or town pursuant to section twenty A or section twenty C of chapter ninety be so revised or adapted that said notice may also be used for the notice provided for in this section.

All fines collected pursuant to this section shall be used by the respective cities and towns for the development and implementation of bicycle programs.

SECTION 6. Chapter 90 of the General Laws is hereby amended by striking out section 18A, as amended by section 443 of said chapter 133, and inserting in place thereof the following section:-

Section 18A. The department on ways within their control and at the intersection of state highways, and other ways, the metropolitan district commission on ways within their control and at the intersection of metropolitan district commission roadways, except state highways, and other ways, the traffic and parking commission of the city of Boston, the traffic commission or traffic director of any city or town having such a commission or director with authority to promulgate traffic rules, the city council of any other city, and the board of selectmen of any other town may, subject to the provisions of section two of chapter eighty-five, adopt, amend and repeal rules, not repugnant to law, regulating the use by pedestrians of ways within their respective control; provided, however, that no such rule adopted by said traffic and parking commission or by any such traffic commission or traffic director, any city council or any board of selectmen shall take effect until approved in writing by the department, nor, in the case of any such rule adopted by said traffic and parking commission, until published in the City Record, or, in the case of any other such rule, until published in a newspaper published in the city or town in which such rule is to be applicable, if any, otherwise in the county wherein such city or town lies. As used in this paragraph, the word "pedestrian" shall include a person in or on any conveyance, other than a bicycle, constructed and designed for propulsion by human muscular power, as well as including a person on foot. Whoever violates any provision of any such rule shall be punished by a fine of one dollar for the first, second or third such offense committed by such person within the jurisdiction of the district court in the particular calendar year, and by a fine of two dollars for the fourth or subsequent such offense so committed in such calendar year.

If a police officer takes cognizance of a violation of any provision of any such rule, he shall forthwith give to the offender a written notice to appear before the clerk of the district court having jurisdiction, at any time during office hours, not later than twenty-one days after the time of such violation. Such notice shall be made in triplicate and shall contain the name and address of the offender, the time, place and nature of the violation, and the name of the police officer. Upon the completion of his tour of duty such police officer shall give his commanding officer two copies of such notice. Said commanding officer shall retain one such copy in his files and, not later than the next court day, deliver the other copy to the clerk of the court before whom the offender has been notified to appear. The notice to appear as provided herein shall be printed in such form as the chief justice for the Boston municipal court department and the chief justice for the district court department may prescribe for their respective departments.

A police office taking cognizance of any such violation may request the offender to state his name and address. Whoever, upon such request, refuses to state his name and address, or states a false name and address or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not less than twenty nor more than fifty dollars. Any such offender who refuses upon such request to state his name and address may be arrested without a warrant; but no person shall be arrested without a warrant for any other violation of any provision of this paragraph or for any violation of any provision of any such rule.

Any person notified to appear before the clerk of a district court as hereinbefore provided may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing or by mailing to such clerk, with the notice, the sum provided herein, such payment to be made only by postal note, money order or check. If it is the first, second or third offense subject to this section committed by such person within the jurisdiction of the court in the calendar year, payment to such clerk of the sum of one dollar shall operate as a final disposition of the case; if it is the fourth or subsequent such offense so committed in such calendar year payment to such clerk of the sum of two dollars shall operate as a final disposition of the case. Proceedings under this paragraph shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

Should any person notified to appear before the clerk of the district court fail to appear or, having appeared, desire not to avail himself of the procedure hereinbefore provided for the non-criminal disposition of the case, the clerk shall, as soon as may be, notify the officer concerned, who shall forthwith make a complaint and follow the procedure established for criminal cases. If any person fails to appear in accordance with the summons issued upon such complaint the clerk shall send such person by registered mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within twenty-one days from the sending of such notice a warrant for his arrest will be issued. If any person fails to appear within twenty-one days from the sending of such notice the court shall issue a warrant for his arrest.

A violation of any provision of any such rule or of any provision of this section shall not, in any civil proceeding, constitute negligence or be admissible as evidence of negligence, nor shall a conviction for such a violation be shown to affect the credibility of a witness in any proceeding.

The provisions of this section relative to ways within the control of cities or towns shall be effective in cities or towns accepting said provisions; provided, however, that at any time after the expiration of two years from the time of any such acceptance a city or town may, in the same manner as such provisions were accepted, revoke the same.

SECTION 7. Chapter 90B of the General Laws is hereby amended by striking out section 14, as most recently amended by section 451 of said chapter 133, and inserting in place thereof the following section:-

Section 14. (a) Whoever violates any provision of section two, three, four, six or nine A or of any rule or regulation pertaining thereto shall be punished by a fine of not more than fifty dollars, except as hereinafter provided. Any person against whom a complaint has been issued for a violation of section two or of any rule or regulation pertaining thereto may, if it is the first offense committed by such person in violation of the provisions of this chapter or of any rule or regulation made under authority hereof, appear in person or through an attorney or agent duly authorized in writing, before the clerk of the court having jurisdiction of the offense, and confess the offense charged. In the alternative, any person against whom a complaint has been issued for violation of section five, five A, six or nine A may waive a trial and plead guilty by mailing to the clerk of the court having jurisdiction of the offense, payment in the amount of ten dollars for each offense, by postal note, money order, or certified check made payable to said clerk. Payment by such a person to such clerk of a fine of ten dollars and costs shall operate as a final disposition of the case. Proceedings so disposed of by such clerk shall not be deemed criminal and no person who appears before a clerk of court as provided herein shall be required to report to any probation officer and no record of the case shall be entered in the probation records. Such clerk shall, within three days of such payment, forward to the director a certified copy of such proceedings. For the purpose of counting violations such disposition shall operate as if a finding of guilty had been made in court.

(b) Whoever as a scuba diver, so-called or boat operator violates any provision of section five, five A, seven, subsection (b) of section nine, section twelve, twelve A or thirteen A or of any rule or regulation pertaining thereto shall be punished by a fine of not less than ten nor more than fifty dollars.

(c) Whoever violates any provision of section eight or any rules or regulations pertaining thereto shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both, or if such violation results in the death of any person, by a fine of not more than one thousand dollars and by imprisonment for not more than one year.

SECTION 8. Chapter ninety G of the General Laws is hereby repealed.

SECTION 9. Section 89 of chapter 131 of the General Laws, as amended by section 77 of chapter 412 of the acts of 1991, is hereby further amended by inserting after the first sentence the following three sentences:- Any boat, vessel, bag, locker, package, crate, any building or other dwelling house, any motor vehicle as defined in section one of chapter ninety, or other vehicle, or anything else used to take, hold, keep, possess, transport or hold for transport fish or wildlife taken in violation of a law relating to inland fisheries and game may also be subject of a search warrant as provided in chapter two hundred and seventy-six. Persons authorized to arrest without a warrant may seize any boat, vessel, fish car, bag, box, locker, package, crate, any motor vehicle as defined in section one of chapter ninety, or other vehicle, or any other personal property used in violation of a law relating to inland fisheries and game and hold the same for forfeiture by the commonwealth. Any fish, birds, mammals, equipment, and property, as specified herein, described in such warrant,

may be seized and shall be forfeited to the commonwealth; provided, however, that this section shall not apply to fish, birds, mammals, equipment, or property, as specified above, passing through the commonwealth under the authority of the laws of the United States.

SECTION 10. Said section 87 of said chapter 131 of the General Laws, as so amended, is hereby further amended by adding the following sentence:- Whenever seizure and confiscation or forfeiture is provided by any provision of this chapter, unless another procedure is therein indicated, such confiscation or forfeiture shall be according to the provisions of chapter two hundred and fifty-seven.

SECTION 11. Section 90 of said chapter 131, as amended by section 2 of chapter 364 of the acts of 1991, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Whoever violates any provision of section five, ten, eleven, thirty, thirty-two, thirty-five, thirty-six, thirty-eight, forty-seven, forty-nine, fifty, fifty-one, fifty-three, fifty-four, fifty-seven, fifty-eight, fifty-nine, sixty-two, sixty-nine, seventy-one, seventy-two, eighty, eighty-two, eighty-three, eighty-four, or eighty-five, or any rule or regulation made under authority thereof, shall be punished by a fine of not less than fifty nor more than one hundred dollars, or by imprisonment for not more than thirty days, or both such fine and imprisonment; in addition, for each bird or mammal other than a deer, bear or turkey unlawfully killed, taken, held or possessed, or for each nest or egg unlawfully taken, molested, distributed or destroyed, by a fine of not less than ten nor more than fifty dollars; and for each deer unlawfully killed or unlawfully possessed, by a fine of not less than three hundred nor more than one thousand dollars, or by imprisonment for not more than six months, or both such fine and imprisonment; and for each bear unlawfully killed or unlawfully possessed, by a fine of not less than one thousand nor more than five thousand dollars, or by imprisonment for not more than six months, or both such fine and imprisonment; and for each turkey unlawfully killed or unlawfully possessed, by a fine of not less than three hundred nor more than one thousand dollars, or by imprisonment for not more than six months, or both such fine and imprisonment.

SECTION 12. Said section 90 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words "three hundred nor more than one thousand" and inserting in place thereof the following words:- five hundred nor more than two thousand.

SECTION 13. Said section 90 of said chapter 131, as so appearing, is hereby further amended by striking out, in lines 36 and 37, the words "bear, or moose, by a fine of not less than three hundred, nor more than one thousand" and inserting in place thereof the following words:- , by a fine of not less than five hundred nor more than two thousand dollars, and in the case of a bear, by a fine of not less than one thousand nor more than five thousand dollars, and in the case of a moose, not less than five hundred nor more than two thousand dollars.

SECTION 14. Said section 90 of said chapter 131, as so appearing, is hereby further

amended by striking out, in lines 73 and 74, the words "one hundred nor more than five thousand" and inserting in place thereof the following words:- three hundred nor more than one thousand.

SECTION 15. Said section 90 of said chapter 131, as so appearing, is hereby further amended by inserting after the word "Deer", in line 103, the following word:- , moose.

SECTION 16. Said section 90 of said chapter 131, as so appearing, is hereby further amended by striking out, in line 107, the following words "fifty dollars" and inserting in place thereof the following words:- one hundred dollars.

SECTION 17. The thirteenth paragraph of said section 90 of said chapter 131, as so appearing, is hereby further amended by striking out clause (d) and inserting in place thereof the following clause:-

(d) Mink, muskrat, raccoon: one hundred dollars per animal illegally taken or illegally possessed. Wild rabbit, hare, and gray squirrel: fifty dollars per animal illegally taken or illegally possessed.

SECTION 18. Said section 90 of said chapter 131, as so appearing, is hereby further amended by striking out, in line 112, the word "twenty-five" and inserting in place thereof the following word:- fifty.

SECTION 19. Said section 90 of said chapter 131, as so appearing, is hereby further amended by striking out, in lines 118 to 120, inclusive, the words

"Endangered species: two thousand dollars

Threatened species: one thousand dollars

Species of Special Concern: five hundred dollars" and inserting in place thereof the following words:-

Endangered species: three thousand dollars

Threatened species: two thousand dollars

Species of Special Concern: one thousand dollars.

SECTION 20. Said section 90 of said chapter 131, as so appearing, is hereby further amended by inserting after the fourteenth paragraph the following paragraph:-

In every case of conviction for violating any of the provisions of this chapter, or any rule or regulation made under the authority thereof, the fines imposed by this section shall not be suspended or waived.

SECTION 21. Said section 90 of said chapter 131, as so appearing, is hereby further amended by inserting after the word "court", in line 126, the following words:- and shall not be suspended or waived.

SECTION 22. Chapter 132A of the General Laws is hereby amended by striking out section 7A, as amended by section 489 of chapter 133 of the acts of 1992, and inserting in place thereof the following section:-

Section 7A. There is established within the department of environmental management, division of forest and parks, the position titles of chief park ranger and park ranger, provisions of the General Laws or any special law to the contrary notwithstanding. Said positions shall not be eligible for the provisions of Group (4) retirement benefits.

The chief park ranger and park rangers appointed and employed by the department of environmental management, when appointed deputy environmental police officers, shall enforce all regulations promulgated pursuant to section four A of chapter twenty-one, and section seven of chapter one hundred and thirty-two A and section sixteen of chapter two hundred and seventy, shall search for lost or missing persons or department property, and shall assist the bureau of fire control in both suppression and detection of fires.

A park ranger who has been appointed as a deputy environmental police officer who observes any violation of regulations promulgated pursuant to said section four A of said chapter twenty-one, and said section seven of said chapter one hundred and thirty-two A, may request the offender to state his name and address. Whoever upon such request refuses to state his name and address may be arrested without a warrant and shall be punished by a fine of not less than fifty dollars and not more than one hundred dollars. Said ranger may, as alternative to instituting criminal proceedings, give to the offender a written notice to appear before the clerk of the district court having jurisdiction at any time during office hours within twenty-one days after the date of such violation. Said notice shall contain the name and address of the offender, offense charged, signature of the officer and option of the offender acknowledging that the notice has been received. The clerk of courts shall maintain a separate docket of all such notices to appear.

If any person notified to appear before the clerk of the district court fails to appear and pay the fine provided hereunder or, having appeared, desires not to avail himself of the procedure for the non-criminal disposition of the case, the clerk shall notify the ranger concerned, who shall forthwith make a criminal complaint.

Any person notified to appear before the clerk of the district court for a violation of said section four A of said chapter twenty-one, and of said section seven of said chapter one hundred and thirty-two A, may so appear within the time specified and pay a fine of fifty dollars. Notwithstanding any other provision of law, all fines and penalties recovered for violation of rules and regulations made under authority of this section shall be accounted for by the clerk of the court and forwarded to the department of environmental management to be deposited as revenue and shall be applicable to the department's retained revenue account.

Park ranger may, through independent contractors, remove from any area or way subject to their jurisdiction or control and store in any convenient place any vehicle parked or standing thereon in violation of any law, or rule and regulation; provided however, that such removal and storage shall be at no expense to and without liability on the part of the commonwealth.

SECTION 23. Chapter 140 of the General Laws is hereby amended by striking out section 173A, as amended by section 497 of said chapter 133, and inserting in place thereof the following section:-

Section 173A. Whenever a complaint is sought in a district court for a violation of an ordinance or by-law, made under the provisions of section one hundred and seventy-three, the clerk shall send a written notice to the person complained against stating that such a complaint has been sought and will issue unless such person appears before such clerk and confesses the offense either personally or through an agent duly authorized in writing, or by

mailing to such clerk, with the notice the fine provided herein. If it is the first offense subject to this section committed by such person within a calander year, the clerk shall dismiss the charge without the payment of any fine; if it is the second offense so committed in such city or town in the calendar year the payment to the clerk of a fine of twenty-five dollars shall operate as a final disposition of the case; if it is the third offense so committed in such city or town in a calendar year payment of a fine of thirty dollars shall operate as a final disposition of the case; and if it is the fourth or subsequent offense so committed in such city or town in the calendar year the payment of a fine of fifty dollars shall operate as a final disposition of the case. Such payment shall be made only by postal note, money order or check. Notwithstanding the foregoing procedure and schedules of fines and subject, however, to all of the other provisions of this section, a city or town may, by ordinance or by-law, provide for an alternative procedure and a different schedule of fines; provided, however, that no new schedule of fines shall contain a fine in excess of fifty dollars.

Proceedings under this section shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If a person notified to appear, as hereinbefore provided, fails to appear or pay the fine within twenty-one days of the sending of the notice, or having appeared, does not desire to avail himself of the procedure established by this section, the clerk shall issue the complaint and the procedure established for criminal cases shall be followed.

If any person fails to appear in accordance with the summons issued upon such complaint, the clerk of the court shall send such person, by registered mail, return receipt requested, a notice that the complaint is pending and that, if the person fails to appear within twenty-one days from the sending of such notice, a warrant for his arrest will be issued.

SECTION 24. The first paragraph of section 62C of chapter 221 of the General Laws, as amended by section 559 of said chapter 133, is hereby further amended by striking out clause (i).

SECTION 25. Section 16 of chapter 270 of the General Laws is hereby amended by striking out the second paragraph, as amended by section 568 of said chapter 133, and inserting in place thereof the following paragraph:-

If a motor vehicle is used in committing such an offense where the offense involves the unlawful disposal of more than seven cubic feet of trash, bottles or cans, refuse, rubbish, garbage, debris scrap, waste or any other materials and the motor vehicle is observed while the offense is in progress by an officer authorized to enforce this section, the officer may seize the vehicle and remove and store it or otherwise immobilize it by a mechanical device until (1) payment is made to the enforcing authority of a fine set by such enforcing authority up to the maximum fine which may be imposed under this section, (2) the illegally disposed of material is removed and legally disposed of, and (3) payment is made to the enforcing authority of its reasonable towing and storage charges, if any, for the seized vehicle. If, after payment of the above fine and towing and storage charges, the use of the seized vehicle is necessary to dispose of the material, the enforcing authority shall release the seized vehicle upon the posting of security sufficient to pay for the cost of legal disposal of the material.

The security shall be returned to the person posting it upon proof of legal disposal of the material. Within five days of the payment of a fine to secure the release of a seized vehicle as provided for herein, the enforcing authority to whom the fine is paid shall deposit the fine in court along with an application for a criminal complaint regarding the offense, and the court shall hold the fine until judgment is entered on said complaint; provided, however, that at the discretion of the enforcing authority, the violation may be disposed of by the non-criminal disposition procedures pursuant to section twenty-one D of chapter forty, in which case the maximum fine shall be one thousand dollars. If a conviction is returned on the complaint the court shall award to any person or persons, other than an employee of the enforcing authority, whose information materially contributed to the identification of the convicted party, up to five hundred dollars, or forty percent of said fine, whichever is the greater, and the balance of the fine shall be equally divided between the enforcing authority and the court. If such violation is disposed of non-criminally, the balance of such fine, after payment of the award, if any, shall be deposited in the general fund of the enforcing authority. Vehicles seized under the provisions of this section which are not claimed or redeemed by their owners as provided for above within thirty days of the date of seizure, may after thirty days notice by certified mail to the vehicle's registered owner, be sold at auction and the proceeds be applied to the fines assessed herein, vehicle towing and storage costs and the costs for legal disposal of the material. Enforcing authorities shall adopt appropriate rules and regulations which provide for the orderly implementation of this section.

SECTION 26. Said chapter 270 is hereby further amended by striking out section 16A, as amended by section 569 of said chapter 133, and inserting in place thereof the following section:-

Section 16A. If any officer empowered to enforce section sixteen takes cognizance of a violation thereof, he may request the offender to state his name and address. Whoever, upon such request, refuses to state his name and address, may be arrested without a warrant, or if he states a false name and address or a name and address which is not his name and address in ordinary use, he shall be punished by a fine of not less than fifty nor more than one hundred dollars. Such officer may, as an alternative to instituting criminal proceedings, forthwith give to the offender a written notice to appear before the clerk of the district court having jurisdiction at any time during office hours, not later than twenty-one days after the date of such violation. Such notice shall be made in triplicate, and shall contain the name and address of the offender and, if served with notice in hand at the time of such violation, the number of his license, if any, to operate motor vehicles; the registration number of the vehicle or motor boat involved, if any; the time and place of the violation; the specific offense charged; and the time and place for his required appearance. Such notice shall be signed by the officer, and shall be signed by the offender whenever practicable in acknowledgment that the notice has been received. The officer shall, if possible, deliver to the offender at the time and place of the violation a copy of said notice. Whenever it is not possible to deliver a copy of said notice to the offender at the time and place of the violation,

said copy shall be mailed or delivered by the officer, or by his commanding officer or any person authorized by said commanding officer, to the offender's last known address, or in the case of a violation involving a motor vehicle or motor boat registered under the laws of this commonwealth, within five days of the offense, or in the case of any motor vehicle or motor boat registered under the laws of another state or country, within ten days thereof, exclusive, in either case, of Sundays and holidays, to the address of the registrant of the motor vehicle or motor boat involved, as appearing, in the case of a motor vehicle registered under the laws of this commonwealth, in the records of the registry of motor vehicles or the division of motor boats or, in the case of a motor vehicle or motor boat registered under the laws of another state or country in the records of the official in such state or country having charge of the registration of such motor vehicle or motor boat. Such notice mailed by the officer, his commanding officer, or the person so authorized to the last address of said registrant as appearing as aforesaid, shall be deemed a sufficient notice, and a certificate of the officer or person mailing such notice that it has been mailed in accordance with this section shall be deemed prima facie evidence thereof and shall be admissible in any court of the commonwealth as to the facts contained therein. At or before the completion of each tour of duty the officer shall give to his commanding officer those copies of each notice of such a violation he has taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer shall retain one of such copies and shall, at a time not later than the next court day after said delivery or mailing, deliver another copy to the clerk of the court before whom the offender has been notified to appear. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Any person notified to appear before the clerk of a district court as hereinbefore provided may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing, or by mailing to such clerk, with the notice, the sum provided herein, such payment to be made only by postal note, money order or check. If it is the first, second or third offense subject to this section committed by such person within the jurisdiction of the court in the calendar year, payment to such clerk of the sum of twenty dollars shall operate as a final disposition of the case; if it is the fourth or subsequent such offense so committed in such calendar year, payment to such clerk of the sum of one hundred dollars shall operate as a final disposition of the case. Proceedings under this paragraph shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If any person notified to appear before the clerk of the district court fails to appear and pay the fine provided hereunder or, having appeared, desires not to avail himself of the procedure hereinbefore provided for the non-criminal disposition of the case, the clerk shall notify the officer concerned, who shall forthwith make application for a criminal complaint and follow the procedure established for criminal cases, and shall notify, if a motor vehicle is involved, the registrar of motor vehicles, or, if a motor boat is involved, the division of motor boats. If any person fails to appear in accordance with the summons issued upon such

complaint the clerk shall send such person by certified mail, return receipt requested, a notice that the complaint is pending and that, if the person fails to appear within twenty-one days from the sending of such notice, a warrant for his arrest will be issued. If any person fails to appear within twenty-one days from the sending of such notice, the court shall issue a warrant for his arrest.

The notice to appear, provided herein, shall be printed in such form as the chief justice for the district court department and the chief justice for the Boston municipal court department may prescribe for their respective departments; provided, however, that a notice prepared pursuant to section twenty A or section twenty C of chapter ninety may be so revised or adapted that said notice may also be used for the notice provided for in this section.

SECTION 27. Section 42 of chapter 279 of the General Laws is hereby amended by striking out the second paragraph, as amended by section 571 of said chapter 133, and inserting in place thereof the following paragraph:-

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 28. For any and all citations or violations issued pursuant to this act from January first, nineteen hundred and ninety-three to the effective date of this act, such citations or violations shall be payable and appealable in accordance with the provisions of this act. All such citations or violations shall be deemed to have been issued as of the effective date of this act for purposes of determining the time within which an offender is required to pay a fine, appear before the district court, or make a written request for a hearing to contest the citation or violation.

Approved October 14, 1993.

Chapter 183. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE A CERTAIN PARCEL OF LAND IN THE CITY OF SOMERVILLE.

Be it enacted, etc., as follows:

The commissioner 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, a certain parcel of land owned by the Somerville Housing Authority and located in the city of Somerville, and to transfer the care, custody and control of said parcel to the department of highways. Said parcel which is presently dedicated for a housing use shall be diverted

to a highway use.

Said parcel of land is more particularly described as follows:

Beginning at a point 33 feet southwesterly, 90 degrees of station 16 + 43 of the 1908 survey baseline, as shown on the plan hereinafter referred to, and 40 feet southwesterly, 90 degrees of station 89+68 of the existing Mystic Avenue construction baseline, in assessor's section 57 of Somerville, Massachusetts; thence Southwesterly 5 feet;

thence Southeasterly parallel to the said layout line, 357 feet;

thence Northeasterly 90 degrees, 5 feet to a point on said layout line;

thence Northwesterly along said layout line, 357 feet back to the point of beginning. Said parcel containing 1,785 square feet.

The parcel herein described is shown on a plan entitled, "Plan of Road In The City Of Somerville Middlesex County Laid Out As A State Highway By The Massachusetts Highway Commission, April 14 1908". This plan shall be kept on file with the chief engineer of the department of highways.

Approved October 15, 1993.

Chapter 184. AN ACT AUTHORIZING AND DIRECTING THE SUPERINTENDENT OF STATE OFFICE BUILDINGS TO INSTALL AND MAINTAIN A PLAQUE IN HONOR OF CERTAIN MEMBERS OF THE 26TH YANKEE DIVISION.

Be it enacted, etc., as follows:

The superintendent of state office buildings is hereby authorized and directed, subject to approval of the art commission as to size and content, to install and maintain a plaque in a suitable space in the state house in honor of all members of the 26th Yankee division who served their country faithfully during World War I and World War II.

Approved October 15, 1993.

Chapter 185. AN ACT AUTHORIZING THE TOWN OF SCITUATE TO CONVEY A CERTAIN PARCEL OF LAND.

Be it enacted, etc., as follows:

The town of Scituate is hereby authorized to convey a certain parcel of land located in said town, presently being held for sewer treatment and disposal and recreational purposes, to the Scituate housing authority subject to such terms and conditions regarding the disposition of sand and gravel, as the board of selectmen of said town may establish. Said parcel is shown as parcel 3 on Scituate's assessors' map 60.

Approved October 15, 1993.

Chapter 186. AN ACT AUTHORIZING THE TOWN OF CANTON TO PAY A CERTAIN UNPAID BILL.

Be it enacted, etc., as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the town of Canton is hereby authorized to pay a sum of money, not to exceed seven thousand seven hundred and thirty-nine dollars and eight cents to the Canton fire fighters, Local 1580, I.A.F.F. as reimbursement for expenditures made by its members for improvements and renovations to the Canton fire station during fiscal year nineteen hundred and eighty-eight.

Approved October 15, 1993.

Chapter 187. AN ACT AUTHORIZING THE TOWN OF ABINGTON TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

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 of the town of Abington 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 Carmen's Taco and Burger Hut. Said license shall be subject to all of 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 person, organization, corporation or location; and provided, further, that the granting of this license shall reduce by one any increase in licenses granted due to census reapportionment under said section seventeen.

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

Approved October 15, 1993.

Chapter 188. AN ACT VALIDATING THE PROCEEDINGS OF THE ANNUAL TOWN ELECTION IN THE TOWN OF LENOX.

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 Lenox at its annual town election held on May tenth, nineteen hundred and ninety-three and all actions taken pursuant thereto are hereby ratified, validated, and confirmed notwithstanding any defect or omission in the calling of said election.

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

Approved October 18, 1993.

Chapter 189. AN ACT ESTABLISHING A CERTAIN HISTORICAL DISTRICT IN THE TOWN OF FALMOUTH.

Be it enacted, etc., as follows:

Section 3 of chapter 654 of the acts of 1975, as most recently amended by chapter 290 of the acts of 1985, is hereby further amended by adding the following paragraph:-

Quissett - two strips 200 feet wide on the Easterly and Westerly sides of Quissett Avenue from its Northern end Southerly, approximately 5,580 feet, to the land belonging to the Woods Hole Golf Course;

a strip adjacent to the waters of Quissett Harbor extending back 500 feet or subject to the public view from the Waterway;

a strip 200 feet wide on the Northerly and Southerly sides of Quissett Harbor Road beginning at Sippewissett Road Westerly to the Western boundary of Lot 4803-5A-21.

Approved October 20, 1993.

Chapter 190. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF NORTON AS THE HERBERT F. PATRIQUIN, SR. MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge on North Washington street over Interstate Highway Route 495 in the town of Norton shall be designated and known as the Herbert F. Patriquin, Sr. Memorial Bridge, in honor of Herbert F. Patriquin, Sr. who was lost in World War II. A suitable marker bearing said designation shall be attached thereto by the department of highways in compliance with the standards of said department.

Approved October 21, 1993.

Chapter 191. AN ACT VALIDATING CERTAIN ACTIONS TAKEN BY THE TOWN OF BELCHERTOWN AT ITS ANNUAL TOWN MEETING.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the action by which the town of Belchertown at its annual town meeting on May tenth, nineteen hundred and ninety-three and May eleventh, nineteen hundred and ninety-three voted to appropriate and authorize the town treasurer with the approval of the board of selectmen to borrow two hundred and eighteen thousand two hundred and thirty-six dollars for remodeling, reconstructing, or making extraordinary repairs to certain public buildings owned by said town in accordance with the provisions of paragraph (3A) of section seven of chapter forty-four of the General Laws, or any other enabling authority, and to issue bonds or notes therefor, is hereby ratified, validated and confirmed for the following projects, notwithstanding that certain of said buildings listed are located at the Belchertown state school:

Clapp memorial library window repair	$ 25,000.00
high school roof repair or replacement	125,736.00
Old Town Hall roof repair	7,500.00
B.S.S. Tadgell building renovation as school space	60,000.00

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the action by which the town of Belchertown at its annual town meeting on May tenth nineteen hundred and ninety-three and May eleventh, nineteen hundred and ninety three voted to appropriate and authorize the town treasurer with the approval of the board of selectmen to borrow one hundred and ninety thousand dollars for the cost of architectural or engineering services for developing plans and specifications for additions or renovations to certain public buildings in accordance with paragraph (21) or (22) of section seven of chapter forty-four of the General Laws, or any other enabling authority, and to issue bonds or notes therefore is hereby ratified, validated, and confirmed for the following buildings, notwithstanding that certain of said buildings are located at the Belchertown state school:

fire station	$80,000.00
police station	40,000.00
elementary school	35,000.00
senior center	35,000.00

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

Approved, October 22, 1993.

Chapter 192. AN ACT INCREASING THE NUMBER OF COMMISSIONERS OF THE SPRINGFIELD BOARD OF WATER COMMISSIONERS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 30 of the acts of 1880 is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. There shall be four water commissioners in the city of Springfield, who, with the mayor as an *ex officio* member, shall constitute the board of water commissioners of said city, with all the rights, powers and duties vested in and exercised by the board of water commissioners. Each member shall be appointed by the mayor for a term of two years and until his successor is appointed and the board shall consist of at least two persons who are lay persons and all shall be residents of said city. The mayor shall appoint annually one of the board members to serve as chairperson. The members of the board shall receive no compensation. In case any person so appointed shall die, resign, or become disqualified during his term of office, the mayor shall fill the vacancy for the unexpired term only; provided, however, that no member of the city council shall be eligible to be appointed as a water commissioner.

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

Approved October 22, 1993.

Chapter 193. AN ACT PROVIDING FOR THE APPOINTMENT OF THE TOWN TREASURER AND THE TOWN COLLECTOR IN THE TOWN OF PELHAM.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section one of chapter forty-one of the General Laws or any other general or special law to the contrary, the treasurer of the town of Pelham and the collector of said town shall be appointed by the board of selectmen of said town and shall serve for a term of years not exceeding three years.

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

Approved October 22, 1993.

Chapter 194. AN ACT RELATIVE TO THE POSITION OF TOWN ADMINISTRATOR IN THE TOWN OF BECKET.

Be it enacted, etc., as follows:

SECTION 1. Section 5 of chapter 662 of the acts of 1989 is hereby amended by inserting after the word "administrator", in line 2, the following words:- either on a full time or part time basis.

SECTION 2. Said section 5 of said chapter 662 is hereby further amended by inserting after the word "degree", in line 8, the following words:- ; provided, however, the selectmen may accept experience in lieu of such degree at their discretion.

Approved October 22, 1993.

Chapter 195. AN ACT AUTHORIZING THE TOWN OF NANTUCKET TO CONSTRUCT A CHANNEL FROM EACH OF THE ISLAND'S GREAT PONDS TO THE OCEAN.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any law to the contrary, the town of Nantucket, acting by and through its board of selectmen, in consultation with the Nantucket conservation commission, is hereby authorized to construct a channel from each of the great ponds, and to close such channels, listed below on Nantucket Island to the ocean across barrier beaches without the need of approval, permits or authorizations of any kind from the commonwealth or any of its subdivisions, departments or agencies, and may raise and appropriate such sums of money as may be necessary to accomplish such purpose.

The four great ponds on Nantucket Island subject to this act are Sesachacha Pond, Long Pond, Hummock Pond and Miacomet Pond.

Said town may take by eminent domain under chapter seventy-nine of the General Laws, or acquire by lease, purchase or otherwise, such land and easements within its limits as may be necessary for the construction and maintenance of such channels.

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

Approved October 22, 1993.

Chapter 196. AN ACT RELATIVE TO CERTAIN CAPITAL OUTLAY PROGRAMS OF THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for certain capital outlay programs in 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. Item 7516-7890 in section 2 of chapter 208 of the acts of 1988 is hereby amended by inserting after the word "campus", in line 1, the following words:- and renovations, furnishings and equipment for the Lowell and Bedford campuses.

SECTION 2. Section 21 of chapter 564 of the acts of 1987 is hereby amended by inserting after the word "Bedford", in line 4, the following words:- , including the design, planning and construction of a ferry terminal.

Approved October 22, 1993.

Chapter 197. AN ACT RELATIVE TO THE SENIORITY OF DAVID SAN ANTONIO AND TIMOTHY HENRICK IN THE POLICE DEPARTMENT OF THE CITY KNOWN AS THE TOWN OF METHUEN.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section thirty-three of chapter thirty-one of the General Laws or any other general or special law to the contrary, the length of service in the police department of the city known as the town of Methuen for David San Antonio shall be computed from May second, nineteen hundred and eighty-eight and for Timothy Henrick from March twenty-second, nineteen hundred and eighty-nine.

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

Approved October 22, 1993.

Chapter 198. AN ACT AUTHORIZING CITIES AND TOWNS TO ESTABLISH A SPECIAL FUND FOR THE CELEBRATION OF ITS SETTLEMENT OR INCORPORATION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize cities and towns to establish special funds for the celebration of their incorporation, 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 44 of the General Laws is hereby amended by inserting after section 53H the following section:-

Section 53I. A city or town, for the celebration of the two hundredth, two hundred and fiftieth, three hundredth and three hundred and fiftieth anniversary of its settlement or incorporation, may appropriate money annually during the five years preceding such anniversary. Notwithstanding the provisions of section fifty-three or any other law to the contrary, such city or town may establish in its treasury a special fund in which shall be deposited such sums as may be appropriated by it under the provisions of this section, and any and all sums received from the sale of commemorative items or from admission charges for commemorative ceremonies or events. Any and all such sums received by the treasurer shall be kept separate from other moneys, funds or property of such city or town and the principal and interest thereof may, from time to time upon the authorization of the mayor or city manager, as the case may be, the board of selectmen or the majority of any special committee established to plan such celebration, be expended for the purposes of said celebration in the year of such celebration and in the year preceding or succeeding the same.

Any surplus remaining in said special fund after such celebration is concluded, shall be transferred by such treasurer into the treasury of such city or town.

Approved October 28, 1993.

Chapter 199. AN ACT DESIGNATING A PORTION OF STATE HIGHWAY ROUTE 138 IN THE TOWN OF STOUGHTON AS THE CHARLES H. LANE AMVETS POST 1977 HIGHWAY.

Be it enacted, etc., as follows:

That portion of state highway Route 138 in the town of Stoughton, from Lincoln street to Central street shall be designated and known as the Charles H. Lane Amvets Post 1977 highway. The department of highways shall erect suitable markers along said highway bearing said designation in compliance with the standards of said department.

Approved October 28, 1993.

Chapter 200. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF SHARON AS THE CHARLES R. WILBER AMERICAN LEGION POST NO. 106 BRIDGE.

Be it enacted, etc., as follows:

The bridge on South Main street over interstate highway Route 95 in the town of Sharon shall be designated and known as the Charles R. Wilber American Legion Post No. 106 Bridge. A suitable marker bearing said designation shall be attached thereto by the department of highways.

Approved October 28, 1993.

Chapter 201. AN ACT REGULATING CONTRACTS OF THE CITY OF SOMERVILLE.

Be it enacted, etc., as follows:

SECTION 1. Chapter 240 of the acts of 1899 is hereby amended by striking out section 46A, as amended by section 3 of chapter 486 of the acts of 1985, and inserting in place thereof the following section:-

Section 46A. All contracts, made by any department, board or commission of the city, where the amount is five thousand dollars or more, shall be in writing, and no such contract shall be deemed to have been executed until the approval of the mayor and the department, board or commission making the contract has been affixed thereto. All contracts may be required to be accompanied by a bond with sureties, a deposit of money, certified check or other security for the faithful performance thereof, satisfactory to the procurement officer, department head or commission. Said security shall be deposited with the city treasurer. No such contract shall be altered except by written agreement of the contractor, the procurement officer or department head making the contract, with the approval of the mayor affixed thereto.

SECTION 2. Section forty-six B of said chapter two hundred and forty is hereby repealed.

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

Approved October 28, 1993.

Chapter 202. AN ACT RELATIVE TO THE PLACING OF A PUBLIC POLICY QUESTION ON THE BALLOT TO BE USED IN THE CITIES AND TOWNS IN BERKSHIRE COUNTY AT THE 1994 BIENNIAL STATE ELECTION.

Be it enacted, etc., as follows:

For the purpose of ascertaining the will of the people of Berkshire county, the state secretary shall cause to be placed on the official ballot to be used in the cities and towns of said county at the biennial state election held in the year nineteen hundred and ninety-four the following nonbinding question on public policy: "Do you approve of an amendment to the laws of the commonwealth to permit the abolishment of County Government in Berkshire County, thereby authorizing the commonwealth to assume responsibility for the operation of jails, courthouses and registries of deeds?".

Approved October 28, 1993.

Chapter 203. AN ACT RELATIVE TO CERTAIN BENEFITS WHICH MAY BE PAID BY THE ATTLEBORO POLICE RELIEF ASSOCIATION, INC.

Be it enacted, etc., as follows:

Chapter 228 of the acts of 1990 is hereby amended by striking out, in line 5, the words "fifteen hundred" and inserting in place thereof the following words:- two thousand.

Approved October 28, 1993.

Chapter 204. AN ACT AUTHORIZING THE ONSET FIRE DISTRICT TO CONVEY CERTAIN LAND IN THE TOWN OF WAREHAM.

Be it enacted, etc., as follows:

SECTION 1. The Onset Fire District, acting by and through its board of water commissioners, is hereby authorized to convey to Janice L. O'Connor, trustee under a Declaration of Trust entitled "Bangs Cranberry Trust of February 11, 1988" dated February 11, 1988, which trust is on file at the Plymouth county registry of deeds, land court division, or to the trust's successors or assigns, three parcels of land, containing approximately 1.74 acres, located in the town of Wareham and being a portion of land described in an Order of Taking by the Onset Fire District dated September 3, 1981, recorded in the Plymouth county registry of deeds, Book 5057, Page 4. Said parcels are more particularly bounded and described as follows:

PARCEL I

The land in the town of Wareham on the northerly side of Cranberry Highway near the intersection of Main Avenue containing 0.23 acres, more or less, and being a portion of Parcel 4 as shown on a plan entitled "Plan of McKenna Lands in Wareham To Be Conveyed To Onset Fire District, Wareham (Onset), Mass." dated October 7, 1980 by Charles L. Rowley & Associates, Civil Engineers & Surveyors, West Wareham, Mass. recorded in Plymouth County Registry of Deeds as Plan No. 28 of 1982, being shown as Parcel I on a Plan entitled "Proposed Well Protection Plan, Onset Water Department, Scale 1" = 100 feet", dated 1/6/93 by Charles L. Rowley & Associates, Civil Engineers & Surveyors, West Wareham, Mass. and being more particularly described as follows:

Beginning at the most westerly corner of the Parcel to be described; said corner being at the westerly end a line shown on Land Court Plan 15786A as S 79°-15'-30" W, 64.96 feet;
thence in line of land of Janice L. O'Connor, Trustee of Bangs Cranberry Trust of February 11, 1988, N 79°-08'-18" E, a distance of 64.96 feet;
thence continuing in line of Bangs Cranberry Trust land, N 72°-08'-18" E, a distance of 281.97 feet;
thence in line of remaining land of the Onset Fire District, S 61°-42'-22" W, a distance of 113.52 feet to a point of curve;
thence in line of remaining land of the Onset Fire District, Southwesterly, by a curve to the left having a radius of 400.00 feet, a distance of 144.06 feet as measured along the arc to land of Janice L. O'Connor, Trustee of Bangs Cranberry Trust of February 11, 1988; said curved line being at all points 400.00 feet distant from an existing 8" well situated on land of the Onset Fire District and shown on the above mentioned plan dated 1/6/93;
thence in line of said Bangs Cranberry Trust land, N 69°-41'-22" W, a distance of 128.22 feet to the point of beginning.

PARCEL II

The land in said town of Wareham situated northerly of Parcel I as described above, containing 1.20 acres, more or less, being a portion of Parcel 4 shown on the McKenna plan described above and shown as Parcel II on the above referenced plan dated 1/6/93 and being more particularly described as follows:

Beginning at the most southerly corner of the Parcel to be described; said corner also being the most easterly corner of Parcel I described above;
thence in line of land of Janice L. O'Connor, Trustee of Bangs Cranberry Trust of February 11, 1988, N 20°-16'-42" W, a distance of 148.66 feet;
thence continuing in line of said Bangs Cranberry Trust land the following six (6) courses;
N 46°-56'-42" W, a distance of 92.27 feet;
N 06°-56'-42" W, a distance of 108.69 feet;
N 59°-42'-02" W, a distance of 155.36 feet;
N 00°-30'-42" W, a distance of 62.48 feet;
N 25°-15'-18" E, a distance of 27.24 feet;
N 38°-15'-18" E, a distance of 209.08 feet to land of the Onset Fire District;
thence in line of remaining land of the Onset Fire District, S 11°-06'-44" E, a distance of 652.24 feet to the point of beginning.

PARCEL III

The land in said town of Wareham situated northwesterly of Parcel II described above, containing 0.31 acres, more or less, being a portion of Parcel 4 as shown on the McKenna plan described in Parcel I above and being shown as Parcel III on the plan described above dated 1/6/93 and being further described as follows;

Beginning at the most northwesterly corner of the Parcel to be described at a corner of land of Janice L. O'Connor, Trustee of Bangs Cranberry Trust of February 11, 1988; said corner also being shown on Land Court Plan 15786A at the northwesterly end of the line as S 57°-07'-30" E, 248.95 feet;
thence in line of remaining land of the Onset Fire District, S 76°-28'-57" E, a distance of 323.74 feet;
thence in line of land of Bangs Cranberry Trust, S 60°-45'-18" W, a distance of 120.81 feet;
thence again in line of land of Bangs Cranberry Trust, N 57°-14'-42" W, a distance of 248.95 feet to the point of beginning.

The courses of the various lines which describe Parcels I, II and III are based on the meridian of a George P. Morse plan recorded in Plymouth County Registry of Deeds, Plan Book 4, Page 57.

SECTION 2. In consideration of the conveyance in section one, Janice L. O'Connor, trustee under a Declaration of Trust entitled "Bangs Cranberry Trust of February 11, 1988" dated February 11, 1988, which trust is on file at the Plymouth county registry of deeds, land court division, or the trust's successors or assigns shall convey to the Onset Fire District and the Onset Fire District is hereby authorized to accept two parcels of real estate, containing approximately 2.02 acres, located in the town of Wareham and being portions of the land described in a deed of Daniel F. O'Connor to Janice L. O'Connor, trustee, dated February 11, 1988 on file at the Plymouth county registry of deeds, land court division, as Document No. 283346, which land is also described in Certificate of Title No. 76606 on file at said land court division. Said parcels are more particularly bounded and described as follows:-

PARCEL A

The land in the town of Wareham, situated on the northerly side of Cranberry Highway and northwesterly of the intersection of Main Avenue, consisting of 1.42 acres, more or less and being shown as "Parcel A" on a plan entitled: "Proposed Well Protection Plan, Onset Water Department, East Wareham, MA, scale: 1" = 100', date: 1/6/93" by Charles L. Rowley & Associates, Civil Engineers & Surveyors, West Wareham, MA and being more particularly described as follows:

Beginning at a point in the easterly line of land of the grantor; said point being the northerly end of the line shown as S 04°-39'-40" E, 346.98 feet on Land Court Plan 15786A dated May 14, 1934;

thence in line of other land of Janice L. O'Connor, Trustee of Bangs Cranberry Trust of February 11, 1988, S 05°-28'-52" E, a distance of 163.61;

thence continuing in line of said Bangs Cranberry Trust land, S 14°-28'-22" E, a distance of 87.61 feet;

thence in line of remaining land of Janice L. O'Connor, Trustee of Bangs Cranberry Trust of February 11, 1988, northwesterly, northerly and northeasterly by a curve to the right having a radius of 400.00 feet, a distance of 691.72 feet as measured along the arc to a point in line of land of the Onset Fire District; said curved line being at all points a distance of 400.00 feet from an existing 8" well situated on land of the Onset Fire District and being shown on the above described plan;

thence in line of said Onset Fire District land, S 69°-41'-42" E, a distance of 24.75 feet to the point of beginning.

PARCEL B

The land situated in said town of Wareham adjacent to and on the southeasterly side of Parcel A above described, containing 0.60 acres, more or less, being shown on the above described plan dated 1/6/93 as Parcel B, and being more particularly described as follows:

Beginning at the most southerly corner of Parcel A and in line of land of Janice L. O'Connor, Trustee of Bangs Cranberry Trust of February 11, 1988 as shown on Land Court Plan 15786A;

thence in line of said Bangs Cranberry Trust land, N 14°-28'-22" W, a distance of 87.61 feet;

thence again in line of said Trust land, N 05°-28'-52" W, a distance of 163.61 feet to land of the Onset Fire District;

thence in line of land of the Onset Fire District, S 80°-59'-08" E, a distance of 105.59 feet;

thence again in line of land of the Onset Fire District, S 05°-10'-10" E, a distance of 274.45 feet;

thence in line of remaining land of Janice L. O'Connor, Trustee of Bangs Cranberry Trust of February 11, 1988, northwesterly by a curve to the right having a radius of 400.00 feet, a distance of 101.02 feet as measured along the arc to the point of beginning; said curved line being at all points 400.00 feet distant from an existing 8" well situated on land of the Onset Fire District and as shown on the above described plan dated 1/6/93.

Being a portion of the land conveyed to Janice L. O'Connor, Trustee of Bangs Cranberry Trust of February 11, 1988 by deed of Daniel F. O'Connor recorded in Plymouth County Registry of Deeds, Book 8290, Page 54 in 1988.

Courses and distances which describe Parcels A and B are based on the meridian of a plan by George P. Morse, Surveyor, recorded in Plymouth County Registry of Deeds, Plan Book 4, page 57.

Approved October 28, 1993.

Chapter 205. AN ACT DESIGNATING THE MAINTENANCE BUILDING OF THE BLACKSTONE RIVER AND CANAL HERITAGE STATE PARK AS THE HONORABLE P. EUGENE CASEY MEMORIAL BUILDING.

Be it enacted, etc., as follows:

The park maintenance headquarters building for the Blackstone river and Canal Heritage State Park shall be designated as The Honorable P. Eugene Casey Memorial Building, in recognition of the late Senator Casey's leadership of the Blackstone Valley reclamation committee.

Suitable markers bearing such designation shall be erected thereat by the department of environmental protection in compliance with the standards of said department.

Approved October 28, 1993.

Chapter 206. AN ACT RELATIVE TO ELECTIONS IN THE TOWN OF DUDLEY.

Be it enacted, etc., as follows:

SECTION 1. Any person who is qualified to vote in the town of Dudley may be a candidate for an elective town office and shall be entitled to have his name printed on the official ballot to be used at a town election; provided, however, that such person shall file nomination papers provided by the town clerk containing no less than fifty signatures certified as voters of said town.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, no primary or caucus for the nomination of town officers shall be held in the town of Dudley. No ballot used at a regular or special town election shall have printed thereon a party or political designation or mark and there shall not be appended to the name of a candidate any political designation or mark.

Approved October 28, 1993.

Chapter 207. AN ACT RELATIVE TO VOTING PRECINCTS IN THE CITY OF REVERE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, ward Five, precinct One of the city of Revere shall be one precinct for the purpose of forming congressional, representative, senatorial or councillor districts, but shall have two polling places for the purpose of any state or municipal election; provided, however, that one said polling place shall be located to the south of Mills avenue, to serve voters residing in ward Five, precinct One south of said Mills avenue and the other said polling place shall be located to the north of Mills avenue, to serve voters residing in ward Five, precinct One north of said Mills avenue.

SECTION 2. The election commission of the city of Revere is empowered to take all necessary actions to assure compliance herewith, including but not limited to such actions as assuring the accuracy of the voting lists as located at each polling place as enumerated herein.

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

Approved October 28, 1993.

Chapter 208. AN ACT EXEMPTING AN EXTENSION OF WATER LINES IN THE TOWN OF SUTTON FROM CERTAIN BIDDING LAWS.

Be it enacted, etc., as follows:

SECTION 1. The Wilkinsonville Water District, established by chapter six hundred and three of the acts of nineteen hundred and sixty-seven, shall be exempt from the provisions of chapter thirty B of the General Laws for the purpose of extending water lines on Dodge road in the town of Sutton; provided, however, that such extension shall be subject to all other General Laws which are applicable thereto.

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

Approved October 29, 1993.

Chapter 209. AN ACT AUTHORIZING AN ADDITIONAL LEVY OF ONE HUNDRED SIXTY-THREE THOUSAND DOLLARS TO THE FISCAL YEAR NINETEEN HUNDRED AND NINETY-FOUR PROPERTY TAX IN THE TOWN OF AUBURN.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Auburn is hereby authorized to add the snow removal deficit for fiscal year nineteen

hundred and ninety-three in the amount of one hundred and sixty-three thousand dollars to the nineteen hundred and ninety-four property tax levy as an additional amount to be raised beyond that certified by the department of revenue and shall not be carried over to any fiscal year subsequent to fiscal year nineteen hundred and ninety-four.

Approved October 29, 1993.

Chapter 210. AN ACT RELATIVE TO THE BOUNDARY LINE BETWEEN THE TOWNS OF CHARLTON AND SOUTHBRIDGE.

Be it enacted, etc., as follows:

SECTION 1. The following described line shall hereinafter constitute a portion of the boundary line between the towns of Charlton and Southbridge:

Beginning at a granite monument standing at the corner of the towns of Charlton, Southbridge, and Sturbridge and being the same bound N 07° 40' 54" W, and nine hundred forty-two and fifty-five hundredths (942.55) feet distant from corner 1 (SS-1) of Sturbridge and Southbridge;

Thence N 08° 21' 59.5" W, for a distance of one thousand eight hundred twelve and fifty-eight hundredths (1812.58) feet to a corner 1 (CSS-1) of the towns of Charlton, Southbridge and Sturbridge, also located S 08° 21' 59.5" E, a distance of eight thousand five hundred seventy-three and eighty-four hundredths (8573.84) feet from the Charlton and Sturbridge corner 2 (CS-2);

Thence N 70° 45' 42.4" E, for a distance of six hundred ninety-two and eight hundredths (692.08) feet to a corner A (CS-a);

Thence S 06° 42' 02.3" E, for a distance of one thousand one hundred ninety-one and nineteen hundredths (1191.19) feet to corner B (CS-b);

Thence N 79° 09' 45.7" E, for a distance of seven hundred ninety-eight and forty-five hundredths (798.45) feet to corner C (CS-c);

Thence S 03° 25' 59.9" W, for a distance of four hundred eighty-five and seventy hundredths (485.70) feet to the existing Charlton and Southbridge corner 1 (CS-1), also located N 68° 34' 56.9" E, a distance of one thousand three hundred seventy-nine and three hundredths (1379.03) feet from the point of beginning, and so describing Area 1.

Thence N 68° 14' 36.2" E, for a distance of one thousand five hundred ninety-three and forty-eight hundredths (1593.48) feet to corner 1A (CS-1a);

Thence N 08° 05' 28.2" W, for a distance of one thousand six hundred ninety-one and fifty-five hundredths (1691.55) feet to corner 1B (CS-1b);

Thence N 70° 32' 37.3" E, for a distance of seven hundred eighty and eighty-nine hundredths (780.89) feet to corner 1C (CS-1c);

Thence S 07° 35' 48.7" E, for a distance of two thousand eight hundred thirty-six and thirty-four hundredths (2836.34) feet to corner 1D (CS-1d);

Thence N 71° 59' 06.4" E, for a distance of six hundred four and thirty-three hundredths (604.33) feet to corner 1E (CS-1e);

Thence S 25° 07' 45.0" W, for a distance of one thousand one hundred sixty-four and sixty-one hundredths (1164.61) feet to corner 1F (CS-1f), a point on the present boundary line, also located S 64° 38' 14.8" E, a distance of two thousand six hundred ninety-two and eighty-four hundredths (2692.84) feet from corner 1 (CS-1), and so describing Area 2. Said last point 1F also being N 64° 38' 14.8" W, and seven thousand two hundred sixty-eight and eighty hundredths (7268.80) feet distant from corner 2 (CS-2).

SECTION 2. The following described land shall hereinafter constitute a portion of the boundary line between the towns of Charlton and Southbridge:

Beginning at the corner of Charlton and Southbridge known as corner 5 (CS-5) marked by a vertical granite stone, which is N 81° 56' 39" E, six hundred three and sixty-four hundredths (603.64) feet distant from corner 4 (CS-4), said corner 4 being at the junction of stone walls;

Thence southwesterly to a point and thence along a curve to the left along the easterly side of the proposed Prince Road to corner 5A (CS-5a) marked by a granite monument;

Thence N 73° 19' 22.0" E, for a distance of four hundred twenty-eight and sixty-five hundredths (428.65) feet to corner 5B (CS-5b), a point on the present boundary line, which is located S 11° 22' 20.0" E, and six hundred eighty and fifty-five hundredths (680.55) feet distant from the point of beginning, said last point also being N 11° 22' 20.0" W, and nine hundred forty-seven and fifty-six hundredths (947.56) feet distant from corner 6 (CS-6).

Approved October 29, 1993.

Chapter 211. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF WAREHAM.

Be it enacted, etc., as follows:

Subsection (c) of section 3-2 of the charter of the town of Wareham, 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, in line 2, the words "the town accountant".

Approved November 1, 1993.

Chapter 212. AN ACT FURTHER PROTECTING THE COASTAL WATERS OF THE COMMONWEALTH FROM OIL SPILLS AND HAZARDOUS MATERIALS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 103 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out section 21 and inserting in place thereof the following section:-

Section 21. Every foreign vessel of three hundred and fifty gross tons or over, every United States vessel under register of three hundred and fifty gross tons or over, and every other vessel not exempted by section twenty-eight or the laws of the United States, entering, departing or shifting within the confines of any district of the commonwealth shall take and employ a pilot commissioned under this chapter, and shall be subject to the provisions of this chapter. Said vessel, its master, owner, agent or consignee shall be liable for and pay pilotage rates in accordance with the pilotage laws established under the provisions of this chapter. Said vessels shall be subject to regulations established by the pilot commissioners.

SECTION 2. Sections twenty-two to twenty-seven, inclusive, of chapter one hundred and three of the General Laws are hereby repealed.

SECTION 3. Said chapter 103 is hereby further amended by striking out section 28, as so appearing, and inserting in place thereof the following section:-

Section 28. All coastwise vessels not sailing under register, United States public vessels, and United States fishing vessels shall be exempt from compulsory pilotage; provided, however, that if any such vessel requests the aid of a pilot, he shall, when permitted by the laws of the United States, serve the same in like manner as vessels not exempt, and shall be entitled to regular compensation.

SECTION 4. Section thirty of said chapter one hundred and three of the General Laws is hereby repealed.

SECTION 5. Section thirty-two of said chapter one hundred and three of the General Laws is hereby repealed.

SECTION 6. Section 35 of said chapter 103, as appearing in the 1992 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Whoever violates the provisions of this section shall be punished by a fine of not less than five thousand nor more than ten thousand dollars.

Approved November 4, 1993.

Chapter 213. AN ACT DESIGNATING A CERTAIN BRIDGE ON INTERSTATE 190 AT THE HOLDEN AND WEST BOYLSTON TOWN LINE AS THE LANCE CORPORAL MICHAEL F. FANNING MEMORIAL BRIDGE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately designate a certain bridge at the Holden and West Boylston town line as

the Lance Corporal Michael F. Fanning Memorial Bridge, 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 bridge located on Interstate Route 190 northbound over the Quinapoxet river at the Holden and West Boylston town line shall be designated and known as the Lance Corporal Michael F. Fanning Memorial Bridge. The department of highways shall erect and maintain suitable markers on said bridge bearing such designation in compliance with the standards of said department.

Approved November 4, 1993.

Chapter 214. AN ACT RELATIVE TO MUNICIPAL DISABILITY COMMISSIONS.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 8J of chapter 40 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A city which accepts the provisions of this section by vote of its city council, subject to the provisions of its charter, or a town which accepts the provisions of this section at an annual or special town meeting, may establish a commission on disability, hereinafter called the commission, to cause the full integration and participation of people with disabilities in such city or town.

SECTION 2. The action of any town which has accepted the provisions of section eight J of chapter forty of the General Laws by vote at a regular or special town meeting prior to the effective date of this act is hereby ratified, validated and confirmed.

Approved November 4, 1993.

Chapter 215. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF ATHOL.

Be it enacted, etc., as follows:

SECTION 1. Any holder of an elected office in the town of Athol may be recalled therefrom by the registered voters of said town as herein provided, except members of the Athol-Royalston regional district school committee.

SECTION 2. Any one hundred and fifty registered voters of the town of Athol may initiate a recall petition by filing with the town clerk an affidavit containing the name of the official sought to be recalled and a statement of the grounds for such recall. Said town clerk

shall thereupon deliver to such voters making the affidavit copies of petition blanks demanding such recall, copies of which printed forms said town clerk shall keep available. Such blanks shall be issued by said town clerk, with said town clerk's signature and official seal attached thereto. Such petitions shall be dated, shall be addressed to the selectmen 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 such recall as stated in the affidavit and they shall demand the election of a successor in said office. A copy of such petition shall be entered in a record book to be kept in the office of said town clerk. Said recall petition shall be returned and filed with said town clerk within twenty days after the filing of the affidavit. The precinct designated petitions shall have been signed only by the registered voters residing in the appropriate voting precinct and shall be signed by at least ten percent of the registered voters of each precinct who shall add their signatures and the street and number of their residences.

The town clerk of the town of Athol shall, within twenty-four hours of receipt of the recall petition, submit such petition to the registrars of voters in said town, and said registrars shall, within five working days, certify thereon the number of signatures which are names of registered voters of said town.

SECTION 3. If the petition shall be found and certified by the town clerk of the town of Athol, said town clerk shall submit the same with the town clerk's certificate to the selectmen within five working days and said selectmen shall, within five working days, give written notice of the receipt of the certificate to the official sought to be recalled and shall, if the official does not resign within seven days thereafter, order an election to be held on a date fixed by them not less than sixty days 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 ninety days after the date of the certificate, said selectmen shall postpone the holding of the recall election to the date of such other election.

SECTION 4. An official sought to be removed may be a candidate to succeed himself and, unless he requests otherwise in writing, the town clerk of the town of Athol 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 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 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 recall election, he shall be deemed removed upon the qualification of his successor, who shall hold office during the remainder of 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 official)

Against the recall of (name of official)

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 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 person shall be subject to recall if his term of office expires within six months of the filing of the certificate. If a vacancy occurs in said office after a recall election has been ordered, the election shall proceed as provided hereunder.

No recall petition shall be filed against an official within ninety days after such official takes office nor, in the case of an official subjected to recall election and not recalled thereby, until at least ninety days after such recall election.

SECTION 8. This act shall take effect upon its passage.

Approved November 4, 1993.

Chapter 216. AN ACT AUTHORIZING THE TOWN OF MASHPEE TO ESTABLISH A BETTERMENT RESERVE FUND.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws or any other general or special law to the contrary, the town of Mashpee is hereby authorized to establish a separate fund to be known as the Betterment Reserve Fund, which shall be kept separate and apart from all other monies of said town by the town treasurer and in which shall be deposited all betterment payments received by said town. The treasurer may invest such funds in the manner authorized by sections fifty-four and fifty-five of said chapter forty-four. The principal and interest thereon shall be reserved for appropriation for the payment of said towns betterment debt. Any excess in said fund may be transferred to the general fund of said town.

Approved November 4, 1993.

Chapter 217. AN ACT RELATIVE TO ARCHERY.

Be it enacted, etc., as follows:

SECTION 1. Chapter 131 of the General Laws is hereby amended by striking out section 64, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 64. A person shall not use for hunting purposes any type of full automatic firearm, machine gun or submachine gun, or any crossbow, nor use any tracer or incendiary ammunition for hunting or outdoor target shooting purposes except on a skeet, trap, or target range.

SECTION 2. Said chapter 131 is hereby further amended by striking out section 69, as so appearing, and inserting in place thereof the following section:-

Section 69. A person shall not carry or use a bow and arrow while hunting unless said bow and arrow meet such requirements as may be set by rules and regulations which the director is hereby authorized to promulgate. Such rules and regulations shall prescribe general design, weight of pull, and type of bows and arrows, and shall conform to standards generally accepted for bows and arrows used for hunting purposes. Nothing contained in this paragraph shall be construed to permit the use of crossbows.

Emergency Letter: November 4, 1993 @ 5:00P.M. Approved November 4, 1993.

Chapter 218. AN ACT RELATIVE TO MEDICAL FACILITIES ACCESS.

Be it enacted, etc., as follows:

Chapter 266 of the General Laws is hereby amended by inserting after section 120D the following section:-

Section 120E. As used in this section, the following words shall have the following meanings:-

"Medical facility", any medical office, medical clinic, medical laboratory, or hospital.

"Notice", (i) receipt of or awareness of the contents of a court order prohibiting blocking of a medical facility; (ii) oral request by an authorized representative of a medical facility, or law enforcement official to refrain from obstructing access to a medical facility; or (iii) written posted notice outside the entrance to a medical facility to refrain from obstructing access to a medical facility.

Whoever knowingly obstructs entry to or departure from any medical facility or who enters or remains in any medical facility so as to impede the provision of medical services, after notice to refrain from such obstruction or interference, shall be punished for the first offense by a fine of not more than one thousand dollars or not more than six months in jail or a house of correction or both, and for each subsequent violation of this section by a fine of not less than five hundred dollars and not more than five thousand dollars or not more than two and one-half years in jail or a house of correction or both. These penalties shall be in addition to any penalties imposed for violation of a court order.

A person who knowingly obstructs entry to or departure from such medical facility or who enters or remains in such facility so as to impede the provision of medical services after notice to refrain from such obstruction or interference, may be arrested by a sheriff, deputy sheriff, constable, or police officer.

Any medical facility whose rights to provide services under the provisions of this section have been violated or which has reason to believe that any person or entity is about to engage in conduct proscribed herein may commence a civil action for injunctive and other equitable relief, including the award of compensatory and exemplary damages. Said civil action shall be instituted either in superior court for the county in which the conduct complained of occurred, or in the superior court for the county in which any person or entity complained of resides or has a principal place of business. An aggrieved facility which prevails in an action authorized by this paragraph, in addition to other damages, shall be entitled to an award of the costs of the litigation and reasonable attorney's fees in an amount to be fixed by the court.

Nothing herein shall be construed to interfere with any rights provided by chapter one hundred and fifty A or by the federal Labor-Management Act of 1947 or other rights to engage in peaceful picketing which does not obstruct entry or departure.

Approved November 4, 1993.

Chapter 219. AN ACT AUTHORIZING THE TOWN OF CARLISLE TO TRANSFER A CERTAIN PORTION OF LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of Carlisle, acting by and through its board of selectmen, is hereby authorized to convey a certain parcel of conservation land to Fifield Workum, Jr. and Susan Workum. Said parcel is shown as Lot 4 on a plan of land entitled "Demonstration Plan of Land in Carlisle, prepared for Fifield Workum Jr." dated August 12, 1991 and revised on April 8, 1992 which is on file with the planning board of said town.

SECTION 2. In consideration of the conveyance authorized in section one, Fifield Workum, Jr. and Susan Workum shall convey a certain parcel of land to the town of Carlisle to be used for conservation purposes. Said parcel is shown as Lot 5 in the plan described in section one.

Approved November 5, 1993.

Chapter 220. AN ACT AUTHORIZING THE TOWN OF HUDSON TO PROVIDE SEWER SERVICES TO CERTAIN BUILDINGS IN THE TOWN OF BOLTON.

Be it enacted, etc., as follows:

SECTION 1. The town of Hudson, acting through its board of selectmen, is hereby authorized to provide the construction, operation, extension and maintenance of a sewerage line in the town of Bolton for the benefit of the land described in section two and to provide sewerage services to certain residences and buildings in said town of Bolton as so described in said section two. All construction and installation of a sewerage line in said town of Bolton shall be performed in accordance with applicable regulations of said town of Bolton and as may be approved by the board of selectmen of the town of Hudson. All construction and installation of sewerage lines in said town of Hudson shall be in accordance with applicable regulations of said town of Hudson. Construction, operation and maintenance of a sewerage line shall be the responsibility of the owners of the properties located in said town of Bolton to be serviced by said sewerage line. Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the town of Bolton shall not be responsible for any construction, operation, maintenance or repair of said sewerage line or any extensions or additions thereof. A deed of conveyance by a grantor, his heirs, successors, nominees or assigns, of any parcel of real property connected to, or to be connected to, any extension or addition of said sewerage line shall contain an identifying reference to this act by citing the number, date of enactment and title hereof.

SECTION 2. The town of Hudson, acting through its board of selectmen, shall bill the owners of residences and buildings constructed on certain parcels of land in the town of Bolton, and tied into said system shown as lots 1, 2, 3, 4, 5, 6 and 7 on a plan entitled: Plan of Land in Bolton, Stow and Hudson, Massachusetts, prepared by David E. Ross Associations, Inc., revised through October, 1992, and on file at the town clerk's office in said town of Bolton hereinafter referred to as said "plan". Said town of Hudson may provide sewerage services to other residential and commercial buildings or new construction in said town of Bolton only if the board of selectmen of said town of Bolton, by majority vote, so authorizes the provisions of said services and, if so authorized, by a majority vote of the selectmen of said town of Hudson; provided, however, that new construction shall not include replacement of a building or residence that has been destroyed by fire or other natural causes, which building was previously serviced by said system.

SECTION 3. In addition to its authority set forth in section one, the board of selectmen of the town of Bolton may authorize the town of Hudson, acting through its board of selectmen and jointly with the owners of the property identified on the plan described in section two, their agents, representatives and employees, to excavate and open Woobley road in said town of Bolton for the purpose of constructing, extending and maintaining the sewerage lines authorized by section one, with notice to abutters of said property, but without the necessity of a public hearing being held, notwithstanding any other provision of general or special law to the contrary. The owners of property identified on said plan shall comply with the rules and regulations of said town of Bolton relative to the excavation and opening of streets, the construction and installation of sewerage lines and the terms and conditions of a permit that may be issued by the board of selectmen of said town of Bolton

relative thereto. The owners of property identified on said plan shall reimburse said town of Bolton and the inhabitants thereof for any damage incurred by said town or its inhabitants or to land, improvements or premises in said town if such damage results from an act of the owners in connection with constructing the system authorized in section one. The owners of the property identified on said plan shall reasonably restore all land, improvements or buildings in said towns of Bolton and Hudson which may be altered in the process of construction, operation, extension or maintenance of the sewerage line authorized in section one to its condition prior to such alteration.

SECTION 4. The town of Hudson shall bill property owners within the town of Bolton to which it supplies sewerage services under the provisions of section two in accordance with the rates established by the board of selectmen of said town of Hudson. Such rates shall not exceed rates paid by residents of said town of Hudson for similar services. Said town of Hudson shall have such rights against any resident of the town of Bolton to whom it is supplying sewerage services and whose bill for such service is not paid on or before its due date, as provided in sections sixteen A to sixteen D, inclusive, of chapter eighty-three of the General Laws.

SECTION 5. This act shall take effect upon its passage.

Approved November 5, 1993.

Chapter 221. AN ACT AUTHORIZING THE TOWN OF YARMOUTH TO CONVEY A CERTAIN PARCEL OF CONSERVATION LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of Yarmouth, acting by and through its board of selectmen, is hereby authorized to convey a certain parcel of conservation land to Thomas A. Grew, Jr. in settlement of a certain land damage claim. Said parcel is shown as Lot 1 on a plan entitled "Plan of Land in Yarmouth, Mass. prepared for Dean Pilling Scale 1" = 40' July 30, 1980 revised Nov. 14, 1980 Down Cape Engineering civil engineers land surveyors Rte. 6A - Yarmouth, Mass.", recorded with the Barnstable county registry of deeds in Plan Book 347, Page 96.

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

Approved November 5, 1993.

Chapter 222. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF HOPEDALE.

Be it enacted, etc., as follows:

SECTION 1. Any holder of an elected office in the town of Hopedale may be recalled therefrom by voters of the town as hereinafter provided.

SECTION 2. Any ten residents who are registered voters of the town of Hopedale may initiate a recall petition by filing an affidavit with the town clerk. The affidavit shall contain the name of the officer sought to be recalled and a statement of the grounds of recall. Said town clerk shall, within five days, certify the number of signatures which are the names of registered voters. Upon certification, the town clerk shall provide a sufficient number of copies of petition blanks demanding such recall to the voters who made the affidavit, printed forms of which shall be kept on hand. The blanks shall be issued by the town clerk and bear his signature and official seal; the blank petitions shall also be dated, addressed to the selectmen and shall contain the names of all persons to whom issued, the number of blanks so issued, the name of the person sought to be recalled, the grounds of recall as stated in the affidavit, and demand the election of a successor to such office. Said recall petition shall be returned and filed with the town clerk on or before five o'clock P.M. on the twenty-first day after the filing of the affidavit. In the event the twenty-first day is a Saturday, Sunday or Holiday, the petition may be filed on the next business day. The petition shall be signed by fifteen percent of the voters before being returned and filed. Every signature must be accompanied by the signer's place of residence, including the street and number. The registrar shall forthwith certify the number of signatures who are registered voters.

SECTION 3. If the petition shall be found and certified by said town clerk to be sufficient, he shall submit the same with his certificate to the selectmen without delay and the selectmen shall immediately give written notice to the officer of the receipt of the certificate and shall, if the officer sought to be recalled does not resign within five days thereafter, thereupon order an election to be held on a date fixed by them, not less than sixty days and not more than ninety days after the date of the town clerk's certificate that a sufficient petition is filed; provided, however, that if any other town election is to occur within one hundred days after the date of said certificate, said selectmen may, in their discretion, postpone the holding of said 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 recalled may be a candidate to succeed himself. The nomination of other 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 law relating to elections, unless otherwise provided by this act.

SECTION 5. The incumbent shall continue to perform the duties of his office until the recall election. If the officer is not recalled he shall continue in the office for the remainder of his unexpired term, subject to recall as before, except as provided in this act. If the officer is recalled in the recall election, he shall be deemed removed upon the election of his successor who shall hold office during the unexpired term. If the successor fails to take office 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 voters required by section forty-two of chapter fifty-four of the General Laws beneath this the names of candidates nominated as hereinbefore provided. 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 provided that at least twenty-five percent of those registered to vote do vote in the election. If a majority of votes on the question is in the negative, the ballot for candidates need not be counted.

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 subject 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. No person who has been removed 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 removal or such resignation.

Approved November 8, 1993.

Chapter 223. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF MILLVILLE.

Be it enacted, etc., as follows:

SECTION 1. Any holder of an elective town office in the town of Millville may be recalled therefrom by the voters as herein provided.

SECTION 2. Any two hundred voters may 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 said voters making the affidavit copies of the petition blanks demanding such recall, printed forms of which he shall make available. The 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 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. The recall petition shall be returned and filed with the town clerk within thirty days after the filing of the affidavit and shall have been signed by at last twenty percent of the voters who shall add to their signatures the street and number, if any, of their residences.

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 without delay, and the selectmen shall forthwith give written notice 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 days nor more than seventy-five days after the date of the town clerk's certificate that a sufficient petition be 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 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 request 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, may vote for either of the said propositions. Under the propositions shall appear the word "candidate", the directions 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 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 votes on the question is in the negative, the ballots for candidates need not be counted.

SECTION 7. No recall petition shall be filed against an officer within three months after he takes office, nor, in the case of an officer subject 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 appointed to any town office within two years after such recall or such resignation.

SECTION 9. In acting on a home rule charter on any date subsequent to the effective date of this act, the town meeting may (i) include sections one to eight, inclusive, as part of the charter, or (ii) amend said sections one to eight, inclusive, in any way it chooses and include such amended sections as part of the charter, or (iii) exclude said sections one to eight, inclusive, from the charter.

SECTION 10. This act shall take effect upon its passage.

Approved November 8, 1993.

Chapter 224. AN ACT FURTHER DEFINING PRESCRIPTIONS.

Be it enacted, etc., as follows:

SECTION 1. Section 20 of chapter 94C of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "substance", in line 2, the following words:- or instrument described in section twenty-seven.

SECTION 2. Section 27 of said chapter 94C, as so appearing, is hereby amended by striking out, in line 18, the word "written",- and by inserting after the word "purchase", in line 48, the following words:- , or may issue an oral prescription to a pharmacist on behalf of said patient to purchase.

Approved November 8, 1993.

Chapter 225. AN ACT AUTHORIZING THE TOWN OF RICHMOND TO PAY A CERTAIN SALARY.

Be it enacted, etc., as follows:

The town treasurer of the town of Richmond is hereby authorized to pay from surplus revenues to Gerald M. Coppola the sum of two thousand dollars as salary for the position of selectman for the fiscal years nineteen hundred and ninety-one and nineteen hundred and ninety-two.

Approved November 8, 1993.

Chapter 226. AN ACT FURTHER REGULATING INSURANCE.

Be it enacted, etc., as follows:

SECTION 1. Chapter 175 of the General Laws is hereby amended by striking out section 4, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 4. (1) Before granting licenses or certificates of authority to a company to issue policies of insurance or annuity or pure endowment contracts, the commissioner shall be satisfied, by such examination as the commissioner may make and such evidence as the commissioner may require, that such company is otherwise duly qualified under the law of the commonwealth to transact business therein; provided, however, that before granting such a certificate of authority to a domestic company, the commissioner shall require the filing with the division of insurance of an affidavit signed by the officers of the company stating the amount of expenses incurred in the organization thereof and stating that the company has no outstanding liabilities except said organization expenses and except, in the case of a stock company or a mutual company with a guaranty capital, its liabilities to stockholders for the amount paid in for shares of stock. The commissioner may make an examination and investigation concerning the truth of the matters contained in such affidavit as the commissioner deems necessary. Such affidavit shall be kept in the office of the commissioner and shall be open to public inspection. The commissioner shall require every domestic company to keep its books, records, accounts and vouchers in such manner that the commissioner or any authorized representatives may readily verify its annual statements and ascertain whether the company has complied with the law.

(2) At least once in every five years, and whenever the commissioner determines it to be prudent, the commissioner shall personally, or by any deputy or examiner, visit each domestic company and any foreign company applying for admission or already admitted to do business in the commonwealth, and thoroughly inspect and examine its affairs and ascertain its financial condition, its ability to fulfill its obligations, whether it has complied with the law and any other facts relating to its business methods and management, and the equity of its dealings with its policyholders. The commissioner shall also make such examination upon the request of five or more stockholders, creditors, policyholders or persons pecuniarily interested therein who shall make an affidavit of their belief, with specifications of the reasons therefore, that such company is in an unsound condition. The commissioner, or any deputy or examiner may also, whenever the commissioner determines it to be prudent, visit any other entity subject to the commissioner's jurisdiction, including but is not limited to, joint underwriting associations, residual market mechanisms and insurers issuing insurance through special insurance brokers pursuant to section one hundred and sixty-eight.

(3) In scheduling and determining the nature, scope and frequency of the examinations, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the examiners' handbook adopted by the National Association of Insurance Commissioners and in effect when the commissioner exercises discretion under this section. The commissioner may also consider other matters reasonably related to solvency or market conduct. In conducting the examination, the examiner shall observe guidelines and procedures set forth

in the examiners' handbook adopted by the National Association of Insurance Commissioners. The commissioner may also employ such other guidelines or procedures as the commissioner may deem appropriate.

(4) The charge for each such examination shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven, and shall be paid by each company within thirty days after notice from the commissioner of such charge. Such charge 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. If in the course of an examination of a domestic company or foreign company which maintains a branch office outside the commonwealth, it becomes necessary or expedient for the commissioner or any deputies or examiners to travel outside the commonwealth, such company shall pay the proper expenses of the commissioner, or any deputies or examiners incurred by reason thereof. Whenever the commissioner deems it advisable the commissioner shall cause a complete audit of the books of the company to be made by a disinterested expert accountant, and such company shall pay the proper expenses of such audit. When making an examination under this section, the commissioner may retain attorneys, appraisers independent actuaries, independent certified public accountants and other professionals and specialists as examiners, the proper cost of which shall be borne by the company which is the subject of the examination.

(5) In lieu of an examination under this section of any foreign or alien insurer licensed in the commonwealth, the commissioner may accept an examination report on the company as prepared by the insurance department for the company's state of domicile or port-of-entry state until January first, nineteen hundred and ninety-four. Thereafter, such reports may only be accepted if: (a) the insurance department was at the time of the examination accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program; or (b) the examination is performed under the supervision of an accredited insurance department or with the participation of one or more examiners who are employed by such an accredited insurance department and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their accredited insurance department.

(6) If it shall appear upon examination that any company has entered into an agreement with a corporation, domestic or foreign, or other organization whereby such corporation has undertaken, except by reinsurance, to be responsible for the whole or any part of the expenses, liabilities or other obligations appertaining to the transaction of business by such company for the consideration that such company shall become liable to such corporation or organization for a part of said company's income, assets or profits, the commissioner may examine or cause to be examined such corporation or organization, and may thoroughly investigate its affairs to ascertain its financial condition, its ability to fulfill its obligation to the company, and any other facts relating to its business methods and management, and shall set forth any findings, so far as they affect the financial condition of the company, in a report which shall be a public record.

(7) Nothing contained in this section shall be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to this chapter, chapters one hundred and seventy-five J, one hundred and seventy-six D and one hundred and seventy-six I, and any other applicable sections of the General Laws. Findings of fact and conclusions made pursuant to any examination shall be prima facie evidence in any legal or regulatory action.

(8) Nothing contained in this section shall be construed to limit the commissioner's authority to use and if appropriate, to make public any final or preliminary examination report, any examiner or company work papers or other documents, or any other information discovered or developed during the course of any examination in the furtherance of any legal or regulatory action which the commissioner may, in his sole discretion, deem appropriate.

(9) Any report of an examination shall be comprised of only facts appearing upon the books, records, or other documents of the company, its agents or other persons examined, or as ascertained from the testimony of its officers, agents or other persons examined concerning its affairs, and such conclusions and recommendations as the examiners find reasonably warranted from the facts. The assets and liabilities of the company shall be allowed and computed, in any report of an examination under this section, in accordance with sections nine to twelve, inclusive, and may be set forth in such report in accordance with the items specified in the forms of annual statements prescribed by section twenty-five, as the commissioner may deem appropriate.

(10) No later than sixty days following completion of the examination, the examiner in charge shall file with the commissioner a verified written report of examination under oath. Upon receipt of the verified report, the commissioner shall transmit the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity of not more than thirty days to make a written submission or rebuttal with respect to any matters contained in the examination report. Within thirty days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall consider and review the reports together with any written submissions or rebuttals and any relevant portions of the examiner's work papers and enter an order:

(a) adopting the examination report as filed with modifications or corrections, and if the examination report reveals that the company is operating in violation of any law, regulation or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure such violation; or

(b) rejecting the examination report with directions to examiners to reopen the examination for the purposes of obtaining additional data, documentation or information, and refiling pursuant to the provisions above; or

(c) calling for an investigatory hearing with no less than twenty days notice to the company for purposes of obtaining additional documentation, data, information and testimony.

(11) An order entered pursuant to this section shall be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner work papers and any written submissions or rebuttals. An order shall be considered a final agency decision and may be appealed pursuant to chapter thirty A and shall be served upon the company by certified mail, together with a copy of the adopted examination report. Within thirty days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders. Any hearing conducted under this section by the commissioner or designee shall be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of the inconsistencies, discrepancies or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the commissioner's review of relevant work papers or by the written submission or rebuttal of the company. Within twenty days of the conclusion of any such hearing, the commissioner shall enter an order pursuant to this section. The hearing shall be conducted in accordance with rules and regulations promulgated by the commissioner.

(12) Notwithstanding any other provision of the General Laws, including clause Twenty-sixth of section seven of chapter four and chapter sixty-six, the records of any such audit, examination or other inspection and the information contained in the records, reports or books of any company or organization examined pursuant to this section shall be confidential and open only to the inspection of the commissioner, or examiners and assistants. Access to such confidential material may be granted by the commissioner to the National Association of Insurance Commissioners, to the insurance department of any other state or country or to law enforcement officials of the commonwealth or any other state or agency of the federal government at any time, so long as the agency or office receiving the information agrees in writing to hold such material confidential. Nothing herein shall be construed to prohibit the required production of such records, and information contained in the reports of such company or organization before any court of the commonwealth or any master or auditor appointed by any such court, in any criminal or civil proceeding, affecting such company or organization, its officers, directors or employees. The final report of any such audit, examination or other inspection by or on behalf of the division shall be a public record.

(13) If it shall appear to the commissioner, from charges filed with the division setting forth the facts under oath, that unwarranted and misleading statements, estimates and promises have been made, and excessive compensation allowed for, promoting the sale in the commonwealth of stock for establishing a new company, domestic or foreign, the commissioner shall investigate said charges, or may act on the commissioner's own initiative in making such investigations, and shall make a record in the division of any findings in relation thereto.

(14) The commissioner may investigate, in such manner and to such extent as the commissioner may deem expedient, a complaint of a policyholder in respect to a claim under a policy of insurance or annuity or pure endowment contract.

(15) The commissioner or any person authorized by the commissioner to make examinations or investigations provided for by this section shall have access to all the assets of the company, corporation or other organization for the purpose of verification and to all the books and papers relating to its business and to the books and papers of its representatives. The commissioner or any person authorized by the commissioner may summon and examine under oath any person who, the commission or the examiner reasonably believes, has knowledge of the affairs, transactions or circumstances being examined or investigated; and the refusal, without justifiable cause, of any person, including any company, its officers, directors, employees or agents to submit to examination or to comply with any reasonable written request of the commissioner or any representative shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction, and shall be subject to a fine of not more than one thousand dollars or to imprisonment for not more than one year. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to the provisions of section five.

(16) No examiner may be appointed by the commissioner if such examiner, either directly or indirectly, has a conflict of interest, or is affiliated with the management of, or owns a pecuniary interest in any company subject to examination under this section. This section shall not be construed to automatically preclude an examiner from being: a policyholder or claimant under an insurance policy; a grantor of a mortgage or similar instrument on the examiner's residence to a regulated entity if done under customary terms and in the ordinary course of business; an investment owner in shares of regulated diversified investment companies; or a settlor or beneficiary of a blind trust into which any otherwise impermissible holdings have been placed. Notwithstanding the requirements of this section, the commissioner may retain qualified actuaries, certified public accountants, or other similar individuals who are independently practicing their professions, even if said persons may from time to time be similarly employed or retained by a company subject to examination under this section.

(17) No cause of action shall arise nor shall any liability be imposed against the commissioner, the commissioner's authorized representatives or any examiner appointed by the commissioner for any statements made or conduct performed in good faith while carrying out the provisions of this section. No cause of action shall arise, nor shall any liability be imposed against any person for the act of communicating or delivering information or data to the commissioner or the commissioner's authorized representative or examiner pursuant to an examination made under this section, if such act of communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive. This section shall not abrogate or modify a common law or statutory privilege or immunity heretofore enjoyed by such person identified. Such person shall be entitled to an award of attorney's fees and costs if such person is the prevailing party in a civil cause of action for libel, slander or any other relevant tort arising out of activities in carrying out the

provisions of this section if the party bringing the action was not justified in doing so. For purposes of this section a proceeding is justified if it had a reasonable basis in law or fact at the time it was initiated.

SECTION 2. Section 9 of said chapter 175, as so appearing, is hereby amended by striking out, in line 1, the word "the" and inserting in place thereof the following words:- , or cause to be computed, the.

SECTION 3. Said section 9 of said chapter 175, as so appearing, is hereby further amended by striking out, in line 59, the word "the" and inserting in place thereof the following words:- , or cause to be computed, the.

SECTION 4. Said section 9 of said chapter 175, as so appearing, is hereby further amended by striking out, in line 244, the formula "I = .03 ff W (R - .03)" and inserting in place thereof the following formula:-

I = .03 + W (R - .03).

SECTION 5. Subdivision 4 of said section 9 of said chapter 175, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

In no event shall the aggregate net value for all policies, contracts and benefits be less than the aggregate net values determined by the qualified actuary to be necessary to render the opinion required by section nine B.

SECTION 6. Said section 9 of said chapter 175, as so appearing, is hereby further amended by inserting after the word "option", in line 535, the following words:- ; provided, however, that for the purposes of this subdivision, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by section nine B shall not be deemed to be the adoption of a higher standard of valuation.

SECTION 7. Subdivision 8 of said section 9 of said chapter 175, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The commissioner may use, or may accept use of, group methods and approximate averages for fractions of a year, or other reasonable approximations, and may accept computations made by the company if the commissioner is satisfied that such computations are accurate, in computing the reserve liability of a company made under this section.

SECTION 8. Said section 9 of said chapter 175, as so appearing, is hereby further amended by inserting after the word "method,", in line 606, the following words:- which is.

SECTION 9. Said section 9 of said chapter 175, as so appearing, is hereby further amended by adding the following paragraph:-

The commissioner shall, pursuant to chapter thirty A, promulgate a regulation containing the minimum standards applicable to the valuation of accident and sickness plans.

SECTION 10. Said chapter 175 is hereby further amended by inserting after section 9A the following section:-

Section 9B. (A) Every life insurance company doing business in the commonwealth shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commission by regulation are computed appropriately, are based on assumptions which

satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of the commonwealth. The commissioner by regulation shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

(1) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on and after December thirty-first, nineteen hundred and ninety-two.

(2) The opinion shall apply to all business in force, including individual and group accident and sickness insurance plans, in form and substance acceptable to the commissioner as specified by regulation.

(3) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards as the commissioner may by regulation prescribe.

(4) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by the company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in the commonwealth.

(5) For the purposes of this section, "qualified actuary" shall mean a member in good standing of the American Academy of Actuaries who meets the requirements set forth in regulations prescribed by the commissioner.

(6) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision or conduct with respect to the actuary's opinion.

(7) Disciplinary action by the commissioner against the company or the qualified actuary for violation of this section shall be defined in regulations by the commissioner.

(8) A memorandum, in form and substance acceptable to the commissioner as specified by regulation, shall be prepared to support each actuarial opinion.

(9) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by regulation, or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the regulations, or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the commissioner.

(10) Notwithstanding any other provision of the General Laws, including clause Twenty-sixth of section seven of chapter four and chapter sixty-six, any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection therewith, shall be kept confidential by the commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by regulations promulgated hereunder; provided, however, that the memorandum or other materials may otherwise be released by the commissioner (a) with the written consent of the

company or (b) to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

(B) Every life insurance company, except as exempted by or pursuant to regulation, shall also annually include in the opinion required by paragraph (1) of subsection (A) an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(C) The commissioner may, pursuant to chapter thirty A, promulgate reasonable rules and regulations necessary to carry out the provisions of this section.

(D) The commissioner may provide by regulation for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this section.

2. Said chapter 175 is hereby further amended by striking out section 11, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 11. In addition to the reserve provided for in sections nine and ten, the commissioner shall, except as provided in section twelve, charge to each company as a liability all unpaid losses and claims for losses, and all other debts and liabilities including, in the case of a stock company its capital stock and including, in the case of a mutual company with a guaranty capital or guaranty fund, such guaranty capital or guaranty fund. The commissioner shall allow to the credit of a company in the account of its financial condition only such assets as are available for the payment of losses including an electronic data processing machine; provided, however, that such machines cost at least one hundred thousand dollars and that such cost is to be amortized in full over a period not to exceed ten years, and including all assets deposited with officers of other states or countries for the security of the policyholders of such company, or assets deposited as collateral for bonds given for the security of the policyholders of a company in lieu of assets deposited with officers of other states or countries; and provided, further, that such deposit is made with a national bank, savings bank or trust company at its principal place of business in the commonwealth which has been approved by the commissioner.

The commissioner shall not allow stockholders' obligations of any description as part of the assets or capital of any stock company, unless secured by sufficient approved collateral.

SECTION 12. Said chapter 175 is hereby further amended by inserting after section 11 the following section:-

Section 11A. (A) (1) Investments, shall be valued in accordance with the published valuation standards of the National Association of Insurance Commissioners. Securities investments as to which the National Association of Insurance Commissioners has not published valuation standards in its Valuation of Securities Manual or its successor publication shall be valued as follows:

(a) All obligations having a fixed term and rate shall, if not in default as to principal and interest, be valued as follows: (i) if purchased at par, at par value; (ii) if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made; or in lieu of such method, according to such accepted method of valuation as is approved by the commissioner, but no such method shall be inconsistent with valuation methods used by insurers in general, or any method currently formulated or approved by the National Association of Insurance Commissioners.

(b) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.

(c) Common, preferred or guaranteed stocks shall be valued at their market value or at the option of the company, they may be valued at purchase price if purchase price is less than market value.

(2) Notwithstanding the provisions of paragraph (1) of subsection (A), any company with subsidiary company investments may apply to the commissioner for approval of a subsidiary valuation which differs from that which may be approved by the National Association of Insurance Commissioners Securities Valuation Office. The commissioner may approve such a valuation provided it is shown to be a reasonable valuation and is not prejudicial to the interests of policyholders. When making a determination under this subsection, the commissioner may retain such professionals and specialists as the commissioner may deem necessary to assist in reviewing the application for an alternative valuation, the proper cost of which shall be borne by the company submitting the application for an alternative subsidiary valuation.

A company having received the commissioner's approval of an alternative subsidiary valuation shall provide to the commissioner on an annual basis, a copy of any subsequent subsidiary valuation filing with the National Association of Insurance Commissioners Securities Valuation Office. In any subsequent year after the approval of an alternative valuation, the commissioner may require a company to show that such alternative valuation remains a reasonable valuation and is not prejudicial to the interests of policyholders.

(B) (1) Investments, other than those referred to in subsection (A), held by an insurer, shall be valued in accordance with procedures adopted by the National Association of Insurance Commissioners.

(2) Notwithstanding the provisions of paragraph (1) of subsection (B), any company with invested assets other than those listed in subparagraph (a) of paragraph (1) of subsection (A) may apply to the commissioner for approval of a valuation which differs from that which utilizes standards and procedures adopted by the National Association of Insurance Commissioners. The commissioner may approve such a valuation provided it is shown to be a reasonable valuation and is not prejudicial to the interests of policyholders. When making a determination under this subsection, the commissioner may retain such professionals and specialists as the commissioner may deem necessary to assist in reviewing the application for an alternative valuation, the proper cost of which shall be borne by the company submitting the application for an alternative valuation. In any subsequent year after the approval of an alternative valuation, the commissioner may require a company to show that such alternative valuation remains a reasonable valuation and is not prejudicial to the interests of policyholders.

SECTION 13. The first paragraph of section 14 of said chapter 175, as appearing in the 1992 Official Edition, is hereby amended by inserting after the fourteenth clause the following clause:-

For each license or renewal thereof to a reinsurance intermediary broker under section one hundred and seventy-seven L;.

SECTION 14. Section fifteen of said chapter one hundred and seventy-five is hereby repealed.

SECTION 14A. Said chapter 175 is hereby further amended by striking out section 19E, as appearing in the 1992 Official Edition, and inserting in place thereof 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 (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 or another corporation which may be, but need not be, a corporation organized for such purposes and may be a subsidiary or other affiliate of such domestic mutual life insurance company prior to such acquisition, and, in either case, may merge as part of the plan of demutualization with a domestic stock life insurance company or a corporation organized under chapter one hundred and fifty-six B and the consideration to be provided in such merger may be shares of the resulting or surviving corporation or any other corporation, cash, or other consideration. Any such merger shall be authorized under this section and approved as provided under paragraph (2) and not pursuant to section nineteen A.

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 preemptive right to acquire his proportionate part of all of the proposed capital stock of the insurer or of the proposed parent corporation or other corporation within a designated reasonable period, and to apply upon the purchase thereof the amount of his consideration, as determined under paragraph (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 preemptive 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, however, that any such policyholder shall receive his consideration in cash; and, provided further, in the instance of a plan of reorganization in which the appropriate consideration received by eligible policyholders under paragraph (3) is stock of a corporation in a transaction authorized under this section, or other consideration as approved by the commissioner or, without limiting the generality of the foregoing, as permitted under this paragraph (4) the plan shall provide either (i) that no policyholder shall have any preemptive right to acquire any of the proposed capital stock of the insurer or of the proposed parent or other corporation or (ii) for preemptive rights on such other terms as approved by the commissioner. Notwithstanding the above, the commissioner retains the full authority to disapprove such plan in accordance with the provisions of paragraph (1).

(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 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 preemptive 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 or other 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 purposes 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.

SECTION 15. The first paragraph of section 20 of said chapter 175, as appearing in the 1992 Official Edition, is hereby amended by adding the following two sentences:- Any contract of reinsurance other than life, made by any domestic company or by any company incorporated in a foreign country and having its principal office in the commonwealth, ceding more than seventy-five percent of its total outstanding risks, shall be subject to the written approval of the commissioner. No domestic life company shall reinsure its risks without the permission of the commissioner, but may reinsure parts of an individual risk not to exceed in any one company the amount retained by the company first writing the insurance.

SECTION 16. Said section 20 of said chapter 175, as so appearing, is hereby further amended by striking out the second paragraph.

SECTION 16A. Said section 20 of said chapter 175, as so appearing, is hereby further amended by striking out the sixth and seventh paragraphs.

SECTION 17. Said section 20 of said chapter 175, as so appearing, is hereby further amended by adding the following paragraph:-

A company and any officer or agent thereof effecting or acting in the negotiation of reinsurance in violation of this section shall severally be punished by a fine of five thousand dollars.

SECTION 18. Said chapter 175 is hereby further amended by inserting after section 20 the following section:-

Section 20A. (1) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of paragraph (A), (B), (C) or (D) or paragraph (E) of subsection two. If meeting the requirements of paragraph (C) or (D), the requirements of paragraph (F) shall also be met.

(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is licensed: (i) to issue policies in the commonwealth covering risks of the same kinds as those reinsured, or (ii) to reinsure in the commonwealth risks of the same kinds as those reinsured.

(B) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this commonwealth. An accredited reinsurer is one which:

(i) files with the commissioner evidence of its submission to this commonwealth's jurisdiction;

(ii) submits to the commonwealth's authority to examine its books and records;

(iii) is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state; and

(iv) files annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and either

(a) maintains a surplus as regards policyholders in an amount which is not less than twenty million dollars and whose accreditation has not been denied by the commissioner within ninety days of its submission; or

(b) maintains a surplus as regards policyholders in an amount less than twenty million dollars and whose accreditation has been approved by the commissioner.

No credit shall be allowed a domestic ceding insurer, if the assuming insurers' accreditation has been revoked by the commissioner after notice and hearing.

(C) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this section and the assuming insurer or United States branch of an alien assuming insurer:

(i) maintains a surplus as regards policyholders in an amount not less than twenty million dollars; and (ii) submits to the authority of the commonwealth to examine its books and records; provided, however, that the requirement of clause (i) of paragraph (C) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(D) (i) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in paragraph (B), for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners Annual Statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than fifty million dollars. In the case of a group of individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusteed surplus of which one hundred million dollars shall be held jointly for the benefit of United States ceding insurers of any member of the group; and the group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.

(ii) In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in the previous subparagraph, and which has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation; and submits to the commonwealth's authority to examine its books and records and bears the expense of the examination, and which has aggregate policyholders' surplus of ten billion dollars; the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group; plus the group shall maintain a joint trusteed surplus of which one hundred million dollars shall be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any such liabilities, and each member of the group shall make available to the commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant.

(iii) Such trust shall be established in a form approved by the commissioner. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust described herein must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.

(iv) No later than February twenty-eighth of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December thirty-first.

(E) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (A), (B), (C) or (D) but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction.

(F) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in the commonwealth, the credit permitted by paragraphs (C) and (D) shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(i) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of an alternative dispute resolution panel or any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such panel or court jurisdiction, and will abide by the final decision of such panel or court or of any appellate court in the event of an appeal of a decision by such panel or court; and (ii) To designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any

action, suit or proceeding instituted by or on behalf of the ceding company.

This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.

(2) A reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection (1) shall be allowed in an amount not exceeding the related liabilities carried by the ceding insurer and such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if such security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or in the case of a trust, held in a qualified United States financial institution, as defined in paragraph (B) of subsection (3). This security may be in the form of:

(A) Cash.

(B) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets.

(C) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States institution, as defined in paragraph (A) of subsection (3), no later than December thirty-first in respect of the year of which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement.

Letters of credit meeting applicable standards of issuer acceptability as for the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs.

(D) Any other form of security acceptable to the commissioner.

(3) (A) For purposes of paragraph (C) of subsection (2), a qualified United States financial institution means an institution that:

(i) is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof; (ii) is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and (iii) has been determined by either the commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

(B) A qualified United States financial institution means, for purposes of those provisions of this section specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(i) is organized, or, in the case of a United States branch or agency office of a foreign banking organization, licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and (ii) is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

(4) No credit shall be allowed to any ceding insurer for reinsurance unless, by the terms of a written reinsurance agreement, the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under any policy or contract reinsured without diminution because of the insolvency of the ceding insurer. Any reinsurance agreement may provide that the liquidator or receiver or statutory successor of an insolvent ceding insurer shall give written notice of the pendency of a claim against the insolvent ceding insurer on the policy or contract reinsured within a reasonable time after such claim is filed in the insolvency proceeding and during the pendency of such claim the assuming insurer may investigate such claim and interpose, at its own expense, in the proceedings where such claim is to be adjudicated any defense or defenses which it may deem available to the ceding company or its liquidator or receiver or statutory successor. Subject to court approval, the expense thus incurred by the assuming insurer shall be chargeable, against the insolvent ceding insurer as part of the expense of liquidation, to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer.

(5) The commissioner may in accordance with the provisions of chapter thirty A, after notice and hearing, promulgate reasonable rules and regulations necessary to effectuate the provisions of this section, but such regulations shall not enlarge upon or extend the provisions of this section.

SECTION 19. Said chapter 175 is hereby further amended by striking out section 21, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 21. No company other than a life company shall insure in a single risk an amount larger than ten percent of its surplus to policyholders, unless it has reinsured, as provided in section twenty, the excess over said limit to take effect simultaneously with the original contract. A company violating this section shall be punished by a fine of five thousand dollars for each day during which such violation continues.

SECTION 20. Section 25 of said chapter 175, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Such annual statement shall be made on the latest applicable form of annual statement approved by the National Association of Insurance Commissioners appropriate to the several kinds of companies, with any additional information the commissioner may require for filing with the National Association of Insurance Commissioners for the purpose of eliciting a complete and accurate exhibit of the condition and transactions of the companies. All financial information reflected in the annual statement shall be maintained

and prepared in accordance with accounting practices and procedures prescribed or permitted by the commissioner. The commissioner shall require that the annual statement be maintained and prepared in accordance with the Annual Statement Instructions and Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners unless further modified by the commissioner as he considers appropriate. The annual statement shall be subscribed and sworn to by its president and secretary or, in their absence, by two of its principal officers. The commissioner may at other times require any such statements as he may deem necessary.

SECTION 21. Said section 25 of said chapter 175, as so appearing, is hereby further amended by adding the following four paragraphs:-

Each domestic, foreign and alien insurer who is authorized to transact insurance in the commonwealth shall annually on or before March first, file with the National Association of Insurance Commissioners a copy of its annual statement convention blank, along with such additional filings as prescribed by the commissioner for the preceding year. The information filed with the National Association of Insurance Commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and the actuarial certification. Any amendment or addendum to the annual statement filing subsequently filed with the commissioner shall also be filed with the National Association of Insurance Commissioners. Foreign insurers that are domiciled in a state which has a law substantially similar to this section shall be deemed in compliance with this section.

In the absence of actual malice, members of the National Association of Insurance Commissioners, their duly authorized committees, subcommittees, and task forces, their delegates, National Association of Insurance Commissioners employees, and all others charged with the responsibility of collecting, reviewing, analyzing, and disseminating the information developed from the filings made pursuant to this section shall be acting as agents of the commissioner under the authority of this section and shall not be subject to civil liability for libel, slander, or any other cause of action by virtue of their collection, review, and analysis or dissemination of the data and information collected from the filings required under this section.

Notwithstanding any other provision of the General Laws, including clause Twenty-sixth of section seven of chapter four and chapter sixty-six, all financial analysis ratios and examination synopses concerning insurance companies that are submitted to the division by the National Association of Insurance Commissioners Insurance Regulatory Information System shall be confidential and shall not be disclosed by the commissioner.

The provisions of this section shall apply to all domestic, foreign and alien insurers who are authorized to transact business in the commonwealth.

SECTION 22. Section 26 of said chapter 175, as so appearing, is hereby amended by inserting after the word "statement", in line 2, the following words:- or the materials required by the commissioner to be filed with the National Association of Insurance Commissioners under the provisions of section twenty-five.

SECTION 23. Section 48 of said chapter 175, as so appearing, is hereby amended by inserting before the first paragraph the following paragraph:-

As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Minimum capital", the common capital stock that must constantly be maintained by a stock insurance company as required by this section.

"Surplus", the excess of admitted assets over the sum of capital and liabilities.

"Minimum surplus", the surplus that must constantly be maintained by an insurance company as required by this section in the case of a mutual company, minimum surplus shall be equal to the combined minimum capital and minimum surplus requirements specified for stock insurance companies in this section.

SECTION 24. Said section 48 of said chapter 175, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following eight paragraphs:-

Companies organized under this section shall have and shall maintain capital and surplus as set forth below; provided, however, the combined capital and surplus amount for any company subject to the provisions of this section, transacting a single line of insurance business, shall not be less than one million two hundred thousand dollars.

Capital shall be computed as follows:

(a) Under the first and eighth, fourth, fifth, except as otherwise provided herein, eighth, ninth, tenth or twelfth clauses, not less than two hundred thousand dollars.

(b) Under the second clause, and under the first and second clauses excepting ocean marine insurance, and clause eighth, not less than three hundred thousand dollars.

(c) Under the first and second clauses, under the first and seventeenth clauses, under the first, second and eighth clauses, and under the first, second, eighth and seventeenth clauses, not less than four hundred thousand dollars.

(d) Under the sixth clause, not less than four hundred thousand dollars of capital; and if, under the sixth clause, insurance to insure only against sickness and against the bodily injury or death by accident of the insured is transacted, not less than one hundred thousand dollars.

(e) Under the seventh, thirteenth and nineteenth clauses, not less than one hundred thousand dollars.

(f) Under the eleventh clause, not less than one hundred thousand dollars of capital; and if insurance against the insufficiency of mortgages as security or against any other loss in connection with mortgages, except insurance of titles is transacted, not less than two hundred thousand dollars.

(g) Under the fourteenth or fifteenth clauses, not less than five hundred thousand dollars.

(h) Under the sixteenth clause, not less than four hundred thousand dollars of capital, or under the sixth and sixteenth clauses, not less than eight hundred thousand dollars.

(i) Under two or more of clauses fourth, fifth, sixth, seventh, eighth, ninth, tenth, twelfth and thirteenth, the capital shall be the largest amount for any one of these clauses, plus one-half of the total of all other clauses listed in this paragraph which it is authorized to transact.

Surplus shall be computed as follows:

(a) Under the fourth, fifth, seventh, ninth, tenth, eleventh, thirteenth, and nineteenth clauses, not less than two times the amount of capital as prescribed above.

(b) Under the first, second, eighth, twelfth, sixteenth and seventeenth clauses, not less than four times the amount of capital as prescribed above.

(c) Under the sixth, fourteenth and fifteenth clauses, not less than six times the amount of capital as prescribed above.

The common capital stock and the surplus required by this section shall be paid in cash within twelve months after the date of the charter or certificate of organization, but not certificates of full shares and no policies shall be issued until the capital and surplus as aforesaid is paid in.

The commissioner may adopt rules, regulations and guidelines, from time to time requiring any company incorporated, licensed or authorized to engage in the insurance business, to have and constantly maintain capital and surplus levels in excess of the statutory levels required by this section based upon any of the following factors:

(1) the nature and type of risks a company underwrites or reinsures;

(2) the premium volume of risks a company underwrites or reinsures;

(3) the composition, quality, duration or liquidity of a company's investment portfolio;

(4) fluctuations in the market value of securities a company holds;

(5) the adequacy of a company's reserves; or

(6) size of a company's asset valuation reserves and interest maintenance reserves.

The rules, regulations or guidelines adopted under this section shall be designed to assure the financial solvency of companies for the protection of policyholders.

The capital and surplus requirements imposed under this section shall apply to each insurance company incorporated, licensed or authorized to do business in the commonwealth; provided, however, that a company whose combined direct and assumed premium in the prior calendar year does not exceed one hundred thousand dollars may make written application to the commissioner for an exemption from the minimum capital and surplus requirements in this section. The commissioner may permit an exemption for a period not to exceed one year, provided the company makes a written commitment to write no more than one hundred thousand dollars in combined direct and assumed premium in the year in which the exemption applies. The commissioner's approval of such an exemption shall be in writing and may contain such other restrictions as the commissioner deems appropriate.

The commissioner may establish, by rule, regulation or guideline, a procedure which will require a company subject to the provisions of this section to increase its capital and surplus amounts over a specified period of time, not to exceed five years, until the required statutory minimums established by this section, or higher levels as ordered by the commissioner, are met.

SECTION 25. Section 48A of said chapter 175, as so appearing, is hereby amended by adding the following paragraph:-

A company formed under the provisions of this section shall be subject to the combined capital and surplus provisions of section forty-eight.

SECTION 25A. Said chapter 175 is hereby amended by inserting after section 49, as so appearing, the following section:-

Section 49A. Any insurer which is organized under the laws of any other state and is admitted to do business in the commonwealth for the purpose of writing insurance may become a domestic insurer by complying with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type and by designating its principal place of business at a place in the commonwealth. Said domestic insurer will be entitled to like certificates and licenses to transact business in this state, and shall be subject to the authority and jurisdiction of the commonwealth.

Any domestic insurer may, upon the approval of the commissioner, transfer its domicile to any other state in which it is admitted to transact the business of insurance, and upon such a transfer shall cease to be a domestic insurer, and shall be admitted to the commonwealth, if qualified, as a foreign insurer. Said commissioner shall approve any such proposed transfer unless he shall determine such transfer is not in the interest of the policyholders of the commonwealth.

The certificate of authority, agents' appointments and licenses, rates and other items which the commissioner of insurance allows, in his discretion, which are in existence at the time an insurer licensed to transact the business of insurance in the commonwealth transfers its corporate domicile to this or any other state by merger, consolidation or any other lawful method shall continue in full force and effect upon such transfer if such insurer remains duly qualified to transact the business of insurance in the commonwealth. All outstanding policies of a transferring insurer shall remain in full force and effect and need not be endorsed as to the new name of the company or its new location unless so ordered by said commissioner. Every transferring insurer shall file new policy forms with said commissioner on or before the effective date of the transfer, but may use existing policy forms with appropriate endorsements if allowed by, and under such conditions as approved by, said commissioner. Every such transferring insurer shall notify said commissioner of the details of the proposed transfer, and shall file promptly any resulting amendments to corporate documents filed or required to be filed with the commissioner.

Said commissioner may promulgate rules and regulations necessary to carry out the purposes of this section.

SECTION 26. Section 51 of said chapter 175, as so appearing, is hereby amended by adding the following paragraph:-

A company transacting or seeking to transact business under this section shall be subject to the combined capital and surplus provisions required under section forty-eight.

SECTION 27. Section 54 of said chapter 175, as so appearing, is hereby amended by adding the following paragraph:-

A company transacting or seeking to transact business under this section shall be subject to the combined capital and surplus provisions required under section forty-eight.

SECTION 28. Said chapter 175 is hereby further amended by inserting after section 63 the following section:-

Section 63A. (1) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meaning:-

"Medium grade obligation", obligations which are rated three by the Securities Valuation Office of the National Association of Insurance Commissioners.

"Lower grade obligations", obligations which are rated four, five or six by the Securities Valuation Office of the National Association of Insurance Commissioners.

"Admitted assets", the amount thereof as of the last day of the most recently concluded annual statement year, computed in the manner permitted or prescribed by this chapter.

"Aggregate amount of medium grade and lower grade obligations", the aggregate statutory statement value thereof.

"Institution", a corporation, a joint-stock company, an association, a trust, a business partnership, a business joint venture or similar entity.

"Directly or indirectly", any method by which an insurer acquires or holds an investment in medium or lower grade obligations in an insurer's name or in other than the insurer's name, such as in a nominee name, for which the insurer has taken credit as an asset in its annual statement filed under section twenty-five.

(2) No domestic insurer shall directly or indirectly acquire any medium grade or lower grade obligations of any institution if, after giving effect to any such acquisition, the aggregate amount of all medium grade and lower grade obligations then held by the domestic insurer would exceed twenty percent of its admitted assets provided that: no more than ten percent of its admitted assets consists of obligations rated four, five or six by the securities valuation office; and no more than three percent of its admitted assets consists of obligations rated five or six by the securities valuation office, and no more than one percent of its admitted assets consists of obligations rated six by the securities valuation office. Attaining or exceeding the limit of any one category shall not preclude an insurer from acquiring obligations in other categories subject to the specific and multi-category limits.

(3) No domestic insurer may invest more than an aggregate of one percent of its admitted assets in medium grade obligations issued, guaranteed or insured by any one institution nor may it invest more than one-half of one percent of its admitted assets in lower grade obligations issued, guaranteed or insured by any one institution. In no event, however,

may a domestic insurer invest more than one percent of its admitted assets in any medium or lower grade obligations issued, guaranteed or insured by any one institution.

(4) Nothing contained in this section shall prohibit a domestic insurer from acquiring any obligations which it has committed to acquire if the insurer would have been permitted to acquire that obligation pursuant to this section on the date on which such insurer committed to purchase that obligation.

(5) Notwithstanding the foregoing, a domestic insurer may acquire a medium or lower grade obligation of an institution in which the insurer already has one or more medium or lower grade obligations, if the medium or lower grade obligation is acquired in order to protect an investment previously made in the obligations of the institution, provided that all such acquired medium or lower grade obligations of the institution made under the provisions of this paragraph shall not exceed one-half of one percent of the insurer's admitted assets.

(6) Nothing contained in this section shall prohibit a domestic insurer from acquiring an obligation as a result of a restructuring of a medium or lower grade obligation already held.

(7) Nothing contained in this section shall require a domestic insurer to sell or otherwise dispose of any obligation legally acquired prior to the effective date of this section.

(8) The board of directors of any domestic insurance company which acquires or invests, directly or indirectly, more than two percent of its admitted assets in medium grade and lower grade obligations of any institution, shall adopt a written plan for the making of such investments. The plan, in addition to guidelines with respect to the quality of the issues invested in, shall contain diversification standards including, but not limited to, standards for issuer, industry, duration, liquidity and geographic location.

(9) Notwithstanding any other provision of this section the commissioner may approve a protective investment that causes the insurer to exceed any limitation contained in this section if the insurer shows to the satisfaction of the commissioner that such investment is not prejudicial to the interests of policyholders.

SECTION 29. The first paragraph of section 66 of said chapter 175, as appearing in the 1992 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- No domestic life insurance company shall invest in, acquire or hold directly or indirectly more than twenty-five percent of the capital stock of any corporation other than other insurance companies, or except as otherwise provided in sections sixty-six C, sixty-six D and two hundred and six A; nor, except for investments in the capital stock or other insurance companies and except for investments under section sixty-six C and section two hundred and six A, shall more than two percent of its assets be invested in the capital stock of any one corporation, other than in insurance companies as provided in this section, without the approval of the commissioner, and such approval shall be granted only if after making such investment such life company's surplus and its asset valuation reserve shall be reasonable in relation to its outstanding liabilities and adequate to its financial needs.

SECTION 30. Said section 66 of said chapter 175, as so appearing, is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

Nothing in this section, section sixty-three or sixty-three A, other than subsection five of said section sixty-three A, shall prevent any such life company from entering into an agreement for the purpose of protecting the interests of the company in securities lawfully held by it, or for the purpose of reorganization of a corporation which issued securities so held, and from depositing such securities with a committee or depositaries appointed under such agreement, nor from accepting corporate stock or bonds or other securities which may be distributed pursuant to any such agreement, or to any plan of reorganization; and nothing in this section, section sixty-three or section sixty-three A shall prevent any such life company from acquiring or holding any property acquired in satisfaction of any debt previously contracted, or that shall be obtained by sale or foreclosure of any security held by it; provided, that if the property owned be such as is prohibited from investment by such company, it shall dispose of such property, if personal, within one year, or if real estate, within five years, from the date when it acquired title to the same, unless the commissioner shall extend the time for such disposition for the reason that the interests of the company will suffer materially by a forced sale of such property.

SECTION 31. Section 73 of said chapter 175, as so appearing, is hereby amended by striking out, in line 3, the words "one hundred thousand dollars" and inserting in place thereof the following words:- the combined capital and surplus provisions required under section forty-eight.

SECTION 32. Section 74 of said chapter 175, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "one hundred thousand dollars" and inserting in place thereof the following words:- the combined capital and surplus provisions required under section forty-eight.

SECTION 33. Section 79 of said chapter 175, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "twenty-five thousand nor more than two hundred thousand dollars" and inserting in place thereof the following words:- the combined capital and surplus provisions required under section forty-eight.

SECTION 34. Said section 79 of said chapter 175, as so appearing, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- Any such company may, at any time by a like vote, increase said guaranty capital subject to the written approval of the commissioner.

SECTION 35. Section 85A of said chapter 175, as so appearing, is hereby amended by striking out, in line 3, the words "two hundred thousand dollars" and inserting in place thereof the following words:- nor less than the combined capital and surplus provisions required under section forty-eight.

SECTION 36. Section 86 of said chapter 175, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "the amount of three hundred thousand dollars" and inserting in place thereof the following words:- not less than the combined capital and surplus provisions required under section forty-eight.

SECTION 37. Section 90A of said chapter 175, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "one hundred thousand dollars" and inserting in place thereof the following words:- the combined capital and surplus provisions required under section forty-eight.

SECTION 38. Section 90B of said chapter 175, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "two hundred thousand dollars nor more than one million dollars" and inserting in place thereof the following words:- the combined capital and surplus provisions required under section forty-eight.

SECTION 39. The second paragraph of said section 90B of said chapter 175, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any such company may, subject to all the provisions of section seventy-nine relative to the increase of the guaranty capital of a domestic mutual fire company increase said guaranty capital subject to the written approval of the commissioner.

SECTION 40. Said second paragraph of said section 90B of said chapter 175, as so appearing, is hereby further amended by striking out, in line 15, the words "two hundred thousand dollars" and inserting in place thereof the following words:- the combined capital and surplus provisions required under section forty-eight.

SECTION 41. Said section 90B of said chapter 175, as so appearing, is hereby further amended by striking out, in lines 28 and 30, the words "five hundred thousand dollars", each time they appear, and inserting in place thereof, in each instance, the following words:- the combined capital and surplus provisions required under section forty-eight.

SECTION 42. Section 90C of said chapter 175, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "two hundred thousand nor more than five hundred thousand dollars" and inserting in place thereof the following words:- the combined capital and surplus provisions required under section forty-eight.

SECTION 43. Said section 90C of said chapter 175, as so appearing, is hereby further amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

Any company may, subject to the provisions of this section, from time to time increase its guaranty capital subject to the written approval of the commissioner; provided, however, that no such increase shall be made unless the net cash assets of the company, computed as aforesaid, inclusive of the amount of said fund, amount to at least two million dollars at the time the increase is made.

SECTION 44. Section 93 of said chapter 175, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "four hundred thousand dollars" and inserting in place thereof the following words:- the combined capital and surplus provisions required under section forty-eight.

SECTION 45. Section 93E of said chapter 175, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- No policy shall be issued by a mutual company formed to transact business under the sixteenth

clause of section forty-seven, or under clause (e) of section forty-eight A, until it has established a fully paid-up guaranty capital of not less than the combined capital and surplus provisions required under section forty-eight.

SECTION 46. Section 151 of said chapter 175, as so appearing, is hereby amended by striking out clause Second and inserting in place thereof the following clause:-

Second, It has satisfied the commissioner that (1) it is fully and legally organized under the laws of its state or government to do the business it proposes to transact; (2) it has the combined amounts of capital and surplus required or prescribed by the commissioner under section forty-eight for the classes of business it proposes to transact; (3) it has made a deposit with the state treasurer or with the proper board or officer of some other state in exclusive trust for the benefit and security of all its policyholders in the United States in an amount satisfactory to the commissioner; (4) it has made a deposit with the state treasurer in exclusive trust for the benefit and security of its policyholders in the commonwealth in an amount satisfactory to the commissioner; that (5) any capital, surplus, guaranty fund or guaranty capital and assets, other than contingent, are well invested and available for the payment of losses in the commonwealth, that the company is in a sound financial condition and that business policies, methods and management are sound and proper; and (6) that it insures in a single risk wherever located an amount no larger than ten percent of its surplus to policyholders except as provided in section twenty-one.

SECTION 47. Said chapter 175 is hereby further amended by inserting after section 174E the following six sections:-

Section 174F. Sections one hundred and seventy-four F to one hundred and seventy-four K, inclusive, shall be known and may be cited as the Business Transacted with Broker-Controlled Insurer Act.

Section 174G. As used in sections one hundred and seventy-four F to one hundred and seventy-four K, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Accredited state", a state in which the insurance department or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the National Association of Insurance Commissioners.

"Control or controlled", 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 stock, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of official position or positions with or corporate office or offices held by, the person or persons. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds, with the present power to vote, or holds proxies representing, more than ten percent of the voting stock of any other person. Such presumption may be rebutted by a showing made to the satisfaction of the commissioner that control does not exist in fact. The commissioner may determine after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

"Controlled insurer", an insurer which is controlled, directly or indirectly, by a broker or group of brokers.

"Controlling broker", a broker or group of brokers who, directly or indirectly, controls an insurer.

"Insurer", any person, firm, association or corporation duly licensed or approved to transact a property or casualty insurance business in this commonwealth. The following are not insurers for the purposes of this section:

(a) All risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986 (Public Law No. 99-499, 100 Stat 1613), and the Risk Retention Act (15 USC Section 3901 et seq.) and chapter one hundred and seventy-six I;

(b) All residual market pools and joint underwriting authorities or associations; and

(c) All captive insurers, for the purposes of these sections one hundred and seventy-four F to one hundred and seventy-four K, inclusive, captive insurers are insurance companies owned by another organization whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, insurance organizations, owned by the insureds, whose exclusive purpose is to insure risks to member organizations and group members and their affiliates.

"Broker", an insurance broker or brokers or any other person, firm, association or corporation when, for any compensation, commission or other thing of value, such person, firm, association or corporation acts or aids in any manner in soliciting, negotiating or procuring the making of any insurance contract on behalf of an insured other than the person, firm, association or corporation.

Section 174H. Sections one hundred and seventy-four F to one hundred and seventy-four K, inclusive, shall apply to insurers as defined in section one hundred and seventy-four G either domiciled in the commonwealth or domiciled in a state other than an accredited state which has in effect a substantially similar law. All provisions of sections two hundred and six to two hundred and six D, inclusive, to the extent they are not superseded by sections one hundred and seventy-four I to one hundred and seventy-four K, inclusive, shall continue to apply to all parties within holding company systems subject to sections one hundred and seventy-four F to one hundred and seventy-four K, inclusive.

Section 174I. (A) (1) The provisions of section one hundred and seventy-four I shall apply if, in any calendar year, the aggregate amount of gross written premium on business placed with a controlled insurer by controlling broker is equal to or greater than five percent of the admitted assets of the controlled insurer, as reported in the controlled insurers' quarterly statement filed as of September thirtieth of the prior year.

(2) Notwithstanding paragraph (1) the provisions of subsection A shall not apply if:

(a) the controlling broker:

(i) places insurance only with the controlled insurer, or only with the controlled insurer and a member or members of the controlled insurer's holding company system, or the controlled insurer's parent, affiliate or subsidiary and receives no compensation based upon

the amount of premiums written in connection with such insurance; and (ii) accepts insurance placements only from non-affiliated subproducers, and not directly from insureds; and

(b) the controlled insurer, except for insurance business written through a residual market facility such as the Massachusetts Property Insurers Underwriting Association, accepts insurance business only from a controlling broker, a broker controlled by the controlled insurer, or a broker that is a subsidiary of the controlled insurer.

(B) A controlled insurer shall not accept business from a controlling broker and a controlling broker shall not place business with a controlled insurer unless there is a written contract between the controlling broker and the insurer which specifies the responsibilities of each party, and has been approved by the board of directors of the insurer. The contract shall contain the following minimum provisions:

(1) the controlled insurer may terminate the contract for cause, upon written notice to the controlling broker. The controlled insurer shall suspend the authority of the controlling broker to write business during the pendency of any dispute regarding the cause for the termination;

(2) the controlling broker shall render accounts to the controlled insurer detailing all material transactions, including information necessary to support all commissions, charges and other fees received by, or owing to, the controlling broker;

(3) the controlling broker shall remit all funds due under the terms of the contract to the controlled insurer on at least a monthly basis. The due date shall be fixed so that premiums or installments thereof collected shall be remitted no later than ninety days after the effective date of any policy placed with the controlled insurer under this contract;

(4) all funds collected for the controlled insurer's account shall be held by the controlling broker in a fiduciary capacity, in one or more appropriately identified bank accounts in banks that are members of the Federal Reserve System. Funds of a controlling broker not required to be licensed in the commonwealth shall be maintained in compliance with the requirements of the controlling broker's domiciliary jurisdiction;

(5) the controlling broker shall maintain separate identifiable records of business written for the controlled insurer;

(6) the contract shall not be assigned in whole or in part by the controlling broker;

(7) the controlled insurer shall provide the controlling broker with its underwriting standards, rules and procedures, manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling broker shall adhere to the standards, rules, procedures, rates and conditions. The standards, rules, procedures, rates and conditions shall be the same as those applicable to comparable business placed with the controlled insurer by a broker other than the controlling broker;

(8) the contract shall establish the rates and terms of the controlling broker's commissions, charges or other fees and the purposes for those charges or fees. The rates of the commissions, charges and other fees shall be no greater than those applicable to comparable business placed with the controlled insurer by brokers other than controlling

brokers. For purposes of clauses (7) and (8), examples of comparable business include the same lines of insurance, same kinds of insurance, similar risks, similar policy limits, and similar quality of business;

(9) if the contract provides that the controlling broker, on insurance business placed with the insurer, is to be compensated contingent upon the insurer's profits on that business, then such compensations shall not be determined and paid until at least five years after the premiums on liability insurance are earned and at least one year after the premiums are earned on any other insurance. In no event shall the commissions be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified pursuant to paragraph (1) of subsection D;

(10) the contract shall establish a limit on the controlling broker's writings in relation to the controlled insurer's surplus and total writings. The insurer may establish a different limit for each line or sub-line of business. The controlled insurer shall notify the controlling broker when the applicable limit is approached and shall not accept business from the controlling broker if the limit is reached. The controlling broker shall not market or place business with the controlled insurer if it has been notified by the controlled insurer that the limit has been reached; and

(11) the contract shall provide that the controlling broker may negotiate but shall not bind reinsurance on behalf of the controlled insurer on business the controlling broker places with the controlled insurer, except that the controlling broker may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the controlled insurer contains underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured and commission schedules.

(C) Every controlled insurer shall have an audit committee of the board of directors composed of independent directors. The audit committee shall annually meet with management, the insurer's independent certified public accountants, and an independent casualty actuary or other independent loss reserve specialist acceptable to the commissioner to review the adequacy of the insurer's loss reserves.

(D) (1) In addition to any other required loss reserve certification, the controlled insurer shall annually, by April first of each year, file with the commissioner an opinion of an independent casualty actuary or such other independent loss reserve specialist acceptable to the commissioner reporting loss ratios for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of year-end, including incurred but not reported, on business placed by the broker; and

(2) The controlled insurer shall annually report to the commissioner the amount of commissions paid to the broker, the percentage such amount represents of the net premiums written and comparable amounts and percentage paid to noncontrolling brokers for placements of the same kinds of insurance.

Section 174J. The broker, at the time or before an application is taken for the policy, shall deliver a separate written notice to the prospective insured disclosing the relationship between the broker and the controlled insurer; except that if the business is placed through a subbroker who is not a controlling broker, the controlling broker shall retain in his records a signed statement from the subbroker that the subbroker is aware of the relationship between the insurer and the broker and that the subbroker has notified the prospective insured of the relationship by separate written notice at or before the time application was taken.

Section 174K. (A) If the commissioner believes that the controlling broker or any other person as defined in section one hundred and seventy-four G has violated any provisions of sections one hundred and seventy-four F to one hundred and seventy-four K, inclusive, or any regulation or order promulgated hereunder, the commissioner, may order the controlling broker to cease placing business with the controlled insurer; and

(B) In addition to the remedies provided by chapter one hundred and seventy-six D, in any administrative action against a controlling broker or other person the commissioner may, if the commissioner finds that because of a violation by the controlling broker or any subbroker the controlled insurer or any policyholder thereof has suffered any loss or damage, the commissioner may order the broker, subbroker or both to compensate the insurer or policyholder for such loss or damage.

(C) If an order for liquidation or rehabilitation of the controlled insurer has been entered and a receiver appointed pursuant to sections one hundred and eighty A to one hundred and eighty L, inclusive, or an ancillary receiver has been appointed in the commonwealth for a foreign company, and the appointed receiver believes that the controlling broker or any other person has violated this section, or any regulation or order promulgated hereunder, and the insurer suffered any loss or damage therefrom, the receiver may maintain a civil action for recovery of such loss or damage or other appropriate sanctions for the benefit of the insurer.

(D) Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided for in this chapter or chapter one hundred and seventy-six D.

(E) Nothing contained in this section is intended to or shall in any manner alter or affect the rights of policyholders, claimants, creditors or other third parties.

SECTION 48. Said chapter 175 is hereby further amended by inserting after section 177E the following eighteen sections:-

Section 177F. Sections one hundred and seventy-seven G to one hundred and seventy-seven L, inclusive, may be cited as the Managing General Agents Act.

Section 177G. As used in sections one hundred and seventy-seven F to one hundred and seventy-seven L, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Actuary", a person who is a member in good standing of the American Academy of Actuaries.

"Insurer", any person, firm, association or corporation engaged in the business of insurance in this commonwealth.

"Producer", an agent, broker or reinsurance intermediary licensed pursuant to the applicable provisions of the General Laws.

"Managing general agent", any person, firm, association or corporation who manages all or part of the insurance business of an insurer, including the management of a separate division, department, line, product or underwriting office, and acts as an agent for such insurer, whether known as a managing general agent, manager or other similar term, who, with or without the authority, either separately or together with affiliates, directly or indirectly produces or underwrites an amount of gross direct written premium equal to or more than five percent of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year, together with one or more of the following: (i) adjusts or pays claims on behalf of the insurer; or (ii) negotiates insurance on behalf of the insurer.

Notwithstanding the foregoing, the following persons shall not be considered as managing general agents for the purposes of sections one hundred and seventy-seven F to one hundred and seventy-seven L, inclusive:

(1) an employee of the insurer;

(2) a United States manager of the United States branch of an alien insurer;

(3) an underwriting manager which, pursuant to contract, manages all or part of the insurance operations of an authorized insurer, is under common control with such insurer, subject to sections two hundred and six to two hundred and six D, inclusive, and whose compensation is not based on the volume of premiums written; or

(4) an attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurance exchange or inter-insurance exchange under powers of attorney.

"Underwrite", the authority to accept or reject risks on behalf of the insurer.

Section 177H. (A) No person, firm, association or corporation shall act in the capacity of a managing general agent with respect to risks located in the commonwealth for an insurer licensed in the commonwealth unless such person:

(i) is a licensed producer in the commonwealth; and (ii) maintains errors and omissions coverage.

(B) No person, firm, association or corporation shall act in the capacity of a managing general agent representing an insurer domiciled in the commonwealth with respect to risks located outside the commonwealth unless such person:

(i) is a licensed producer in the commonwealth, whether resident or non-resident; and (ii) maintains errors and omissions coverage.

Section 177I. No person, firm, association or corporation acting in the capacity of a managing general agent shall place business with an insurer unless there is in force a written contract between the parties which sets forth the responsibilities of each party and,

if both parties share responsibility for a particular function, specifies the division of such responsibilities, and contains the following minimum provisions:

(A) the insurer may terminate the contract for cause upon written notice to the managing general agent. The insurer may suspend the underwriting authority of the managing general agent during the pendency of any dispute regarding the cause for termination;

(B) the managing general agent shall render accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis;

(C) all funds collected for the account of an insurer will be held by the managing general agent in a fiduciary capacity in a bank which is a member of the Federal Reserve System. This account shall be used for all payments on behalf of the insurer. The managing general agent may retain no more than three months estimated claims payments and allocated loss adjustment expenses;

(D) the insurer and the managing general agent shall maintain separate records of business written under the contract. The insurer shall have access to and the right to copy all accounts and records related to its business in a form usable by the insurer and the commissioner shall have access to all books, bank accounts and records of the managing general agent in a form usable to the commissioner. All records shall be retained by the managing general agent for a period of time consistent with the retention requirements for insurers;

(E) the managing general agent may not assign the contract in whole or in part;

(F) appropriate underwriting guidelines including:

(1) the maximum annual premium volume;

(2) the basis of the rates to be charged;

(3) the types of risks which may be written;

(4) maximum limits of liability;

(5) applicable exclusions;

(6) territorial limitations;

(7) policy cancellation provisions; and

(8) the maximum policy period.

The insurer shall retain the right to cancel or non-renew any policy of insurance subject to applicable state laws and regulations concerning the cancellation and non-renewal of insurance policies.

(G) if the contract permits the managing general agent to settle claims on behalf of the insurer the contract must provide that:

(1) all claims must be reported to the company in a timely manner;

(2) a copy of the claim file will be sent to the insurer at its request or as soon as it becomes known that the claim:

(a) has the potential to exceed the limit set by the company;

(b) involves a coverage dispute;

(c) may exceed the managing general agent's claims settlement authority;

(d) has been open for more than six months; or

(e) has been closed by payment of an agreed-upon amount;

(3) all claim files will be the joint property of the insurer and managing general agent. However, upon an order of liquidation of the insurer such files shall become the sole property of the insurer or its estate; the managing general agent shall have reasonable access to and the right to copy the files on a timely basis; and

(4) any settlement authority granted to the managing general agent may be terminated for cause upon the insurer's written notice to the managing general agent or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of any dispute regarding the cause for termination;

(H) where electronic claims files are in existence, the contract must address the timely transmission of the data;

(I) if the contract provides for a sharing of interim profits by the managing general agent, and the managing general agent has the authority to determine the amount of the interim profits by establishing loss reserves or controlling claim payments, or in any other manner, interim profits will not be paid to the managing general agent until one year after they are earned on property insurance business and five years after they are earned on casualty business and not until the profits have been verified pursuant to section one hundred and seventy-seven J; and

(J) the managing general agent shall not:

(1) bind reinsurance or retrocessions on behalf of the insurer, except that the managing general agent may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured and commission schedules;

(2) commit the insurer to participate in insurance or reinsurance syndicates;

(3) appoint any producer without assuring that the producer is lawfully licensed to transact the type of insurance for which he is appointed;

(4) without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which shall not exceed one percent of the insurer's policyholder's surplus as of December thirty-first of the last completed calendar year;

(5) collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer without prior approval of the insurer. If prior approval is given, a report must be promptly forwarded to the insurer;

(6) permit any subproducer to serve on the insurer's board of directors;

(7) jointly employ an individual who is employed with the insurer; or

(8) appoint a sub-managing general agent.

Section 177J. (A) The insurer shall have on file independent financial examinations, in a form acceptable to the commissioner, of each managing general agent with which it has done or is currently doing business.

(B) If a managing general agent establishes loss reserves, the insurer shall annually obtain the opinion of a qualified actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the managing general agent. This is in addition to any other required loss reserve certification.

(C) The insurer shall periodically, at least semi-annually, conduct an on-site review of the underwriting and claims processing operations of the managing general agent and prepare a written report of its findings.

(D) Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer, who shall not be affiliated with the managing general agent.

(E) Within thirty days of entry into or termination of a contract with a managing general agent, the insurer shall provide written notification of such appointment or termination to the commissioner. Notices of appointment of a managing general agent shall include a statement of duties which the managing general agent is expected to perform on behalf of the insurer, the lines of insurance for which it is authorized to act, and any other information the commissioner may request. Notices of termination shall state all reasons for such termination.

(F) An insurer shall review its books and records each quarter to determine if any licensed producer has become a managing general agent as defined in section one hundred and seventy-seven G. If the insurer determines that a producer has become a managing general agent pursuant to the above, the insurer shall promptly notify the producer and the commissioner of such determination and the insurer and producer must fully comply with the provisions of this section within thirty days.

(G) An insurer shall not appoint to its board of directors an officer, director, employee, subproducer or controlling shareholder of its managing general agents. This subsection shall not apply to relationships governed by sections two hundred and six to two hundred and six D, inclusive, or, if applicable, sections one hundred and seventy-four F to one hundred and seventy-four K, inclusive.

Section 177K. The acts of the managing general agent are considered to be the acts of the insurer on whose behalf it is acting. A managing general agent may be examined by the commissioner as if it were the insurer.

Section 177L. (A) Managing general agents shall be considered to be in the business of insurance for purposes of the applicability of chapter one hundred and seventy-six D. In addition to the remedies provided by said chapter one hundred and seventy-six D, in any administrative action against a managing general agent the commissioner may order:

(1) for each separate violation of the managing general agents act, a penalty in an amount up to ten thousand dollars;

(2) the managing general agent to reimburse the insurer, or the rehabilitator or liquidator of the insurer, for any losses incurred by the insurer caused by a violation of the managing general agents act by the managing general agent.

(B) Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided for in this chapter or chapter one hundred and seventy-six D.

(C) Nothing contained in this section is intended to or shall in any manner limit or restrict the rights of policyholders, claimants and auditors.

Section 177M. Sections one hundred and seventy-seven N to one hundred and seventy-seven W may be cited as the Reinsurance Intermediary Act.

Section 177N. As used in sections one hundred and seventy-seven M to one hundred and seventy-seven W, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Actuary", a person who is a member in good standing of the American Academy of Actuaries.

"Control or controlling", 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 stock, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of official position or positions with, or corporate office or offices held by, the person or persons. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds, with the present power to vote, or holds proxies representing, more than ten percent of the voting stock of any other person. Such presumption may be rebutted by a showing made to the satisfaction of the commissioner that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

"Controlling person", any person, firm, association or corporation who directly or indirectly has the power to direct or cause to be directed the management, control or activities of a reinsurance intermediary.

"Insurer", any person, firm, association or corporation duly licensed or approved as an insurer in this commonwealth pursuant to the applicable provisions of this chapter or any other applicable section of the General Laws.

"Producer", an agent or broker licensed pursuant to section fourteen who is also licensed as a reinsurance intermediary.

"Reinsurance intermediary", collectively, reinsurance intermediary brokers and reinsurance intermediary managers as defined in this section.

"Reinsurance intermediary broker", any person, other than an officer or employee of the ceding insurer, firm, association or corporation who solicits, negotiates or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of such insurer.

"Reinsurance intermediary manager", any person, firm, association or corporation who has authority to bind or manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department or underwriting office, and acts as an agent for such reinsurer whether known as a reinsurance intermediary manager, manager or other similar term.

Notwithstanding the above, the following persons shall not be considered a reinsurance intermediary manager, with respect to such reinsurer, for the purpose of these sections:

(1) an employee of the reinsurer;

(2) a United States manager of the United States branch of an alien reinsurer;

(3) an underwriting manager which, pursuant to contract, manages all the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to sections two hundred and six to two hundred and six D, inclusive, and whose compensation is not based on the volume of premiums written; or

(4) the manager of a group, association, pool or organization of insurers which engage in joint underwriting or joint reinsurance and who are subject to examination by the insurance division or other regulatory agency of the state in which the manager's principal business office is located.

"Reinsurer", any person, firm, association or corporation duly licensed in this commonwealth pursuant to the applicable provisions of the insurance law as an insurer with the authority to assume reinsurance.

"Qualified United States financial institution", an institution that:

(1) is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

(2) is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(3) has been determined by either the commissioner, or the Securities Valuation Office of the National Association of Insurance Commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

Section 177 O. (A) No person, either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation, firm, association or corporation shall act as a reinsurance intermediary broker in this commonwealth, if the reinsurance intermediary broker maintains an office:

(1) in the commonwealth, unless such reinsurance intermediary broker is a licensed producer in the commonwealth; or

(2) in another state, unless such reinsurance intermediary broker is a licensed producer in the commonwealth or another state having a law substantially similar to this law or such reinsurance intermediary broker is licensed in the commonwealth as a nonresident reinsurance intermediary.

(B) No person, either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation, firm, association or corporation shall act as a reinsurance intermediary manager:

(1) for a reinsurer domiciled in this commonwealth, unless such reinsurance intermediary manager is a licensed producer in the commonwealth; or

(2) in the commonwealth, if the reinsurance intermediary manager maintains an office in the commonwealth, unless such reinsurance intermediary manager is a licensed producer in the commonwealth; or

(3) in another state for a nondomestic insurer, unless such reinsurance intermediary manager is a licensed producer in the commonwealth or another state having a law substantially similar to sections one hundred and seventy-seven M to one hundred and seventy-seven W, inclusive, or such person is licensed in the commonwealth as a nonresident reinsurance intermediary.

(C) The commissioner may require a reinsurance intermediary manager subject to subsection B to:

(1) file a bond in an amount from an insurer acceptable to the commissioner for the protection of the reinsurer; and

(2) maintain an errors and omissions policy in an amount acceptable to the commissioner.

(D) (1) The commissioner may, upon payment of a fee prescribed pursuant to section fourteen, issue a reinsurance intermediary license to any individual, firm, association or corporation who meets the requirements of sections one hundred and seventy-seven M to one hundred and seventy-seven W, inclusive. Each applicant for a license to act as a reinsurance intermediary must have been licensed as an insurance agent or broker for the lines for which he intends to transact business as a reinsurance intermediary for a period of at least three years prior to applying for such license. Each applicant for a license shall file with the commissioner a written application upon a form prescribed by the commissioner which shall be executed under oath by the applicant and kept on file by the commissioner.

The application shall state the name, age, residence, and occupation of the applicant at the time of application, his residence, occupation and all business affiliations for the ten years preceding the date of the application, and such other information as the commissioner may require. The applicant shall take a written examination prepared and administered by the commissioner or an independent testing service designated by the commissioner, who shall fix a passing grade for such examination. If the commissioner is satisfied that the applicant is trustworthy, suitable and competent, and intends to carry on business in good faith as a reinsurance intermediary, the commissioner shall issue a license which shall expire three years from the date of issue, unless sooner revoked or suspended. At the discretion of the commissioner, and upon submission of an application and payment of a fee prescribed pursuant to section fourteen, the license may be renewed for successive three year periods.

The commissioner may at any time, for cause shown and after a hearing, revoke the license or suspend it for a period not exceeding the unexpired term thereof and may, for cause shown, revoke the license while so suspended. Notice of hearing shall be given to the licensee in the manner prescribed by section one hundred and seventy-four A. The commissioner shall notify the licensee in writing of any suspension or revocation as he deems necessary. Whoever acts as a reinsurance intermediary without a license shall be punished by a fine of not less than one thousand dollars for each violation of any provisions of sections one hundred and seventy-seven N to one hundred and seventy-seven W, inclusive, or by imprisonment of not more than six months or both.

A license to act as a reinsurance intermediary may be issued to a partnership, firm, association or corporation so long as each person named to do business on the license is individually qualified as a reinsurance intermediary. Said license will be issued for a one year period upon payment of a fee prescribed pursuant to section fourteen. A license issued to a partnership, firm or association may authorize all its members and any designated employees to act as reinsurance intermediaries under the license. Any such license issued to a corporation may authorize all of the officers, and any designated employees and directors thereof to act as reinsurance intermediaries on behalf of such corporation.

(2) If the applicant for a reinsurance intermediary license is a nonresident, such applicant, as a condition precedent to receiving or holding a license, shall designate the commissioner as agent for service of process in the manner, and with the same legal effect, provided for by chapter one hundred and seventy-five B for designation of service of process upon unauthorized insurers; and also shall furnish the commissioner with the name and address of a resident of the commonwealth upon whom notices or orders of the commissioner or process affecting such nonresident reinsurance intermediary may be served. Such licensee shall promptly notify the commissioner in writing of every change in its designated agent for service of process, and such change shall not become effective until acknowledged by the commissioner.

(E) The commissioner may deny an application for a license to act as a reinsurance intermediary if, in his judgment, the applicant, any one named on a partnership, firm or association application, or any member, principal, officer or director of an applicant, is not trustworthy, suitable or competent, or any controlling person of such applicant is not trustworthy, suitable or competent to act as a reinsurance intermediary, or if a license to act as a reinsurance intermediary issued to any of the foregoing has been revoked, suspended or is the subject of an order to show cause in another jurisdiction.

Section 177P. A reinsurance intermediary broker shall represent or perform services for an insurer only pursuant to a written contract which specifies the responsibilities of each party. The contract shall, at a minimum, provide that:

(a) The insurer may terminate the reinsurance intermediary broker's authority at any time.

(b) The reinsurance intermediary broker shall render accounts to the insurer accurately detailing all material transactions, including information necessary to support all commissions, charges and other fees received by or owing to the reinsurance intermediary broker, and remit all funds due to the insurer within thirty days of receipt.

(c) All funds collected for the insurer's account shall be held by the reinsurance intermediary broker in a fiduciary capacity in a bank which is a qualified United States financial institution as defined herein.

(d) The reinsurance intermediary broker shall comply with section one hundred and seventy-seven Q.

(e) The reinsurance intermediary broker shall comply with the written standards established by the insurer for the cession or retrocession of all risks.

(f) The reinsurance intermediary broker shall disclose to the insurer any relationship with any reinsurer to which business will be ceded or retroceded.

Section 177Q. (A) For at least ten years after expiration of each contract of reinsurance negotiated by or through the reinsurance intermediary broker, the reinsurance intermediary broker will keep a complete record for each transaction showing:

(1) the type of contract, limits, underwriting restrictions, classes or risks and territory;

(2) period of coverage, including effective and expiration dates, cancellation provisions and notice required of cancellation;

(3) reporting and settlement requirements of balances;

(4) rate used to compute the reinsurance premium;

(5) names and addresses of assuming reinsurers;

(6) rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary broker;

(7) related correspondence and memoranda;

(8) proof of placement;

(9) details regarding retrocessions handled by the reinsurance intermediary broker including the identity of retrocessionaires and percentage of each contract assumed or ceded;

(10) financial records, including but not limited to, premium and loss accounts; and

(11) when the reinsurance intermediary broker procures a reinsurance contract on behalf of a licensed ceding insurer:

(a) directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; or

(b) if placed through a representative of the assuming reinsurer, other than an employee, written evidence that such reinsurer has delegated binding authority to the representative.

(B) The insurer shall have access and the right to copy and audit all accounts and records maintained by the reinsurance intermediary broker related to its business in a form usable by the insurer.

Section 177R. (A) An insurer shall not engage the services of any person, firm, association or corporation to act as a reinsurance intermediary broker on its behalf unless such person is licensed as required by section one hundred and seventy-seven O.

(B) An insurer may not employ an individual who is employed by a reinsurance intermediary broker with which it transacts business, unless such reinsurance intermediary broker is under common control with the insurer and subject to sections two hundred and six to two hundred and six D, inclusive.

(C) The insurer shall obtain a copy of the current annual statement of financial condition or documents providing similar information for each reinsurance intermediary broker with which it transacts business.

Section 177S. A reinsurance intermediary manager shall represent a reinsurer only pursuant to a written contract, specifying the responsibilities of each party, which shall be approved by the reinsurer's board of directors. At least thirty days before such reinsurer assumes or cedes business through the reinsurance intermediary manager, a true copy of the approved contract shall be filed with the commissioner. The contract shall, at a minimum, provide that:

(a) The reinsurer may terminate the contract at any time. The reinsurer may immediately suspend the authority of the reinsurance intermediary manager to assume or cede business during the pendency of any dispute regarding the cause for termination.

(b) The reinsurance intermediary manager shall render accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges and other fees received by, or owing to the reinsurance intermediary manager, and remit all funds due under the contract to the reinsurer on not less than a monthly basis.

(c) All funds collected for the reinsurer's account shall be held by the reinsurance intermediary manager in a fiduciary capacity in a bank which is a qualified United States financial institution as defined herein. The reinsurance intermediary manager may retain no more than three months estimated claims payments and allocated loss adjustment expenses. The reinsurance intermediary manager shall maintain a separate bank account for each reinsurer that it represents.

(d) For at least ten years after expiration of each contract of reinsurance negotiated by or placed through the reinsurance intermediary manager, the reinsurance intermediary manager will keep a complete record for each transaction showing:

(1) the type of contract, limits, underwriting restrictions, classes or risks and territory;

(2) period of coverage, including effective and expiration dates, cancellation provisions and notice of cancellation required, and disposition of outstanding reserves on covered risks;

(3) reporting and settlement requirements of balances;

(4) rate used to compute the reinsurance premium;

(5) names and addresses of reinsurers;

(6) rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary manager;

(7) related correspondence and memoranda;

(8) proof of placement;

(9) details regarding retrocessions handled by the reinsurance intermediary manager, as permitted by section one hundred and seventy-seven U, including the identity of retrocessionaires and percentage of each contract assumed or ceded;

(10) financial records, including but not limited to, premium and loss accounts; and

(11) when the reinsurance intermediary manager places a reinsurance contract on behalf of a ceding reinsurer:

(i) directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; or

(ii) if placed through a representative of the assuming reinsurer, other than an employee, written evidence that such reinsurer has delegated binding authority to the representative.

(e) The reinsurer will have access and the right to copy all accounts and records maintained by the reinsurance intermediary manager related to its business in a form usable by the reinsurer.

(f) The contract cannot be assigned in whole or in part by the reinsurance intermediary manager.

(g) The reinsurance intermediary manager will comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection or cession of all risks.

(h) The rates, terms and purposes of commissions, charges and other fees which the reinsurance intermediary manager may levy against the reinsurer are set forth.

(i) If the contract permits the reinsurance intermediary manager to settle claims on behalf of the reinsurer:

(1) all claims will be reported to the reinsurer in a timely manner; and

(2) a copy of the claim file will be sent to the reinsurer at its request or as soon as it becomes known that the claim:

(i) has the potential to exceed the lesser of an amount determined by the commissioner or the limit set by the reinsurer;

(ii) involves a coverage dispute;

(iii) may exceed the reinsurance intermediary manager's claims settlement authority;

(iv) is open for more than six months; or

(v) is closed by payment of the lesser of an amount set by the commissioner or an amount set by the reinsurer; and

(3) all claims files will be the joint property of the reinsurer and reinsurance intermediary manager. However, upon an order of liquidation of the reinsurer or its estate; the reinsurance intermediary manager shall have reasonable access to the right to copy the

files on a timely basis; and

(4) any settlement authority granted to the reinsurance intermediary manager may be terminated for cause upon the reinsurer's written notice to the reinsurance intermediary manager or upon the termination of the contract. The reinsurer may suspend the settlement authority during the pendency of any dispute regarding the cause of termination.

(j) If the contract provides for a sharing of interim profits by the reinsurance intermediary manager, such interim profits will not be paid until one year after the end of each underwriting period for property business and five years after the end of each underwriting period for casualty business or a later period set by the commissioner for specified lines of insurance and not until the adequacy of reserves on remaining claims has been verified pursuant to subsection (C) of section one hundred and seventy-seven U.

(k) The reinsurance intermediary manager will annually provide the reinsurer with a statement of its financial condition prepared by an independent certified accountant.

(l) The reinsurer shall periodically, at least semi-annually, conduct an on-site review of the underwriting and claims processing operations of the reinsurance intermediary manager.

(m) The reinsurance intermediary manager will disclose to the reinsurer any relationship it has with any insurer prior to ceding or assuming any business with such insurer pursuant to this contract.

(n) Within the scope of its actual or apparent authority the acts of the reinsurance intermediary manager shall be deemed to be the acts of the reinsurer on whose behalf it is acting.

Section 177T. The reinsurance intermediary manager shall not:

(A) Cede retrocessions on behalf of the reinsurer, except that the reinsurance intermediary manager may cede facultative retrocessions pursuant to obligatory facultative agreements if the contract with the reinsurer contains reinsurance underwriting guidelines for such retrocessions. Such guidelines shall include a list of reinsurers with which such automatic agreements are in effect, and for each such reinsurer, the coverages and amounts or percentages that may be reinsured, and commission schedules.

(B) Commit the reinsurer to participate in reinsurance syndicates.

(C) Appoint any producer without assuring that the producer is lawfully licensed to transact the type of reinsurance for which he is appointed.

(D) Without prior approval of the reinsurer, pay or commit the reinsurer to pay a claim, net of retrocessions, that exceeds the lesser of an amount specified by the reinsurer or one percent of the reinsurer's policyholder's surplus as of December thirty-first of the last complete calendar year.

(E) Collect any payment from a retrocessionaire or commit the reinsurer to any claim settlement with a retrocessionaire, without prior approval of the reinsurer. If prior approval is given, a report must be promptly forwarded to the reinsurer.

(F) Jointly employ an individual who is employed by the reinsurer unless such reinsurance intermediary manager is under common control with the reinsurer subject to sections two hundred and six to two hundred and six D, inclusive.

(G) Appoint a sub-reinsurance intermediary manager.

Section 177U. (A) A reinsurer shall not engage the services of any person, firm, association or corporation to act as a reinsurance intermediary manager on its behalf unless such person is licensed as required by section one hundred and seventy-seven O.

(B) The reinsurer shall annually obtain a copy of statements of the financial condition of each reinsurance intermediary manager which such reinsurer has engaged prepared by an independent certified accountant in a form acceptable to the commissioner.

(C) If a reinsurance intermediary manager establishes loss reserves, the reinsurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the reinsurance intermediary manager. This opinion shall be in addition to any other required loss reserve certification.

(D) Binding authority for all retrocessional contracts or participation in reinsurance syndicates shall rest with an officer of the reinsurer who shall not be affiliated with the reinsurance intermediary manager.

(E) Within thirty days of termination of a contract with a reinsurance intermediary manager, the reinsurer shall provide written notification of such termination to the commissioner which shall include a statement of all reasons for such termination.

(F) A reinsurer shall not appoint to its board of directors, any officer, director, employee, controlling shareholder or subproducer of its reinsurance intermediary manager. This subsection shall not apply to relationships governed by sections two hundred and six to two hundred and six D, inclusive, or, if applicable, sections one hundred and seventy-four F to one hundred and seventy-four K, inclusive.

Section 177V. (A) A reinsurance intermediary shall be subject to examination by the commissioner. The commissioner shall have access to all books, bank accounts and records of the reinsurance intermediary in a form usable to the commissioner.

(B) A reinsurance intermediary manager may be examined as if it were the reinsurer.

Section 177W. (A) A reinsurance intermediary shall be considered to be in the business of insurance for purposes of the applicability of chapter one hundred and seventy-six D. In addition to the remedies provided by that chapter, in any administrative action against a reinsurance intermediary the commissioner may order:

(1) For each separate violation, a penalty in an amount up to ten thousand dollars; (2) The reinsurance intermediary to make restitution to the insurer, reinsurer, rehabilitator or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to such violation.

(B) Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided in this chapter or any other applicable sections of the General Laws.

(C) Nothing contained in these sections is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, creditors or other third parties or confer any rights on such persons.

SECTION 49. Sections one hundred and ninety-three L to one hundred and ninety-three N of said chapter one hundred and seventy-five are hereby repealed.

SECTION 50. Section one hundred and ninety-three Q of said chapter one hundred and seventy-five is hereby repealed.

SECTION 50A. Section one hundred and ninety-three S of said chapter one hundred and seventy-five is hereby repealed.

SECTION 51. Said chapter 175 is hereby further amended by adding the following seven sections:-

Section 206. As used in sections two hundred and six, two hundred and six A, two hundred and six B, two hundred and six C, and two hundred and six D, the following words shall, unless the context clearly requires otherwise, have the following meaning:-

"Affiliate", an affiliate of, or person affiliated with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

"Commissioner", the insurance commissioner, his deputies, or the division of insurance, as appropriate.

"Control", including controlling, controlled by and 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 non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by section two hundred and six D that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

"Insurance holding company system", an insurance holding company system consists of two or more affiliated persons, one or more of which is an insurer.

"Insurer", shall have the same meaning as set forth in section one and, in no event, shall include: (1) agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state; (2) fraternal benefit societies under chapter one hundred and seventy-six or (3) nonprofit medical and hospital service associations under chapters one hundred and seventy-six A and one hundred and seventy-six B.

"Person", a person is an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but shall not include any joint venture partnership exclusively engaged in owning, managing, leasing or developing real or tangible personal property.

"Securityholder", a securityholder of a specified person is one who owns any security of such person, including common stock, preferred stock, debt obligations and any other security convertible into or evidencing the right to acquire any of the foregoing.

"Subsidiary", a subsidiary of a specified person is an affiliate controlled by such person directly or indirectly through one or more intermediaries.

"Voting security", shall include any security convertible into or evidencing a right to acquire a voting security.

Section 206A. (a) In addition to capital stock investments authorized or permitted elsewhere in this chapter, and provided that the insurer has satisfied the requirements of section sixty-three applicable to the insurer, any domestic insurer, either by itself or in cooperation with one or more persons, may organize, or acquire, or invest in the capital stock of one or more subsidiaries engaged in one or more of the following kinds of business:

(1) any kind of insurance business authorized by the jurisdiction in which it is incorporated;

(2) acting as an insurance broker or as an insurance agent for its parent or for any of its parent's insurer subsidiaries;

(3) investing, reinvesting or trading in securities for its own account, that of its parent, any subsidiary of its parent, any affiliate, or subsidiary, or on behalf of any other person;

(4) management of any investment company subject to or registered pursuant to the Investment Company Act of 1940 (15 USC, sections 80 a-1 to 80 b-21), as amended, including related sales and services;

(5) acting as a trustee, transfer agent, custodian, or fiduciary;

(6) any business which the insurer can do directly pursuant to section forty-seven A;

(7) a corporation providing sales, administrative, custody, management, or investment advisory services to investors;

(8) a corporation providing sales, administrative, custody, management, or investment advisory services to investment companies, other insurance companies, other financial institutions, governments, government agencies, corporations, other organizations, individuals or groups;

(9) acting as a broker-dealer subject to or registered pursuant to the Securities Exchange Act of 1934, 15 USC, section 78a to 78k, inclusive, as amended;

(10) a corporation providing financial consulting or financial planning services;

(11) a corporation providing services related to the operations of an insurance business including, but not limited to: actuarial, accounting, administrative, claims, communications, appraisal and collection, data processing, loss prevention, management,

marketing, telemarketing, underwriting, safety engineering services, or acting as an administrative agent for a governmental instrumentality which is performing insurance functions or is responsible for a health, retirement or welfare program;

(12) ownership or management of assets which the parent insurer itself could own or manage;

(13) a company engaged in premium financing, factoring or any general financing business;

(14) any other business activity determined by the commissioner to be supplementary or complementary to the business of a domestic insurance company; or

(15) owning a corporation or corporations engaged or organized to engage in one or more of the businesses permitted under this chapter.

(b) In addition to investments in capital stock authorized or permitted under all other sections, provided that the insurer has satisfied the requirements of section sixty-three applicable to the insurer, a domestic insurer may also:

(1) invest in capital stock of one or more subsidiaries of the type authorized in this chapter, additional amounts which do not exceed the lesser of ten percent of such insurer's assets or fifty percent of such insurer's surplus as regards policyholders, provided that after such investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of such investments, investment in the capital stock of domestic or foreign insurance subsidiaries shall be excluded, and there shall be included:

(i) total net monies or other consideration expended and obligations assumed in the acquisition or formation of noninsurer subsidiaries, including all organizational expenses and contributions to capital and surplus of such noninsurance subsidiaries; and (ii) all amounts expended in acquiring additional capital stock and all contributions to the capital or surplus of noninsurance subsidiaries subsequent to their acquisition or formation;

(2) Invest any amount in capital stock of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer, however, provided that each such subsidiary limits its investments in any asset so that such investment in such assets pursuant to this clause will not cause the amount of the total investment of the insurer to exceed the applicable investment limitation contained in the section under which such investment would otherwise be held by the insurer pursuant to the applicable provisions of sections sixty-three to sixty-six E, inclusive, subsection (a) of section two hundred and six A and paragraph (1) of subsection (b) of section two hundred and six A. For purposes of this clause the total investment of the insurer shall include:

(i) any direct investment by the insurer in an asset, and (ii) the insurer's proportionate share of any investment in an asset by any subsidiary of the insurer formed or acquired pursuant to this clause, which proportionate share shall be calculated by multiplying the amount of such subsidiary's investment in such asset by the percentage of the capital stock of such subsidiary owned by the insurer;

(3) With the approval of the commissioner, invest any greater amount in capital stock of one or more subsidiaries of the types authorized for investment by this chapter, provided that after such investment the insurer's surplus as regards policyholders and its asset valuation reserve are reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(c) Whether any investment pursuant to subsection (b) meets the applicable requirements thereof is to be determined before such investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account the value of all previous investments in capital stock of subsidiaries acquired subject to the limitations of said subsection (b) as of the day they were made, net of any return of capital invested, not including dividends.

(d) If an insurer ceases to control a subsidiary, it shall dispose of the investment in the capital stock made pursuant to this section within three years from the time of the cessation of control or within such further time as the commissioner may prescribe, unless at any time after such investment shall have been made, such investment shall have met the requirements for investment under any other section of this chapter or is otherwise lawful, and the insurer has notified the commissioner thereof.

Section 206B. (a) No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities or, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, such person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time any such offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of such securities if no offer or agreement is involved, such person has filed with the commissioner and has sent to such insurer, a statement containing the information required by this section and such offer, request, invitation, agreement or acquisition has been approved by the commissioner in the manner hereinafter prescribed.

(1) For purposes of this section a domestic insurer shall include any person controlling a domestic insurer. For the purposes of this section, person shall not include any securities broker holding, in the usual and customary brokers function, less than twenty percent of the voting securities of an insurance company or of any person which controls an insurance company.

(b) The statement to be filed with the commissioner hereunder shall be made under oath or affirmation and shall contain the following information:

(1) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (a) is to be effected, hereinafter called the acquiring party, and (i) if such person is an individual, his principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years; (ii) if such person is not an individual, a

report of the nature of its business operations during the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such person and such person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of such person, or who perform or will perform functions appropriate to such positions. Such list shall include for each such individual the information required by paragraph (1).

(2) The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for any such purpose, including any pledge of the insurer's stock, or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing such consideration; provided, however, that where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing such statement so requests.

(3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each such acquiring party or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than ninety days prior to the filing of the statement.

(4) Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

(5) The number of shares of any security referred to in subsection (a) which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in said subsection (a), and a statement as to the method by which the fairness of the proposal was arrived at.

(6) The amount of each class of any security referred to in said subsection (a) which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

(7) A full description of any contracts, arrangements or understandings with respect to any security referred to in said subsection (a) in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

(8) A description of the purchase of any security referred to in said subsection (a) during the twelve calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefore.

(9) A description of any recommendations to purchase any security referred to in said subsection (a) made during the twelve calendar months preceding the filing of the statement, by any acquiring party, or by anyone based upon interviews or at the suggestion of such acquiring party.

(10) Copies of all tender offers for, requests, or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in said subsection (a), and, if distributed, of additional soliciting material relating thereto.

(11) The term of any agreement, contract or understanding made with or proposed to be made with any broker-dealer as to solicitation of securities referred to in said subsection (a) for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

(12) Such additional information as the commissioner may by rule or regulation prescribe as necessary or appropriate for the protection of policyholders and stockholders of the insurer or in the public interest.

If the person required to file the statement referred to in said subsection (a) is a partnership, limited partnership, syndicate or other group, the commissioner may require that the information called for by clauses (1) to (12), inclusive, shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person who controls such partner or member. If any such partner, member or person is a corporation or the person required to file the statement referred to in said subsection (a) is a corporation, the commissioner may require that the information called for by said clauses (1) to (12), inclusive, shall be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent of the outstanding voting securities of such corporation. If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to such insurer pursuant to this section, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the commissioner and sent to such insurer within two business days after the person learns of such change.

(c) If any offer, request, invitation, agreement or acquisition referred to in said subsection (a) is proposed to be made by means of a registration statement under the Securities Act of 1933, 15 USC, section 77, et seq., or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, 15 USC, sections 78a to 78k, inclusive, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in said subsection (a) may utilize such documents in furnishing the information called for by that statement.

(d) (1) The commissioner shall approve any merger or other acquisition of control referred to in said subsection (a) unless, after a public hearing thereon, he finds that:

(i) after the change of control, the domestic insurer referred to in said subsection (a) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) the effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this commonwealth or tend to create a monopoly therein;

(iii) the financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(iv) the terms of the offer, request, invitation, agreement of acquisition referred to in said subsection (a) are unfair, and unreasonable to the policyholders of the insurer;

(v) the plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(vi) the competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

(vii) the acquisition is likely to be hazardous or prejudicial to the insurance buying public.

(2) The public hearing referred to in clause (1) shall be held within thirty days after the statement required by said subsection (a) is filed, and at least twenty days notice thereof shall be given by the commissioner to the person filing the statement. Not less than seven days notice of such public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the commissioner. The commissioner shall make a determination within thirty days after the conclusion of such hearing. At such hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected thereby shall have the right to present evidence, examine and cross-examine witnesses, offer oral and written arguments in connection therewith, and shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the superior court department of the trial court. All discovery proceedings shall be concluded not later than three days prior to the commencement of the public hearing.

(3) The commissioner may retain at the acquiring person's expense any attorneys, actuaries, accountants and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed acquisition of control.

(4) The commissioner may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time.

(e) The provisions of this section shall not apply to:

(1) Any transaction which is subject to the provisions of section nineteen A, nineteen B, one hundred and sixty-one A, one hundred and sixty-one B, one hundred and sixty-one C, one hundred and sixty-one D or one hundred and sixty-one E, dealing with the merger or consolidation of two or more insurers.

(2) Any offer, request, invitation, agreement or acquisition which the commissioner by order shall exempt therefrom as: (i) not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or (ii) as otherwise not comprehended within the purposes of this section.

(f) The following shall be violations of this section:

(1) The failure to file any statement, amendment, or other material required to be filed pursuant to subsection (a) or (b); or (2) The effectuation or any attempt to effectuate an acquisition of control of, or merger with, a domestic insurer unless the commissioner has given his approval thereto.

(g) The courts of the commonwealth are hereby vested with jurisdiction over every person not resident, domiciled, or authorized to do business in the commonwealth who files a statement with the commissioner under this section, and over all actions involving such person arising out of violations of this section, and each such person shall be deemed to have performed acts equivalent to and constituting an appointment by such a person of the commissioner to be his true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding arising out of violations of this section. Copies of all such lawful process shall be served on the commissioner and transmitted by registered or certified mail by the commissioner to such person at his last known address.

Section 206C. (a) Every insurer which is authorized to do business in the commonwealth and which is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in:

(1) subsection (a) to subsection (1), inclusive, (2) subsection (m), subsection (r), and subsection (t); and (3) either subsection (n) or a provision such as the following: Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within fifteen days after the end of the month in which it learns of each such change or addition, and provided the jurisdiction of its domicile grants a similar exemption to insurers domiciled in the commonwealth. Any insurer which is subject to registration under this section shall register within fifteen days after it becomes subject to registration, and annually thereafter by April thirtieth of each year for the previous calendar year, unless the commissioner for good cause shown extends the time for registration, and then within such extended time. The commissioner may require any insurer authorized to do business in the commonwealth which is a member of a holding company system, and which is not subject to registration under this section, to furnish a copy of the registration statement, the summary specified in subsection (c) or other information filed by such insurance company with the insurance regulatory authority of domiciliary jurisdiction.

(b) Every insurer subject to registration shall file the registration statement on a form prescribed by the commissioner which shall contain the following current information:

(1) the capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer;

(2) the identity and relationship of every member of the insurance holding company system;

(3) the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between such insurer and its affiliates:

(i) loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) purchases, sales or exchange of assets;

(iii) transactions not in the ordinary course of business;

(iv) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) all management agreements, service contracts and all cost-sharing arrangements;

(vi) reinsurance agreements;

(vii) dividends and other distributions to shareholders; and

(viii) consolidated tax allocation agreements;

(4) any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;

(5) other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner.

(c) All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(d) No information need be disclosed on the registration statement filed pursuant to subsection (b) if such information is not material for the purposes of this section. Unless the commissioner by rule, regulation or order provides otherwise; sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees, any transaction involving one-half of one percent or less of an insurer's admitted assets as of the thirty-first day of December next preceding shall not be deemed material for purposes of this section.

(e) Subject to clause (1) of subsection (r), each domestic insurer shall report to the commissioner all dividends and other distributions to its shareholders within five business days following the declaration thereof and at least ten business days, commencing from the date of receipt by the commissioner, prior to the payment thereof. No domestic insurer shall pay any dividend or make any distribution to its shareholders from other than unassigned funds unless the commissioner shall have approved such dividend or distribution. For purposes of this subsection, the term unassigned funds shall have the same meaning as that term is used in the annual statement required to be filed with the commissioner under the provisions of section twenty-five.

(f) Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer, where such information is reasonably necessary to enable the insurer to comply with the provisions of sections two hundred and six to two hundred and six D, inclusive.

(g) The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

(h) The commissioner may require or allow two or more affiliated insurers subject to registration hereunder to file a consolidated registration statement.

(i) The commissioner may allow an insurer which is authorized to do business in the commonwealth and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subsection (a) and to file all information and material required to be filed under this section.

(j) The provisions of this section shall not apply to any insurer, information or transaction if and to the extent that the commissioner by rule, regulation or order shall exempt the same from the provisions of the this section.

(k) Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with such person unless and until the commissioner disallows such a disclaimer. The commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support such disallowance.

(l) The failure to file a registration statement or any summary of the registration statement thereto required by this section within the time specified for such filing shall be a violation of this section.

(m) Transactions within a holding company system to which an insurer subject to registration is a party shall be subject to the following standards:

(1) the terms shall be fair and reasonable;

(2) charges or fees for services performed shall be reasonable;

(3) expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;

(4) the books, accounts and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties; and

(5) the insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(n) The following transactions involving a domestic insurer and any person in its holding company system may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into such transaction at least thirty days prior thereto, or such shorter period as the commissioner may permit, and the commissioner has not disapproved it within such period.

(1) sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments provided such transactions are equal to or exceed: (a) with respect to non-life insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders; (b) with respect to life insurers, three percent of the insurer's admitted assets: each as of the thirty-first day of December next preceding;

(2) loans or extensions of credit to any person who is not an affiliate, where the insurer makes such loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit provided such transactions are equal to or exceed: (a) with respect to non-life insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders; (b) with respect to life insurers, three percent of the insurer's admitted assets: each as of the thirty-first day of December next preceding;

(3) reinsurance agreements or modifications thereto in which the reinsurance premium or a change in the insurer's liabilities equals or exceeds the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders as of the thirty-first day of December next preceding, including those agreements which may require as consideration the transfer of assets from an insurer to a non-affiliate, if an agreement or understanding exists between the insurer and non-affiliate that any portion of such assets will be transferred to one or more affiliates of the insurer;

(4) all management agreements and service contracts, and all cost-sharing arrangements which are not based on generally accepted accounting principles pertaining to cost allocation, and all cost-sharing arrangements the transactions under which would be reportable as transactions with affiliates on the insurer's annual statement. The commissioner may exempt from the requirements of this subsection any management agreement, service contract, or cost-sharing arrangement;

(5) any material transactions, specified by regulation, which the commissioner determines may adversely affect the interests of the insurer's policyholders; or

(6) notifications shall be provided to the commissioner for transactions in clauses (1) to (5), inclusive, which increase or decrease the insurer's surplus as regards policyholders as of the thirty-first day of December next preceding by five percent or more. This notification shall accompany the next quarterly financial statement filing.

Nothing herein contained shall be deemed to authorize or permit any transactions which, in the case of an insurer not a member of the same holding company system, would be otherwise contrary to law.

(o) A domestic insurer may not enter into transactions which are part of a plan or series of like transactions with persons within the holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the commissioner determines that such separate transactions were entered into over any twelve month period for such purpose, he may exercise his authority under subsection (b) of section two hundred and six D.

(p) The commissioner, in reviewing transactions pursuant to subsections (m) and (n), shall consider whether the transactions comply with the standards set forth in said subsections (m) and (n) and whether they may adversely affect the interests of policyholders.

(q) The commissioner shall be notified within thirty days of any investment of the domestic insurer in any one corporation if the total investment in such corporation by the insurance holding company system exceeds ten percent of such corporation's voting securities.

(r) No domestic insurer shall pay any extraordinary dividend or make any other extraordinary distributions to its shareholders until (1) thirty days after the commissioner has received notice of the declaration thereof and has not within such period disapproved such payment, or (2) the commissioner shall have approved such payment within such thirty day period. For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with other dividends or distributions made within the preceding twelve months exceeds the greater of (i) ten percent of such insurer's surplus as regards policyholders as of the thirty-first day of December next preceding, or (ii) the net gain from operations of the insurer if the insurer is a life insurance company, or the net income of the insurer if such insurer is not a life insurance company, for the twelve month period ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

Notwithstanding any other provision of the General Laws, an insurer may declare an extraordinary dividend or distribution which is conditional on the commissioner's approval thereof, and such a declaration shall confer no rights upon shareholders until (1) the commissioner has approved the payment of such dividend or distribution or (2) the commissioner has not disapproved such payment within the thirty day period referred to above.

(s) (1) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to assure its separate operating identity consistent with this chapter.

(2) Nothing herein shall preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property or services with one or more other persons under arrangements meeting the standards of subsection (m) of section two hundred and six D.

(t) For purposes of sections two hundred and six to two hundred and six D, inclusive, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

(1) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

(2) the extent to which the insurer's business is diversified among the several lines of insurance;

(3) the number and size of risks insured in each line of business;

(4) the extent of the geographical dispersion of the insurer's insured risks;

(5) the nature and extent of the insurer's reinsurance program;

(6) the quality, diversification and liquidity of the insurer's investment portfolio;

(7) the recent past and projected future trend in the size of the insurer's investment portfolio and surplus to policyholders;

(8) the surplus as regards policyholders maintained by other comparable insurers;

(9) the adequacy of the insurer's reserves;

(10) the quality and liquidity of investments in affiliates. The commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the judgment such investment so warrants; and

(11) the quality of the company's earnings and the extent to which the reported earnings include extraordinary items.

(u) (1) Subject to the limitation contained in this section and in addition to the powers which the commissioner has under section four relating to the examination of insurers, the commissioner shall also have the power to order any insurer registered under section two hundred and six C to produce such records, books, or other information papers in the possession of the insurer or its affiliates as are reasonably necessary to ascertain the financial condition of such insurer or to determine compliance with this chapter. In the event such insurer fails to comply with such order, the commissioner shall have the power to examine such affiliates to obtain such information.

(2) The commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants and other experts not otherwise a part of the commissioner's staff as shall be reasonably necessary to assist in the conduct of the examination under paragraph (1) of subsection (u). Any persons so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

(3) Each registered insurer producing for examination records, books and papers pursuant to said paragraph (1) of said subsection (u) shall be liable for and shall pay the expense of such examination in accordance with section four.

(v) Notwithstanding any other provisions of the General Laws, including clause Twenty-sixth of section seven of chapter four and chapter sixty-six, all information, documents and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to subsection (u) and

all information reported pursuant to section two hundred and six C, shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the commissioner, the National Association of Insurance Commissioners, or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interest of policyholders, shareholders or the public will be served by the publication thereof, in which event he may publish all or any part thereof in such manner as he may deem appropriate.

(w) The commissioner may, pursuant to chapter thirty A, upon notice and opportunity for all interested parties to be heard, issue such rules, regulations and orders as shall be necessary to carry out the provisions of sections two hundred and six to two hundred and six D, inclusive.

Section 206D. (a) (1) Whenever it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed or is about to commit a violation of sections two hundred and six to two hundred and six D, inclusive or any rule, regulation or order issued by the commissioner thereunder, the commissioner may apply to the superior court department of the trial court for Suffolk county for an order enjoining such insurer or such director, officer, employee or agent thereof from violating or continuing to violate said sections two hundred and six to two hundred and six D, inclusive or any such rule, regulation or order, and for such other equitable relief as the nature of the case and the interest of the insurer's policyholders, creditors and shareholders or the public may require.

(2) No security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of the provisions of sections two hundred and six to two hundred and six D, inclusive or of any rule, regulation or order issued by the commissioner thereunder may be voted at any shareholder's meeting, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though such securities were not issued and outstanding; but no action taken at any such meeting shall be invalidated by the voting of such securities, unless the action would materially affect control of the insurer or unless the courts of this commonwealth have so ordered. If an insurer or the commissioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of sections two hundred and six to two hundred and six D, inclusive or any rule, regulation or order issued by the commissioner thereunder; the insurer or the commissioner may apply to the superior court for the county in which the insurer has its principal place of business to enjoin any offer, request, invitation, agreement or acquisition made in contravention of section two hundred and six B or any rule, regulation or order issued by the commissioner thereunder to enjoin the voting of any security so acquired, to void any vote of such security already cast at any meeting of shareholders and for such other equitable relief as the nature of the case and the interest of the insurer's policyholders, creditor and shareholders or the public may require.

(3) In any case where a person has acquired or is proposing to acquire any voting securities in violation of sections two hundred and six to two hundred and six D, inclusive or any rule, regulation or order issued by the commissioner thereunder, the superior court department of the trial court for Suffolk county or the superior court department of the trial court for the county in which the insurer has its principal place of business may, on such notice as the court deems appropriate, upon the application of the insurer or the commissioner seize or sequester any voting securities of the insurer owned directly or indirectly by such person, and issue such order with respect thereto as may be appropriate to effectuate the provisions of sections two hundred and six to two hundred and six D, inclusive. Notwithstanding any other provisions of law, for the purposes of said sections two hundred and six to two hundred and six D, inclusive, the sites of the ownership of the securities of domestic insurers shall be deemed to be in the commonwealth.

(b) (1) Any insurer failing, without just cause, to file any registration statement as required in sections two hundred and six to two hundred and six D, inclusive, may be required, after notice and hearing, to pay a penalty of five hundred dollars for each day's delay. The maximum penalty under this section shall be ten thousand dollars. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

(2) Every director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly shall permit any of the officers or agents of the insurer to engage in transactions or make investments which have not been properly reported or submitted pursuant to subsection (a), (n) or (r) of section two hundred and six C, or which violate any provisions of sections two hundred and six to two hundred and six D, inclusive, may if so determined by the commissioner, pay, in their individual capacity, a civil forfeiture of not more than five thousand dollars per violation, after notice and hearing before the commissioner. In determining the amount of the civil forfeiture, the commissioner shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(3) Whenever it appears to the commissioner that any insurer subject to sections two hundred and six to two hundred and six E, inclusive or any director, officer, employee or agent thereof has engaged in any transaction or entered into a contract which is subject to subsections (m) to (w), inclusive, of section two hundred and six C and which would not have been approved had such approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing the commissioner may also order the insurer to void any such contracts and restore the status quo if such action is in the best interest of the policyholders, creditors or the public.

(4) Whenever it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed a willful violation of sections two hundred and six

to two hundred and six D, inclusive, the commissioner may report the facts to the attorney general or to the proper district attorneys. Any insurer which willfully violates any provision of sections two hundred and six to two hundred and six D, inclusive, may be fined not more than ten thousand dollars. Any individual who willfully violates any provision of said sections two hundred and six to two hundred and six D, inclusive, may be fined in his individual capacity not more than five thousand dollars per violation.

(5) Any officer, director, or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statements or false reports or false filings with the intent to deceive the commissioner in the performance of his duties under sections two hundred and six to two hundred and six D, inclusive, upon conviction thereof, shall be imprisoned for not more than two years or fined five thousand dollars, or both such fine and imprisonment. Any fines imposed shall be paid by the officer, director, or employee in his individual capacity.

(c) Whenever it appears to the commissioner that any person has committed a violation of sections two hundred and six to two hundred and six D, inclusive, which so impairs the financial condition of a domestic insurer as to threaten insolvency or make the further transaction of business by it hazardous to its policyholders, creditors, shareholders or the public, then the commissioner may proceed as provided in sections six, one hundred and seventy-eight, one hundred and eighty L, and chapter one hundred and seventy-five J.

(d) (1) If an order for liquidation or rehabilitation of a domestic insurer has been entered, the receiver appointed under such order shall have a right to recover on behalf of the insurer, (i) from any parent corporation or holding company or person or affiliate who otherwise controlled the insurer, the amount of distributions, other than distributions of shares of the same class of stock, paid by the insurer on its capital stock, or (ii) any payment in the form of a bonus, termination settlement or extraordinary lump sum salary adjustment made by the insurer or its subsidiaries to a director, officer or employee, where the distribution or payment pursuant to (i) or (ii) is made at any time during the one year preceding the petition for liquidation, conservation or rehabilitation, as the case may be, subject to the limitations of paragraphs (2), (3) and (4).

(2) No such distribution shall be recoverable if the parent corporation or affiliate shows that when paid such distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that such distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(3) Any person who was a parent corporation or holding company or a person who otherwise controlled the insurer or affiliate at the time such distributions were paid shall be liable up to the amount of distributions or payments under paragraph (1) such person received. Any person who otherwise controlled the insurer at the time such distributions were declared shall be liable up to the amount of distributions he would have received if they had been paid immediately. If two or more persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(4) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the contractual obligations of the impaired or insolvent insurer and to reimburse any guaranty funds.

(5) To the extent that any person liable under paragraph (3) is insolvent or otherwise fails to pay claims due from it pursuant to said paragraph (3), its parent corporation or holding company or person who otherwise controlled the insurer or affiliate at the time the distribution was paid, shall be jointly and severally liable for any resulting deficiency in the amount recovered from such parent corporation or holding company or person who otherwise controlled it.

(e) Whenever it appears to the commissioner that any person has committed a violation of any provision of sections two hundred and six to two hundred and six D, inclusive, which makes the continued operation of an insurer contrary to the interests of policyholders or the public, the commissioner may, after giving notice and an opportunity to be heard, determine to suspend, revoke or refuse to renew such insurer's license or authority to do business in this commonwealth for such period as he finds is required for the protection of policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law.

(f) (1) Any person aggrieved by any act, determination, rule, regulation, or order or any other action of the commissioner pursuant to sections two hundred and six to two hundred and six D, inclusive, may appeal therefrom to the superior court department of the trial court for Suffolk county. The court shall conduct its review without a jury and by trial de novo, except that if all parties, including the commissioner, so stipulate, the review shall be confined to the record. Portions of the record may be introduced by stipulation into evidence in a trial de novo as to those parties so stipulating.

(2) The filing of an appeal pursuant to this subsection shall stay the application of any such rule, regulation, order or other action of the commissioner to the appealing party unless the court, after giving such party notice and an opportunity to be heard, determines that such a stay would be detrimental to the interest of policyholders, shareholders, creditors or the public.

(3) Any person aggrieved by any failure of the commissioner to act or make a determination required by sections two hundred and six to two hundred and six D, inclusive, may petition the superior court department of the trial court for Suffolk county for a writ in the nature of a mandamus or a peremptory mandamus directing the commissioner to act or make such determination forthwith.

Section 207. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Parent corporation", a corporation organized for any purpose under the law of the commonwealth or any other jurisdiction, owning directly or indirectly at least ninety percent of the aggregate issued and outstanding shares of all classes of capital stock of an incorporated domestic stock company.

"Subsidiary insurer", an incorporated domestic stock company so owned by a parent corporation.

(b) Any parent corporation may, in the manner hereinafter prescribed, acquire all of the issued and outstanding shares of any class or classes of capital stock of its subsidiary insurer not owned by the parent corporation. The method authorized by this section for acquiring shares of a subsidiary insurer is not exclusive, but is in addition to any other lawful method for the acquisition of such shares.

(c) The board of directors of the parent corporation which seeks to acquire minority interests in its subsidiary insurer shall adopt a plan for such acquisition, which plan shall set forth: (1) the name of the subsidiary insurer; (2) the total number of issued and outstanding shares of each class of stock of the subsidiary insurer, the number of its shares owned by the parent corporation and, if either of the foregoing is subject to change prior to the effective date of acquisition the manner in which any change may occur; (3) the terms and conditions of the plan, including the manner and basis of exchanging the shares to be acquired for shares or other securities of the parent corporation, for cash, other consideration, or any combination of the foregoing, and the proposed effective date of acquisition; (4) if the parent corporation is not authorized to do business in the commonwealth, its consent to the enforcement against it in the commonwealth of the rights of shareholders pursuant to the plan or the rights of shareholders objecting to the plan, and a designation of the commissioner as the agent upon whom process may be served against the parent corporation in any action or proceeding to enforce any such rights; and (5) such other provisions with respect to the plan as the board of directors of the parent corporation deems necessary or desirable, or as the commissioner may prescribe.

(d) Upon the adoption of the plan of acquisition, it shall be executed by the parent corporation under its corporate seal and submitted to the commissioner who shall, within sixty days from the date of such submission, endorse thereon his approval or disapproval and notify the parent corporation thereof. The commissioner in reviewing such plan of acquisition may employ such experts or consultants as he shall deem necessary. The reasonable costs of such experts and consultants are to be paid for by the parent corporation. The commissioner shall approve the plan if he is satisfied that it complies with this section and is not inconsistent with law. If the commissioner disapproves the plan he shall advise the parent corporation in writing of the reasons for such disapproval. No such plan shall take effect unless the approval of the commissioner has been obtained. Any refusal by the commissioner to give any approval required by this section shall be subject to judicial review.

(e) If the commissioner approves the plan, the parent corporation shall deliver a copy of the plan or a summary thereof approved by the commissioner, together with a statement of the rights of objecting shareholders in accordance with this section, to each person who, as of the date of delivery, is a holder of record of stock to be acquired pursuant to the plan. Such delivery shall be made either in person or by depositing a copy of the plan or the approved summary and statement of rights of objecting shareholders in the United States

mail, postage prepaid, addressed to the shareholder at his address of record. On or before the date of acquisition proposed in the plan, the parent corporation shall file with the commissioner a certificate executed by its president or vice-president and attested by its secretary or assistant secretary under the seal of the parent corporation, attesting to compliance with the provisions of this section by the parent corporation. Upon compliance with the foregoing requirements, ownership of the shares to be acquired pursuant to the plan shall vest in the parent corporation on the date of acquisition proposed in the plan, whether or not the certificates for such shares have been surrendered for exchange, and the parent corporation shall be entitled to have new certificates therefore registered in its name. The holders of all such shares shall surrender the certificates for such shares to the parent corporation for exchange pursuant to the plan. Whether or not a shareholder so surrenders his certificate or certificates, all of his rights, powers, and privileges as such shareholder shall nevertheless terminate and be extinguished as of such date, excepting only his right to receive payment for his stock as provided in the plan, or to object to the plan and receive payment for his stock in accordance with the provisions hereinafter set forth.

(f) The statement of rights of objecting shareholders may be in such form as the directors of the parent corporation deem advisable, but the following form of notice shall be sufficient to comply with this section:

Any shareholder who objects to the plan shall have the right to demand in writing from the parent corporation, within thirty days after the date of mailing of this statement, payment for his shares and an appraisal of the value thereof. Such corporation and any such shareholder shall, in such cases, have the rights and duties and shall follow the procedures set forth in this section.

If any shareholder whose stock is to be acquired pursuant to the plan shall in writing within thirty days after the date of mailing of such statement object to the plan and demand payment for his stock from the parent corporation, such corporation shall pay to him the fair value of his stock within thirty days after the expiration of the period during which such demand may be made.

(g) If during the thirty day period for payment, the parent corporation and any such objecting shareholder fail to agree as to the value of such stock, such corporation or any such shareholder may within four months of the expiration of such thirty day period for payment demand a determination of the value of the stock of all such objecting shareholders by filing a bill in equity in the superior court department of the trial court in the county where the corporation in which objecting shareholders held stock has its principal office within the commonwealth. In the event sections ninety-one to ninety-five, inclusive, of chapter one hundred and fifty-six B shall be applicable; provided, however, that a shareholder who makes demand as provided in this section shall be deemed to have consented to the provisions of section ninety-one of said chapter one hundred and fifty-six B relating to notice; and provided, further, that the words "proposed corporate action" for purposes of sections ninety-two and ninety-five of said chapter one hundred and fifty-six B the words shall mean adoption of the plan of acquisition by the parent corporation.

(h) The enforcement by a shareholder of his right to receive payment for his shares in the manner provided in this section shall be an exclusive remedy except that this section shall not exclude the right of such shareholder to bring or maintain an appropriate proceeding to obtain relief on the grounds that the adoption of the plan will be or is illegal or fraudulent as to him.

(i) The superior court department of the trial court of Suffolk county and the superior court department of the trial court for the county in which the subsidiary insurer has its principal place of business are hereby vested with jurisdiction over any parent corporation which files a plan of acquisition with the commissioner under this section, and over all actions involving such parent corporation arising out of this section, including such review as provided herein, and each such parent corporation shall be deemed to have performed an act equivalent to and constituting an appointment by such parent corporation of the commissioner to be its true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding arising out of violations of this section. Copies of all such lawful process shall be served on the commissioner and transmitted by registered or certified mail by the commissioner to such parent corporation at its last known address.

Section 208. Any member of an insurance holding company system, as such is described in sections two hundred and six to two hundred and six D, inclusive, may, at any time that its assets are at least eighty percent committed to or used in the insurance business of its domestic insurance subsidiary, company or companies, be merged into any one of its domestic insurance subsidiaries. In any such merger, the resulting corporation shall be the domestic insurance company. Any such merger shall be subject to sections nineteen A and nineteen C as if both of such companies were insurance companies.

SECTION 52. The General Laws are hereby further amended by inserting after chapter 175I the following chapter:-

CHAPTER 175J.

ADMINISTRATIVE SUPERVISION AND HAZARDOUS FINANCIAL CONDITIONS OF INSURITIES.

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Insurer", includes every entity or person licensed, authorized or permitted by the commissioner to transact the business of insurance in the commonwealth, and for which the commissioner is granted authority to conduct an examination into its affairs; provided, however, that nonprofit hospital and medical service corporations under chapters one hundred and seventy-six A and one hundred and seventy-six B, medical service corporations under chapter one hundred and seventy-six C, dental service corporations under chapter one hundred and seventy-six E, optometric service corporations under chapter one hundred and seventy-six F, health maintenance organizations under chapter one hundred and seventy-six G, and preferred provider organizations under chapter one hundred and seventy-six I, shall not be construed to be "insurers" except for the limited purpose of administrative supervision under the provisions of chapter one hundred and seventy-five J.

"Exceeded its powers", one or more of the following conditions:

(1) the insurer has refused to permit examination of its books, papers, accounts, records or affairs by the commissioner, his deputies, employees or duly commissioned examiners;

(2) a domestic insurer has unlawfully removed from the commonwealth books, papers, accounts or records necessary for an examination of the insurer;

(3) the insurer has failed to promptly comply with the applicable financial reporting statutes or regulations and lawful division requests relating thereto;

(4) the insurer has neglected or refused to observe an order of the commissioner to make good, within the time prescribed by law, any prohibited deficiency in its capital, capital stock or surplus;

(5) the insurer is continuing to transact insurance or write business after its license has been revoked or suspended by the commissioner;

(6) the insurer, by contract or otherwise, has unlawfully or has in violation of an order of the commissioner or has without first having obtained written approval of the commissioner if approval is required by law: (i) totally reinsured its entire outstanding business; or (ii) merged or consolidated substantially its entire property or business with another insurer;

(7) the insurer engaged in any transaction in which it is not authorized or permitted to engage under the laws of this chapter, chapter one hundred and seventy-five, chapter one hundred and seventy-six D or any other applicable provision of the General Laws; or

(8) the insurer refused to comply with a lawful order of the commissioner.

"Consent", an agreement to administrative supervision by the insurer.

Section 2. The provisions of this chapter shall apply to all domestic insurers, and any other insurer doing business in the commonwealth whose state of domicile has requested in writing for the commissioner to apply the provisions of this chapter as regards such insurer.

Section 3. (A) An insurer may be subject to administrative supervision by the commissioner, without a prior hearing, if upon examination or at any other time the commissioner determines that:

(1) the insurer's condition renders the continuance of its business hazardous as defined in subsection (C) to its policyholders or the general public;

(2) the insurer gives its consent; or

(3) the business of the insurer is being conducted fraudulently.

(B) An insurer may be subject to administrative supervision by the commissioner if upon examination or at any other time the commissioner determines, after notice and hearing, that:

(1) the insurer has exceeded its powers, as defined in section one; or

(2) the insurer has engaged in a deliberate pattern or practice constituting a failure to comply with the applicable provisions of chapter one hundred and fifty-two, 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 D, one hundred and seventy-six E, one hundred and seventy-six F, one hundred and seventy-six G, one hundred and seventy-six H, one hundred and seventy-six I, or one hundred and seventy-eight A.

(C) Any one or more of the following standards may be considered by the commissioner to determine whether the condition of any insurer renders the continuance of its business hazardous to its policyholders or the general public:

(1) material adverse findings concerning the insurer's financial condition defined in subsection (D) reported in financial condition and market conduct examination reports;

(2) the National Association of Insurance Commissioners Insurance Regulatory Information System and its related reports;

(3) the ratios of commission expense, general insurance expense, policy benefits and reserve increases to annual premium and net investment income which could lead to an impairment of capital and surplus;

(4) the insurer's asset portfolio when viewed in light of current economic conditions is not of sufficient value, liquidity, or diversity to assure the company's ability to meet its outstanding obligations as they mature;

(5) the recoverability of ceded reinsurance for which credit has been taken in the annual statement and whether the insurer's reinsurance program provides sufficient protection for the company's remaining surplus after taking into account the insurer's cash flow and the classes of business written;

(6) the insurer's operating loss in the last twelve month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than fifty percent of such insurer's remaining surplus as regards policyholders in excess of the minimum required;

(7) whether the insolvency, threatened insolvency or delinquency in payment of a monetary or other obligation of a parent, affiliate, subsidiary or reinsurer may materially adversely affect the solvency of the insurer;

(8) contingent liabilities, pledges or guaranties which either individually or collectively involve a total amount which the commissioner determines may materially adversely affect the solvency of the insurer;

(9) whether any controlling person of any insurer is delinquent in the transmitting, or payment of, net premiums to such insurer;

(10) the age and collectibility of receivables involve a total amount which the commissioner determines adversely affects the solvency of the insurer;

(11) whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of such insurer, fails to possess and demonstrate the competence, fitness and reputation deemed necessary to serve the insurer in such position;

(12) whether management of an insurer has failed to respond to inquires relative to the condition of the insurer or has knowingly furnished false and misleading information concerning an inquiry;

(13) whether management of an insurer either knowingly has filed any false or misleading sworn financial statement, or knowingly has released false or misleading financial statements to lending institutions or to the general public, or knowingly has made a false or misleading entry, or knowingly has omitted an entry of material amount in the books of the insurer;

(14) whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner; or

(15) whether the company has experienced or will experience in the foreseeable future cash flow or liquidity problems.

(D) For the purpose of making a determination of an insurer's financial condition in clause (1) of subsection (C), the commissioner may:

(1) disregard any credit or amount receivable resulting from transactions with a reinsurer which is insolvent, impaired or otherwise subject to a delinquency proceeding;

(2) make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates;

(3) refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

(4) increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next twelve month period.

(E) If the commissioner determines that any of the conditions set forth in subsection (A) or (B) exist, the commissioner may issue an order which shall provide:

(1) notice to the insurer of this determination, and the grounds for this determination;

(2) a written list to the insurer of the requirements to abate this determination within the time period established pursuant to section five; and

(3) notice to the insurer that it is under the supervision of the commissioner and that the commissioner is applying and effectuating the provisions of this chapter.

Section 4. (A) During the period of supervision, the commissioner or the commissioner's designee shall serve as the administrative supervisor. The administrative supervisor may impose operating restrictions or requirements on the insurer during the period of administrative supervision which are deemed necessary for the protection of policyholders or the general public. The administrative supervisor may order the insurer to:

(1) reduce the total amount of present and potential liability for policy benefits by reinsurance;

(2) reduce, suspend or limit the volume of business being accepted or renewed;

(3) reduce general insurance and commission expenses by specified methods;

(4) increase the insurer's capital and surplus;

(5) suspend or limit the declaration and payment of dividends by an insurer to its stockholders or to its policyholders;

(6) file reports in a form acceptable to the commissioner concerning the market value of an insurer's assets;

(7) limit or withdraw from certain investments or discontinue certain investment practices to the extent the commissioner deems necessary;

(8) document the adequacy of premium rates in relation to the risks insured;

(9) file, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or on such format as promulgated by the commissioner; or

(10) cease from engaging in certain business practices which are illegal or which the administrative supervisor deems harmful to policyholders or the general public.

(B) In addition to the provisions of subsection (A), the administrative supervisor may provide that the insurer may not do any of the following things during the period of supervision without the prior approval of the administrative supervisor:

(1) dispose of, convey or encumber any of its assets or its business in force;

(2) withdraw any funds from its bank accounts;

(3) lend any of its funds;

(4) invest any of its property;

(5) transfer any of its property;

(6) incur any debt, obligation or liability;

(7) merge or consolidate with any company;

(8) approve new premiums or renew any policies;

(9) enter into any new reinsurance contract or treaty;

(10) terminate, surrender, forfeit, convert, or lapse any insurance policy, certificate or contract, except for nonpayment of premiums due;

(11) release, pay or refund premium deposits, accrued cash or loan values, unearned premiums, or other reserves on any insurance policy, certificate or contract;

(12) make any material change in management; or

(13) increase salaries and benefits of officers or directors or the preferential payment of bonuses, dividends or other payments deemed preferential.

(C) If the insurer is a foreign insurer the administrative supervisor's order may be limited to the extent provided by statute.

Section 5. (A) If placed under administrative supervision by an order issued pursuant to subsection (E) of section three, the insurer shall have sixty days, or another period of time as designated by the commissioner, to comply with the requirements of the commissioner.

(B) If it is determined after notice and hearing that the conditions giving rise to the supervision still exist at the end of the supervision period specified above, the commissioner may extend such period.

(C) If it is determined that none of the conditions giving rise to the supervision exist, the commissioner shall release the insurer from supervision.

Section 6. (A) Except as provided in this section, and notwithstanding any other provision of the General Laws, including clause Twenty-sixth of section seven of chapter four and chapter sixty-six, all administrative and judicial proceedings arising under this chapter shall be held privately unless a public hearing is requested by the insurer, and all proceedings, hearings, notices, correspondence, reports, records and other information in the possession of the commissioner relating to the supervision of any insurer are confidential.

(B) All records of the insurer and all records of the commissioner concerning the insurer, so far as they pertain to or are a part of the record of the proceedings under this chapter, shall be and remain confidential, and shall not be subject to disclosure under clause Twenty-sixth of section seven of chapter four and chapter sixty-six or any other applicable provision of the General Laws, unless the insurer requests otherwise. Such records shall not be subject to subpoena by third parties, unless the insurer and the commissioner consent to such disclosure or release under subpoena.

(C) The personnel of the division shall have access to these proceedings, hearings, notices, correspondence, reports, records or information as permitted by the commissioner. The commissioner may open the proceedings or hearings or disclose the notices, correspondence, reports, records or information to a department, agency or instrumentality of this or any other state of the United States if the commissioner determines that the disclosure is necessary or proper for the enforcement of the laws of this or any other state of the United States.

(D) The commissioner may open the proceedings or hearings or make public the notices, correspondence, reports, records or other information if the commissioner deems that it is in the best interest of the public or in the best interest of the insurer, its insureds, creditors or the general public.

(E) The provisions of this section shall not apply to proceedings held pursuant to section one hundred and eighty B or one hundred and eighty C or chapter one hundred and seventy-five.

Section 7. An insurer placed under administrative supervision by the commissioner may contest the order, or any part of such order, at any time during the supervision by requesting review of the order by the supreme judicial court for Suffolk county. The insurer must demonstrate that the action taken or proposed to be taken by the terms of the order will not result in improving the condition of the insurer, or result in the protection of the insureds or the public in general. Said supreme judicial court for Suffolk county shall review the action complained of in a closed hearing and render its decision at the earliest possible date thereafter. The court may stay the implementation of any such order of the commissioner, pending its review of such order. Notwithstanding the foregoing, filing of a petition for review of such order shall not automatically stay the implementation of the order, or any of its provisions. Review of such order by said supreme judicial court for Suffolk county shall not be considered initiation of judicial proceedings for the purpose of section six of chapter one hundred and seventy-five.

Section 8. Nothing contained in this chapter shall preclude the commissioner from initiating judicial proceedings to place an insurer in rehabilitation or liquidation proceedings or other delinquency proceedings, however designated under the General Laws, regardless of whether the commissioner has previously initiated administrative supervision proceedings against the insurer.

Section 9. The commissioner may, in accordance with the provisions of chapter thirty A, adopt and promulgate reasonable rules and regulations necessary for the implementation of this chapter.

Section 10. Notwithstanding any other provision of the General Laws, the commissioner may meet with a supervisor appointed under subsection (A) of section four, and with the attorney or other representative of the supervisor, without the presence of any other person, at the time of any proceeding or during the pendency of any proceeding held under authority of this chapter to carry out the commissioner's duties under this chapter or for the supervisor to carry out the supervisor's duties under this chapter.

SECTION 53. The General Laws are hereby further amended by inserting after chapter 176K the following chapter:-

CHAPTER 176L.

RISK RETENTION AND RISK PURCHASING GROUPS.

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Authorized insurer", an insurer licensed by or admitted to do business in the commonwealth or a surplus lines carrier approved to do business in the commonwealth.

"Commissioner", the commissioner of insurance or his designee.

"Completed operations liability", liability arising out of the installation, maintenance, or repair of any product at a site which is not owned or controlled by: (1) any person who performed that work; or (2) any person who hires an independent contractor to perform that work; but shall include liability for activities which are completed or abandoned before the date of the occurrence giving rise to the liability.

"Domicile", for purposes of determining the state in which a purchasing group is domiciled, shall mean: (i) for a corporation, the state in which the purchasing group is incorporated; or (ii) for an unincorporated association, the state of its principal place of business.

"Hazardous financial condition", based on its present or reasonably anticipated financial condition shall mean a risk retention group, although not yet financially impaired or insolvent, is unlikely to be able: (1) to meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or (2) to pay other obligations in the normal course of business.

"Insurance", primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under the laws of the commonwealth.

"Liability", (1) legal liability for damages, including costs of defense, legal costs and fees, and other claims expenses, because of injuries to other persons, damage to their property, or other damage or loss to such other persons, resulting from or arising out of: (a) any business, whether profit or nonprofit, trade, product, services including professional services, premises, or operations; or (b) any activity of any state or local government or any agency or political subdivision thereof; and (2) does not include personal risk liability and an employer's liability with respect to its employees other than legal liability under the Federal Employers' Liability Act, 45 USC, section 51 et seq.

"Personal risk liability", liability for damages because of injury to any person, damage to property, or other loss or damage resulting from any personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in the definition of liability.

"Plan of operation or feasibility study", an analysis which presents the expected activities and results of a risk retention group including, at a minimum:

(1) information sufficient to verify that its members are engaged in businesses or activities similar or related with respect to the liability to which such members are exposed by virtue of any related, similar or common business, trade, product, services, premises or operations;

(2) for each state in which it intends to operate, the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer;

(3) historical and expected loss experience of the proposed members and national experience of similar exposures to the extent that this experience is reasonably available;

(4) pro forma financial statements and projections;

(5) appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition;

(6) detailed description of management, underwriting and claims procedures, marketing methods, managerial oversight methods, investment policies and reinsurance agreements;

(7) identification of each state in which the risk retention group has obtained, or sought to obtain, a charter and license, and a description of its status in each state; and

(8) such other matters as may be prescribed by the commissioner of the state where the risk retention group is chartered for liability insurance companies authorized by the insurance laws of that state.

"Product liability", liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage, including damages resulting from the loss of use of property, arising out of the manufacture, design, importation, distribution, packaging, labeling, lease or sale of a product, but not including the liability of any person for those damages if the product involved was in the possession of such a person when the incident giving rise to the claim occurred.

"Purchasing group", any group which:

(1) has as one of its purposes the purchase of liability insurance on a group basis;

(2) is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar or common business, trade, product, services, premises or operations;

(3) is domiciled in any state; and

(4) purchases such insurance only for its group members and only to cover their similar or related liability exposure as described herein.

"Risk retention group", any corporation or other limited liability association which:

(1) has as its primary activity the assumption and spreading of all, or any portion, of the liability exposure of its group members;

(2) is organized for the primary purpose of conducting the activity described under clause (1);

(3) (a) is chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state; or

(b) before January first, nineteen hundred and eighty-five was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before such date, had certified to the commissioner of at least one state that it satisfied the capitalization requirements of such state, provided that any such group shall be considered to be a risk retention group only if it has been engaged in business continuously since such date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability as such terms were defined in the Product Liability Risk Retention Act of 1981, 15 USC, Section 3901 et seq., before the date of the enactment of the Liability Risk Retention Act of 1986, 15 USC, Section 3901 et seq.;

(4) does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such a person;

(5) (a) has as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by such group; or (b) has as its sole owner an organization which: (i) has as its members only persons who comprise the membership or the risk retention group; and (ii) has as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by such group;

(6) whose members are engaged in businesses or activities similar or related with respect to the liability to which such members are exposed by virtue of any related, similar or common business trade, product, services, premises or operations;

(7) whose activities do not include the provision of insurance other than: (a) liability insurance for issuing and spreading all of any portion of the liability of its group members; or (b) reinsurance with respect to the liability of any other risk retention group or any members of such other group which is engaged in businesses or activities so that such group or member meets the requirement described in clause (6) for membership in the risk retention group which provides such reinsurance; and

(8) the name of which includes the phrase risk retention group.

"State", any state or territory of the United States or the District of Columbia.

Section 2. (A) A risk retention group shall be chartered and licensed under the laws of the commonwealth to write only liability insurance pursuant to the provisions of this chapter and, except as provided elsewhere in this chapter, must comply with (1) all of the laws, rules, regulations and requirements applicable to such insurers chartered and licensed in the commonwealth and with (2) section three to the extent such requirements of said section three are not a limitation on laws, rules, regulations or requirements of the commonwealth.

(B) Before it may offer insurance in any state, a risk retention group shall submit to the commissioner for approval a plan of operation or a feasibility study. In the event of any subsequent material change in any item of the plan of operation or feasibility study, the risk retention group shall submit an appropriate revision or amendment to the commissioner for approval at least ten working days prior to the requested effective date of any such change. The group shall not offer any additional kinds of liability insurance, in the commonwealth or in any other state, until the commissioner approves a revision or amendment of such plan or study.

(C) At the time of filing its application for charter, the risk retention group shall provide to the commissioner in summary form the following information:

(1) the identity of the initial members of the group;

(2) the identity of the persons who organized the group or who will provide administrative services or otherwise influence or control the activities of the group;

(3) the amount and nature of initial capitalization;

(4) the coverages to be afforded; and

(5) the states in which the group intends to operate.

Section 3. A risk retention group chartered and licensed in another state which seeks to do business as a risk retention group in the commonwealth shall comply with the laws of the commonwealth, and shall satisfy the following requirements:

(A) Before offering insurance in the commonwealth, a risk retention group shall submit to the commissioner:

(1) a statement identifying each state in which the risk retention group is chartered and licensed as a liability insurance company, its charter date, its principal place of business, and such other information on its membership, as the commissioner may require to verify that the risk retention group is qualified under the definition of "Risk retention group" in section one; and

(2) a copy of its plan of operations or feasibility study and revisions of or amendments to such plan or study submitted to the state in which the risk retention group is chartered and licensed; provided, however, that the provisions relating to the submission of a plan of operation or feasibility study shall not apply with respect to any line or classification of liability insurance which:

(a) was defined in the Product Liability Risk Retention Act of 1981, (15 USC, Section 3901 et seq.), before October twenty-seventh, nineteen hundred and eighty-six; and (b) was offered before such date by any risk retention group which had been chartered and operating for not less than three years before such date.

The risk retention group shall submit a copy to the commissioner of any subsequent revision or amendment to its plan of operation or feasibility study of this chapter at the same time that such revision is submitted to the licensing authority of its chartering state; and

(3) a statement of registration, for which a filing fee shall be determined pursuant to section fourteen of chapter one hundred and seventy-five, which designates the commissioner as its agent for the purpose of receiving service of legal process; and

(4) such other information as the commissioner may require.

(B) Any risk retention group which seeks to do business in the commonwealth shall submit to the commissioner:

(1) a copy of the group's most recent financial statement submitted to the state in which the risk retention group is chartered and licensed which:

(a) is certified by an independent public accountant; and (b) contains a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a loss reserve specialist qualified under criteria established by the commissioner; and

(2) a copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination; and

(3) upon request by the commissioner, a copy of any information or document pertaining to any outside audit performed with respect to the risk retention group; and

(4) such information as may be required to verify its continuing qualification as a risk retention group under the definition of "Risk retention group" in section one; and

(5) such other information as the commissioner may require.

(C) Each risk retention group shall be liable for the payment of premium taxes and taxes on premiums of direct business for risks resident or located within the commonwealth, and shall report to the commissioner the net premiums written for risks resident or located within the commonwealth. Such risk retention group shall be subject to taxation, and any applicable fines and penalties related thereto, on the same basis as a foreign admitted insurer.

(D) Any risk retention group, its agents, brokers and representatives shall be considered to be in the business of insurance for purposes of the applicability of chapter one hundred and seventy-six D.

(E) Any risk retention group, its agents and representatives, shall comply with the laws of the commonwealth regarding false or fraudulent acts or practices. The commissioner shall have the same authority to enforce the General Laws against risk retention groups as he does against any insurance company.

(F) Any risk retention group must submit to an examination by the commissioner to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered and licensed has not initiated an examination or does not initiate an examination

within sixty days after a request by the commissioner. Any such examination shall be coordinated by the examining authorities to avoid unjustified repetition and conducted in an expeditious manner.

(G) Every application form for insurance from a risk retention group, and every policy, certificate, contract or other document evidencing insurance coverage issued by or on behalf of a risk retention group shall, on its front and declaration pages, contain in ten point type the following notice:

NOTICE

This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group.

(H) A risk retention group is hereby prohibited from:

(1) solicitation or sale of insurance to any person who is not eligible for membership in such group; and

(2) solicitation or sale of insurance by, or on behalf of, a risk retention group that is in hazardous financial condition or is financially impaired.

(I) No risk retention group shall be allowed to do business in the commonwealth if an insurance company is directly or indirectly a member or owner of such risk retention group, other than in the case of a risk retention group which is all members are insurance companies.

(J) The terms of any insurance policy issued by any risk retention group shall not provide, or be construed to provide, coverage prohibited generally by statutes of the commonwealth or declared unlawful by the highest court of a state whose law applies to such policy.

(K) A risk retention group not chartered in the commonwealth and doing business in the commonwealth shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by a state insurance commissioner if there has been a finding of financial impairment after an examination under subsection (F).

(L) A risk retention group that violates any provision of this chapter will be subject to fines and penalties applicable to licensed insurers generally, including revocation of its right to do business in the commonwealth.

(M) In addition to complying with the other requirements of this section, any risk retention group operating in the commonwealth prior to enactment of this chapter shall, within thirty days after the effective date of this chapter, comply with the provision of subsection (A).

Section 4. (A) No risk retention group shall be required or permitted to join or contribute financially to any insurance insolvency guaranty fund, or similar mechanism, in the commonwealth, nor shall any risk retention group, or its insureds or claimants against its insurers, receive any benefit from any such fund for claims arising under the insurance policies issued by such risk retention group.

(B) When a purchasing group obtains insurance covering its members' risks from an insurer which is not required to participate in the Massachusetts Insurers Insolvency Fund established under chapter one hundred and seventy-five D, or a risk retention group, no such risks, wherever resident or located, shall be covered by any insurance guaranty fund or similar mechanism in the commonwealth.

(C) When a purchasing group obtains insurance covering its members' risks from an admitted or licensed insurer, only risks resident or located in the commonwealth shall be covered by an insurance guaranty fund or similar mechanism in the commonwealth.

(D) Notwithstanding the provisions of any general or special law to the contrary, the commissioner may require or exempt a risk retention group from participation in any joint underwriting association or other mechanism established or authorized under the laws of the commonwealth for the equitable apportionment among insurers of liability insurance losses and expenses incurred on policies written through such association or mechanism, and such risk retention group shall submit sufficient information to the commissioner to enable the commissioner to apportion on a nondiscriminatory basis the risk retention group's proportionate share of such losses and expenses.

Section 5. A policy of insurance issued to a risk retention group or any member of that group shall not be required to be countersigned as otherwise provided in section one hundred and fifty-seven of chapter one hundred and seventy-five.

Section 6. A purchasing group and its insurer or insurers shall be subject to all applicable laws of the commonwealth except that a purchasing group and its insurer or insurers shall be exempt, in regard to liability insurance for the purchasing group, from any law that would:

(A) prohibit the establishment of a purchasing group;

(B) make it unlawful for an insurer to provide or offer to provide insurance to a purchasing group or its members allowing advantages with respect to rates, policy forms, coverages or other matters, based on their loss and expense experience, which are not afforded to other persons;

(C) prohibit a purchasing group or its members from purchasing insurance described in clause (B) on a group basis;

(D) prohibit a purchasing group or its members from purchasing a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time;

(E) require that a purchasing group must have a minimum number of members, common ownership or affiliation, or certain legal form;

(F) require that a certain percentage of a purchasing group must obtain insurance on a group basis;

(G) otherwise discriminate against a purchasing group or any of its members; or

(H) require that any insurance policy issued to a purchasing group or any of its members be countersigned by an insurance agent or broker residing in the commonwealth.

Section 7. (A) A purchasing group which intends to do business in the commonwealth shall, prior to doing business, submit to the commissioner a statement which shall:

(1) identify the state in which the group is domiciled;

(2) identify all other states in which the group does or intends to do business;

(3) specify the lines and classifications of liability insurance which the purchasing group has purchased or intends to purchase;

(4) identify the insurance company or companies from which the group has purchased or intends to purchase its insurance and the domicile of such company;

(5) specify the method by which, and the person or persons, if any, through whom insurance will be offered to its members who are resident or whose risks are located in the commonwealth;

(6) identify the principal place of business of the purchasing group; and

(7) provide such other information as may be required by the commissioner to verify that the purchasing group is qualified under the definition of "Purchasing group" in section one.

(B) A purchasing group shall notify the commissioner of any changes in any of the items set forth in subsection (A) at least ten business days prior to the date such change is to take effect.

(C) The purchasing group shall register with and designate the commissioner as its agent solely for the purpose of receiving service of legal process, for which a filing fee shall be determined pursuant to section fourteen of chapter one hundred and seventy-five, except that such requirements shall not apply in the case of a purchasing group which only purchases insurance that was authorized under the Product Liability Risk Retention Act of 1981, 15 USC, Section 3901 et seq., and:

(1) which in any state of the United States was domiciled before April first, nineteen hundred and eighty-six; and

(2) which: (a) before October twenty-seventh, nineteen hundred and eighty-six purchased insurance from an insurance carrier licensed in any state; and (b) since October twenty-seventh, nineteen hundred and eighty-six purchased its insurance from an insurance carrier licensed in any state; or

(3) which was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981, 15 USC, Section 3901, et seq., before October twenty-seventh, nineteen hundred and eighty-six.

(D) Each purchasing group that is required to submit information pursuant to subsection (A) shall also furnish such information as may be required by the commissioner to:

(1) verify that the entity qualifies as a purchasing group;

(2) determine where the purchasing group is located;

(3) determine appropriate tax treatment; and

(4) determine compliance with the provisions of the Liability Risk Retention Act, 15 USC, Section 3901, et seq., and this chapter.

(E) Any purchasing group which was doing business in the commonwealth prior to the enactment of this chapter shall, within thirty days after the effective date of this chapter, furnish notice to the commissioner pursuant to the provisions of subsection (A) and furnish such information as may be required pursuant to subsections (B) and (C).

Section 8. (A) A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed agent or broker acting pursuant to the surplus lines laws and regulations of such state. For purposes of this chapter, the purchasing group shall be deemed to be located in any state in which its members are resident or conducting business which is to be insured through the risk purchasing group.

(B) A purchasing group which obtains liability insurance from an insurer not admitted in the commonwealth or a risk retention group shall inform each of the members of such purchasing group which are resident in or have a risk located in the commonwealth that such risk is not protected by an insurance insolvency guaranty fund in the commonwealth, and that such risk retention group or such insurer may not be subject to all General Laws and regulations of the commonwealth.

(C) No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole, however, coverage may provide for a deductible or self-insured retention applicable to individual members.

(D) Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits which are applicable to all purchases of group insurance.

Section 9. Premium taxes and taxes on premiums paid for coverage of residents or risks located in the commonwealth by a purchasing group or any members of a purchasing group shall be:

(A) imposed at the same rate and subject to the same interest, fines and penalties as are applicable to premium taxes and taxes on premiums paid for similar coverage from a similar insurance source by other insureds; and

(B) paid first by such insurance source, and if not by such source by the agent or broker for the purchasing group, and if not by such agent or broker then by the purchasing group, and if not by such purchasing group then by each of its members.

Section 10. Nothing in this chapter shall be construed to exempt a risk retention group or purchasing group from the policy form or coverage requirements of any motor vehicle no-fault or motor vehicle financial responsibility law of the commonwealth.

Section 11. The commissioner is authorized to make use of any of the powers established under the laws governing insurance to enforce those laws not specifically preempted by the Risk Retention Act of 1986 including the commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, impose penalties and seek injunctive relief.

Section 12. (A) No person, firm, association or corporation shall act or aid in any manner in soliciting, negotiating or procuring liability insurance in the commonwealth from a risk retention group unless such person, firm, association or corporation is licensed in accordance with the applicable provisions of chapter one hundred and seventy-five.

(B) (1) No person, firm, association or corporation shall act or aid in any manner in soliciting, negotiating or procuring liability insurance in the commonwealth for a purchasing group from an authorized insurer or a risk retention group chartered in a state unless such person, firm, association or corporation is licensed in accordance with the applicable provisions of chapter one hundred and seventy-five.

(2) No person, firm, association or corporation shall act or aid in any manner in soliciting, negotiating or procuring liability insurance coverage in the commonwealth for any member of a purchasing group under a purchasing group's policy unless such person, firm, association or corporation is licensed in accordance with the applicable provisions of chapter one hundred and seventy-five.

(C) For purposes of acting as an agent or broker for a risk retention group or purchasing group pursuant to subsections (A) and (B), any requirement of residence in the commonwealth shall not apply.

(D) Every person, firm, association or corporation licensed pursuant to the provisions of chapter one hundred and seventy-five, on business placed with risk retention groups or written through a purchasing group, shall inform each prospective insured of the provisions of the notice required by subsection (G) of section three in the case of a purchasing group and subsection (B) of section eight in the case of a purchasing group.

(2) Each licensee who has placed business with or on behalf of a risk retention group not chartered in the commonwealth shall report to the commissioner the premiums for direct business on residents or risk located within the commonwealth.

(3) Each licensee who places business with a risk retention group shall keep a complete and separate record of all policies procured from each such risk retention group, which record shall be open to examination by the commissioner, as provided in section five of chapter one hundred and seventy-six D. These records shall, for each policy and each kind of insurance provided thereunder, include the following:

(a) the limit of liability; (b) the time period covered; (c) the effective date; (d) the name of the risk retention group which issued the policy; (e) the gross premium charged; and (f) the amount of return premiums, if any.

Section 13. An order issued by any district court of the United States enjoining a risk retention group from soliciting or selling insurance, or operating in any state, or in all states or in any territory or possession of the United States, upon a finding that such a group is in hazardous financial or financially impaired condition shall be enforceable in the courts of the commonwealth.

Section 14. The commissioner may in accordance with provisions of chapter thirty A, after notice of hearing, promulgate rules and regulations as are necessary or proper to carry out the provisions of this chapter.

SECTION 53A. For the purposes of this act, except where otherwise expressly provided herein, a nonprofit hospital service corporation under chapter one hundred and seventy-six A and a nonprofit medical service corporation under chapter one hundred and seventy-six B shall not be deemed to be an "insurer" or an "insurance company".

SECTION 54. Section nine B of chapter one hundred and seventy-five of the General Laws, inserted by section ten of this act, shall take effect as of December thirty-first, nineteen hundred and ninety-two.

SECTION 55. Subsections (1) to (4), inclusive, of section twenty A of chapter one hundred and seventy-five of the General Laws, inserted by section eighteen of this act, shall apply to cessions after the effective date of this act under reinsurance agreements which have had an inception, anniversary, or renewal date not less than six months after the effective date of this act.

SECTION 56. Subsection (r) of section two hundred and six C of chapter one hundred and seventy-five of the General Laws, inserted by section fifty-one of this act, shall take effect as of October thirty-first, nineteen hundred and ninety-three.

SECTION 57. The insurance commissioner shall file an annual report with the clerk of the house of representatives which details how the specific funds appropriated for the purpose of accreditation by the National Association of Insurance Commissioners were expended. Any request for additional funding shall be contained and outlined in said report. Said report shall also explain policies and procedures undertaken by the division of insurance to achieve and maintain accreditation. Said report shall be filed annually no later than the first Wednesday in November. The clerk of the house of representatives with the approval of the speaker of the house of representatives and the senate president shall refer said report to the joint committee on insurance.

SECTION 58. The insurance commissioner shall submit any regulation promulgated under the provisions of this act to the clerk of the house of representatives. The clerk shall with the approval of the speaker of the house of representatives and the senate president transmit the same to the joint committee on insurance for the review of the committee within sixty days prior to the effective date of said regulation.

Emergency Letter: November 9, 1993 @ 5.00 P.M. Approved November 9, 1993.

Chapter 227. AN ACT AUTHORIZING THE TOWN OF SANDWICH TO CONVEY CERTAIN PARCELS OF CONSERVATION LAND.

Be it enacted, etc., as follows:

The town of Sandwich is hereby authorized to transfer the care, custody and control of certain parcels of conservation land to the board of selectmen who are hereby authorized to convey said parcels on such terms and conditions as said board may determine. Said parcels are shown as Lots 55, 56 and 58 on the town of Sandwich Assessor's Map 33.

Approved November 10, 1993.

Chapter 228. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF EAST BROOKFIELD AS THE JOHN B. WILLIAMS AND ERNEST R. YOUNG MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The proposed bridge, in the town of East Brookfield, which will span the Seven Mile river, shall be designated and known as the John B. Williams and Ernest R. Young Memorial Bridge, in memory of the two World War II veterans. The department of highways shall erect suitable signs bearing said designation in compliance with the standards of said department.

Approved November 10, 1993.

Chapter 229. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF EAST BROOKFIELD AS THE MITCHELL H. BOULETTE AND CARL F. SKYTEN MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The proposed bridge, in the town of East Brookfield, which will span the railroad tracks owned by Consolidated Railroad Corporation, shall be designated and known as the Mitchell H. Boulette and Carl F. Skyten Memorial Bridge, in memory of the two World War II veterans. The department of highways shall erect suitable signs bearing said designation in compliance with the standards of said department.

Approved November 10, 1993.

Chapter 230. AN ACT RELATIVE TO THE CHARTER OF THE CITY OF BEVERLY.

Be it enacted, etc., as follows:

SECTION 1. Chapter five hundred and forty-two of the acts of nineteen hundred and ten is hereby repealed.

SECTION 2. The following shall be the charter of the city of Beverly:

Section 1. Municipal corporation; name; rights and duties.

The inhabitants of the city of Beverly shall continue to be a municipal corporation under the name of the city of Beverly, and as such shall have, exercise and enjoy all the rights, powers and privileges, and shall be subject to all the duties and obligations now pertaining to and incumbent upon the said city as a municipal corporation.

Section 2. Division of the city into wards.

The territory of the city shall be divided into six wards with nearly equal population. Their boundaries shall remain as at present constituted, until the same are changed under the provisions of law.

Section 3. Mayor and city council to administer affairs; school committee; separation of departments.

The administration of all the fiscal, prudential and municipal affairs of said city, and the government thereof, except the affairs of the public schools, the administration, management and control of which shall be vested in a school committee of nine members, shall be vested in an executive department which shall consist of one officer to be called the mayor, and in a legislative body of nine to be called the city council, the members whereof shall be called councilors. The legislative department shall never exercise any executive power and the executive department shall never exercise any legislative power, except as may otherwise be provided herein.

Section 4. Meetings of Qualified Voters.

Elections of state officers and city officers shall be cited by the councilors and the city clerk shall, under their direction, cause notice of such elections to be conspicuously posted in the office of the city clerk or on the principal official bulletin board of such city and any other public building they may deem necessary. Before every city election, the clerk shall make available a list of all candidates and shall also print with said list the form of any question to be submitted to the voters. Such lists shall be public records and one copy shall be sent to every daily newspaper in said city. Such notices shall be called in lieu of the notices or warrants for election required in any city by special statutes. The biennial state and biennial city elections shall be called at least seven days before the day prescribed for the holding thereof.

Notices or warrants for state and city elections shall specify by name all the offices to be voted for, and state, in the form in which it will appear upon the ballot, any question submitted to the voters. They shall specify the time when the polls will be opened, in accordance with sections sixty-three and sixty-four of chapter fifty-four of the General Laws.

Section 5. Calling elections.

All meetings for the election of national, state, county and district officers shall be called by order of the city council in the manner in which meetings for municipal elections are called.

When no convenient ward room for holding meetings of the qualified voters of the ward can be had within the territorial limits of such ward, the city council may direct that the meeting be held in some convenient place which they shall designate within the limits of an adjacent ward of the city; and, for that purpose the place so designated shall be deemed to be a part of the ward in which the election is held.

Section 6. When and how meetings of qualified voters called; discussion confined to purposes of petition.

General meetings of the citizens qualified to vote may, from time to time, be held according to rights secured by the constitution of the Commonwealth and all such meetings may, and upon the request in writing of fifty qualified voters setting forth the purposes thereof, shall duly be called by the city council. Any discussion or action taken at such meeting shall be confined to the purposes set forth in the petition.

By initiative petition, citizens may request the city council or school committee to pass a measure or put the question on the ballot in accordance with sections thirty-seven to forty-one, inclusive, of chapter forty-three of the General Laws, by gathering certifiable signatures of eight percent of the registered voters. Citizens may require that an issue be addressed and passed or presented in a special election by gathering certifiable signatures of fifteen percent of the registered voters, in accordance with said sections thirty-seven to forty-one, inclusive.

By referendum petition citizens may require the city council or school committee to reconsider a measure which has been passed and/or submit the measure to vote by the electorate. The petition must be filed within twenty days of the final passage of the measure with valid signatures of twelve percent of the registered voters, in accordance with section forty-two of chapter forty-three of the General Laws.

Section 7. Time of holding city election; municipal year.

Regular city elections shall be held biennially in each odd-numbered year on the Tuesday after the first Monday in November. The municipal year shall begin on the first Monday in January in each year, at twelve o'clock noon, and continue until the first Monday in January next following at twelve o'clock noon.

Preliminary elections shall be called pursuant to sections forty-four A to forty-four G, inclusive, of chapter forty-three of the General Laws.

Section 8. Election of mayor, councilors and school committee; vacancies in office.

At the biennial city election, voters of the city shall give in their votes by ballot for mayor and members of the city council and of the school committee, or for such of them as are to be elected, and the person receiving the highest number of votes for any office shall be deemed and declared to be elected to such office, and whenever two or more persons are to be elected to the same office the several persons up to the number required to be chosen receiving the highest number of votes shall be deemed and declared to be elected. If it shall appear that there is no choice for mayor, or if the person elected to that office shall refuse to accept, or shall die before qualifying, or if a vacancy in the office shall occur more than four months previous to the expiration of the office of a mayor, the city council shall forthwith cause warrants to be issued for a new election and the same proceedings shall be had in all respects as are hereinbefore provided for the election of the mayor, and shall be repeated until the election of a mayor is completed. If the full number of members of a city council has not been elected or if a vacancy in the office of councilors shall occur more than three months previous to the expiration of the term of office, the city council shall forthwith elect from among the qualified voters of the city or ward, as the case may be, some person or persons to fill the vacancy or vacancies for the remainder of the unexpired term. In case

a vacancy in the office of the mayor shall occur within four months previous to the expiration of the unexpired term, the city council may in its discretion order a new election for mayor to be held as aforesaid to fill the vacancy; and may, likewise, should a vacancy occur in the office of any member of the city council within said period of three months, fill said office in the manner aforesaid.

Preliminary elections shall be conducted pursuant to sections forty-four A to forty-four G, inclusive, of chapter forty-three of the General Laws.

The members of the school committee of the city of Beverly shall be elected as follows:- Two shall be elected by and from the qualified voters of the entire city, voting at large, and one shall be elected by and from the qualified voters of each ward of said city, each for a term of four years.

The terms of the office of the members of the school committee elected in said city in the year nineteen hundred and fifty-five shall be continued until the qualification of their successors who shall be elected at the municipal election to be holden in the year nineteen hundred and fifty-nine. The terms of the members of the school committee elected in said city in the year nineteen hundred and fifty-seven shall continue until the qualification of their successors who shall be elected at the biennial municipal election to be held in the year nineteen hundred and sixty-one.

The mayor, councilors, and members of the school committee shall hold office for their respective terms and until their respective successors are qualified.

Section 9. How mayor and councilors elected; terms of office; president of city council.

At each biennial city election there shall be elected by ballot by and from the qualified voters at large a mayor and three members of the city council, and by and from the qualified voters of each ward, one member of said board, each to serve for the term of two years beginning with the first Monday in January then next ensuing. The member elected at large receiving the highest number of votes at any biennial city election, shall be president of the city council.

Section 10. City Council to be judge of election; rules; acting mayor.

The city council shall be the judge of the election and qualification of its members, and shall from time to time establish rules for its proceedings. In the case of the death, inability, absence or resignation of the mayor, and whenever there is a vacancy in the office for any cause, the president of the city council, while such cause continues, shall perform the duties of mayor. If the president of the city council is also absent or unavailable for any cause, the said duties shall be performed until the mayor or president of the city council returns or is able to attend to said duties by such member of the city council as that body may elect, and until such election, by the city clerk. The person upon whom the said duties shall devolve shall be called acting mayor, and he shall possess the power of the mayor only in matters not admitting of delay, and have no power to make permanent appointments except upon the death or resignation of the mayor, and then only for the period intervening until a new election of the mayor is had, or except in the case arising under section eight where the

discretion of the council is not exercised by calling a new election to fill a vacancy in the office of mayor occurring within four months of the expiration of the term. In such case, said acting mayor shall perform all the duties and be clothed with all the authority of the office of mayor for the remainder of the term.

Section 11. Nomination of municipal officers; order of names on ballot.

Any resident of said city aged eighteen or older may be nominated for any municipal elective office which represents the ward in which they reside or which represents the city at large, and the procedure for procuring such nominations, obtaining signatures, filing and certification of the same, shall be according to law. The names of candidates appearing on nomination papers shall, when filed and certified, be subject to public inspection. The certification required by law shall not preclude any voter from filing objections to the validity of the nominations.

The order of precedence in which the names of all candidates to be voted for at any municipal election shall appear on the official ballot shall be determined by the registrars of voters of said city by drawing lots for the same, separate drawings to be made for each group of candidates for each office to be elected.

Section 12. Oath of office of mayor, councilors, and school committee members.

The mayor-elect, councilors-elect, and school committee members-elect shall, on the first Monday in January of each even-numbered year at twelve o'clock noon, meet and be sworn to the faithful discharge of their duties. The oath may be administered to the mayor by the city clerk, or by a judge of a court of record, or by a justice of the peace. The oath may be administered to the members of the city council and the school committee by the mayor, he having been duly sworn, or by any of the above named officials. A certificate that said oath or oaths have been taken shall be entered in the journal of the city council.

In case of the absence of the mayor-elect on said day, or if a mayor shall subsequently be elected, the oath of office may at any time thereafter be administered to him, and at any time thereafter in like manner the oath of office may be administered to any member of the city council or school committee who for similar reasons shall not have taken the oath on the day named. All such oaths subsequently taken shall be entered in the journal aforesaid.

After the oath has been administered to the councilors present, they shall organize, with the member elected at large receiving the highest number of votes at the preceding biennial city election, as president, as provided in section nine. The president shall be sworn by the city clerk, or, in the case of the absence of the clerk, by any justice of the peace. Nothing in the duties of his office shall be held to deprive him of his right to vote and act as a member of the council.

Section 13. Powers of city council; compensation; open sessions; journal; vote by roll call; private sittings for nomination by mayor.

The city council shall, so far as is consistent with this charter, have and exercise all the legislative powers of towns and of the inhabitants thereof, and shall have and exercise all the powers now vested by law in the city of Beverly and in the inhabitants thereof as a

municipal corporation, and shall have all the powers and be subject to all the liabilities of city councils and of either branch thereof, and it may by ordinance prescribe the manner in which such powers shall be exercised. Its members shall receive in full compensation for their services as members of the city council, or of any committee thereof, such salary as may be established by ordinance. Sessions of the council whether as a city council or as a committee of the whole shall be open to the public, and a journal of its proceedings shall be kept, which journal shall be subject to public inspection. The vote of the council upon any question shall be taken by roll call when the same is requested by at least three members.

Section 14. Election of certain officers by city council; terms of office; removal from office; vacancies.

The city council shall in the month of January in each even-numbered year, as soon after its organization as may be, elect a city clerk, a city collector of taxes, a city messenger, a city treasurer, a city physician and a clerk of committees, all for the term of two years from the first Monday in said January and until their respective successors are qualified. The terms of office of all officers and members shall continue and be in force for the full term or terms to which they were elected under the present law, and upon the expiration of such a term or terms the vacancies shall be filled as hereinafter provided. The city council shall elect as said terms expire, a city auditor for the term of three years, a member of the board of assessors for three years, a member of the board of health for three years, a member of the park commissioners for three years, and a member of the water board for three years, each of which boards shall consist of three members as at present constituted. Thereafter there shall annually be elected by the city council a member of every such board or office to serve for the term of three years, as the term or terms of such member or officer shall expire. Any officers thus elected by the city council may be removed by the said council for sufficient cause by a two-thirds vote. Vacancies in any city offices, where no other provision is made for filling the same in this act, shall be filled by the election or appointment of a successor in the manner in which the previous incumbent was elected or appointed, and the person elected or appointed to fill the vacancy shall hold his office for the remainder of the term during which his predecessor would have been entitled to hold the same.

Section 15. Salaries of officers and employees.

The mayor and the members of the city council shall receive for their services such salary as the city council shall by ordinance determine, and shall receive no other compensation from such city. No increase or reduction in such salaries shall take effect during the year in which such increase or reduction is voted, and no change in such ordinance shall be made between the election and the qualification of the new council.

The city council shall by ordinance passed by two-thirds vote determine the salary of all the officers and employees of the city, including the firemen, policemen, and city laborers, except as otherwise provided herein, and may in like manner change the said salaries from time to time.

Section 16. Making and publication of ordinances; additional boards or offices; reorganization, consolidation or abolition of boards and offices.

The city council shall have power to make and establish ordinances to be effective within the city, and to affix penalties for the violation thereof, as herein or by general law provided, without the sanction of any court or any justice thereof. All such ordinances shall forthwith be published in one or more newspapers designated by the mayor and shall take effect at the time of their approval by the mayor unless it is otherwise expressly stated in the ordinance, or if a penalty for the violation is provided, at the expiration of thirty days from the day of approval. Under its general power to make and establish ordinances the city council may provide by ordinance for the establishment of additional boards or offices to insure the general welfare of the inhabitants of the city and to promote economy and efficiency in the municipal administration, and for other municipal purposes. The council shall therein determine the number, duties, powers and salaries of the incumbents of such boards or offices, and may delegate for such purpose to any board or office thus created the appropriate administrative powers given by general law to city councils. The city council may also by ordinance recognize, consolidate or abolish departments or offices of the city in whole or in part; and may transfer the duties, powers and appropriations of one department to another in whole or in part. Said council shall have all the powers of existing law, in this behalf delegated to city councils, and inhabitants of towns, to establish ordinances as aforesaid, and in all other respects to make valid and reasonable by-laws for said city.

Section 17. Laying out, locating, widening, etc., of streets.

The city council shall, with the approval of the mayor, have exclusive authority and power to order the laying out, locating anew, widening, discontinuing, or changing the grade of, and the making of specific repairs in all streets, and, except as is otherwise provided herein, it shall act in all matters relating to such laying out, locating anew, widening, changing of grade, or discontinuing. The council shall assess the damages, if any, sustained thereby by any persons. Any such person aggrieved by the action of the city council in relation to damages, or in other respects hereunder, shall have all the rights and privileges now allowed by law in such cases in appeals from decisions of the selectmen of towns. Nothing herein shall be held to deprive the county commissioners of Essex County of any power or authority in relation to highways conferred upon them by law.

Section 18. Approval of ordinances, etc., by mayor; objections; reconsideration.

All ordinances, orders, resolutions or votes of the city council, except such as relate to its own internal affairs, shall be presented to the mayor. If he approves thereof he shall signify his approval by signing the same, but if not he shall return the same with his objections to the city council which shall enter the objections of the mayor at length upon its records and proceed to reconsider such ordinance, order, resolution or vote, and if, after reconsideration, two-thirds of the city council, notwithstanding the said objection, vote to pass the same, it shall be in force. In all cases the vote shall be taken by yeas or nays. If such ordinance, order, resolution or vote shall not be returned within ten days after it has

been presented to the mayor the same shall be in force. He may except from his approval of any ordinance, order, resolution or vote over which he has the power of veto, any part involving a distinct item of expenditure; and in such a case instead of returning the original he shall transmit a copy of the part not approved, which part shall be reconsidered in the manner and with the effect above provided. The veto power of the mayor shall not extend to elections of administrative officers by the council.

Section 19. Council may request information from mayor.

The city council may at any time request from the mayor special information on any municipal matter going before it for action, and may request his presence to answer written questions relating thereto. The information sought shall be limited to the subject matter of the written questions.

Section 20. Appointment or election of certain boards and officers; chief of police and subordinate officers; rules and regulations governing departments.

The method and time of appointment or election, and the constitution of the fire and police departments, commissioners of sinking funds, board of managers of public cemeteries, registrars of voters, trustees of the public library, and all other boards, officers or departments of the city, shall be made, held and maintained as now provided by law, except as herein modified, and all ordinances in respect to the said departments, boards or officers now in force in said city, and all other ordinances now in force, shall continue as valid by-laws of the city until changed under the provisions of this act. The head of the police department shall be known as the chief of police. The chief of police shall be appointed by the mayor without confirmation of the city council. The chief of police shall be subject to the civil service laws and rules and regulations relating to permanent members of the police departments of cities. The power of appointment of the subordinate officers and members of the police force shall be vested in the mayor, subject to confirmation by the city council. The city council shall have power to prescribe and make regulations for the government of the police department and of all other departments of the city except as is otherwise provided by existing law.

Section 21. Certain ordinances, etc. to be open to public inspection; voting by roll call; itemization of appropriation orders.

Every ordinance, order, resolution or vote involving the appropriation or expenditure of money to an amount exceeding three hundred dollars, and every such ordinance, order, resolution or vote ordering any street improvement or sewer, or making or authorizing the making of any contract in excess of said amount of three hundred dollars, or granting any franchise or right to occupy or use the streets, highways, bridges or public places in the city for any purpose, shall remain on file with the city clerk for public inspection for at least one week before the final passage or adoption thereof; provided, however, that in the case of any such ordinance, order, resolution or vote appropriating an amount or authorizing the making of a contract in excess of three hundred dollars, and not relating to any street improvement or sewer, or to the granting of a franchise, the city council may in its discretion upon receiving the written recommendation of the mayor with his reasons therein stated, pass such

ordinance, order, resolution or vote on the same day when the first reading is had by a two-thirds yea or nay vote. On the final passage of all such ordinances, orders, resolutions or votes, the vote shall be taken by roll call. All orders carrying appropriations and expenditures, or authorizing the borrowing of money, shall be in itemized form.

Section 22. Contracts in excess of three hundred dollars to be signed by mayor.

No contract made in behalf of the city involving an amount in excess of three hundred dollars shall be valid unless it receives the signature of the mayor. This provision shall not apply to any exercise of the police power or other power of the Commonwealth by any public officer or board so authorized by law.

Section 23. Bonds for performance of contracts; city council to have care and custody of public property.

The city council shall secure a just and proper accountability for the performance of all contracts or obligations entered into by the city by requiring bonds with sufficient penalties and sureties from all persons entrusted in behalf of the city with the receipt, custody or disbursement of money. The council shall have the care and superintendence of all public property of the city together with its custody and management, except as herein or by general law otherwise provided, with power to rent or sell what may legally be rented or sold, and to purchase property, real or personal in the name and for the use of the city whenever such purchase is deemed by the council to be necessary.

Section 24. Special meetings of city council.

Special meetings of the city council may be called at any time by the mayor upon mailing written notification of the same with a statement of the subject matter to be considered, to each member thereof, or by leaving such notice at the usual place of residence of each member at least forty-eight hours before the time appointed for the meeting.

Section 25. Mayor or Councilors not to hold other city offices.

Neither the mayor nor any member of the city council shall during the term for which he is elected hold any other office or position for which he is paid from the city treasury. No member of the city council shall appear as counsel or act as attorney before the city council or any committee thereof.

Section 26. Manner of vote by city council.

All elections by the city council under any provision of law shall be made by a viva voce vote, each member who is present answering to his name when it is called by the clerk or other proper officer, stating the name of the person for whom he votes or declining to vote as the case may be; and the clerk or other proper official shall record every such vote. No such election shall be valid unless it is made as aforesaid.

Section 27. Executive powers vested in mayor; general powers; suspension of certain officers.

The executive powers of the city shall be vested exclusively in the mayor, who shall enforce the laws and regulations of the city either personally or through the administrative officers and members of boards provided in this act, and shall be vigilant at all times regarding such enforcement; and he may, except as herein or by General Laws otherwise provided, suspend from the office by written order any officer appointed by him, whether

or not such appointment was made by confirmation of the city council, for any cause which he shall in his official discretion deem sufficient, which cause he shall assign in the order of suspension. Such suspension shall take effect upon the filing of the order therefor with the city clerk, and the serving of a copy thereof upon the officer thus suspended either personally or by leaving the same at his last or usual place of business, or residence. The suspension of any such officer shall, unless previously revoked by the mayor, create a vacancy in such office at the expiration of fifteen days after said order is filed with the city clerk, unless within that time the officer asks for a hearing before the city council, in which case a hearing shall forthwith be held. If, within one week after the conclusion of said hearing, the council by a two-thirds vote shall set aside the suspension, the officer shall be reinstated, otherwise he shall be held to be finally discharged from office, and the vacancy therein shall be filled forthwith.

Section 28. Mayor to preside at meetings of city council; appointment of committees. The mayor may preside at all meetings of the city council, and in his absence and in all cases where nominations of the mayor are to be acted upon by the city council, the president of the city council shall preside. The mayor shall appoint the committees of the city council.

Section 29. Mayor to communicate information to city council; records; secretary. The mayor shall communicate to the city council such information and shall recommend such measures as in his judgment the interests of the city require. He shall cause to be kept a record of all his official acts, and for this purpose and to assist him in his official duties he may, without the confirmation of the city council, appoint a secretary, define his duties and, subject to the approval of the city council, fix his salary.

Section 30. Estimates of income and expenses; budget; appropriations. The mayor shall require from all administrative officers and boards of the city having the expenditure of money, and it shall be the duty of such officers and boards to furnish forthwith in detail when so required, estimates for the next municipal year of the expenditures of the department or office under their charge. Within one hundred and twenty days after the annual organization of the city government, the mayor shall submit to the city council the annual budget which shall be a statement of the amounts recommended by him for anticipated income and proposed expenditures of the city for the next fiscal year. The annual budget shall be classified and designated so as to show separately with respect to each officer, department or undertaking for which an appropriation is recommended:-

(1) Ordinary maintenance, which shall also include debt and interest charges matured and maturing during the next fiscal year, and shall be subdivided as follows:-

(*a*) salaries and wages of officers, officials and employees other than laborers or persons performing the duties of laborers; and

(*b*) ordinary maintenance not included under clause (a); and

(2) Proposed expenditures for other than ordinary maintenance, including additional equipment the estimated cost of which exceeds one thousand dollars.

The foregoing shall not prevent any city, upon recommendation of the mayor and with the approval of the council, from adopting additional classifications and designations.

The city council may by majority vote make appropriations for the purposes recommended and may reduce or reject any amount recommended in the annual budget. It shall not increase any amount in or the total of the annual budget nor add thereto any amount for purposes not included therein except on recommendation of the mayor, and except as provided in section thirty-three of chapter forty-four of the General Laws. If the provisions of this sentence are accepted by vote of the city council with the approval of the mayor, in the case of the school budget or in the case of a regional school district assessment, the city council, on the recommendation of the school committee or on recommendation of a regional district school committee, may by a two-thirds vote increase the total amount appropriated for the support of the schools or for the regional district schools over that requested by the mayor; and provided, further, that no such increase shall be voted if it would render the total annual budget in excess of the property tax limitations set forth in section fifty-nine of chapter fifty-nine of the General Laws. Except as otherwise permitted by law, all amounts appropriated by the city council shall be for the purposes specified. In setting up an appropriation order or orders based on the annual budget, the council shall use, so far as possible, the same classifications required for the annual budget. If the council fails to take action with respect to any amount recommended in the annual budget, either by approving, reducing or rejecting the same, within forty-five days after the receipt of the budget, such amount shall without any action by the council become a part of the appropriations for the year, and be available for the purposes specified.

Section 31. City Council.

If in any year the general court does not act to grant an extension of the time wherein the municipal budget must be submitted, and, if, upon the expiration of one hundred and twenty days after the annual organization of the city government, the mayor shall not have submitted to the city council the annual budget for said year, the city council shall within thirty days upon its own initiative prepare the annual budget, and such preparation shall be subject to the same requirements as the mayor's annual budget, so far as apt.

Within fifteen days after such preparation of the annual budget, the city council shall proceed to act by voting thereon and all amounts so voted shall thereupon be valid appropriations for the purposes stated therein to the same extent as though based upon a mayor's annual budget, but subject, however, to such requirements, if any, as may be imposed by law.

If the council fails to take action with respect to any amount recommended in the budget, either by approving, reducing or rejecting the same, within fifteen days after such preparation, such amount shall, without further action by the council, become a part of the appropriations for the year, and be available for the purposes specified.

Nothing in this section shall prevent the city council, acting upon the written recommendation of the mayor, from voting appropriations, not in excess of the amount so recommended, either prior or subsequent to the passage of the annual budget.

The city council, may, and upon written request of at least ten registered voters shall, give notice of a public hearing to be held on the annual budget, prior to final action thereon, but not less than seven days after publication of such notice, in a newspaper having general circulation in the city. At the time and place so advertised, or at any time or place to which such public hearing may from time to time be adjourned, the city council shall hold a public hearing on the annual budget as submitted by the mayor, at which all interested persons shall be given an opportunity to be heard for or against the proposed expenditures or any item thereof.

Section 32. Council Responsibility for Budget.

In case of the failure of the mayor to transmit to the city council a written recommendation for an appropriation for any purpose not included in the annual budget, which is deemed necessary by the council, after having been so requested by vote thereof, said council, after the expiration of seven days from such vote, upon its own initiative may make such appropriation by a vote of at least two-thirds of its members, and shall in all cases clearly specify the amount to be expended for each particular purpose.

Section 33. Budget to Fund Salaries; Changes in Salaries.

The annual budget shall include sums sufficient to pay the salaries of officers and employees fixed by law or by ordinance. No ordinance providing for an increase in the salaries or wages of municipal officers or employees shall be enacted except by a two-thirds vote of the city council, nor unless it is to be operative for more than three months during the calendar year in which it is passed. No new position shall be created or increase in rate made by ordinance, vote or appointment during the financial year subsequent to the submission of the annual budget unless provision therefor has been made by means of a supplemental appropriation. No ordinance, vote or appointment creating a new position in any year in which a municipal election is held shall be valid and effective unless said ordinance, vote or appointment is operative for more than three months during said municipal election year.

Section 34. Transfer of Appropriation.

On recommendation of the mayor, the city council may, by majority vote, transfer any amount appropriated for other use of any department to another appropriation for the same department, but no transfer shall be made of any amount appropriated for the use of any department to the appropriation for any other department except by two readings and a two-thirds vote of the city council on recommendation of the mayor and with the written approval of the amount of such transfer by the department having control of the appropriation from which the transfer is proposed to be made. There shall be a lapse of one week between the two readings of such an order to transfer. No approval other than that expressly provided herein shall be required for any transfer under the provisions of this section.

Section 35. Duty of mayor as to legal instruments.

The mayor shall have the sole power to sign, seal, execute and deliver in behalf of

the city deeds and leases of land sold or leased by the city, and any other evidences in writing of transfers requiring the written assent of the city.

Section 36. Appointment of administrative officers and boards by mayor; appointment of city solicitor.

Except as herein otherwise provided, the mayor shall appoint, subject to the confirmation of the city council, all the administrative officers and members of the boards of the city. No appointment so made by the mayor shall be acted upon by the city council until the expiration of one week from the time when the appointment was transmitted to the council. The city solicitor shall annually be appointed by the mayor, in the manner provided in this section.

If the office of city clerk is vacant, or if a city clerk is unable to perform the duties required by law, the mayor shall appoint a temporary clerk to perform such duties.

If the office of city auditor, city treasurer, city collector of taxes or other officer having charge of a city department is vacant, or if any such officer, because of disability or absence, is unable to perform his duties, the mayor, without confirmation by the city council, any provision of a city charter notwithstanding, shall appoint a temporary officer to hold such office and exercise the power and perform the duties thereof until another is duly elected or appointed and has qualified according to law, or other officer who was disabled or incapacitated resumes his duties; but no such temporary officer shall be appointed under this section for a period longer than sixty days. Any such temporary officer shall be sworn and give bond for the faithful performance of his duties in accordance with the provisions of law applying to the officer whose place he fills, and if he fails to do so within ten days after his appointment the mayor shall rescind the appointment and appoint another.

Section 37. Powers and duties of administrative officers; records; employment of subordinate officers; appearance before city council; oaths.

The administrative officers of the city shall perform the duties by law and herein prescribed for them respectively, and such further duties not inconsistent with the nature of their respective offices as the city council may from time to time prescribe. All such officers shall keep a record of their official transactions, which records shall be open to public inspection. All officers or members of boards appointed by the mayor or elected by the city council shall be held to be administrative officers within the meaning of this act. Such officers and boards, whether now existing or hereafter established by the city council, may appoint, employ, discharge or remove all subordinate officers, employees, clerks or assistants in their respective departments, making record of such action for public inspection, and in case of discharge or removal the grounds therefor shall be a matter of record, and shall be subject, where the person removed or discharged is lawfully classified under the civil service rules, to the jurisdiction of the civil service commissioners. Administrative officers shall appear before the city council at the request of that body and give such information as may be required in relation to any official act done by them. All administrative officers shall be sworn to the faithful discharge of their respective duties, and certificates of their oaths shall be kept in the office of the city clerk.

Section 38. Committee to supervise erection, etc., of buildings; approval of school sites and plans for school buildings.

Whenever it shall become necessary to erect any building, to make additions to or alterations or repairs in any building for the city, the estimated cost of which exceeds the sum of fifteen thousand dollars, the same shall be erected or done under the supervision and control of a commission of three persons appointed for the purpose as follows: The mayor shall name three citizens of Beverly not members of the city council to act as such commission, who shall be confirmed by the city council. This commission shall serve without compensation and shall have full power to secure plans, approve the same except as hereinafter provided in the case of buildings for school purposes, and to make contracts after having submitted the plans to the city council together with estimate of the cost of construction; provided, that the city council has made appropriations to cover the said cost. But no site for a school building shall be acquired by the city unless the approval of such site by the school committee or a majority thereof is first obtained in writing.

No plans for the construction or alteration of a school building shall be accepted, and no work shall be begun on the construction or alteration of a school building, unless the approval of the school committee or a majority thereof is first obtained in writing. Nothing herein shall require such approval for the making of ordinary repairs.

Section 39. School committee - Generally.

The school committee of said city shall consist of the mayor, ex officio, and of eight members who shall be elected as provided by section eight. Said committee shall have the entire management and control of the schools of the city, may elect a superintendent of schools, and may appoint other subordinate officers and assistants as it may deem necessary for the proper discharge of its duties and the conduct of its business; shall define the terms of service, duties and compensation of such officers, and remove and discharge them at its pleasure. The school committee shall be the judge of the election and qualifications of its members, and shall determine the rules of its proceedings. A majority of the committee shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. Should a vacancy occur in the office of an elected member of the school committee for any cause, the mayor shall, as soon as may be, call a joint convention of the city council and the school committee, at which the president of the city council shall preside, and the vacancy shall, by vote of a majority of such joint convention, be filled by the election of a member according to the vacancy existing, to serve for the balance of the unexpired term.

Section 40. Same - Meetings.

The school committee shall meet on the first Monday in January in each municipal year, and shall, at such meeting or as soon thereafter as may be, organize and elect one of its members by ballot as clerk and any other officers herein provided for.

Section 41. Same - Powers and Duties.

The school committee shall exercise all the powers and be subject to all the duties imposed by law upon school committees.

The mayor and city council shall annually provide an amount of money sufficient for the support of the public schools as required by the General Laws; provided, however, that neither the mayor nor city council shall be required to provide more money than is appropriated by vote of the city council. In acting on appropriations for educational costs, the city council shall vote on the total amount of appropriations requested, and shall not allocate appropriations among accounts or place any restrictions on such appropriations. The city council may make nonbinding monetary recommendations to increase or decrease certain items allocating such appropriations. The vote of the city council shall establish the total appropriation for the support of the schools, but may not limit the authority of the school committee to determine expenditures within the total appropriations.

The school committee shall hold a public meeting on its proposed annual budget not less than seven days after publication of a notice thereof in a newspaper having general circulation in the city. Prior to such public hearing said committee shall make available to the public at least one copy of said proposed budget for a time period of not less than forty-eight hours either at the office of the superintendent of schools or at a place so designated by said committee. At the time and place so advertised or at any time or place to which such hearing may from time to time be adjourned all interested persons shall be given an opportunity to be heard for or against the whole or any part of the proposed budget. Such public hearing shall be conducted by a quorum of the school committee. For purposes of this section a quorum shall consist of a majority of the members of said school committee.

Section 42. Same - Notification of mayor of need of schoolhouse or alteration thereof.

Whenever, in the opinion of the school committee, a schoolhouse is required or material alterations are needed, they shall send a communication to the mayor and city council stating their reasons therefor.

Section 43. Same - Sessions of school committee to be open; vote of committee.

All sessions of the committee shall be open to the public, and a journal of its proceedings shall be kept which shall be subject to public inspections. The vote of the committee upon any question shall be taken by roll call when the same is requested by at least three members.

Section 44. Liability not to be incurred in excess of appropriations.

No official of said city shall incur a liability in excess of the appropriation made for the use of such department, each item recommended by the mayor and voted by the city council being considered as a separate appropriation, except in cases of extreme emergency involving the health or safety of persons and property, and then only by a vote of two-thirds of the members of the city council. Any official violating the provisions of this section shall be punished by a fine not exceeding three hundred dollars, or by imprisonment for a term not exceeding six months, or both such fine and imprisonment.

Section 45. Conviction creating vacancy in office; approval of bills and vouchers; expenditures differing from appropriations.

The conviction of the incumbent of any office established under this charter of a crime punishable by imprisonment shall operate to create a vacancy in the office held by him. Every bill and every voucher for an expenditure of money shall be approved by the signatures upon such bill or voucher of a majority of the members of the committee, or of the officer, having control of or incurring such expenditure. No sum appropriated for a specific purpose shall be expended for any other purpose except upon compliance with section thirty-four. No expenditure shall be made nor liability incurred by or in behalf of the city until an appropriation has duly been recommended by the mayor and voted by the city council sufficient to meet such expenditure or liability together with all prior unpaid liabilities growing out of the item for which said appropriation is made.

Section 46. Franchise.

No franchise or right to occupy or use the highways, bridges or public places in said city, shall be granted, renewed or extended except by ordinance and under the provisions of law, and every such franchise or grant relating to street railways, gas or electric light, or power plants, telegraph or telephone systems, or other public service utilities within said city having first been granted or renewed, as provided in this act, by the mayor and city council, shall not be valid until approved by a majority of the electors voting thereon at a general or special election called under the provisions of this act. In all cases, however, where extensions of existing franchises or rights are sought, the same may be granted to the holders thereof in the manner provided in section twenty-one, and in such cases approval by the voters shall not be required to render the same valid, unless within thirty days after the final passage of the order granting the extension, a petition objecting hereto, signed by at least three hundred qualified voters of the city shall be filed with the city clerk.

Section 47. Board of commissioners of trust funds.

The terms of office of the four commissioners of the trust funds shall continue and be in force for the full terms to which they were appointed and upon expiration of such terms the vacancies shall be filled as hereinafter provided. The mayor shall appoint, subject to confirmation by the city council, members of the board of commissioners of trust funds, each for a term of three years, at the expiration of the term of service of every such commissioner. The city treasurer shall, ex officio, always be a member of the said board of commissioners. In case a vacancy occurs in the board it shall be filled by appointment as aforesaid for the unexpired term. Any commissioner may be removed by the mayor at any time, such removal to be confirmed by the city council. The members of the board of commissioners shall serve without compensation. The board shall, so far as is consistent with the terms of the trusts under which trust funds are held by the city invest, manage, control and have the custody of all such funds, and as part of such management shall distribute, subject to the written approval of the mayor, the income of said funds in accordance with the terms of the respective trust; provided, however, that the income of any funds now or hereafter held in trust for cemetery purposes shall continue to be distributed by the board of managers of public cemeteries as heretofore. The board of commissioners hereby constituted shall keep a record of its doings and at the close of each municipal year shall make a report thereof to the mayor and city council.

SECTION 3. This act shall take effect on January third, nineteen hundred and ninety-four, except that during the municipal election of nineteen hundred and ninety-three candidates for the legislative branch shall run for city council.

Approved November 10, 1993.

Chapter 231. AN ACT ESTABLISHING A SICK LEAVE BANK FOR HENRY P. BURKE, AN EMPLOYEE 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 employee of the trial court 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:

Notwithstanding the provisions of 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 probation officer Henry P. Burke of the Taunton division of the district court department of the trial court. Any employee of said trial court may voluntarily contribute one or more of his sick, personal or vacation days to said sick leave bank for use by said Henry P. Burke.

The foregoing was laid before the Governor on the first day of November, 1993 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him with his objections thereto within that time.

Chapter 232. AN ACT ESTABLISHING A SICK LEAVE BANK FOR LILLIAN A. HIGGINS, AN EMPLOYEE OF THE PAROLE BOARD.

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 parole board, 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 parole board is hereby authorized and directed to establish a sick leave bank for Lillian A. Higgins, an employee of the parole board. Any employee of said parole board may voluntarily contribute one or more of his personal, vacation or sick days to said sick leave

bank for use by said Lillian A. Higgins.

The foregoing was laid before the Governor on the first day of November, 1993 and after ten days fad the force of law as prescribed by the Constitution as it was not returned by him with his objections thereto within that time.

Chapter 233. AN ACT RELATIVE TO CERTAIN ELECTIONS IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. Chapter 452 of the acts of 1948 is hereby amended by striking out section 15, as most recently amended by chapter 190 of the acts of 1952, and inserting in place thereof the following three sections:-

Section 15. If at any time a vacancy occurs in the office of city councillor-at-large for any cause, the city clerk shall forthwith notify the city council thereof; and within fifteen days after such notification, the remaining city councillors shall choose, as city councillor-at-large for the unexpired term, whichever of the defeated candidates for the office of city councillor-at-large at the regular municipal election at which city councillors-at-large were elected for the term in which the vacancy occurs, who are eligible and willing to serve, received the highest number of votes at such election, or, if there is no such defeated candidate eligible and willing to serve, a registered voter of the city duly qualified to vote for a candidate for the office of city councillor-at-large. If the remaining city councillors fail to choose as hereinbefore provided within fifteen days after the notification of the city council by the city clerk, the choice shall be made by the mayor, or, if there is no mayor, by the president of the city council.

Section 15A. If a vacancy occurs in the office of district city councillor more than one hundred and eighty days prior to a regular municipal election, the city clerk shall forthwith notify the city council thereof; and at the first city council meeting after the notice has been read, the city council shall forthwith adopt an order calling a special preliminary election for the purpose of nominating a district city councillor for the unexpired term, which election shall be held on a Tuesday, not less than sixty-two nor more than seventy-six days after the adoption of such order, as the city council shall in such order fix. The two candidates for district city councillor receiving the greatest number of votes at the special preliminary election shall be deemed nominated and their names shall be placed on the ballot for the special municipal election, which election shall be held twenty-eight days following the special preliminary election.

Section 15B. A call for a special preliminary election as provided in section fifteen A shall be in effect upon vote of the city council and no such vote shall be presented to the mayor for his approval notwithstanding the provisions of section seventeen D. All such special elections as provided in section fifteen A shall be governed by the provisions of this

act except: (*a*) the subscription required by section fifty-five shall be done within ten days of the call, (*b*) no nomination petition shall be issued by the election commission before the seventh day following the call, (*c*) the nomination petition shall be signed, in the case of a district city councillor in a special preliminary election by the same number of signatures as provided in section fifty-six for a district city councillor candidate in a regular preliminary election, (*d*) all nomination petitions shall be filed with the election commission before five o'clock in the afternoon on the fifteenth day following the adoption of the order calling a special preliminary election, (*e*) no candidate for district city councillor shall withdraw his name from nomination after the last day to file objections to nomination petitions, (*f*) the election commission shall complete the certification required by section fifty-seven within two weeks of the last day for the filing of nomination petitions, (*g*) a nomination petition which has been filed and is in apparent conformity with the law shall be valid unless written objection thereto is made by a registered voter of the city. Such objection shall be filed with the election commission within three days excluding Saturdays, Sundays and legal holidays following the certification of signatures, (*h*) no candidate shall be substituted as provided for in section fifty-seven B, and (*i*) notwithstanding the provisions of any General Law to the contrary, a petition for recount may be filed with the election commission before five o'clock in the afternoon on the third day following the certification of a special preliminary election for nominating a district city councillor.

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

Approved November 12, 1993.

Chapter 234. AN ACT AUTHORIZING THE TOWN OF OAK BLUFFS TO ESTABLISH A CERTAIN RESERVE FUND.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section fifty-four of chapter forty-four of the General Laws, the town of Oak Bluffs may establish in the town treasury a reserve fund which shall be kept separate and apart from all other monies by the town treasurer and in which shall be deposited all monies received from the provision of ambulance services until sufficient monies are deposited to allow for the purchase of an ambulance and in each year after such purchase until twelve thousand dollars has been accumulated for future purchases. Any such purchases shall be made by the board of selectmen without further appropriation.

Approved November 15, 1993.

Chapter 235. AN ACT RELATIVE TO DIRECTORS OF CREDIT UNIONS.

Be it enacted, etc., as follows:

The second paragraph of section 11 of chapter 171 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "vote", in line 16, the following words:- or to be a candidate for director.

Approved November 16, 1993.

Chapter 236. AN ACT PROVIDING FOR THE APPOINTMENT OF CEMETERY COMMISSIONERS IN THE TOWN OF SUTTON.

Be it enacted, etc., as follows:

SECTION 1. The charter of the town of Sutton 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 3-4.

SECTION 2. The bylaws of the town of Sutton are hereby amended by adding the following bylaw:

Cemetery Commission.

(*a*) *Composition, Term of Office* - There shall be a cemetery commission which shall consist of three members appointed by the board of selectmen for terms of three years each so arranged that the term of one member shall expire each year.

(*b*) *Powers and Duties* - The cemetery commission shall have general charge and superintendence of all burial grounds within the town and any land set aside by the town for cemetery purposes. Said cemetery commission shall have all other powers and duties conferred upon cemetery commissions by general law and such additional powers and duties as may be provided by town bylaw or by town meeting vote.

SECTION 3. Members of the cemetery commission now in office shall continue in office until the expiration of the term to which they were elected. Upon the expiration of said term, their successors shall be appointed as provided for in section two.

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

Approved November 16, 1993.

Chapter 237. AN ACT RELATIVE TO RECIPROCITY OF LICENSING FOR NURSES.

Be it enacted, etc., as follows:

Chapter 112 of the General Laws is hereby amended by striking out section 76B, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 76B. Any person who has taken and passed the State Board Testing Pool Exam by standards acceptable to the board, and has been registered by a province of Canada in which an examination was taken before August first, nineteen hundred and seventy, and meets the eligibility requirements of clinical and theoretical study as determined by the board, and furnishes to the board satisfactory proof of good moral character and having graduated from a school of nursing approved by the board of nursing in the jurisdiction in which the applicant was originally registered shall be deemed to have met standards substantially the same as those of the commonwealth for the licensing of nurses and shall be licensed in the commonwealth without examination.

Any person who has taken the Canadian Nurses Association Testing Service Exam in English after August first, nineteen hundred and seventy, and has achieved individual scores greater than four hundred in each component of said examination and has been registered by a province of Canada in which an examination was taken, and meets the eligibility requirements of clinical and theoretical study as determined by the board, and furnishes to the board satisfactory proof of good moral character and having graduated from a school of nursing approved by the board of nursing in the jurisdiction in which the applicant was originally registered shall be deemed to have met standards substantially the same as those of the commonwealth for the licensing of nurses and shall be licensed in the commonwealth without examination.

Any person who has taken the Canadian Nurses Association Testing Service Comprehensive Exam in English in August of nineteen hundred and eighty or thereafter and achieved a comprehensive score of greater than four hundred and has been registered by a province of Canada in which an examination was taken and meets the eligibility requirements of clinical and theoretical study as determined by the board, and furnishes to the board satisfactory proof of good moral character and having graduated from a school of nursing approved by the board of nursing in the jurisdiction in which the applicant was originally registered shall be deemed to have met standards substantially the same as those of the commonwealth for the licensing of nurses and shall be licensed in the commonwealth without examination.

Any person who has taken the Canadian Nurses Association Testing Service Exam in French after August first, nineteen hundred and seventy, and has achieved individual scores greater than four hundred in each component of said examination and has been registered by a province of Canada in which an examination was taken, and meets the eligibility requirements of clinical and theoretical study as determined by the board, and has attained a score of at least five hundred and fifty on the English Proficiency Examination and furnishes to the board satisfactory proof of good moral character and having graduated from a school of nursing approved by the board of nursing in the jurisdiction in which the applicant was originally registered shall be deemed to have met standards substantially the same as those of the commonwealth for the licensing of nurses and shall be licensed in the commonwealth without examination.

Any person who has taken the Canadian Nurses Association Testing Service Comprehensive Exam in French in August of nineteen hundred and eighty or thereafter and achieved a comprehensive score of greater than four hundred and has been registered by a province of Canada in which an examination was taken and meets the eligibility requirements of clinical and theoretical study as determined by the board, and has attained a score of at least five hundred and fifty on the English Proficiency Examination and furnishes to the board satisfactory proof of good moral character and having graduated from a school of nursing approved by the board of nursing in the jurisdiction in which the applicant was originally registered shall be deemed to have met standards substantially the same as those of the commonwealth for the licensing of nurses and shall be licensed in the commonwealth without examination.

Approved November 16, 1993.

Chapter 238. AN ACT AUTHORIZING THE CITY OF WORCESTER TO UTILIZE A CERTAIN PARCEL OF LAND FOR STREET PURPOSES.

Be it enacted, etc., as follows:

The city of Worcester is hereby authorized to utilize a certain parcel of land, acquired for water supply purposes, shown as parcel 17-C on a plan recorded in the Worcester district registry of deeds in Book 670 as Plan 22 for the purpose of realigning the location of Plantation street, a public highway in said city.

Approved November 18, 1993.

Chapter 239. AN ACT REDUCING REPORTING REQUIREMENTS OF CERTAIN CANDIDATES.

Be it enacted, etc., as follows:

Section 19 of chapter 55 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out subsection (e) and inserting in place thereof the following subsection:-

(e) The cashier or treasurer of the bank, selected by any candidate or committee as above provided, shall file with the director (1) during the last six months of an election year by the fifth day and twentieth day of each month while such account is in existence, and (2) during the first six months of an election year and during non-election years by the fifth day of each month while such account is in existence and has received deposits greater than two hundred and fifty dollars or made withdrawals greater than two hundred and fifty dollars during the preceding month but in any case no less than semiannually on the fifth day of

January and July while such account is in existence, the following information, a statement of the balance as of the preceding first day or fifteenth day of the month or as of the last report filed pursuant to this paragraph, whichever is applicable, together with a summary of all of the deposit slips presented to the bank since the last such statement with any deposit of monies to the campaign account of such candidate or committee, listing the names alphabetically and other data as to all donors as it appeared on the deposit slip, and a list of all the checks presented to the bank since the last such statement upon which any funds were withdrawn from any such account with the names and addresses of the payees and the amount of each check, and the purposes for which the money was paid as thereon indicated. For the purposes of this subsection, the term "election year" shall mean the calendar year in which a primary, special or general election is scheduled for the office sought or held by the candidate or political committee maintaining such account and the term "non-election year" shall mean all other years.

Approved November 18, 1993.

Chapter 240. AN ACT AUTHORIZING THE TOWN OF SUNDERLAND TO SELL CERTAIN LAND TO THE COMMONWEALTH.

Be it enacted, etc., as follows:

The town of Sunderland is hereby authorized to sell and convey to the commonwealth through its division of capital planning and operations, acting on behalf of the department of fisheries, wildlife and environmental law enforcement, certain parcels of land located in said town and currently used for conservation purposes. Said parcels are described as follows:

Parcel One - A certain tract of land lying in the Connecticut River and known as the Great Island, containing six acres of land more or less. Being the same premises as described in a deed recorded in the Franklin county registry of deeds, Book 1666, Page 55;

Parcel Two - A certain tract of land lying in the Connecticut River and known as First Island, being the first island located north of the Sunderland bridge, containing three acres of land more or less. Being the same premises as described in a deed recorded at the Franklin county registry of deeds, Book 1685, Page 202.

Approved November 18, 1993.

Chapter 241. AN ACT DESIGNATING A PORTION OF STATE HIGHWAY ROUTE 9 IN THE TOWN OF SHREWSBURY AS THE POLICE OFFICER JAMES LONCHIADIS MEMORIAL HIGHWAY.

Be it enacted, etc., as follows:

That portion of state highway Route 9 within the town of Shrewsbury shall be des-

ignated and known as police officer James Lonchiadis Memorial Highway, in memory of James Lonchiadis, a member of the Shrewsbury police department who was killed in the line of duty. The department of highways shall erect suitable markers along said highway bearing said designation, in compliance with the standards of said department.

Approved November 18, 1993.

Chapter 242. AN ACT AUTHORIZING THE CITY OF LOWELL TO CONVEY CERTAIN SURPLUS PROPERTIES.

Be it enacted, etc., as follows:

Notwithstanding the provisions of chapter thirty B of the General Laws or any other general or special law to the contrary, the city of Lowell is hereby authorized to convey certain surplus property located at 150 First street and 14 Simpson street in said city to Stephen Jean and Maureen Jean and certain surplus property located at 23 Arthur street in said city to Donna A. Vaillancourt.

Approved November 18, 1993.

Chapter 243. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF NORTON AS THE MASON W. JOHNSON MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge on Newcomb street over interstate highway Route 495 in the town of Norton shall be designated and known as the Mason W. Johnson Memorial Bridge, in honor of Mason W. Johnson a veteran of World War II. A suitable marker bearing said designation shall be attached thereto by the department of highways in compliance with the standards of said department.

Approved November 22, 1993.

Chapter 244. AN ACT RELATIVE TO SHARES AND DEPOSITS IN CREDIT UNIONS.

Be it enacted, etc., as follows:

The first paragraph of section 30 of chapter 171 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- A member of a credit union having assets

of four million dollars or more may hold shares or make deposits, or both, in his own name, to an amount not exceeding, in the aggregate, two hundred thousand dollars and may jointly, with one or more persons, hold shares or make deposits or both to an amount not exceeding, in the aggregate, two hundred and fifty thousand dollars, exclusive of club deposits.

Approved November 22, 1993.

Chapter 245. AN ACT AUTHORIZING THE BOARD OF SELECTMEN OF THE TOWN OF WELLESLEY TO EXEMPT THE POSITION OF DEPUTY CHIEF OF POLICE FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of deputy chief of police in the town of Wellesley 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 incumbent holding the office of deputy chief of police in the town of Wellesley on the effective date of this act.

Approved November 22, 1993.

Chapter 246. AN ACT EXTENDING THE REPORTING DATE OF THE SPECIAL TASK FORCE ON MUNICIPAL FINANCE.

Be it enacted, etc., as follows:

Section 102 of chapter 71 of the acts of 1993 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Said task force shall be charged with examining all aspects of the delivery and financing of municipal services with special consideration to the review and reconsideration of the recommendations made by the Hamill commission, so-called, whose report was filed with the general court on April twelfth, nineteen hundred and ninety and shall make recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before December thirty-first, nineteen hundred and ninety-three.

Approved November 22, 1993.

Chapter 247. AN ACT RELATIVE TO THE DUKES COUNTY LAND BANK.

Be it enacted, etc., as follows:

The definition of "Town advisory board" in section 1 of chapter 736 of the acts of 1985 is hereby amended by inserting after the word "commission", in line 8, the following words:- and in said town of Tisbury there shall be one representative duly appointed either from its membership or otherwise by the department of public works.

Approved November 22, 1993.

Chapter 248. AN ACT RELATIVE TO THE MOBILE HOME PARKS IN THE TOWN OF WILLIAMSTOWN.

Be it enacted, etc., as follows:

SECTION 1. Chapter 766 of the acts of 1981 is hereby amended by inserting after section 2 the following section:-

Section 2A. The rent control board is hereby authorized to act as an arbitrator for disputes between tenants and park owners relative to maintenance of mobile home parks and mobile home park regulations.

SECTION 2. Said chapter 766 is hereby further amended by inserting after section 8 the following section:-

Section 8A. Notwithstanding section thirty-two R of chapter one hundred and forty of the General Laws or any other general or special law to the contrary, any incorporated home owners' association in the town of Williamstown, entitled to notice under said section thirty-two R, 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 park, provided it meets the price and substantially equivalent terms and conditions of any offer of which it is entitled to notice under said section thirty-two R, by executing a contract or purchase and sale or lease agreement with the owner within ninety days of notice of the offer, and by obtaining any necessary financing or guarantees within an additional forty-five days. The Williamstown rent control board shall have the right to verify the existence of a bona fide offer to purchase or lease said park if requested by the tenants association. No owner shall 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 said section thirty-two R. Failure of the incorporated home owners' association to execute such a purchase and sale or lease agreement within the first ninety day period or to obtain a binding commitment for financing within an additional forty-five day period shall serve to terminate the right of such association to purchase or lease the mobile home park. The time period herein may be extended by agreement of the association and the owner.

Approved November 22, 1993.

Chapter 249. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF CHESTER.

Be it enacted, etc., as follows:

SECTION 1. Any holder of an elective office may be recalled in the town of Chester by the 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 whom the recall petition forms is issued shall make an affidavit on each page that statements therein contained are true.

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 be counted. The candidates 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 expired 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, November 23, 1993.

Chapter 250. AN ACT RELATIVE TO THE APPOINTMENT OF THE CHIEF OF POLICE IN THE TOWN OF STOUGHTON.

Be it enacted, etc., as follows:

Section 3-3 of article 3 of the charter of the town of Stoughton, 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 clause g and inserting in place thereof the following clause:-

g. Appoint the members of the zoning board of appeals, the members of the planning board, the chief of police, the sealer of weights and measures, and the weigher, the constables, the registrars of voters, the members of the council on aging, the members of the industrial commission, the veteran's agent, the town counsel and the town auditor. The town auditor shall be an office separate and distinct from the town clerk and shall be filled by a separate person. The planning board shall have five members each of whom shall be appointed for a five year term. One member of the planning board shall be appointed for five years, one for four years, one for three years, one for two years, and one for one year by the selectmen elected at the first regular April election held under this charter. Members shall subsequently be appointed for five year terms as their terms of office expire. All other appointees to offices listed in this paragraph shall serve at the will of the selectmen.

Approved November 23, 1993.

Chapter 251. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF PLYMPTON.

Be it enacted, etc., as follows:

SECTION 1. A holder of an elective office in the town of Plympton 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 such recall. Said town clerk shall, within five days, certify thereon the number of signatures which are names of registered voters of the town. The town clerk shall, upon certification, 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. Such blank shall be dated, addressed to the selectmen and contain the names of the persons to whom they are issued, the name of the person whose recall is sought, the grounds for such 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. Such recall petition shall be returned and filed with the town clerk within thirty days after the filing of the affidavit and shall have been signed by at least twenty 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 of the recall petition, submit such petition to the registrars of voters and said registrars shall, within fourteen 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, said town clerk shall submit the same with his certificate to the board of 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 such officer does not resign within five days thereafter, order an election to be held on a date fixed by them not less than sixty nor more than ninety days after the date of the town clerk's certificate that a sufficient petition has been filed. No person shall be subject to recall if his term of office expires within ninety days of the certificate. If a vacancy occurs in such office after a recall election has been ordered, such election shall nevertheless proceed as provided in this act.

SECTION 4. An officer sought to be removed may be a candidate to succeed himself and, unless the officer 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 recall election, and the conduct of the same, shall be in accordance with the provisions of law relating to elections, unless otherwise specifically provided herein.

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 remainder of 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 to the right of each proposition there shall be a square in which the voter, by making an (X) may vote for either of said propositions. Under the propositions shall appear the word "Candidates" and the directions to the voters required by section forty-two of chapter fifty-four of the General Laws and, beneath such directions 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 cast upon 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 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 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 resignation.

Approved November 23, 1993.

Chapter 252. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF BOURNE.

Be it enacted, etc., as follows:

SECTION 1. Any person who holds elective office in the town of Bourne may be recalled therefrom by the registered voters of said town in the manner provided herein.

SECTION 2. Any four hundred and fifty qualified voters of the town of Bourne may file with the town clerk an affidavit containing the name of the elected official sought to be recalled and a statement of the grounds for such recall. Said town clerk shall, within ten working days, deliver to any one or more of the voters making such affidavit a sufficient number of petition blanks or copies thereof demanding such recall. Such blanks shall be issued by the town clerk with his signature and official seal attached thereto. Such petition blanks shall be dated and addressed to the board of selectmen of said town, shall contain the name of the person to whom they are issued, the number of blanks so issued, the name of the official sought to be recalled, the office from which such recall is sought and, the grounds of recall as stated in said 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. Such recall petition shall be returned and filed with the town clerk within forty-five calendar days after its issuance.

A recall petition, before being returned and filed with the town clerk, shall have been signed by no less than twenty percent of the qualified voters as of the most recent town election and to every signature shall be added the place of residence of the signer, giving the street and number, if any.

The town clerk shall, within five working days following the day of such filing, submit the petition to the registrars of voters and the registrars shall forthwith certify thereon the number of signatures which are names of registered voters as of the date of the most recent town election.

SECTION 3. If the recall petition shall be found and certified by the town clerk to be sufficient, said clerk shall submit such petition with the clerk's certification to the board of selectmen without delay. Said board of selectmen shall forthwith give written notice of the receipt of the certificate to the official sought to be recalled. If the official sought to be recalled does not resign within five calendar days after receipt of such written notice, said board of selectmen shall order a recall election to be held on a date fixed by them not less than sixty nor 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 scheduled to be held within one hundred and twenty days after the date of the certificate, said board of selectmen may, at its discretion, postpone the holding of the recall election to the date of such other town election. If a vacancy occurs in such office after a recall election has been ordered by said board of selectmen the election shall nevertheless proceed as provided in this section.

SECTION 4. Any officer whose recall is sought 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 recall election, and the conduct of the same, shall be in accordance with the General Laws related to town elections unless otherwise provided by this act.

SECTION 5. The incumbent shall continue to perform the duties of his office until the recall election. If such 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 the elected official is recalled, he shall be deemed removed upon the qualification of his successor, who shall serve for the balance of the unexpired term of the officer removed. If the successor fails to qualify within five working days after receiving notification of his election, the incumbent shall thereupon be removed and the office vacant.

SECTION 6. Ballots used in 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 ☐

To the right of each proposition there shall be a place to vote for either of such prepositions. Under the propositions shall appear the word "Candidates", the directions to voters required by section forty-two of chapter fifty-four of the General Laws, and beneath the word "Candidates" shall be the names of candidates nominated as hereinbefore provided. If the elected official who is the subject of the recall petition is a candidate, such official's name shall be first to appear and all others shall follow in alphabetical order.

If the majority of the votes cast upon the question of recall is in the affirmative, the official shall be deemed to be recalled and the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes on the questions of recall is in the negative, the ballots for candidates need not be counted.

SECTION 7. No recall petition shall be accepted by the town clerk for filing against an officer within six months after he takes office, nor in the case of an elected official subjected subjected to a recall election and not removed thereby, until at least six 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 elected or appointed to any town office within one year after such recall or such resignation.

SECTION 9. This act shall be submitted to the voters of the town of Bourne at the town election to be held in the year nineteen hundred and ninety-four 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-three, entitled, 'An act providing for recall elections in the town of Bourne' 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, but not otherwise.

SECTION 10. This act shall take effect upon its passage.

Approved, November 23, 1993.

Chapter 253. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF MIDDLEBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. Any holder of an elective office in the town of Middleborough may be recalled therefrom by the 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 five 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 eight hundred 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 statements therein contained are true.

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 eight hundred 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 fifty. 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 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. 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 direction for the voters required by law, and beneath the word "Candidates" shall be the names of candidates nominated as hereinabove provided. The ballots used in a recall election shall be substantially in the following form:

RECALL ELECTION

(Month and day of Month and Year)

FOR THE RECALL OF (Name in full) _____

AGAINST THE RECALL OF (Name in full) _____

CANDIDATES

Vote for One

(Name of Candidate) _____

If a majority of the votes cast upon the question of recall are 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 are in the negative, the ballots for the candidates need not be counted unless the incumbent officer has previously resigned from office pursuant to section three.

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 subjected to a recall election and not removed thereby, until at least six months after that election.

SECTION 8. No person who has been removed from an office by recall, 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 removal by recall or such resignation.

Approved, November 23, 1993.

Chapter 254. AN ACT AUTHORIZING THE CONVEYANCE OF A CERTAIN PARCEL OF LAND IN THE TOWN OF SHARON FOR AFFORDABLE HOUSING PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the town of Sharon, acting by and through its board of selectmen is hereby authorized to convey, subject to the approval of the secretary of the executive office of environmental affairs, and the secretary of the executive office of communities and development, a certain parcel of land located in said town which was acquired for recreational purposes to the South Shore Habitat for Humanity, Inc., for the purpose of providing affordable housing, subject to the provisions of sections thirty-one and thirty-two of chapter one hundred and eighty-four of the General Laws. Said parcel consisting of eighty thousand square feet is generally shown as parcel A1 on a sketch plan of land prepared by the town engineers office which is on file in the office of the town clerk but the final configuration of said parcel shall be determined by said board of selectmen.

SECTION 2. In consideration of said conveyance, the South Shore Habitat for Humanity, Inc. shall pay to the town of Sharon the amount of one dollar together with such costs and expenses incurred by said town in carrying out the conveyance authorized under the provisions of section one as the board of selectmen may deem appropriate.

Approved, November 24, 1993.

Chapter 255. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF TRURO.

Be it enacted, etc., as follows:

Section 1 of chapter 2 of the charter of the town of Truro, 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 the second paragraph and inserting in place thereof the following paragraph:-

The annual town meeting shall be held on the second Tuesday in April.

Approved, November 24, 1993.

Chapter 256. AN ACT ESTABLISHING THE TOWN OF ARLINGTON SCHOLARSHIP FUND.

Be it enacted, etc., as follows:

SECTION 1. Section 3 of chapter 405 of the acts of 1983 is hereby amended by inserting after the word "District", in lines 4 and 5, the following words:- or their designees.

SECTION 2. Said section 3 of said chapter 405 is hereby further amended by striking out, in lines 5 to 9, inclusive, the words "and a registered voter of said town, who shall, whenever practicable, be employed, affiliated or otherwise associated with a class of private secondary schools not otherwise represented on said committee, shall be appointed to a three year term by the town moderator" and inserting in place thereof the following words:- a registered voter of the town who is interested in education shall be appointed to a three year term by the town moderator.

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

Approved, November 24, 1993.

Chapter 257. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO TRANSFER A CERTAIN PARCEL OF LAND TO THE TOWN OF STOUGHTON.

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 convey by deed certain land located in the town of Stoughton and presently under the control and supervision of the armory commission, to the town of Stoughton. This land is to be diverted from its present use in connection with an armory, to a highway use.

Said parcel is shown on a plan entitled, "Stoughton, MA. plan of land owned by the Commonwealth of Massachusetts showing parcel needed for highway purpose". This plan shall be kept on file with the chief engineer of the Massachusetts highway department.

Approved, November 24, 1993.

Chapter 258. AN ACT ESTABLISHING A BOARD OF SEWER COMMISSIONERS IN THE TOWN OF WEST STOCKBRIDGE.

Be it enacted, etc., as follows:

SECTION 1. There shall be established in the town of West Stockbridge a board of sewer commissioners to consist of five members appointed by the board of selectmen. Said members shall initially be appointed by the board of selectmen as follows: one member for one year, one member for two years, one member for three years, one member for four years and one member for five years, thereafter the board of selectmen shall appoint one member annually for five years. The board of selectmen shall appoint no less than three members who shall be users of the sewer system. The board of sewer commissioners shall

exercise all powers previously granted to the board of selectmen relative to the sewer system; provided, however, that the board of sewer commissioners may, subject to the approval of the board of selectmen, annually set the charges to be assessed upon the sewer users and determine the number and compensation of all employees necessary to operate said sewer system.

SECTION 2. This act shall take effect upon its acceptance by the voters of the town of West Stockbridge at an annual or duly scheduled special town meeting.

Approved, November 24, 1993.

Chapter 259. AN ACT RELATIVE TO THE BY-LAWS OF THE CENTERVILLE-OSTERVILLE-MARSTONS MILLS FIRE DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. The following shall be the by-laws of the Centerville-Osterville-Marstons Mills Fire District. Officers

The officers of the district shall consist of a prudential committee comprised of three members, a board of fire commissioners comprised of three members, a board of water commissioners comprised of three members and a moderator, all of whom shall be elected by ballot and serve for terms of three years or until their successors are chosen and qualified. In addition, there shall be appointed by the prudential committee, a clerk/treasurer, upon such terms and conditions as said prudential committee, pursuant to section fifteen, shall determine. The office of clerk/treasurer shall be held by the same person. The board of fire commissioners shall appoint a fire chief and deputy fire chief, upon such terms and conditions as shall be determined pursuant to section twenty. The board of water commissioners shall appoint a water superintendent and assistant water superintendent, under such terms and conditions as shall be determined by the board of water commissioners as determined pursuant to sections twenty-six and twenty-seven.

Any employee of the Centerville-Osterville-Marstons Mills Fire District, full or part-time, may, if he so chooses, seek election to the prudential committee, board of water commissioners, or board of fire commissioners; provided, however, that such employee shall, upon being sworn, immediately resign his position of employment with said district.

SECTION 2. Compensation

The elected officers of the district shall receive for their services such compensation as said district may determine at its annual district meeting.

SECTION 3. Election and Nominations

The election for district officers shall take place one day prior to the annual district meeting. Nominations for district officers to be chosen by ballot shall be made by filing of nomination papers with the clerk/treasurer, signed by at least fifty persons qualified to vote in said district elections at least thirty days prior to the meeting to be held for the election of such officers.

SECTION 4. Procedure

Upon receipt of petitions signed by seven hundred and fifty registered voters of the district enrolled at the time of the last district election seeking the recall of an elected district official, the district clerk/treasurer shall, within fourteen days, set a date for a special recall election. Such election shall be held not less than forty-five days and not more than sixty days after the petitions have been validated by the district clerk/treasurer. The district clerk/treasurer shall be required to furnish appropriate petition forms for voters seeking the recall of an elected official. The petitioners shall have ninety calendar days to obtain the requisite number of valid signatures. Candidates who seek to be elected in place of the individual who is the subject of such recall election, shall submit nomination papers signed by the same number of registered voters as required at an annual district election, within ten days of the call for such recall election.

SECTION 5. Ballot Format

The name of the incumbent elected official who is the subject of the recall petition shall appear at the top of the ballot. All other candidates shall be listed in alphabetical order.

SECTION 6. Automatic Submission to Recall

An elected official shall be required to submit automatically to recall if he is convicted of a felony, if he moves his residence from the limits of the Centerville-Osterville-Marstons Mills Fire District or if he is absent from his duties for a period of one year.

SECTION 7. One Year Grace Period

No elected official shall be subject to recall until at least one year after he is sworn into office except under the provisions of section three. In the event that the elected official is re-elected, such grace period shall not apply.

SECTION 8. Warrant and Posting

Meetings of the Centerville-Osterville-Marstons Mills Fire District shall be called in pursuance of a warrant issued under the hands of the prudential committee. Notice of a meeting shall be given by the district clerk/treasurer at least fourteen days prior to such meeting by posting in two or more public places and advertising in a newspaper published within the town of Barnstable and by making copies of the annual report and warrant available fourteen days prior to such meeting. The annual meeting shall be held within the district on the third Tuesday in May of each year. All newly elected officers of the Centerville-Osterville-Marstons Mills Fire District shall be sworn to the faithful performance of their duties.

SECTION 9. Time, Place and Requested Articles

The warrant for all district meetings shall state the time and place of such meeting and the subjects to be acted upon thereat. The prudential committee shall insert in the warrant for the annual meeting all articles with their recommendations thereon and all articles that have been requested of them by fifty or more registered voters of said district. For any special district meeting, the prudential committee shall insert in the warrant all articles with their recommendation thereon and all articles that have been requested of them by fifty or more registered voters of said district.

SECTION 10. Special District Meetings

The prudential committee shall call a special district meeting upon the request, in writing, of one hundred registered voters of the district. Once a request has been submitted to the clerk for verification of signatures, it shall be closed and no further signatures shall be added. The special district meeting shall be held not later than thirty days after the verification of such request and the prudential committee shall insert in the warrant all articles that shall have been requested by such petition. The prudential committee may call a special district meeting upon a majority vote of its members.

SECTION 11. Quorum

Fifty registered voters of the Centerville-Osterville-Marstons Mills Fire District shall constitute a quorum for the purposes of a meeting.

SECTION 12. Moderator

The district shall elect a moderator for a three year term. Said moderator shall have all the powers of moderators under the General Laws, or as provided in these by-laws and shall receive such compensation as said district may determine.

SECTION 13. Composition

The voters shall elect by ballot three members of the prudential committee for terms of three years each. The term of one member shall expire each year.

SECTION 14. Powers and Duties

(A) The prudential committee shall be the chief executive officers of the district and shall exercise general management responsibility over district affairs.

(B) The prudential committee shall, by issuance of warrants therefor, call the district meeting into session and determine the subjects to be acted upon at said district meeting.

(C) The prudential committee shall, by the issuance of warrants therefor, call all elections, regular or special, to be held in the district.

(D) The prudential committee shall expend, for the purposes prescribed by the district, money raised or borrowed.

(E) The prudential committee shall have jurisdiction and control of all property, real or personal, except as provided for in chapter one hundred and sixty-nine of the acts of nineteen hundred and thirty-seven.

(F) The prudential committee shall have all the other powers, duties and responsibilities that are given to the prudential committee by the General Laws, by the by-laws or by vote of the district.

(G) The prudential committee shall have the power to determine the location and type of street lights within the district and to contract with the electric utility company, on a yearly basis, for the same.

(H) The prudential committee shall have responsibility for contract approval of purchased goods or services for the district and shall appoint a contract compliance officer to accomplish the same, in accordance with the General Laws and procurement regulations.

(I) The prudential committee shall have the responsibility to ensure district compliance with federal, state and local regulations pertaining to equal employment opportunity, employment of the handicapped, affirmative action, discrimination and other applicable laws, rules and regulations.

(J) The prudential committee shall have the responsibility of determining the insurance coverage to meet the needs of the district and to contract for the same.

(K) The prudential committee shall approve and sign all notes, bonds or script issued by the district and all warrants for payment of district funds. It shall establish policies, rules, regulations and procedures to ensure review, prior to issue, of all district agreements, contracts and other documents that will ultimately result in the expenditure of district funds.

(L) The prudential committee shall establish policies, rules and regulations to ensure all contracts for goods or services are approved by district counsel as required by the General Laws and procurement regulations and that availability of funds is verified by the clerk/treasurer.

(M) The prudential committee shall establish policies, rules, regulations and procedures to ensure that an original copy of all district agreements and contracts are filed in the clerk/treasurer's central file in accordance with the General Laws and procurement regulations.

(N) The prudential committee shall appoint a by-law committee, on an annual basis, to review the by-laws and make recommendations regarding the possible revisions or additions of the district by-laws.

(O) The prudential committee shall have the fiscal responsibility for the district. It shall establish annual spending recommendations for operational purposes and for long term obligations. The issuance of bonds and notes may be phased to stabilize the tax rate to the maximum possible degree.

(P) The prudential committee shall establish guidelines, rules, procedures and regulations to assist the operating departments' financial planning. It shall receive proposed budgets and articles from the district officers and departments for review and inclusion in the annual warrant. It shall make recommendations thereon at the annual meeting.

(Q) The prudential committee shall establish and administer a personnel code and shall have the authority to amend the same upon majority vote of the committee and the commissioners of the affected department.

(R) The prudential committee shall have the responsibility for labor negotiations and contractual agreements with union and non-union employees and may delegate this responsibility if it deems that such action is in the best interest of the district.

(S) The prudential committee shall maintain its membership and participation in the Barnstable districts alliance and shall continue to provide said alliance with its support and cooperation.

SECTION 15. Clerk/Treasurer

(A) The prudential committee shall appoint a clerk/treasurer whose qualifications, powers and duties shall be as delineated in the district personnel code and as provided in the

General Laws. The clerk/treasurer shall be appointed on the basis of merit and ability for an initial probationary term of one year and during such probationary term may be removed without cause. Following completion of the one year probationary period, he may be appointed to a regular position by vote of the appointing authority. If so appointed, the appointee shall thereafter be given an annual review and may be removed at any time, but only for just cause and after a public hearing as set forth in section thirty. The treasurer shall give bond as the prudential committee may require. The cost of this bond will be paid for by the district.

(B) Upon appointment, the clerk/treasurer shall be deemed qualified for all of the same benefits granted to other employees of the prudential committee, and any other benefits as the prudential committee may deem necessary.

SECTION 16. Temporary Clerk/Treasurer

If the clerk/treasurer is prevented from performing his official duties, or if the office is vacant, the prudential committee may, in writing, appoint a temporary clerk/treasurer who shall give bond in like manner as the clerk/treasurer and shall hold his office until a clerk/treasurer is chosen.

SECTION 17. Compensation

Compensation of the clerk/treasurer shall be as established by the prudential committee.

SECTION 18. Authorization

(A) No district notes, bonds or script shall be issued by the clerk/treasurer unless authorized by vote of the district and all such notes, bonds or script shall be signed by said clerk/treasurer of the district and countersigned by a majority of the prudential committee.

(B) No money shall be paid from the treasury of the district except notes, bonds or script issued as above provided and the interest thereon without the written approval or order of the majority of the prudential committee or by vote of the district according to its orders.

SECTION 19. Lapse of Appropriations

Any appropriation or transfer of funds made under any special warrant article after the effective date of this act, shall lapse at the expiration of five years following the effective date of the vote unless otherwise provided for in such warrant article. The district, at an annual or special meeting may, prior to the expiration of any such term of years, provide for an extension during which the funds shall continue to be available for the purpose specified. The clerk/treasurer shall notify the annual district meeting as to which accounts are due to expire. The funds so affected shall be used to reduce that fiscal year's budget or in any other manner as voted by the district.

SECTION 20. Board of Fire Commissioners

(A) There shall be a board of fire commissioners consisting of three members to be elected for terms of three years. Said board shall serve as the chief policymaking agency of the fire department. Said board shall be responsible to the prudential committee and the voters of said district as provided by the General Laws.

(B) The board of fire commissioners shall expend for the purposes prescribed by the district the funds so raised and borrowed for the use of the fire department. Said board shall supervise the awarding of bids for the purpose of purchasing fire department equipment and shall make necessary rules to be followed in the making and awarding of bids consistent with the General Laws; provided, however, that no such general law which affords the district the option of adopting it shall be deemed to have been adopted as a result of this section.

(C) The board of fire commissioners may direct the fire chief to make purchases required for the routine operation of the fire department which do not require being put out to bid by the General Laws.

(D) The board of fire commissioners shall receive the reports of the fire chief and make recommendations thereon to the district meeting.

(E) The board of fire commissioners shall, at its next regular meeting after the annual election, elect a chairman, vice chairman and a clerk.

(F) The board of fire commissioners shall prepare and distribute proposed amendments to the job descriptions and qualifications for all positions of the fire department for submission to the prudential committee in accordance with the provisions of subsection (Q) of section fourteen.

(G) The board of fire commissioners shall appoint the fire chief, deputy fire chief and such other fire department employees as may be provided by these by-laws.

SECTION 21. Fire Chief

(A) Appointment. The board of fire commissioners shall appoint a fire chief, who shall be a resident of the Centerville-Osterville-Marstons Mills Fire District upon appointment or within twelve months thereof. Said fire chief shall be appointed on the basis of merit and ability for an initial probationary term of one year and, during such probationary term, may be removed without cause. Following completion of the one year probationary period, said fire chief may be appointed to a regular position by vote of the appointing authority. If so appointed, said fire chief shall thereafter be given an annual review and may be removed, at any time, for just cause and after a public hearing as set forth in section thirty.

The qualifications, and powers and duties of the fire chief shall be as delineated in the district personnel code. Upon appointment, said fire chief shall be deemed qualified for all of the same benefits granted to other employees under the board of fire commissioners and such other benefits as the fire commissioners may deem necessary.

(B) Vacancy. A vacancy in the office of fire chief shall be filled as soon as possible by the board of fire commissioners. Pending such appointment, said board of fire commissioners shall designate a competent officer or employee of the fire department to perform the duties of said fire chief on a temporary basis.

(C) Compensation for the fire chief shall be as established by the board of fire commissioners.

SECTION 22. Deputy Fire Chief

(A) Appointment. The board of fire commissioners shall appoint a deputy fire chief or chiefs, who shall reside in the Centerville-Osterville-Marstons Mills Fire District upon appointment or within twelve months thereof. Deputy fire chiefs shall be appointed on the

basis of merit and ability for an initial probationary term of one year and, during such probationary term, such deputy fire chief may be removed without cause. Following completion of the one year probationary period, a deputy fire chief may be appointed to a regular position by vote of the appointing authority. If so appointed, the deputy fire chief shall thereafter be given an annual review and may be removed, at any time, for just cause and after a public hearing as set forth in section thirty.

The qualifications, powers and duties of deputy fire chiefs shall be as delineated in the district personnel code. Upon appointment, such deputy fire chiefs shall be deemed qualified for all of the same benefits granted to other employees under the board of fire commissioners and such other benefits as the fire commissioners may deem necessary.

(B) Vacancy. A vacancy in the office of deputy fire chief shall be filled as soon as possible by the board of fire commissioners. Pending such appointment, the board of fire commissioners shall designate a competent officer or employee of the fire department to perform the duties of deputy fire chief on a temporary basis.

(C) Compensation. Compensation for deputy fire chiefs shall be as established by the board of fire commissioners.

SECTION 23. Mechanical and Electronic Fire Alarms; False Alarms; Penalty

(A) Any person maintaining, or permitting to be maintained, a mechanical or electronic fire alarm device that transmits an alarm stimulus indicating that it has detected a fire or a condition inherently characteristic of a fire in order to summons the fire department to the property, shall maintain the device, or cause the device to be maintained, in good operating condition.

(B) A false report of a fire made to the fire department as a result of the transmission of an alarm stimulus shall be reported to the occupant of the premises and to the person maintaining or permitting the device to be maintained by the fire department. Notice to the person maintaining or permitting the device to be maintained shall be deemed delivered by leaving written notification by fire department personnel at the premises where the mechanical or electronic fire alarm device is located.

(C) Any person who maintains or permits to be maintained, any mechanical or electronic fire alarm device which transmits more than three false reports of fire within any consecutive twelve month period, after written notification by the fire department, shall be punished by a fine of fifty dollars for each offense.

(D) The board of fire commissioners shall have the right to waive the penalty provisions of this section for cause upon satisfactory proof that the false alarm was not due to failure to maintain the system in good operating condition.

SECTION 24. Composition

The voters shall elect by ballot three members of the board of water commissioners for terms of three years each. The term of one member shall expire each year.

SECTION 25. Powers and Duties

(A) The board of water commissioners shall supervise the operation of the water department pursuant to chapter one hundred and sixty-nine of the acts of nineteen hundred and thirty-seven and it shall record the happenings of the water department in the annual report.

(B) The board of water commissioners shall be responsible for the management of all water department buildings, tanks, equipment and properties, as provided for in said chapter one hundred and sixty-nine of the acts of nineteen hundred and thirty-seven.

(C) The board of water commissioners shall certify all bills and warrants against the district contracted pursuant to its authority and shall cause the preparation of the annual budget and articles to be included in warrants for approval by district voters.

(D) The board of water commissioners shall employ a water superintendent and all other department personnel as approved by district meeting and recommend the wages and work schedules of such employees. Said board shall prepare and distribute proposed amendments to the job descriptions and qualifications for all positions of the water department for submittal to the prudential committee in accordance with the provisions of subsection (Q) of section fourteen.

(E) The board of water commissioners shall establish just and equitable water rates and water service installation rates, consistent with water department expenses.

(F) The board of water commissioners shall recognize the employees of the water department or their authorized representative as a legal bargaining agent for all labor contractual agreements and shall negotiate in good faith any and all contracts.

(G) Subject to such instructions, rules and regulations as the district may vote, the board of water commissioners shall negotiate contracts for the department for engineering assistance, the laying of water mains and their appurtenances thereto, the installation of pumping equipment and the construction of buildings and tanks, in accordance with appropriate General Laws.

(H) Subject to vote by the district, the board of water commissioners shall, from time to time, revise and update the rules and regulations of the water department as adopted on March tenth, nineteen hundred and eighty-seven.

(I) The board of water commissioners shall have the right to strictly enforce all General Laws pertaining to public water supply.

SECTION 26. Water Superintendent

(A) The board of water commissioners shall appoint a water superintendent whose qualifications and powers and duties shall be as delineated in the district personnel code. The water superintendent shall be appointed on the basis of merit and ability for an initial probationary term of one year and, during such probationary term, may be removed without cause. Following completion of the one year probationary period, said water superintendent may be appointed to a regular position by vote of the appointing authority. If so appointed, the appointee shall thereafter be given an annual review and may be removed at any time for just cause and after public hearing as set forth in section thirty.

(B) Upon appointment, the water superintendent shall be deemed qualified for the same benefits granted to any and all water department employees and such other benefits as the board of water commissioners deems necessary.

(C) A vacancy in the office of water superintendent shall be filled as soon as possible by the board of water commissioners. Pending such appointment, said board shall designate a qualified employee to perform the duties of water superintendent on a temporary basis.

(D) The salary of the water superintendent shall be as determined by the board of water commissioners.

SECTION 27. Assistant Water Superintendent

(A) The board of water commissioners shall appoint an assistant water superintendent whose qualifications and powers and duties shall be as delineated in the district personnel code. The assistant water superintendent shall be appointed on the basis of merit and ability for an initial probationary term of one year and, during such probationary term, may be removed without cause. Following completion of the one year probationary period, such assistant water commissioner may be appointed to a regular position by vote of the appointing authority. If so appointed, the appointee shall thereafter be given an annual review and may be removed at any time for just cause and after a public hearing as set forth in section thirty.

(B) Upon appointment, the assistant water superintendent shall be deemed qualified for the same benefits granted to any and all water department employees and such other benefits as the board of water commissioners deems necessary.

(C) A vacancy in the office of assistant water superintendent shall be filled as soon as possible by the board of water commissioners. Pending such appointment, the board shall designate a qualified employee to perform the duties of assistant water superintendent on a temporary basis.

(D) The salary of the assistant water superintendent shall be as determined by the board of water commissioners.

SECTION 28. Notice of Vacancies

Whenever a vacancy occurs in the district or, when by reason of death, disability or retirement a vacancy is anticipated, the appointing authority shall forthwith cause public notice of the vacancy or impending vacancy to be published in at least one local newspaper and posted on the district bulletin board for not less than ten days. Such notice shall contain a description of the duties of the office or position and a listing of the necessary or desirable questions. Any person desiring appointment to the vacancy may, within ten days following the date the notice is posted, file with the appointing authority a statement setting forth his qualifications for such position. No permanent appointment to fill a position shall be effective until at least fourteen days after such posting. The provisions of this section shall not apply to positions in conflict with the requirements provided under the terms of a collective bargaining agreement.

SECTION 29. Required Vote

No vote to terminate employment of an appointed official shall be effective unless it carries a majority vote of the appointing authority.

SECTION 30. *Dismissal Procedures and Right to a Hearing*

(A) A written notice of the vote of the appointing authority to remove or suspend, and a statement of the cause or causes thereof, shall be delivered by registered or certified mail, return receipt requested, to the affected appointed official at his last known address.

(B) Within five days following the delivery of such notice, the official involved may request a public hearing by submitting, in writing, a request therefor to the appropriate appointing authority, and by filing a copy of such request with the district clerk/treasurer.

(C) A public hearing at a time and place designated by and presided over by the district moderator, shall be held by the appointing authority and the prudential committee not less than seven and not more than fourteen days following the date of receipt of a request therefor. If the appointing authority of the official involved is the prudential committee, then the prudential committee and either the board of water commissioners or the board of fire commissioners, as designated by the district moderator, shall jointly hold the hearing.

(D) The official involved shall be given not less than five days written notice of such public hearing and shall have the right to be represented by counsel at such hearing, to call witnesses, to examine witnesses and to introduce evidence.

(E) Not more than fourteen days following such public hearing, those holding the hearing shall take final action on the removal or suspension and shall forthwith notify the official involved.

(F) If no public hearing has been requested within five days, the removal or suspension shall be deemed effective forthwith.

(G) Subsections (A) to (F), inclusive, are applicable only with respect to removal for cause.

(H) Nothing in this section shall entitle or require a hearing or showing of cause for removal during a probationary period or, in the event of nonappointment, following the expiration of a probationary period.

SECTION 31. Probationary Appointees

A probationary appointee may be removed without cause. For the purposes of this section, a "probationary appointee" shall mean an appointee occupying a position during a probation period.

During the period of time that an appointed official is occupying a position on a probationary basis, such appointee may be removed without cause upon notice from the appointing authority and nothing herein shall be construed to require a hearing or a showing of cause prior to removal or, in the event of nonappointment, following a probationary period.

SECTION 32. These by-laws may be amended by a majority vote of the district at an annual or special meeting called in whole or in part for such purpose or by ballot at any annual or special district election.

SECTION 33. A person holding an office or position in the district at the time of the adoption of these by-laws, including an office or position in the fire department or water department, which is to be an appointive office or position under these by-laws shall, on and after the effective date of this act, be deemed to hold such office or position as if initially appointed pursuant to the provisions of these by-laws and any such appointee who immediately prior to such appointment and for a minimum of one year prior thereto has held the position of clerk/treasurer of the district, or chief or deputy chief of the fire department or superintendent or assistant superintendent of the water department or any appointive clerical or custodial position in the district or a department thereof, shall be conclusively deemed to have satisfied any and all probationary service prerequisites prescribed by these by-laws, shall retain all the benefits and perquisites accrued in the former appointive position to the extent such retention is not inconsistent with the newly appointed position or the provisions of applicable law, and shall thereafter be subject to annual review and removal only as provided in these by-laws.

Each member of the elected board of engineers sitting on the effective date hereof shall continue in office until the expiration of the current term of each such engineer and, upon such expiration, such position shall be filled by the election of a commissioner as provided and described in these by-laws; provided, however, that until there shall be three elected commissioners, the board comprised of duly elected engineers and commissioners shall have and continue to exercise the powers and duties prescribed by the General Laws and any applicable special law in effect prior to the effective date of this act for a board of engineers, and these by-laws, to the extent not inconsistent with such laws; and, provided, further, that forthwith upon the election and qualification of the third "commissioner" the board shall thereafter be governed by and exercise such powers and duties as set forth in these by-laws and such General Laws as are not inconsistent herewith. The three-year term of the moderator shall commence upon the first election for moderator following the enactment of these by-laws.

SECTION 34. This act shall take effect upon its passage.

Approved, November 24, 1993.

Chapter 260. AN ACT RELATIVE TO CERTAIN PARK LAND IN THE CITY OF WORCESTER.

Be it enacted, etc., as follows:

The city of Worcester is hereby authorized to use two certain parcels of park land located in said city, presently under the care, custody, management and control of the Worcester parks commission for the purpose of realigning and widening McKeon road. Said parcels are shown as Parcel A and Parcel B, each on plans of land entitled, "Plan of Land Owned by the City of Worcester Showing Parcel Needed For Highway Purpose," dated January, nineteen hundred and ninety-three, prepared by Beta Engineering, Inc., recorded

in the Worcester district registry of deeds in Plan Book 671, Plan 61 and Plan 62, respectively.

Approved November 24, 1993.

Chapter 261. AN ACT FURTHER AUTHORIZING THE CITY OF BOSTON TO PAY CERTAIN BENEFITS TO KATHERINE E. FLANNERY.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 512 of the acts of 1952, as most recently amended by section 1 of chapter 462 of the acts of 1969, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- Upon his death leaving Katherine E. Flannery, his wife, surviving him, said city shall pay to her, so long as she remains unmarried, an annuity in the amount of three-fourths of the annual amount of pension payable to him at the time of his death.

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

Approved November 24, 1993.

Chapter 262. AN ACT ESTABLISHING A PORTION OF THE BOUNDARY LINE BETWEEN THE TOWNS OF DOUGLAS AND UXBRIDGE.

Be it enacted, etc., as follows:

The following described line shall hereinafter constitute a portion of the boundary line between the towns of Douglas and Uxbridge:-

Beginning at a granite bound at the intersection of the three towns of Douglas and Uxbridge Massachusetts and Burrillville, Rhode Island;

Thence N 01° 11' 34" W, a distance of 3472.41 feet by various owners to a stone bound on the southerly sideline of the Douglas Pike, in the town of Uxbridge and Southeast Main Street, in the town of Douglas;

Thence N 01° 55' 36" W, a distance of 3841.94 feet by various owners to a stone bound on the southerly sideline of Chockalog Road, in the town of Uxbridge and Linden Street, in the town of Douglas;

Thence N 02° 38' 20" W, a distance of 4432.40 feet by various owners to a stone bound to be set on the southerly sideline of Martin Road, in the town of Uxbridge and Yew Street, in the town of Douglas;

Thence N 01° 58' 13" E, a distance of 2211.73 feet by various owners to a stone bound on the westerly sideline of Buffum Road, in the town of Uxbridge and Maple Street, in the town of Douglas;

Thence N 03° 20' 36" E, a distance of 2568.05 feet by various owners to a point on the southerly sideline of Douglas Street, in the town of Uxbridge and Davis Street, in the town of Douglas, said point being S 05° 15' 20" W, a distance of 30.66 feet from station 0+00.00 of Douglas Street and station 107+85.84 of Davis Street;

Thence N 05° 15' 20" E, a distance of 5135.96 feet by various owners to a stone bound on the northerly sideline of West Street, in the town of Uxbridge and Uxbridge Road, in the town of Douglas;

Thence N 09° 23' 50" E, a distance of 1216.87 feet by various owners to a steel spike in the northbound lane of Route 146, said point being N 09° 23' 50" E, a distance of 27.69 feet from station 79+00.57 of the main baseline of Route 146.

Approved November 24, 1993.

Chapter 263. AN ACT RELATIVE TO UNEMPLOYMENT INSURANCE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate unemployment insurance in 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 second paragraph of section 9B of chapter 118F of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The department shall prepare and provide the department of employment and training with appropriate notices for distribution under subsection (k) of section fourteen G of chapter one hundred and fifty-one A.

SECTION 2. Subsection (a) of section 1 of chapter 151A of the General Laws, as amended by section 20 of chapter 19 of the acts of 1993, is hereby further amended by adding the following paragraph:-

Except as provided in subsection (a) of section twenty-four, all wages which fall within a base period of a valid claim which were previously used to establish a prior claim are not available for reuse in establishing a subsequent benefit year.

SECTION 3. Subsection (c) of said section 1 of said chapter 151A, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 45, the word "provided," and inserting in place thereof the following words:- provided, however, that the benefit year shall be fifty-three weeks if filing a new claim would result in overlapping any quarter of the base period of a previously filed new claim where such extension of the benefit year will prevent such overlapping; provided, further.

SECTION 4. Said subsection (c) of said section 1 of said chapter 151A, as so appearing, is hereby further amended by inserting after the word "twenty-four", in line 48, the following words:- ; provided, further, that if the individual has been denied benefits during the period the individual is receiving termination, severance, or dismissal pay, or payment in lieu of dismissal notice under the provisions of clause (3) of subsection (r), the individual's benefit year shall be extended by the number of weeks for which the individual was disqualified but no more than fifty-two weeks.

SECTION 5. Paragraph (A) of subsection (s) of said section 1 of said chapter 151A, as so appearing, is hereby amended by adding the following two subparagraphs:-

(7) remuneration paid to or on behalf of an employee if at the time of the payment of such remuneration, and to the extent that, it is reasonable to believe that a corresponding deduction is allowable under section 217 of the Federal Internal Revenue Code, determined without regard to section 274(n) of said code.

(8) any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127 or 129 of the Federal Internal Revenue Code.

SECTION 6. Section 6 of said chapter 151A, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) service in agricultural labor, except as otherwise provided in subsection (b) of section four A and section eight C; nor service performed before January first, nineteen hundred and ninety-five, or such later date as specified in section 3306(c) (1) (B) of the Federal Internal Revenue Code, in agricultural labor by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to section 214(c) and 101(a) (15) (H) of the Immigration and Nationality Act.

SECTION 7. Paragraph (3) of subsection (d) of section 14 of said chapter 151A, as so appearing, is hereby amended by striking out, in line 95, the word "illegally" and inserting in place thereof the following word:- erroneously.

SECTION 8. Paragraph (3) of subsection (i) of said section 14 of said chapter 151A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any newly subject employer classified by the commissioner in two digit Standard Industrial Classification code fifteen, sixteen or seventeen shall pay contributions at a rate equal to the average rate as of the most recent computation date paid by all employers classified in the Standard Industrial Classification codes fifteen through seventeen, inclusive.

SECTION 9. Subsection (b) of section 14A of said chapter 151A, as so appearing, is hereby amended by adding the following paragraph:-

(3) Any employer who has elected to make payments in lieu of contributions pursuant to this section shall pay the full amount of benefits, including dependency benefits, included on any bill rendered under paragraph (1) even if the determination or decision to pay benefits is subsequently modified or reversed. If the determination or decision to pay

benefits is subsequently modified or reversed, the commissioner shall credit such employers account only if and to the extent that a restitution of the amounts erroneously paid is made.

SECTION 10. Subsection (i) of section 14G of said chapter 151A, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Any employer who fails to file any report or form as required by this section shall pay a penalty equal to ten percent of the contribution due under this section; provided, however, that the penalty assessed shall not exceed one hundred dollars nor be less than twenty-five dollars for each such failure to file, in addition to restitution for any amounts owed to the Medical Security Trust Fund as a result of such failure to make a correct contribution.

SECTION 11. Subsection (k) of said section 14G of said chapter 151A, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The department of medical security shall provide the department with such information and notice.

SECTION 12. Section 24 of said chapter 151A, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Have been paid wages in the base period amounting to at least thirty times the weekly benefit rate; provided, however, that (1) for the period beginning on April first, nineteen hundred and ninety-two and ending on December thirty-first, nineteen hundred and ninety-three, the individual has been paid wages of at least eighteen hundred dollars during said base period, and (2) for the period beginning on January first, nineteen hundred and ninety-four and continuing thereafter until amended, the individual has been paid wages of at least twenty-four hundred dollars during said period.

Wages paid during the base period which had previously been used to establish a benefit year commencing prior to October third, nineteen hundred and ninety-three, may also be used to establish a benefit year commencing on or after October third, nineteen hundred and ninety-three but prior to October second, nineteen hundred and ninety-four. Notwithstanding the provisions of section thirty-eight regarding responding to a commissioner's notice, no account of an employer which pays contributions pursuant to section fourteen or section fourteen C or makes payments in lieu of contributions pursuant to section fourteen A shall be charged for any benefits paid based on base period wages used to establish entitlement under this subparagraph but shall be charged to the appropriate solvency account; provided, however, that any benefits paid based on all or any portion of such wages were charged previously to such employer's account or charged to the appropriate solvency account.

SECTION 13. Subsection (c) of section 29 of said chapter 151A, as so appearing, is hereby amended by adding the following sentence:- If the above provisions are satisfied, an otherwise eligible individual who has been appointed guardian of such child by a court of competent jurisdiction shall be paid such dependency benefits.

SECTION 14. Section 30A of said chapter 151A, as so appearing, is hereby amended by adding the following paragraph:-

Paragraphs (b), (c), (d) and (e) of subsection (3) shall not apply to weeks of unemployment beginning after March sixth, nineteen hundred and ninety-three and for each week thereafter as long as federal law requires that the provisions of section 202(a) (3) and (4) of the Federal State Extended Unemployment Compensation Act of 1970, as amended, be suspended.

SECTION 15. Said chapter 151A is hereby further amended by striking out section 31, as so appearing, and inserting in place thereof the following section:-

Section 31. No individual may receive benefits in a subsequent benefit year unless, since the beginning of the previous benefit year during which he received benefits, he performed service for an employer subject to this chapter and has been paid wages for such service of not less than three times his weekly benefit rate for said previous benefit year.

SECTION 16. Chapter 26 of the acts of 1992 is hereby amended by striking out section 27, as amended by section 3A of chapter 118 of the acts of 1992, and inserting in place thereof the following section:-

Section 27. Notwithstanding the provisions of section fourteen of chapter one hundred and fifty-one A of the General Laws, the experience rate of an employer qualifying therefor under subsection (b) of said section fourteen of said chapter one hundred and fifty-one A shall be the rate which appears in the column designated "D" for calendar year nineteen hundred and ninety-three and nineteen hundred and ninety-four, and the rate which appears in the column designated "F" for calendar years nineteen hundred and ninety-five, and nineteen hundred and ninety-six; provided, however, that if in the report by the commissioner filed in August of nineteen hundred and ninety-four, pursuant to section sixty-eight of chapter two hundred and thirty-three of the acts of nineteen hundred and eighty-three, projects a closing balance for nineteen hundred and ninety-four of less than nine million dollars, then the commissioner shall adjust the rate for nineteen hundred and ninety-five so that the difference between nine million dollars and the closing balance for nineteen hundred and ninety-four will be collected in nineteen hundred and ninety-five in addition to the amount that would be collected in said year pursuant to the rate which appears in the column designated "F"; provided, further, that the commissioner of the department of employment and training may adjust the rate to increase contributions for nineteen hundred and ninety-four in an amount necessary to avoid a reduction of credit imposed by the Secretary of Labor under 29 USC 3302; provided, further, that the commissioner shall notify the joint committee on commerce and labor thirty days prior to adjusting any rate unless such notice is waived in writing by the co-chairs of the committee.

SECTION 17. Section four of this act shall be applicable with respect to new and additional claims filed on or after March seventh, nineteen hundred and ninety-three. Section five shall be applicable with respect to wages paid on or after October third, nineteen hundred and ninety-three. Section eight shall be applicable with respect to computation dates occurring on or after September thirtieth, nineteen hundred and ninety-three. Sections

two, twelve and fifteen shall be applicable with respect to benefit years on or after October third, nineteen hundred and ninety-three.

SECTION 18. The department of employment and training shall undertake a review of its policies interpreting those provisions of clause (2) of subsection (e) of section twenty-five of chapter one hundred and fifty-one A of the General Laws which pertain to disqualification for knowing violations of reasonable and uniformly enforced employer rules and policies, and shall amend its policies within sixty days of enactment of this chapter to the extent necessary to clarify that such rules must be reasonable in themselves and must not produce unreasonable results when measured against the objective circumstances surrounding their violation.

In conducting this review, the department shall consult with and seek advice from a special advisory group to be appointed by the commissioner that shall consist of three representatives from the business community and three representatives from labor.

In addition, the department shall conduct training lessons with claimstaking staff to ensure that its policies interpreting the above referenced portions of said clause (2) of said subsection (e) of said section twenty-five of said chapter one hundred and fifty-one A are implemented uniformly and fairly.

Approved November 24, 1993.

Chapter 264. AN ACT RELATIVE TO CERTAIN FUNDS OF THE DENNIS WATER DISTRICT.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section seven D of chapter seventy-nine and chapter two hundred A of the General Laws or any other general or special law to the contrary, the district treasurer of the Dennis water district may retain such funds as have been deposited or invested on behalf of any person entitled to damages awarded pursuant to section six of said chapter seventy-nine where the name of said person could not be determined after reasonable investigation and shall not be required to transfer said funds to the state treasurer pursuant to said chapter two hundred A. Said water district may, by a majority of voters present at an annual or special meeting, vote to authorize the district treasurer to transfer said funds to the district stabilization fund for future appropriation for capital expenditures. For the purposes of this act the word "funds" shall be deemed to include only those monies deposited or invested pursuant to said section seven D of said chapter seventy-nine which were first deposited or invested prior to January first, nineteen hundred and ninety-two. Any said funds which have not been expended pursuant to the provisions of this act prior to January first, nineteen hundred and ninety-seven shall be transferred to the state treasurer pursuant to the provisions of said chapter two hundred A.

Approved November 24, 1993.

Chapter 265. AN ACT RELATIVE TO AMATEUR BOXING IN THE COMMONWEALTH.

Be it enacted, etc., as follows:

Section 2 of chapter 324 of the acts of 1992 is hereby amended by striking out, in lines 1 and 2, the words "passage and shall expire December thirty-first, nineteen hundred and ninety-three" and inserting in place thereof the following words:- its passage.
Emergency Letter: November 30, 1993 @ 3:26 P.M. Approved November 30, 1993.

Chapter 266. AN ACT REQUIRING NURSING PERSONNEL FOR CERTAIN DIALYSIS UNITS.

Be it enacted, etc., as follows:

Section 53 of chapter 111 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the sixth sentence the following sentence:- A dialysis unit shall have on duty sufficient direct care nursing personnel to ensure that all patients undergoing dialysis have nursing care available at all times provided by registered nurses, licensed practical nurses and other staff trained in chronic dialysis at a ratio of at least one direct patient care staff member to every three patients.

Approved November 30, 1993.

Chapter 267. AN ACT DESIGNATING A CERTAIN INTERSECTION IN THE TOWN OF WILMINGTON AND A CERTAIN BRIDGE IN THE TOWN OF TEWKSBURY AS THE PETER BREEN INTERSECTION.

Be it enacted, etc., as follows:

SECTION 1. The intersection of State Highway Route 125 and Andover street in the town of Wilmington shall be designated and known as the Peter Breen Intersection to memorialize the diligent efforts of the said Peter Breen in improving public safety and traffic flow at said intersection.

The department of highways shall erect and maintain a suitable marker thereon bearing said designation in compliance with the standards of said department.

SECTION 2. The bridge on Route 38 spanning the Boston and Maine railroad tracks in the town of Tewksbury shall be designated and known as the United States Marine Corps Private Walter F. Sharkey Memorial Bridge in honor of Private Walter F. Sharkey and his many contributions to the town of Tewksbury. The department of highways shall erect suitable markers bearing such designation in compliance with the standards of said department.

Approved November 30, 1993.

Chapter 268. AN ACT ESTABLISHING THE CEDAR MEADOW LAKE WATERSHED DISTRICT IN THE TOWN OF LEICESTER.

Be it enacted, etc., as follows:

SECTION 1. There is hereby authorized the establishment of a district, within the town of Leicester, to be known as the Cedar Meadow Lake Watershed District which, upon its establishment in the manner hereinafter set forth shall constitute a body politic and corporate. Said district shall be generally bounded and described as follows:

A. General Boundaries.

Beginning at a point in the South East corner of Cedar Meadow Pond on the West side of Charles Street and from there running North along the West side of Charles Street, North to the Northerly side of the intersection of Beach Street and Charles Street;

Then North One Hundred Twenty (120) feet along the Easterly lot line of property now or formerly owned by Cedar Lake Improvement Association;

Then Westerly Sixty-Five (65) feet along the lot line of property now or formerly owned by Cedar Lake Improvement Association;

Then Westerly Four Hundred Sixty-Three and 30/100 (463.3) feet along the back boundary line of properties on the North side of Beach Street;

Then Northerly One Thousand Three Hundred Sixty and 05/100 (1360.05) feet along the back boundary line of properties on the East side of Wildwood Lane and then Lake View Drive;

Then Easterly Five Hundred Seventy-Two (572) feet along lot line of property now or formerly owned by Richard D. and Anita J. Johnston;

Then Northwest by two courses of Four Hundred Ninety-Three (493) feet and then Five Hundred Fifteen (515) feet along lot line of property now or formerly owned by Richard D. and Anita J. Johnston;

Then Southwest Eight Hundred Twenty-Seven and (63/100) (827.63) feet to the East side of a private way;

Then Northwest Three Hundred Forty-Eight and 09/100 (348.09) feet along the East side of said private way;

Then Southwest along the Southerly side of Rawson Street to the town boundary of the Town of Leicester and the Town of Spencer;

Then South along the town boundary of the Town of Leicester and the Town of Spencer to a point that is the intersection of the town boundary and the Southerly lot line of property on Meadow Lane now or formerly owned by Robert Berglund;

Then Easterly Seven Hundred Four and 82/100 (704.82) feet along Southerly boundaries of properties on the South side of Meadow Lane and Marlboro Drive first by land now or formerly of Robert Berglund, then by land now or formerly of Carole Turner and then by land now or formerly of Victor Catacchio;

Then Southeast by two courses Four Hundred Four and 40/100 (404.4) feet first by land now or formerly of Barry B. Besse and then by land now or formerly of Leonard Piersa and a curved course of Thirty-Three and 18/100 (33.18) feet along the rear lot line of property on Angell Terrace by land now or formerly of Leonard Piersa;

Then Easterly One Thousand Two Hundred Sixty-Seven and 92/100 (1,267.92) feet along lot lines of properties on Angell Terrace, Marlboro Drive and Kent Lane first by land now or formerly of Bruce Miller, then by land now or formerly of Model A. Realty, and then by land now or formerly of Meadow Lake Association, Inc.;

Then Northerly One Hundred Forty-Eight and 97/100 (148.97) feet along lot lines of properties on Marlboro Drive and Kent Lane first by land now or formerly of Meadow Lake Association, Inc. and then by land now or formerly of Louis Gasbar; and

Then Easterly along two courses Five Hundred Eighty-Five and 70/100 (585.7) feet and Three Hundred Nineteen and 30/100 feet along land now or formerly of Raymond Shea, to the point of beginning.

B. Actual Boundaries.

The general boundaries referred to are intended as guidelines only. The actual district boundaries shall be deemed to include those separately assessed parcels within said town as shown from time to time on the maps maintained by the board of assessors for the town and which parcels either: (1) Abut directly on the shoreline of Cedar Meadow Lake; or (2) except as set forth in the following paragraph, all the property of a holder of a recorded private right of access to land which abuts the shoreline of Cedar Meadow Lake in such manner that the owner or proprietor of such land is afforded by such recorded right of access to Cedar Meadow Lake, bathing, boating or other lake recreational activities at a location where members of the general public may lawfully be excluded from such use.

The two community beaches on Lake View Drive in the town of Leicester and within the general boundaries of the district, shall each be deemed to be a single proprietor as hereinafter defined. The community beaches shall be assessed at the value of each beach and apportioned among all those parties with property rights therein. A holder of a recorded private right of access to or through said community beaches shall not be assessed individually nor shall a holder of such right be considered a proprietor except and to the extent that each community beach is deemed to be a proprietor.

The actual boundaries of the district, as so comprised, shall likely include certain parcels situated outside of the general boundaries set forth in subsection A and may also exclude several parcels lying within said general boundaries.

SECTION 2. Membership in the district shall consist of the proprietors, from time to time, of one or more separately assessed parcels of lands lying within the district which either abuts Cedar Meadow Lake or has a real property deeded access to Cedar Meadow Lake including, but not limited to, an easement to Cedar Meadow Lake. For the purposes of this act, "proprietor" shall be deemed to include not only natural persons, but also other entities empowered to own real estate in the commonwealth, including corporations, partnerships, realty trusts and federal, state and local governmental units. "Proprietor" shall also include a mortgagee of record in possession of any one or more separately assessed parcels and persons or entities who jointly own one or more separately assessed parcels. Persons or entities who jointly own one or more separately assessed parcels within the district shall collectively constitute a proprietor for all purposes hereunder.

SECTION 3. The district, upon establishment in the manner hereinafter set forth, shall have the following powers:

(*a*) to initiate and coordinate research and surveys for the purpose of gathering data on the lake, related shore lands, watershed and the drainage basis and other matters directly pertaining to the reclamation, preservation and maintenance of the lake for general recreational use;

(*b*) to plan lake rehabilitation, enhancement, maintenance and preservation projects;

(*c*) to implement such projects and to conduct, coordinate and supervise the implementation thereof at all times subject to obtaining necessary approvals from and, where required, under the supervision of, appropriate local, state and federal governmental agencies, including the town of Leicester, the department of environmental management, the department of environmental protection, and the department of fisheries, wildlife and environmental law enforcement and appropriate funding or regulatory agencies of the federal government;

(*d*) to make and enter into all manner of contracts and agreements necessary or incidental to the exercise of any power permitted to the district by this act;

(*e*) to adopt an annual budget and to raise and appropriate funds in amounts necessary to carry out the purposes for which the district is established;

(*f*) to acquire, dispose of and encumber real and personal property for the purposes of the district, including the power to acquire real estate or a limited interest in real estate by eminent domain under, and subject to the provisions of, chapter seventy-nine of the General Laws;

(*g*) to manage, control and supervise equipment and facilities necessary or appropriate in the accomplishment of the purposes of this act including, but not limited to, weed harvesting equipment, dredging apparatus, lake drawdown facilities for either temporary or permanent water level control and recreational swimming and boating facilities for public use;

(*h*) to construct, acquire or lease or purchase, improve, maintain and operate such equipment and facilities and such other equipment, materials, supplies, facilities and services as shall be required to accomplish the purposes of this act, to the same extent and subject to the same limitations as shall apply to towns under the General Laws;

(*i*) to apply for, accept and expend financial assistance from the federal government, the commonwealth, Worcester county and the town of Leicester;

(*j*) to apply for, receive and expend funds from charitable foundations or other private entities and individuals in the form of grants, gifts, loans and advances in aid of the purposes of the district;

(*k*) to employ such persons, including consultant experts, as may be deemed necessary in its judgment, and to fix their compensation;

(*l*) to adopt bylaws for the regulation of its affairs and the conduct of its business, which bylaws shall be consistent with the powers conferred by this act and with applicable provisions of the General Laws;

(*m*) to perform all duties and exercise all responsibilities called upon to be exercised or performed by the town of Leicester, pursuant to any grant awarded by the department of environmental protection pursuant to the authority granted by chapter six hundred and twenty-eight of the acts of nineteen hundred and eighty-one, chapter two hundred and eighty-six of the acts of nineteen hundred and eighty-two, and chapter seven hundred and twenty-two of the acts of nineteen hundred and sixty-nine. Said exercise and acceptance shall be subject to approval by the commissioner of the department of environmental protection or his designee, so as to permit the district to act as direct grantee or subgrantee under the town of Leicester;

(*n*) to borrow at the first or any subsequent meeting of the district for the purpose of meeting preliminary or current expenses such sums as may be necessary and to issue therefor general obligation temporary notes for a period of not more than two years; provided, however, that such notes shall be issued only in anticipation of assessments and other revenues of the district for the fiscal year in which such notes are issued or in anticipation of money to be received from the sale of longer term bonds or notes for such purposes as are otherwise hereinafter permitted;

(*o*) to sue and be sued in its own name and to plead and be impleaded; provided, however, that neither the district nor any officer or employee thereof shall be liable in tort except pursuant to the provisions of chapter two hundred and fifty-eight of the General Laws; and provided, further, that the district may indemnify its officers and employees to the extent provided in said chapter two hundred and fifty-eight;

(*p*) to invest any funds not required for the immediate use of the district in such manner and to such extent permitted under the General Laws for the investment of such funds by town treasurers of a town;

(*q*) to procure insurance against any loss or liability which may be sustained or incurred in carrying out the purposes of this act in such amount as the district shall deem necessary and appropriate and with one or more insurers who shall be licensed to furnish such insurance in the commonwealth; and

(*r*) to perform generally, all acts which are necessary or convenient to implement the powers which are expressly or by necessary implication conferred upon the district by this act and which are not otherwise prohibited under any provisions of the General Laws.

SECTION 4. The board of selectmen of the town of Leicester shall, within sixty days of the effective date of this act, call a meeting of the proprietors of the lands to be included in the district as set forth under section two. For the purposes of establishing an initial list of proprietors, the board of selectmen shall consult with the board of assessors who shall furnish to said board of selectmen a listing of all record property owners, as of January first in the year in which this act takes effect who are owners of one or more separately assessed shorefront parcels or who, within the reasonable knowledge or belief of the assessors, are owners of one or more separately assessed parcels which do not have frontage on Cedar Meadow Lake but which possess deeded easement rights to the use of said lake frontage property as set forth in section two. The board of selectmen upon receiving

such lists shall prepare and mail by certified mail a notice to each such proprietor, signed by the selectmen and setting forth a time and place of a meeting to occur within said sixty day period but not less than fourteen days from the date of mailing of such notice. The notice shall be in the form of a warrant specifying the matters upon which action is to be taken at the meeting and shall further clearly state that the purpose of the meeting is to consider the organization of the district. The board of selectmen shall, not later than fourteen days prior to the date of such meeting, cause a copy of the notice to be posted in one or more public access locations within each town. The meeting shall be held at the Leicester town hall unless some other location within the town of Leicester is so designated by such notice.

At the first meeting of the district, one selectman from the town of Leicester shall initially preside and shall call the meeting to order. Said selectman shall thereupon determine whether or not the proprietors constituting a majority in interest in either aggregate assessed evaluation of land and improvements or land area, are present or represented by proxies duly executed and placed in the hands of other proprietors prior to said meeting. Lacking such a majority, the meeting shall have no power to act, but the selectmen of the town may, in the manner above provided, call additional meetings for the same purpose within a further sixty day period.

Provided that a quorum has been determined to be present in the manner above specified, the meeting shall then proceed to the following order of business:

(*a*) the election of a temporary clerk, who shall be sworn by one of the selectmen present and a moderator who shall thereupon preside;

(*b*) the taking of a vote to determine whether or not the district shall be established and organized, which vote shall require an affirmative vote of two-thirds of the proprietors present and voting in person or by proxy. If such vote shall be in the negative, the meeting shall thereupon adjourn. If such vote shall be in the affirmative and upon the required majority, the meeting shall next proceed to consider the order of business set forth in clauses (*c*) to (*f*), inclusive;

(*c*) the adoption of district bylaws and form of district seal;

(*d*) the election by ballot of district clerk and district treasurer, who may be the same person and who shall be legal residents of the commonwealth, to hold office until one year from the next succeeding annual meeting and at each annual meeting after the first clerk and treasurer shall be elected. There shall also be elected by ballot three members of the management committee, constituted in its entirety as hereinafter set forth, said three members to hold office, one for three years, one for two years, and one for one year, from the next succeeding annual meeting. At each annual meeting after the first, a member of the committee shall be elected by ballot for three years. The aforesaid officers of the district shall hold office until their successors are elected and qualified. Persons eligible for nomination and election to the management committee shall be at least eighteen years of age and shall include persons entitled to vote as proprietors or as representatives of proprietors at district meetings, and also other persons who are legal residents of the commonwealth;

(*e*) the adoption of an initial budget for the remainder of the fiscal year and the appropriation of monies to be raised by assessment upon the proprietors in support thereof; and

(*f*) the consideration of such other business as shall be consistent with the power and authority conferred by this act.

The district clerk shall retain all proxy votes cast at the initial meeting, together with the minutes of the meeting as part of the permanent record of the district. The clerk shall prepare a certificate of the vote taken to organize the district and shall affix the form of seal thereto as adopted by the initial district meeting and shall obtain the endorsement of the selectman initially presiding at the meeting thereon. Such certificate shall be forwarded to the attorney general within thirty days following the adjournment of the meeting and upon the filing of such certificate, the Cedar Meadow Lake Watershed District shall thereby be established.

SECTION 5. At the initial district meeting and at all subsequent annual and special district meetings, voting by proprietors shall be governed by the requirements of this section. Persons or entities owning one or more separately assessed parcels of land within the district shall be entitled to cast one vote on any matter or issue to be voted upon at any such meeting, notwithstanding the total number of parcels owned by such person, persons or entities. Joint owners and entity proprietors shall designate, in writing to the clerk prior to the commencement of the meeting, the person authorized to vote on behalf of the proprietor at such meeting and such person shall be presumed qualified and authorized to represent the proprietor if such person shall be listed record owner of such parcel or parcels or if such person shall, as evidenced by any public record maintained under the laws of the commonwealth, be listed as a partner, trustee, agent, officer or employee of a proprietor. A person owning one or more parcels together with his spouse shall not be required to furnish a written designation from his spouse and either shall be presumed to be qualified to vote.

The authority of a person to cast a proxy vote on behalf of a proprietor shall likewise be determined by the clerk. All proxies must be tendered in writing prior to the commencement of a district meeting and shall clearly set forth the name and address of the proprietor entering the proxy, the name and address of the person who is to exercise the proxy, the signature of the proprietor granting the same and the date of execution. The district may, if it so elects, adopt in its bylaws an approved form of proxy to satisfy the requirements of this section. The duration of a proxy shall be established by district bylaw.

SECTION 6. Annual meetings of the district shall be held on the last Thursday in March in each year or at such other time as the district shall establish from time to time in its bylaws. Annual and other special meetings of the district shall be called by warrant under the hands of the management committee, notice of which shall be given fourteen days at least before such meeting. The warrant shall be mailed first class, postage prepaid to each proprietor of record in the district and copy of the same shall be directed to a constable of the town of Leicester or to some other person who shall cause a copy of such notice to be posted in one or more public places within the town or by advertising in a newspaper published at least weekly within Worcester county and having a general circulation within

said town of Leicester. The warrant for all district meetings shall state the time and place of the meeting and the subjects to be acted upon. The management committee shall insert in the warrant of the annual meeting all subjects, the insertion of which shall be required of them in writing by ten or more proprietors of the district, and, in the warrant for every special district meeting, all subjects the insertion of which shall be requested of them in writing by twenty or more proprietors. The management committee shall call a special district meeting on its own initiative or upon a request, in writing, of not less than twenty proprietors, or proprietors constituting at least twenty percent in interest, either in assessed evaluation of land improvements or in total land area within the district. Special meetings so requested shall be held not later than thirty days after the receipt of such request. No action taken at an annual or a special district meeting shall be valid unless the subject matter thereof shall have been set forth in the warrant for such meeting. Two or more district meetings for distinct purposes may be called for by the same warrant. At every district meeting a moderator shall be chosen by ballot and shall have the powers of the moderator of a town meeting.

District meetings shall be governed by chapter thirty-nine of the General Laws, except as otherwise expressly provided in this act.

The board of assessors of the town of Leicester shall, at least thirty days prior to the annual district meeting, prepare and forward to the management committee a true and complete alphabetical listing with addresses of the proprietors reflected in their records as of January first of that year and from the records maintained by the assessors pursuant to chapter fifty-nine and other related provisions of the General Laws. A copy of such list shall be maintained in a manner accessible to the proprietors and the general public at all reasonable times by the management committee and the district clerk and shall be available for inspection at the annual meeting and any special meeting of the district. The boards of assessors shall likewise maintain a list of proprietors within their town by separate list or special designation on their list of all assessed parcels.

Quorum requirements for annual meetings and special meetings of the district shall be as specified for the initial district meeting set forth above or otherwise as the district shall determine from time to time in its bylaws; provided, however, that the quorum requirements at such meeting shall not be reduced below a number of proprietors constituting one-third in interest, either in aggregate assessed evaluation of land and improvements or land area, whether voting in person or by proxy as aforesaid.

Any matter to be voted upon at an annual or special meeting of the district shall require only a majority of those proprietors present in person or by proxy and voting on the question, except for the following actions which shall require a two-thirds vote:

(*a*) a vote to petition for dissolution of the district;

(*b*) a vote to purchase or otherwise acquire real property; and

(*c*) a vote to finance an undertaking which is authorized by this act to be financed in whole or in part by the issuance by the district of long term notes or bonds.

SECTION 7. In addition to the three members elected by the district as provided in this act, the management committee shall be comprised of the following additional persons:

(*a*) one member from the board of selectmen of the town of Leicester or such other resident voter of said town as shall be appointed by its board of selectmen to serve on the management committee. Such selectman or other person shall serve at the pleasure of the board of selectmen appointing him and shall be a full voting member of the committee; and (*b*) one representative from the conservation commission, or successor agency, of the town of Leicester.

The town appointed members shall serve for an indefinite term at the pleasure of their appointing authorities, from time to time in office, and shall be nonvoting members of the management committee but shall be permitted to participate fully in all discussions and deliberations of the committee. In the event that either town or the commissioner of either department shall fail, from time to time, to so designate its member or if such member shall resign and no replacement shall have been designated in like manner, the management committee shall nonetheless be legally constituted with full power to carry out its duties and responsibilities as set forth herein with the three members elected by said district.

The management committee shall have and shall exercise the following powers and duties:

(*a*) the expenditure, for the purposes permitted to the district, of the money raised and borrowed by the district;

(*b*) the annual preparation of a budget for the management and operation of the district and the submission of such budget to the annual district meeting for its approval. Such budget shall include the committee's estimate of those monies required to be raised and appropriated by means of assessment upon the district proprietors by borrowing or otherwise to be received;

(*c*) to apply, in the name of the district, for grants, loans and other assistance from both governmental and nongovernmental entities;

(*d*) subject to prior appropriation therefor, to enter into agreements and contracts involving the purchase or lease of services, equipment and supplies consistent with the powers granted by this act; and

(*e*) subject to prior appropriation therefor, to hire, supervise, suspend and discharge such employees as the committee shall deem necessary or appropriate for the conduct of the work to be performed by the district including, but not limited to, a district superintendent who shall have charge, on a day to day basis, of all district employees and who shall be responsible on behalf of the management committee for the conduct and supervision of any and all work to be performed by or on behalf of the district pursuant to this act. Compensation and benefits for the district superintendent and all other employees shall, subject to prior appropriation therefor, be as determined from, time to time, by vote of the management committee.

SECTION 8. The management committee shall meet as necessary, but in no event less frequently than every three months. A quorum of the management committee shall be required at all meetings for the conduct of any business thereat and shall consist of a majority of its voting members. The initial meeting of the management committee shall be not later than thirty days following the establishment of the district. Thereafter, the committee shall schedule one meeting to occur in each year immediately following the adjournment of the annual district meeting. At such initial meeting and at all subsequent meetings following the annual district meeting, the committee shall elect from its members a chairman who shall preside at all committee meetings and who shall serve until his successor shall be elected at the meeting following the annual district meeting. The committee shall also elect a vice chairman who shall be empowered to preside over committee meetings in the absence of the chairman and who shall serve for a like term. The district may subject to a prior appropriation therefor, provide appropriate compensation for district officers, including members of the management committee and including the expense of travel, meals and lodging for such officers and committee members residing outside the district.

SECTION 9. Without limiting its powers as set forth herein, the management committee shall have charge of expenditures on account of the district, duly budgeted and appropriated pursuant to the powers granted to the district, and shall exercise the authority conferred upon it by district bylaw, except as otherwise expressly provided in this act.

SECTION 10. The district treasurer shall receive and take charge of all money belonging to said district, and shall pay over and account for the same according to the order of the district or its management committee. The treasurer or, in his absence, any duly appointed person under the district bylaws shall pay district bills; provided, however, that the provisions of this section shall not prohibit the treasurer from paying such bills by the use of a bank, treasurer's or cashier's check. He shall have the authority given to an auditor as provided in section fifty-one of chapter forty-one of the General Laws, and shall annually render a true account of his receipts and disbursements and report on his official acts to the district. The treasurer shall give bond annually for the performance of his duties in a form approved by the commissioner of revenue in such sum, not less than the amount established by said commissioner, as shall be fixed by the management committee and, if such treasurer fails to give such bond within ten days after his election or appointment or, if within ten days after the expiration of such bond or any renewal of such bond, he fails to file a renewal thereof, the management committee shall declare the office vacant and the vacancy shall be filled by the committee in the manner set forth in section twelve.

SECTION 11. The district clerk shall, in addition to the duties specified herein, take all minutes at district meetings and at meetings of the management committee and maintain a record of such minutes in a manner provided for the maintenance of records of minutes of town meetings and of meetings by the boards of selectmen. The clerk shall be the official responsible for the certification copies of any and all votes taken at a district meeting or a meeting of the management committee.

SECTION 12. Any vacancy occurring in the office of clerk, treasurer or member of the management committee elected by the district may be filled by the district for the remainder of the unexpired term at any special meeting called for that purpose or, in the case of a vacancy in the office of clerk or treasurer or disability affecting either of said officers, the management committee may appoint a person to fill such vacancy until an election can be held or until the disability is removed. Such temporary appointee shall be sworn and shall perform the duties of the office to which he is appointed during his tenure. A temporary treasurer appointed to fill a vacancy, as above provided, shall give bond in the same manner as the treasurer.

SECTION 13. At its initial meeting and at the annual meeting each and every year thereafter, the district shall adopt, by two-thirds vote as set forth in this act, a method to be employed during the fiscal year to which the meeting relates for financing the share of its annual budget which is anticipated to be required to be funded by the district. The district may vote to adopt any of the following methods of financing, or any combination thereof:

(*a*) the district may raise by assessments upon the proprietors and by voluntary contributions the total sum required to meet such estimated expense;

(*b*) the district may pay the whole of such expense, from time to time, as the work, material, labor and services shall be performed and, for this purpose, may incur debt by a temporary loan in anticipation of the collection of assessments from the district members during the fiscal year in which such debt is incurred or during the next succeeding fiscal year and except as further modified on the initial fiscal year under clause (*n*) of section three.

(*c*) the district may incur debt to the amount necessary to pay that portion of such expense which relates solely to proposed long-term district improvements and major equipment purchases and may issue therefor notes or bonds and may, if the district further so approves, issue notes or bonds on the condition that the first payment on account of the principal shall be deferred for a period of not more than five years from the date of issue of such notes or bonds and that the whole amount of such debt shall be payable within a period of not more than twenty-five years after such notes or bonds are issued. No such issue shall be for a term longer than the reasonably estimated useful life of the improvements, facilities and equipment to be so funded.

Indebtedness incurred by the district under the provision of this section shall be subject to chapter forty-four and to other provisions of the General Laws applicable to notes and bonds of districts except as otherwise provided in this act. If the district issues notes or bonds, and thereafter receives an appropriation from other governmental entities to cover such part, if any, of the expenses of such improvements, the district, in its discretion unless otherwise mandated by the terms and conditions of the grant from such governmental unit, shall make all or any part of such appropriation available to redeem notes or bonds of the district and shall hold the balance, if any, to the credit of the district to be used for the payment of the expense of such improvements, facilities and for equipment. Bonds or notes issued under this section shall be the general obligations of the district.

That portion, if any, of the budgeted expense for the initial fiscal year and for each subsequent fiscal year which shall be required by the district for the payment of principal and interest on bonds and notes issued or to be issued by the district and which shall be due during the ensuing fiscal year, together with those amounts necessary to be raised by the district to maintain and operate the district during said fiscal year for capital outlay items, the costs of which is not otherwise funded, and all other budgeted expenses for which the district is authorized to raise money, the costs of which items the district shall have voted to raise by assessment upon land and improvements of the proprietors within the district, shall be the subject of a separate vote at the initial district meeting. If the district so votes, the schedule of assessed valuations of land and improvements established by the boards of assessors in each town for the same fiscal year under the provisions of chapter fifty-nine of the General Laws shall be relied upon as the basis for determination of the pro-rata share of the district budget voted to be raised and appropriated and paid by the proprietors upon their land and improvements within the district.

Following the adjournment of the initial district meeting and each annual district meeting thereafter, the clerk of the district shall certify to the assessors of the town of Leicester all sums of money and means of assessment voted upon at such meeting, which votes shall have been adopted by a two-thirds majority as provided in this act, together with the amount to be paid by each proprietor according to the determination made by such votes. The assessors of the town of Leicester shall, without further vote, assess such amounts upon the lands of the proprietors within the district and commit to the collector of taxes of the town wherein the land is situated, who thereupon shall have and exercise the same powers and duties in relation to the collection of such assessments as he has and exercises relative to the collection of town taxes. The collector shall remit, monthly, to the district treasurer all sums collected by him on account of such assessments. An assessment made hereunder shall be a lien upon the land assessed by the town under the provisions of section thirty-seven of chapter sixty and other related provisions of the General Laws.

SECTION 14. The fiscal year of the district shall be the same fiscal year as established by the General Laws for cities and towns.

SECTION 15. Unless otherwise specified in this act or otherwise required by General Law, all actions permitted to be taken at annual or special district meetings shall require a majority vote of those proprietors present in person or by proxy at said meeting and entitled to vote thereat, who shall constitute a quorum in accordance with this act or otherwise by bylaw of the district. All actions permitted to be taken by the management committee shall require a majority vote of the committee members present at said meeting who shall constitute a quorum in accordance with this act.

SECTION 16. The district shall include, in its initial and in all subsequent annual appropriations, compensation for the board of assessors and the tax collector of the town of Leicester, pursuant to the provisions of section one hundred and eight B of chapter forty-one of the General Laws, with respect to their duties and expenses hereunder.

SECTION 17. Notwithstanding their membership on the management committee, neither the town of Leicester, nor any agency or department shall be obligated for any debts of the district, nor shall they, by virtue of this act be required to pay for any liability, obligation or expense made, suffered or incurred by the district. In like manner, the proprietors of the district shall not be individually liable or obligated with respect to debts or other obligations made, suffered or incurred by the district except with respect to the payment of assessments upon their land as provided for in this act.

SECTION 18. No provision of this act shall be deemed to modify or amend any power, authority or jurisdiction now or hereafter vested in an agency, department or unit of a state, local or federal government as it relates to the use, operation or enjoyment of Cedar Meadow Lake as a great pond available for use by the general public not only for recreational use but for other purposes now or hereinafter permitted or required by federal, state and local law, rule, regulation or local bylaw.

SECTION 19. The district shall establish, in its initial budget and in all subsequent fiscal year budgets, an overlay account and a reserve fund as provided for towns under the provisions of section twenty-five of chapter fifty-nine and section five C of chapter forty of the General Laws except for the initial fiscal year, or portion thereof, of the operation of the district, the district may add to the amount to be raised by district assessment a sum voted by the district for not more than twenty percent thereof for the purposes of and subject to the limitations as set forth in said section twenty-five of said chapter fifty-nine. The district is further authorized to establish and maintain a stabilization fund under the provisions of section five B of chapter forty of the General Laws. The district shall further be subject to an audit of its accounts in the manner provided in section forty of chapter forty-four of the General Laws.

SECTION 20. Immediately upon the formation of the district, the district clerk shall, in addition to the other duties to be performed by such district officer, cause a review to be made, at that time and from time, to time thereafter, of the records required to be maintained by the boards of assessors for the town of Leicester, including copies of deeds furnished to said boards by the Worcester district registry of deeds in the county of Worcester, and shall otherwise take such actions as shall be reasonably necessary to verify the list of proprietors to be included within the district. The clerk shall further cause to be prepared one or more maps based in whole or in part upon the maps required to be maintained by the assessors of said towns on which shall be shown the location of all proprietor's lands initially included as well as those which, upon such review, should, in the opinion of the district clerk be included within the district. Thereafter, at any special meeting called for that purpose and not later than the next annual meeting, the district clerk shall furnish the management committee with a list of proprietors proposed for inclusion in the district and such maps depicting the approximate location and boundaries of such parcels as well as the existing parcels within the district. The committee shall furnish written notice in the manner provided for furnishing notice to a proprietor of a district meeting to the record owners of such parcels proposed for inclusion in the district. At the district meeting called

for such purpose, the district shall, by its vote, determine whether or not its parcel or parcels shall be included within the district and shall furnish the record owners thereof with full opportunity to be heard prior to such vote as though such persons were proprietors of record entitled to vote thereon.

An original proprietor of the district and a record owner of real estate hereafter included within the district as a proprietor in the manner set forth in this section, shall have the right to petition the district, through its management committee, for exclusion from the district based upon an alleged lack of sufficient direct benefit to such proprietor's land with respect to the purposes for which the district has been established. Such petition shall be in writing and shall set forth, in summary form, the reasons relied upon in support thereof. Said committee shall, upon receipt of such petition, conduct such investigation thereof as it shall deem appropriate and shall, at its next regular meeting or sooner at a special meeting and upon at least seven days written notice to the petitioner, consider the petition and vote thereon. A vote by the management committee to exclude the land of the petitioner from the district shall be final. In the event that the management committee shall vote to disapprove the petition or shall fail to act thereon prior to the next annual meeting of the district, the petition shall be included in the warrant for such meeting and the district shall vote on the same at that time. If the district shall vote to disallow the petition, such petitioner may appeal to the superior court within the county in which the district is located for relief. Upon such appeal, said court shall, if the reasons set forth by the petitioner shall be satisfactory to it, grant such exclusion. Such exclusion, if the petition shall have been filed in writing prior to December thirty-first of the then current fiscal year, shall result in an abatement of district assessment from the commencement of such fiscal year; provided, however, that such abatement shall not be effective until the commencement of the next fiscal year.

SECTION 21. Once established pursuant to this act, the district shall not dissolve without specific authorization by the general court, which authorization shall not be given until provision has been made for the payment of any obligations of said district. Such dissolution may be initiated by the general court, by two-thirds vote at a regular or special district meeting or by petition by the town of Leicester under the provisions of section eight of Article LXXXIX of the Amendments to the Constitution of the Commonwealth.

SECTION 22. This act shall take effect upon its passage; provided, however, that if the initial meeting of the district shall not occur and the certified vote evidencing the establishment of the district shall not be filed with the attorney general within one year after its passage, this act shall cease to be operative.

Approved December 1, 1993.

Chapter 269. AN ACT RELATIVE TO DIRECTORS, TRUSTEES AND OFFICERS OF BANKS.

Be it enacted, etc., as follows:

SECTION 1. Section 19 of chapter 168 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 18 and line 45, in each instance, the word "first".

SECTION 2. Said chapter 168 is hereby further amended by striking out section 20, as so appearing, and inserting in place thereof the following section:-

Section 20. Every such corporation shall be required to make an annual report to the commissioner of any loan or extension of credit in any manner (i) to any officer, director, trustee or principal shareholder thereof, (ii) to any officer, director or principal shareholder of a bank holding company, as defined in chapter one hundred and sixty-seven A, of which said corporation is a subsidiary, and (iii) to any officer, director, trustee or principal shareholder of any other subsidiary of said bank holding company. Said corporation shall also be required to make an annual report to the commissioner of any loan or extension of credit in any manner to a company which is controlled by any such officer, director, trustee or principal shareholder of said corporation, bank holding company or other subsidiary or in which any such person is a principal shareholder. For the purposes of this section, the terms "company", "control of a company" and "principal shareholder" shall have the same meanings given in Regulation O of the Board of Governors of the Federal Reserve System, 12 C.F.R. Part 215.2.

Said report to the commissioner shall consist of, but not be limited to, the following: (a) the name of the officer, director, trustee or principal shareholder of said corporation, bank holding company or other subsidiary to whom any such loan or extension of credit has been given or the name of such company to which such loan or extension of credit has been made, (b) the original amount of the loan and the interest rate thereon, (c) the date of the loan, (d) the type of loan, (e) if the loan is secured in any manner, the type of secured asset and its valuation, (f) the terms of the payment, (g) the current balance, and (h) the amount of principal or interest payments in default, if any, and the length of such default. Such report shall be deemed to be a public record in accordance with the provisions of section ten of chapter sixty-six.

SECTION 3. Said chapter 168 is hereby further amended by striking out section 23, as so appearing, and inserting in place thereof the following section:-

Section 23. No officer, director, trustee, employee or attorney of such corporation shall be a beneficiary of or receive, directly or indirectly, any fee, commission, gift or other consideration for or in connection with any business of such corporation. This section shall not prohibit any such officer, director, trustee, employee or attorney from receiving interest on a deposit made by him or his usual salary or fee as such director or trustee or a reasonable fee for services rendered to such corporation or from borrowing from such corporation in accordance with law, or from sharing in commissions, profits or other benefits derived by any firm, association or corporation, in which he is interested, arising out of any transaction with said corporation if such transaction is made in the regular course of business upon terms as favorable to the corporation as those offered to other persons. The commissioner may require a full disclosure to be made on such forms as he may prescribe by regulations or otherwise, of all commissions, profits or other benefits realized in any such transaction.

SECTION 4. Said chapter 168 is hereby further amended by inserting after section 23 the following section:-

Section 23A. Whoever violates any provisions of sections nineteen, twenty and twenty-three shall be punished by a fine of not more than five thousand dollars or by imprisonment for not more than one year, or both such fine and imprisonment.

SECTION 5. Chapter 170 of the General Laws is hereby amended by striking out section 17, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 17. No officer, director, employee or attorney of such corporation shall be a beneficiary of or receive, directly or indirectly, any fee, commission, gift or other consideration for or in connection with any business of such corporation. This section shall not prohibit any such officer, director, employee or attorney from receiving interest on a deposit made by him or his usual salary or director's fee or a reasonable fee for services rendered to such corporation or from borrowing from such corporation in accordance with law, or from sharing in commissions, profits or other benefits derived by any firm, association or corporation, in which he is interested, arising out of any transaction with said corporation if such transaction is made in the regular course of business upon terms as favorable to the corporation as those offered to other persons. The commissioner may require a full disclosure to be made on such forms as he may prescribe by regulations or otherwise, of all commissions, profits and other benefits realized in any such transaction.

SECTION 6. Section 19 of said chapter 170, as so appearing, is hereby amended by striking out, in line 14, the word "first".

SECTION 7. Said section 19 of said chapter 170, as so appearing, is hereby further amended by striking out the second and third paragraphs and inserting in place thereof the following three paragraphs:-

No officer, whether acting individually or as trustee holding property in trust for another person, shall become the owner of real estate upon which a mortgage is held by the corporation; provided, however, that this prohibition shall not apply to any officer who becomes the owner of real estate upon which a mortgage is held by the corporation securing a loan in an amount not exceeding two hundred and seventy-five thousand dollars on real estate improved with a one to four family dwelling or a condominium established in accordance with chapter one hundred and eighty-three A which is to be occupied, in whole or in part, by such officer. The provisions of this section shall not apply to loans made to any officer on deposit books, or to loans as are guaranteed or insured in whole or in part as authorized by chapter forty-six of the acts of nineteen hundred and forty-five or by any regulations thereunder.

Every such corporation shall be required to make an annual report to the commissioner of any loan or extension of credit in any manner (i) to any officer, director or principal shareholder thereof, (ii) to any officer, director or principal shareholder of a bank holding company, as defined in chapter one hundred and sixty-seven A, of which said corporation is a subsidiary, and (iii) to any officer, director, trustee or principal shareholder

of any other subsidiary of said bank holding company. Said corporation shall also be required to make an annual report to the commissioner of any loan or extension of credit in any manner to a company which is controlled by any such officer, director, trustee or principal shareholder of said corporation, bank holding company or other subsidiary or in which any such person is a principal shareholder. For the purposes of this section, the terms "company", "control of a company" and "principal shareholder" shall have the same meanings given in Regulation O of the Board of Governors of the Federal Reserve System, 12 C.F.R. Part 215.2.

Said report to the commissioner shall consist of, but not be limited to, (a) the name of the officer, director, trustee or principal shareholder of said corporation, bank holding company or other subsidiary to whom any such loan or extension of credit has been made or the name of such company to which any such loan or extension of credit has been made, (b) the original amount of the loan and the interest rate thereon, (c) the date of the loan, (d) the type of loan, (e) if the loan is secured in any manner, the type of secured asset and its valuation, (f) the terms of the payment, (g) the current balance, and (h) the amount of principal or interest payments in default, if any, and the length of any such default. Such report shall be deemed to be a public record in accordance with the provisions of section ten of chapter sixty-six.

SECTION 8. Said chapter 170 is hereby further amended by inserting after section 19 the following section:-

Section 19A. Whoever violates the provisions of sections seventeen and nineteen shall be punished by a fine of not more than five thousand dollars or by imprisonment for not more than one year, or both such fine and imprisonment.

SECTION 9. Section 18 of chapter 172 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 15, the word "first".

SECTION 10. Said section 18 of said chapter 172, as so appearing, is hereby further amended by striking out the second and third paragraphs and inserting in place thereof the following three paragraphs:-

No officer, whether acting individually or as trustee holding property in trust for another person, shall become the owner of real estate upon which a mortgage is held by the corporation; provided, however, that this prohibition shall not apply to any officer who becomes the owner of real estate upon which a mortgage is held by the corporation securing a loan in an amount not exceeding two hundred and seventy-five thousand dollars on real estate improved with a one to four family dwelling or a condominium established in accordance with chapter one hundred and eighty-three A which is to be occupied, in whole or in part, by such officer. The provisions of this section shall not apply to loans made to any officer on deposit books, or to loans as are guaranteed or insured in whole or in part as authorized by chapter forty-six of the acts of nineteen hundred and forty-five or by any regulations thereunder.

Such trust company shall be required to make an annual report to the commissioner of any loan or extension of credit in any manner (i) to any officer, director or principal shareholder of said trust company, (ii) to any officer, director or principal shareholder of a

bank holding company, as defined in chapter one hundred and sixty-seven A, of which said trust company is a subsidiary, and (iii) to any officer, director, trustee or principal shareholder of any other subsidiary of said bank holding company. Said trust company shall also be required to make an annual report to the commissioner of any loan or extension of credit in any manner to a company which is controlled by any officer, director, trustee or principal shareholder of said trust company, bank holding company or other subsidiary or in which any such person is a principal shareholder. For the purposes of this section, the terms "company", "control of a company" and "principal shareholder" shall have the same meanings given in Regulation O of the Board of Governors of the Federal Reserve System, 12 C.F.R. Part 215.2.

Said report to the commissioner shall consist of, but not be limited to, the following: (a) the name of the officer, director, trustee or principal shareholder of said trust company, bank holding company or other subsidiary to whom any loan or extension of credit has been made or the name of such company to which any such loan or extension of credit has been made, (b) the original amount of the loan and the interest rate thereon, (c) the date of the loan, (d) the type of loan, (e) if the loan is secured in any manner, the type of secured asset and its valuation, (f) the terms of the payment, (g) the current balance, and (h) the amount of principal or interest payments in default, if any, and the length of such default. Such report shall be deemed to be a public record in accordance with the provisions of section ten of chapter sixty-six.

Approved December 1, 1993.

Chapter 270. AN ACT RELATIVE TO AUTHORITY FOR CREDIT UNIONS TO ACT AS AGENTS OR BROKERS FOR THE SAVINGS BANK LIFE INSURANCE COMPANY OF MASSACHUSETTS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 171 of the General Laws is hereby amended by inserting after section 75 the following section:-

Section 75A. A credit union may, with the approval of the commissioner, act as agent or broker for The Savings Bank Life Insurance Company of Massachusetts pursuant to section four of chapter one hundred and seventy-eight A.

SECTION 2. The fourth paragraph of section 7 of chapter 178A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the second sentence.

Approved December 2, 1993.

Chapter 271. AN ACT PROVIDING FUNERAL AND BURIAL EXPENSES FOR CERTAIN EMPLOYEES OF THE TOWN OF TEMPLETON KILLED IN THE PERFORMANCE OF DUTY.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Templeton is hereby authorized to appropriate money for the payment of an amount not to exceed five thousand dollars each for the reasonable funeral and burial expenses of any employee of said town as defined in paragraph (d) of section two of chapter thirty-two B of the General Laws or any employee of the rescue squad of said town who is not eligible to receive funeral and burial expenses under the provisions of sections one hundred G and one hundred G ¼ of chapter forty-one of the General Laws who are killed in the performance of duty.

Approved December 3, 1993.

Chapter 272. AN ACT AUTHORIZING THE TOWN OF SUNDERLAND TO APPOINT A TREASURER AND A TAX COLLECTOR.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section one of chapter forty-one of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Sunderland shall appoint a suitable person as town treasurer for a term of three years and the person so appointed shall have all the powers and duties by law invested in the office of treasurer. Upon qualification of the treasurer pursuant to the authority contained in this act, the elected incumbent of the office of treasurer of said town shall cease to exercise the powers and duties of said office.

SECTION 2. Notwithstanding the provisions of section one of chapter forty-one of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Sunderland shall appoint a suitable person as collector of taxes for a term of three years and the person so appointed shall have all the powers and duties by law invested in the office of treasurer. Upon qualification of the collector of taxes pursuant to the authority contained in this act, the elected incumbent of the office of treasurer of said town shall cease to exercise the powers and duties of said office.

SECTION 3. Section one shall take effect on May fourth, nineteen hundred and ninety-six or upon the office of treasurer becoming vacant whichever first occurs. Section two shall take effect on May fourth, nineteen hundred and ninety-six or upon the office of collector of taxes becoming vacant, whichever first occurs.

Approved December 3, 1993.

Chapter 273. AN ACT DIVIDING THE COMMONWEALTH INTO ONE HUNDRED AND SIXTY STATE REPRESENTATIVE DISTRICTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for a new division of the commonwealth into one hundred and sixty representative districts, 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 57 of the General Laws is hereby amended by striking out section 4, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 4. For the purpose of choosing representatives in the general court until the next federal census and division of the commonwealth into representative districts, the commonwealth is divided, conformably with Article CI and Article CXVII of the Articles of Amendment of the Constitution, into the one hundred and sixty following representative districts:-

Barnstable, Dukes and Nantucket

First Barnstable. - Consisting of the town of Brewster, precincts one, two, four and five, of the town of Dennis, and precincts one, two, three, four and five of the town of Yarmouth, all in the county of Barnstable.

Second Barnstable. - Consisting of precincts one, two, three, four, five, six, seven, eight, ten and eleven, of the town of Barnstable, and precinct four of the town of Sandwich, all in the county of Barnstable.

Third Barnstable. - Consisting of precincts three, four, five and six, of the town of Bourne, and precincts three, four, seven and eight, of the town of Falmouth, the town of Mashpee, and precincts five, six and seven, of the town of Sandwich, all in the county of Barnstable.

Fourth Barnstable. - Consisting of the town of Chatham, precinct three, of the town of Dennis, the town of Harwich, the towns of Eastham, Orleans, Provincetown, Truro and Wellfleet, all in the county of Barnstable.

Barnstable, Dukes and Nantucket. - Consisting of precinct nine, of the town of Barnstable, precinct six, of the town of Yarmouth, and precincts one, two, five and six of the town of Falmouth, all in the county of Barnstable; and the towns of Chilmark, Edgartown, Gay Head, Gosnold, Oak Bluffs, Tisbury and West Tisbury, all in the county of Dukes County; and the town of Nantucket, in the county of Nantucket.

Berkshire

First Berkshire. - Consisting of the towns of Adams, Clarksburg, Florida, Savoy and Williamstown, and the city of North Adams, all in the county of Berkshire.

Second Berkshire. - Consisting of the towns of Becket, Cheshire, Dalton, Hancock, Hinsdale, Lanesborough, New Ashford, Peru, Richmond, Washington and Windsor, and precinct B of ward one, of the city of Pittsfield, all in the county of Berkshire; the towns of

Ashfield, Buckland, Charlemont, Hawley, Monroe, Rowe and Shelburne, all in the county of Franklin; and the town of Chester, in the county of Hampden; and the towns of Cummington, Goshen, Huntington, Middlefield and Plainfield, in the county of Hampshire.

Third Berkshire. - Consisting of precinct A of ward one, all precincts of wards two, three, five, six and seven, of the city of Pittsfield, in the county of Berkshire.

Fourth Berkshire. - Consisting of the towns of Alford, Egremont, Great Barrington, Lee, Lenox, Monterey, Mount Washington, New Marlborough, Otis, Sandisfield, Sheffield, Stockbridge, Tyringham and West Stockbridge, and ward four, of the city of Pittsfield, all in the county of Berkshire.

Bristol

First Bristol. - Consisting of the town of Foxborough, in the county of Norfolk; and precincts two, three and four, of the town of Mansfield, and the town of Norton, all in the county of Bristol.

Second Bristol. - Consisting of the city of Attleboro, in the county of Bristol.

Third Bristol. - Consisting of all precincts of wards one, two, three, four and five, precinct A of ward seven, and precinct B of ward eight, of the city of Taunton, in the county of Bristol.

Fourth Bristol. - Consisting of the towns of Rehoboth and Seekonk, precinct one and four, of the town of Swansea, precinct B of ward seven, and precinct A of ward eight, of the city of Taunton, all in the county of Bristol.

Fifth Bristol. - Consisting of the towns of Dighton and Somerset, precincts two and three, of the town of Swansea, and all precincts of ward six, of the city of Taunton, all in the county of Bristol.

Sixth Bristol. - Consisting of precincts A and C of ward four, precincts A, C, and D of ward seven, and all precincts of wards eight and nine, of the city of Fall River, and precinct one of the town of Freetown, both in the county of Bristol.

Seventh Bristol. - Consisting of precincts B, C, and D of ward one, all precincts of wards two and three, precinct B of ward four, and precinct A of ward five, of the city of Fall River, in the county of Bristol.

Eighth Bristol. - Consisting of precinct A of ward one, precincts B and C of ward five, all precincts of ward six, and precinct B of ward seven, of the city of Fall River, and the town of Westport, all in the county of Bristol.

Ninth Bristol. - Consisting of the towns of Berkley and Dartmouth, and precinct two of the town of Freetown, all in the county of Bristol; and precinct one in the town of Lakeville, in the county of Plymouth.

Tenth Bristol. - Consisting of the town of Fairhaven, in the county of Bristol; and the towns of Mattapoisett, Marion and Rochester, and precincts three and six, of the town of Middleborough, all in the county of Plymouth.

Eleventh Bristol. - Consisting of the town of Acushnet, precinct three, of the town of Freetown, all precincts of ward one, and precincts E and G of ward two, of the city of New Bedford, all in the county of Bristol; and precinct two, of the town of Lakeville, in the county of Plymouth.

Twelfth Bristol. - Consisting of precincts A, B, C, D and F of ward two, all precincts of ward three, precincts C, E and F of ward four, and precinct G of ward five, of the city of New Bedford, in the county of Bristol.

Thirteenth Bristol. - Consisting of precincts A, B, D and G of ward four, precincts A, B, C, D, E and F of ward five, and all precincts of ward six, of the city of New Bedford, in the county of Bristol.

Fourteenth Bristol. - Consisting of precinct one, five-A and five-B, of the town of Mansfield, and the town of North Attleborough, all in the county of Bristol; and the town of Plainville, in the county of Norfolk.

Essex

First Essex. - Consisting of the towns of Amesbury and Salisbury, and the city of Newburyport, all in the county of Essex.

Second Essex. - Consisting of precinct one, of the town of Georgetown, the town of Groveland, precinct two of ward three, precincts one and three of ward four, precincts two and three of ward seven, of the city of Haverhill, and the towns of Merrimac, Newbury, Rowley and West Newbury, all in the county of Essex.

Third Essex. - Consisting of all precincts of wards one, two, five and six, precincts one and three of ward three, precinct two of ward four and precinct one of ward seven, of the city of Haverhill, in the county of Essex.

Fourth Essex. - Consisting of the towns of Boxford, Hamilton, Ipswich, Manchester-by-the-Sea and Wenham, and precinct two, of the town of Georgetown, all in the county of Essex.

Fifth Essex. - Consisting of the towns of Essex and Rockport, and the city of Gloucester, all in the county of Essex.

Sixth Essex. - Consisting of the city of Beverly, in the county of Essex.

Seventh Essex. - Consisting of the city of Salem, in the county of Essex.

Eighth Essex. - Consisting of precinct four of ward three, of the city of Lynn, and the towns of Marblehead and Swampscott, all in the county of Essex.

Ninth Essex. - Consisting of precincts one, two and three of ward one, of the city of Lynn, precinct two of the town of Lynnfield, and the town of Saugus, all in the county of Essex.

Tenth Essex. - Consisting of precinct four of ward one, all precincts of ward two, precincts one, two and three of ward three, all precincts of ward four and precinct four of ward five, of the city of Lynn, in the county of Essex.

Eleventh Essex. - Consisting of precincts one, two and three of ward five, all precincts of wards six and seven, of the city of Lynn, and the town of Nahant, all in the county of Essex.

Twelfth Essex. - Consisting of all precincts of wards one, two, three, four and five, of the city of Peabody, in the county of Essex.

Thirteenth Essex. - Consisting of the town of Danvers, all precincts of ward six, of the city of Peabody, and the town of Topsfield, all in the county of Essex.

Fourteenth Essex. - Consisting of precincts one, three and four of ward A, precincts two and three of ward E, precincts one, two and four of ward F, of the city of Lawrence, and precincts one, two, three and six, of the town of North Andover, all in the county of Essex.

Fifteenth Essex. - Consisting of precincts one, three, four, five, six, seven, eight, nine, ten, eleven and twelve, of the town of Methuen, in the county of Essex.

Sixteenth Essex. - Consisting of precinct two of ward A, all precincts of wards B and C, precincts three and four of ward D, and precinct three of ward F, of the city of Lawrence, and precinct two in the town of Methuen, both in the county of Essex.

Seventeenth Essex. - Consisting of precincts one, two, three, four, six, seven and eight, of the town of Andover, precincts one and two of ward D, and precincts one and four of ward E, of the city of Lawrence, all in the county of Essex.

Franklin

First Franklin. - Consisting of the town of Athol, in the county of Worcester; the towns of Chesterfield, Williamsburg and Worthington, in the county of Hampshire; and the towns of Conway, Deerfield, Leverett, New Salem, Sunderland, Wendell and Whately, and the town of Montague, all in the county of Franklin.

Second Franklin. - Consisting of the towns of Bernardston, Colrain, Erving, Gill, Greenfield, Heath, Leyden, Orange, Northfield, Warwick, all in the county of Franklin; and the town of Royalston, in the county of Worcester.

Hampden

First Hampden. - Consisting of the towns of Brimfield, Holland and Palmer, all in the county of Hampden; and precinct B, of the town of Belchertown, and the town of Ware, both in the county of Hampshire; and the town of East Brookfield and precinct two, of the town of Sturbridge, both in the county of Worcester.

Second Hampden. - Consisting of precincts two and three, of the town of East Longmeadow, the towns of Hampden, Monson, Longmeadow and Wales, and precinct B of ward six, of the city of Springfield, all in the county of Hampden.

Third Hampden. - Consisting of the city of Agawam, the towns of Blandford, Granville, Russell, Southwick and Tolland, all in the county of Hampden.

Fourth Hampden. - Consisting of the town of Montgomery and the city of Westfield, both in the county of Hampden.

Fifth Hampden. - Consisting of all precincts of wards one, two, four, six and seven, and precinct B of ward three and precinct A of ward five, of the city of Holyoke, in the county of Hampden.

Sixth Hampden. - Consisting of precinct C of ward three, of the city of Chicopee, precinct A of ward three, and precinct B of ward five, of the city of Holyoke, and the town of West Springfield, all in the county of Hampden.

Seventh Hampden. - Consisting of precincts A and C of the town of Belchertown, and the town of Granby, both in the county of Hampshire; and all precincts of ward six, of the city of Chicopee, and the town of Ludlow, both in the county of Hampden.

Eighth Hampden. - Consisting of all precincts of wards one, seven, eight and nine, and precincts C and D of ward two, precincts A and B of ward three, and precincts A and C of ward four, of the city of Chicopee, in the county of Hampden.

Ninth Hampden. - Consisting of precincts A and B of ward two, precinct B of ward four, and all precincts of ward five, of the city of Chicopee, and all precincts of ward two, and precincts A and D of ward eight, of the city of Springfield, all in the county of Hampden.

Tenth Hampden. - Consisting of all precincts of ward one, precincts B, C, D, F and H of ward three, and precincts A and E of ward six, of the city of Springfield, in the county of Hampden.

Eleventh Hampden. - Consisting of precincts C, D, E, G and H of ward five, precincts C, F, G and H of ward seven, and precincts B, C, E, F, G and H of ward eight, of the city of Springfield, in the county of Hampden.

Twelfth Hampden. - Consisting of precincts A, E and G of ward three, all precincts of ward four, and precincts A, B and F of ward five, precinct A of ward seven, of the city of Springfield, in the county of Hampden.

Thirteenth Hampden. - Consisting of precincts one and four, of the town of East Longmeadow, precincts C, D, F, G and H of ward six, precincts B, D, and E of ward seven, of the city of Springfield, and the town of Wilbraham, all in the county of Hampden.

Hampshire

First Hampshire. - Consisting of the towns of Hatfield, Southampton and Westhampton, and the city of Northampton, all in the county of Hampshire.

Second Hampshire. - Consisting of the towns of Easthampton, Hadley and South Hadley, all in the county of Hampshire.

Third Hampshire. - Consisting of the towns of Amherst and Pelham, both in the county of Hampshire; and the town of Shutesbury, in the county of Franklin.

Middlesex

First Middlesex. - Consisting of precinct one, of the town of Ayer, the towns of Groton, Pepperell and Townsend, all in the county of Middlesex; and the town of Lunenburg, in the county of Worcester.

Second Middlesex. - Consisting of the town of Harvard, in the county of Worcester; and precinct two of the town of Ayer, and the towns of Littleton and Westford, all in the county of Middlesex.

Third Middlesex. - Consisting of the towns of Bolton and Lancaster, both in the county of Worcester; and the towns of Hudson, Shirley and Stow, all in the county of Middlesex.

Fourth Middlesex. - Consisting of the town of Berlin, and precinct three of the town of Northborough, both in the county of Worcester; and the city of Marlborough, in the county of Middlesex.

Fifth Middlesex. - Consisting of precinct two, of the town of Millis, in the county of Norfolk; and the towns of Natick and Sherborn, both in the county of Middlesex.

Sixth Middlesex. - Consisting of precincts one, two, three, four, five, six, seven, nine, ten and thirteen, of the town of Framingham, in the county of Middlesex.

Seventh Middlesex. - Consisting of the town of Ashland, and precincts eight, eleven, twelve, fourteen, fifteen, sixteen and seventeen, of the town of Framingham, all in the county of Middlesex.

Eighth Middlesex. - Consisting of the towns of Holliston and Hopkinton, both in the county of Middlesex; and the town of Medway, in the county of Norfolk; and the town of Southborough, in the county of Worcester.

Ninth Middlesex. - Consisting of precinct four, of the town of Belmont, and all precincts of wards one, two, three, four and seven, of the city of Waltham, all in the county of Middlesex.

Tenth Middlesex. - Consisting of precinct four of ward one, precinct one of ward two, precincts three and four of ward three, of the city of Newton, and all precincts of wards five, six, eight and nine, of the city of Waltham, all in the county of Middlesex.

Eleventh Middlesex. - Consisting of precinct fifteen, of the town of Brookline, in the county of Norfolk; and precincts two and three of wards one and two, precinct one of ward six, all precincts of ward seven, and precincts one, two and four of ward eight, of the city of Newton, all in the county of Middlesex.

Twelfth Middlesex. - Consisting of precincts one and two of ward three, all precincts of ward four and all precincts of ward five, and precincts two, three and four of ward six, and precinct three of ward eight, of the city of Newton, in the county of Middlesex.

Thirteenth Middlesex. - Consisting of the towns of Maynard, Sudbury and Wayland, all in the county of Middlesex.

Fourteenth Middlesex. - Consisting of the towns of Acton, Boxborough and Concord, all in the county of Middlesex.

Fifteenth Middlesex. - Consisting of the towns of Lexington and Lincoln, both in the county of Middlesex.

Sixteenth Middlesex. - Consisting of the towns of Carlisle and Chelmsford, both in the county of Middlesex.

Seventeenth Middlesex. - Consisting of precinct one of ward one, precinct three of ward two, all precincts of wards five, six and nine, and precinct three of ward ten, of the city of Lowell, in the county of Middlesex.

Eighteenth Middlesex. - Consisting of precinct five, of the town of Andover, in the county of Essex; precincts two and three of ward one, precincts two and three of ward four, precincts one and two of ward ten, and all precincts of ward eleven, of the city of Lowell, and precinct three, of the town of Tewksbury, all in the county of Middlesex.

Nineteenth Middlesex. - Consisting of precincts one and two of ward two, all precincts of ward three, precinct one of ward four, and all precincts of wards seven and eight, of the city of Lowell, in the county of Middlesex.

Twentieth Middlesex. - Consisting of precincts one, one-A, two, two-A, three-A and four, of the town of Tewksbury, and precincts one, two, four, five and six, of the town of Wilmington, all in the county of Middlesex.

Twenty-first Middlesex. - Consisting of precincts four and five, of the town of North Andover, in the county of Essex; the town of North Reading, and precincts one, two, four, six, seven, eight-A and eight-B, of the town of Reading, all in the county of Middlesex.

Twenty-second Middlesex. - Consisting of precincts one, three and four, of the town of Lynnfield, and the town of Middleton, both in the county of Essex; and the town of Wakefield, in the county of Middlesex.

Twenty-third Middlesex. - Consisting of the towns of Bedford and Burlington, and precinct three, of the town of Wilmington, all in the county of Middlesex.

Twenty-fourth Middlesex. - Consisting of the town of Billerica, in the county of Middlesex.

Twenty-fifth Middlesex. - Consisting of precincts eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty and twenty-one, of the town of Arlington, and precinct two of ward three and precinct one of ward six, of the city of Medford, all in the county of Middlesex.

Twenty-sixth Middlesex. - Consisting of precincts one, two, three, four, five, six and seven, of the town of Arlington, and precincts one, two, three, five, six, seven and eight, of the town of Belmont, all in the county of Middlesex.

Twenty-seventh Middlesex. - Consisting of precincts three and four of ward seven, all precincts of wards eight, nine, ten and eleven, of the city of Cambridge, in the county of Middlesex.

Twenty-eighth Middlesex. - Consisting of precinct two of ward two, precincts three and four of ward three, all precincts of wards four, five and six, and precincts one and two of ward seven, of the city of Cambridge, in the county of Middlesex.

Twenty-ninth Middlesex. - Consisting of all precincts of ward one, precinct one of ward two, and precincts one and two of ward three, of the city of Cambridge, and all precincts of ward one, precincts one and two of ward two and precinct two of ward four, of the city of Somerville, all in the county of Middlesex.

Thirtieth Middlesex. - Consisting of precinct three of ward two, all precincts of wards five and six, precincts one, two and three of ward three, of the city of Somerville, in the county of Middlesex.

Thirty-first Middlesex. - Consisting of the city of Everett, and precinct two of ward one, of the city of Malden, both in the county of Middlesex.

Thirty-second Middlesex. - Consisting of precinct one of ward one, of the city of Newton, and the town of Watertown, both in the county of Middlesex.

Thirty-third Middlesex. - Consisting of the city of Woburn, in the county of Middlesex.

Thirty-fourth Middlesex. - Consisting of precincts three and five of the town of Reading, precincts one, two and three of the town of Stoneham, and the town of Winchester, all in the county of Middlesex.

Thirty-fifth Middlesex. - Consisting of the city of Melrose, and precincts four, five and six, of the town of Stoneham, all in the county of Middlesex.

Thirty-sixth Middlesex. - Consisting of precinct one of ward one, all precincts of wards two, four, five and six, precinct one of ward three, and precinct two of ward eight, of the city of Malden, in the county of Middlesex.

Thirty-seventh Middlesex. - Consisting of precinct one of ward four, all precincts of ward five, and precinct two of ward six, precinct one of ward seven, of the city of Medford, and precincts one and three of ward four, and all precincts of ward seven, of the city of Somerville, all in the county of Middlesex.

Thirty-eighth Middlesex. - Consisting of precinct two of ward three, of the city of Malden, and all precincts of wards, one, two and eight, precinct one of ward three, precinct two of ward four, and precinct two of ward seven, of the city of Medford, all in the county of Middlesex.

Thirty-ninth Middlesex. - Consisting of the towns of Dracut, Dunstable and Tyngsborough, all in the county of Middlesex.

Norfolk

First Norfolk. - Consisting of precincts three, four and five of ward three, precincts one and three of ward four, precincts two and five of ward five, all precincts of ward six, of the city of Quincy, and precinct six in the town of Randolph, both in the county of Norfolk.

Second Norfolk. - Consisting of all precincts of ward one, precincts one and two of ward three, precincts two, four and five of ward four, and precincts one, three and four of ward five, of the city of Quincy, in the county of Norfolk.

Third Norfolk. - Consisting of precincts three and four, of the town of Holbrook, all precincts of ward two, of the city of Quincy, and precincts five, six, nine, twelve, sixteen and seventeen of the town of Weymouth, all in the county of Norfolk.

Fourth Norfolk. - Consisting of precincts one, two, three, four, seven, eight, ten, eleven, thirteen, fourteen, fifteen, and eighteen, of the town of Weymouth, in the county of Norfolk.

Fifth Norfolk. - Consisting of the town of Braintree, and precincts one and two in the town of Holbrook, both in the county of Norfolk.

Sixth Norfolk. - Consisting of the towns of Avon and Canton, precincts one, two and four, of the town of Randolph, and precinct one, of the town of Stoughton, all in the county of Norfolk.

Seventh Norfolk. - Consisting of precincts one, two, four, five, six, seven, eight, nine and ten, of the town of Milton, and precincts three, five, seven and eight, of the town of Randolph, all in the county of Norfolk.

Eighth Norfolk. - Consisting of the town of Sharon, and precincts two, three, four, five, six, seven and eight, of the town of Stoughton, all in the county of Norfolk.

Ninth Norfolk. - Consisting of precinct one, of the town of Millis, the town of Norfolk, precincts one, two, three, four, five and six of the town of Walpole, and the town of Wrentham, all in the county of Norfolk.

Tenth Norfolk. - Consisting of precincts two, three, four and five of the town of Bellingham and the town of Franklin, both in the county of Norfolk; and precincts two and three of the town of Blackstone, in the county of Worcester.

Eleventh Norfolk. - Consisting of the towns of Dedham and Westwood, both in the county of Norfolk.

Twelfth Norfolk. - Consisting of precincts two and three, of the town of Medfield, the town of Norwood, and precinct seven of the town of Walpole, all in the county of Norfolk.

Thirteenth Norfolk. - Consisting of the towns of Dover and Needham, and precincts one and four, of the town of Medfield, all in the county of Norfolk.

Fourteenth Norfolk. - Consisting of the town of Wellesley, in the county of Norfolk; and the town of Weston, in the county of Middlesex.

Fifteenth Norfolk. - Consisting of precincts two, three, four, five, six, seven, eight, nine, ten, eleven and fourteen of the town of Brookline, in the county of Norfolk.

Plymouth

First Plymouth. - Consisting of precincts one, two, three, four, five, six, seven, eight, nine, ten, and twelve, of the town of Plymouth, in the county of Plymouth.

Second Plymouth. - Consisting of precincts one and two, of the town of Bourne, precincts one, two and three, of the town of Sandwich, all in the county of Barnstable; and precincts two and three, of the town of Carver, and the town of Wareham, both in the county of Plymouth.

Third Plymouth. - Consisting of the towns of Hingham and Hull, both in the county of Plymouth; and the town of Cohasset, in the county of Norfolk.

Fourth Plymouth. - Consisting of the towns of Marshfield and Scituate, both in the county of Plymouth.

Fifth Plymouth. - Consisting of the towns of Hanover, Norwell and Rockland, all in the county of Plymouth.

Sixth Plymouth. - Consisting of the towns of Duxbury, Hanson and Pembroke, all in the county of Plymouth.

Seventh Plymouth. - Consisting of the towns of Abington, East Bridgewater and Whitman, all in the county of Plymouth.

Eighth Plymouth. - Consisting of precincts one, three, four, five and six of the town of Bridgewater, and precinct one of the town of Halifax, all in the county of Plymouth; and precincts two-B, three and six, of the town of Easton, and the town of Raynham, all in the county of Bristol.

Ninth Plymouth. - Consisting of precincts B and D of ward one, precincts B, C and D of ward two, all precincts of ward three, and precincts A, B and D of ward four, of the city of Brockton, in the county of Plymouth.

Tenth Plymouth. - Consisting of precinct C of ward four, precincts B, C and D of ward five, all precincts of ward six, of the city of Brockton, and the town of West Bridgewater, and precincts two and seven, of the town of Bridgewater, all in the county of Plymouth.

Eleventh Plymouth. - Consisting of precincts A and C of ward one, precinct A of ward two, precinct A of ward five, and all precincts of ward seven, of the city of Brockton, in the county of Plymouth; and precincts one, two-A, four and five, of the town of Easton, in the county of Bristol.

Twelfth Plymouth. - Consisting of precinct one of the town of Carver, precinct two of the town of Halifax, the town of Kingston, precincts one, two, four and five of the town of Middleborough, and precincts eleven and thirteen, of the town of Plymouth, and the town of Plympton, all in the county of Plymouth.

Suffolk

For the purposes of the following districts, the term "VTD" shall mean "voting tabulation district," and shall refer to areas identified by the state to the United States Bureau of the Census as a voting district. In the event of a discrepancy in representative district descriptions between references to wards and precincts and to VTDs, the VTD reference shall govern.

First Suffolk. - Consisting of all precincts (VTD 0005, 0010, 0015, 0020, 0025, 0030, 0035, 0040, 0045, 0050, 0055, 0060, 0065, 0070) of ward one, and the harbor islands (VTD 1430) of the city of Boston, and precinct three of ward one, of the city of Revere, both in the county of Suffolk.

Second Suffolk. - Consisting of all precincts (VTD 0075, 0080, 0085, 0090, 0095, 0100, 0105) of ward two, of the city of Boston, and all precincts of wards one, two, four and five, of the city of Chelsea, all in the county of Suffolk.

Third Suffolk. - Consisting of all precincts (VTD 0110, 0115, 0120, 0125, 0130, 0135, 0140, 0145) of ward three, precinct one (VTD 0150) of ward four, and precincts one (VTD 0200) and five (VTD 0220) of ward five, and precinct one (VTD 0345) of ward eight, of the city of Boston, in the county of Suffolk.

Fourth Suffolk. - Consisting of all precincts (VTD 0250, 0255, 0260, 0265, 0270, 0275, 0280, 0285, 0290) of ward six, precincts one (VTD 0295), two (VTD 0300), three (VTD 0305), four (VTD 0310), five (VTD 0315), six (VTD 0320), seven (VTD 0325), eight (VTD 0330) and nine (VTD 0335) of ward seven, precinct six (VTD 0370) of ward eight, and precinct three (VTD 0555) of ward thirteen, of the city of Boston, in the county of Suffolk.

Fifth Suffolk. - Consisting of precinct ten (VTD 0340) of ward seven, precincts five (VTD 0365) and seven (VTD 0375) of ward eight, precincts four (VTD 0515) and six (VTD 0525) of ward twelve, precincts one (VTD 0545), two (VTD 0550), four (VTD 0560), five (VTD 0565) and six (VTD 0570) of ward thirteen, precinct four (VTD 0610) and six (VTD 0620) of ward fourteen, and precincts one (VTD 0665), two (VTD 0670), three (VTD 0675), four (VTD 0680), five (VTD 0685), seven (VTD 0695) and eight (VTD 0700) of ward fifteen, of the city of Boston, in the county of Suffolk.

Sixth Suffolk. - Consisting of precincts five (VTD 0615), eight (VTD 0630), ten (VTD 0640), eleven (VTD 0645), twelve (VTD 0650), thirteen (VTD 0655) and fourteen (VTD 0660) of ward fourteen, precincts one (VTD 0770), three (VTD 0780) and five (VTD 0790) of ward seventeen, precincts two (VTD 0845), three (VTD 0850), seven (VTD 0870), eight (VTD 0875) and fifteen (VTD 0910) of ward eighteen, and precinct twelve (VTD 1010) of ward nineteen, of the city of Boston, in the county of Suffolk; and precinct eleven, of the town of Milton, in the county of Norfolk.

Seventh Suffolk. - Consisting of precincts eight (VTD 0185), nine (VTD 0190) and ten (VTD 0195) of ward four, precinct four (VTD 0360) of ward eight, precincts four (VTD 0395) and five (VTD 0400) of ward nine, precinct one (VTD 0450) of ward eleven, precincts one (VTD 0500), two (VTD 0505), three (VTD 0510), five (VTD 0520), eight (VTD 0535) and nine (VTD 0540), of ward twelve, and precincts one (VTD 0595) and three (VTD 0605), of ward fourteen, of the city of Boston, in the county of Suffolk.

Eighth Suffolk. - Consisting of precincts three (VTD 0210), four (VTD 0215), six (VTD 0225), seven (VTD 0230), eight (VTD 0235), nine (VTD 0240) and ten (VTD 0245), of ward five, precinct two (VTD 1125), of ward twenty-one, of the city of Boston, in the county of Suffolk; and precinct three of ward two, of the city of Cambridge, in the county of Middlesex; and precinct one in the town of Brookline, in the county of Norfolk.

Ninth Suffolk. - Consisting of precincts two (VTD 0155), three (VTD 0160), four (VTD 0165), five (VTD 0170), six (VTD 0175) and seven (VTD 0180), of ward four, precinct two (VTD 0205) of ward five, precincts two (VTD 0350) and three (VTD 0355) of ward eight, and precincts one (VTD 0380), two (VTD 0385) and three (VTD 0390), of ward nine, and precinct one (VTD 1120) of ward twenty-one, of the city of Boston, in the county of Suffolk.

Tenth Suffolk. - Consisting of precincts three (VTD 1030), five (VTD 1040), six (VTD 1045), seven (VTD 1050), eight (VTD 1055), nine (VTD 1060), ten (VTD 1065), eleven (VTD 1070), twelve (VTD 1075), thirteen (VTD 1080), fourteen (VTD 1085), fifteen (VTD 1090), sixteen (VTD 1095), seventeen (VTD 1100), eighteen (VTD 1105), nineteen (VTD 1110) and twenty (VTD 1115) of ward twenty, of the city of Boston, in the county of Suffolk; and precinct sixteen, of the town of Brookline, in the county of Norfolk.

Eleventh Suffolk. - Consisting of precincts five (VTD 0470), six (VTD 0475), seven (VTD 0480), eight (VTD 0485), nine (VTD 0490) and ten (VTD 0495) of ward eleven, precinct seven (VTD 0530) of ward twelve, precincts two (VTD 0600), seven (VTD 0625) and nine (VTD 0635) of ward fourteen, and precincts four (VTD 0970), six (VTD 0980), seven (VTD 0985), eight (VTD 0990), nine (VTD 0995), eleven (VTD 1005) and thirteen (VTD 1015) of ward nineteen, of the city of Boston, in the county of Suffolk.

Twelfth Suffolk. - Consisting of precincts eight (VTD 0745) and eleven (VTD 0760) of ward sixteen, precincts four (VTD 0785), seven (VTD 0800), eight (VTD 0805), ten (VTD 0815), eleven (VTD 0820), twelve (VTD 0825), thirteen (VTD 0830) and fourteen (VTD 0835) of ward seventeen, precincts one (VTD 0840), four (VTD 0855), five (VTD 0860), six (VTD 0865) and twenty-one (VTD 0940) of ward eighteen, in the county of Suffolk; and precinct three of the town of Milton, in the county of Norfolk.

Thirteenth Suffolk. - Consisting of precincts seven (VTD 0575), eight (VTD 0580), nine (VTD 0585) and ten (VTD 0590) of ward thirteen, precincts six (VTD 0690), and nine (VTD 0705) of ward fifteen, precincts one (VTD 0710), two (VTD 0715), three (VTD 0720), four (VTD 0725), five (VTD 0730), six (VTD 0735), seven (VTD 0740), nine (VTD 0750), ten (VTD 0755) and twelve (VTD 0765) of ward sixteen, and precincts two (VTD 0775), six (VTD 0795) and nine (VTD 0810) of ward seventeen, of the city of Boston, in the county of Suffolk.

Fourteenth Suffolk. - Consisting of precincts nine (VTD 0880), ten (VTD 0885), eleven (VTD 0890), twelve (VTD 0895), thirteen (VTD 0900), fourteen (VTD 0905), sixteen (VTD 0915), seventeen (VTD 0920), eighteen (VTD 0925), nineteen (VTD 0930), twenty (VTD 0935), twenty-two (VTD 0945) and twenty-three (VTD 0950) of ward eighteen, precinct ten (VTD 1000) of ward nineteen, and precincts one (VTD 1020), two (VTD 1025) and four (VTD 1035) of ward twenty, of the city of Boston, in the county of Suffolk.

Fifteenth Suffolk. - Consisting of precincts one (VTD 0405), two (VTD 0410), three (VTD 0415), four (VTD 0420), five (VTD 0425), six (VTD 0430), seven (VTD 0435), eight (VTD 0440) and nine (VTD 0445) of ward ten, precincts one (VTD 0955), two (VTD 0960), three (VTD 0965) and five (VTD 0975) of ward nineteen, and precincts two (VTD 0455), three (VTD 0460) and four (VTD 0465) of ward eleven, of the city of Boston, in the county of Suffolk.

Sixteenth Suffolk. - Consisting of precincts one and two of ward three, of the city of Chelsea, and precincts one and two of ward five, precinct one of ward three, all precincts of ward four, and all precincts of ward six, of the city of Revere, all in the county of Suffolk; and precincts one and two of ward seven, and precinct one of ward eight, of the city of Malden, in the county of Middlesex.

Seventeenth Suffolk. - Consisting of precincts three (VTD 1130), five (VTD 1140), six (VTD 1145), seven (VTD 1150), eight (VTD 1155), nine (VTD 1160), ten (VTD 1165), eleven (VTD 1170) and twelve (VTD 1175) of ward twenty-one, and precincts two (VTD 1205), three (VTD 1210), six (VTD 1225), nine (VTD 1240) and ten (VTD 1245) of ward twenty-two of the city of Boston, in the county of Suffolk.

Eighteenth Suffolk. - Consisting of precincts four (VTD 1135), thirteen (VTD 1180), fourteen (VTD 1185), fifteen (VTD 1190) and sixteen (VTD 1195) of ward twenty-one, precincts one (VTD 1200), four (VTD 1215), five (VTD 1220), seven (VTD 1230), eight (VTD 1235), eleven (VTD 1250), twelve (VTD 1255) and thirteen (VTD 1260) of ward twenty-two of the city of Boston, in the county of Suffolk; and precincts twelve and thirteen of the town of Brookline, in the county of Norfolk.

Nineteenth Suffolk. - Consisting of precincts one, two and four, of ward one, all precincts of ward two, and precincts two and three of ward three, and precinct three of ward five, of the city of Revere, and the town of Winthrop, all in the county of Suffolk.

Worcester

First Worcester. - Consisting of the towns of Holden, Hubbardston, Phillipston, Rutland, Templeton and Winchendon, all in the county of Worcester.

Second Worcester. - Consisting of the town of Ashburnham, precinct A of ward four, of the city of Fitchburg, the city of Gardner and the town of Westminster, all in the county of Worcester; and the town of Ashby, in the county of Middlesex.

Third Worcester. - Consisting of all precincts of wards one, two, three, five and six, and precinct B of ward four, of the city of Fitchburg, in the county of Worcester.

Fourth Worcester. - Consisting of the city of Leominster, in the county of Worcester.

Fifth Worcester. - Consisting of the towns of Barre, Brookfield, Hardwick, New Braintree, North Brookfield, Oakham, Petersham, Spencer, Warren and West Brookfield, all in the county of Worcester.

Sixth Worcester. - Consisting of the towns of Charlton and Southbridge, precincts three and four, of the town of Dudley, and precinct two, of the town of Oxford, and precinct one, of the town of Sturbridge, all in the county of Worcester.

Seventh Worcester. - Consisting of the towns of Auburn and Millbury, precincts one, three and four of the town of Oxford, and precinct one, of the town of Dudley, all in the county of Worcester.

Eighth Worcester. - Consisting of the towns of Douglas, Millville, Uxbridge and Webster, and precinct one, of the town of Blackstone, and precinct two, of the town of Dudley, all in the county of Worcester.

Ninth Worcester. - Consisting of the towns of Grafton, Northbridge, Sutton, and Upton, all in the county of Worcester.

Tenth Worcester. - Consisting of the towns of Hopedale, Mendon and Milford, all in the county of Worcester; and precinct one, of the town of Bellingham, in the county of Norfolk.

Eleventh Worcester. - Consisting of the towns of Shrewsbury and Westborough, both in the county of Worcester.

Twelfth Worcester. - Consisting of the towns of Boylston and Clinton, precincts one and two, of the town of Northborough, the towns of Princeton and Sterling, and precinct two, of the town of West Boylston, all in the county of Worcester.

Thirteenth Worcester. - Consisting of the town of Paxton, all precincts of wards one and nine, of the city of Worcester, all in the county of Worcester.

Fourteenth Worcester. - Consisting of all precincts of wards two and three, of the city of Worcester, and precinct one, of the town of West Boylston, all in the county of Worcester.

Fifteenth Worcester. - Consisting of all precincts of wards four and ten, and precinct three of ward five, of the city of Worcester, in the county of Worcester.

Sixteenth Worcester. - Consisting of precincts one, two, four and five of ward five, all precincts of ward six, and precincts one and five of ward eight, of the city of Worcester, in the county of Worcester.

Seventeenth Worcester. - Consisting of the town of Leicester, all precincts of ward seven, and precincts two, three and four of ward eight, of the city of Worcester, all in the county of Worcester.

SECTION 2. The supreme judicial court shall have jurisdiction of any petition for a writ of mandamus relative to the establishment of one hundred and sixty representative districts under section one of this act. Every such petition shall be filed in said court within ten days after the effective date of this act.

The foregoing was laid before the Governor on the twenty-second day of November, 1993, and after ten days had the force of law as prescribed by the Constitution as it was not returned by him with his objections thereto within that time.

Chapter 274. AN ACT ESTABLISHING EXECUTIVE COUNCILLOR AND SENATORIAL DISTRICTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for a new division of the commonwealth into eight executive councillor and forty senatorial districts, 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 1 of chapter 57 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the word "section", in line 185, and inserting in place thereof the following word:- chapter.

SECTION 2. Chapter 57 of the General Laws is hereby amended by striking out sections 2 and 3, as appearing in the 1992 Official Edition, and inserting in place thereof the following two sections:-

Section 2. For the purpose of choosing councillors until the next apportionment, the commonwealth is divided, conformably with the constitution, into the following eight councillor districts:

First. - Consisting of the First Plymouth and Bristol, the First Bristol, the Second Bristol, the Cape and Islands and the Plymouth and Barnstable senatorial districts.

Second. - Consisting of the Middlesex, Norfolk and Worcester, the Norfolk, Bristol and Middlesex, the Norfolk, Bristol and Plymouth, the Second Suffolk, and the Norfolk and Suffolk senatorial districts.

Third. - Consisting of the First Middlesex, the Fifth Middlesex, the First Middlesex and Norfolk, the Middlesex and Suffolk, and the Middlesex and Worcester senatorial districts.

Fourth. - Consisting of the Norfolk and Plymouth, the Plymouth and Norfolk, the Second Plymouth and Bristol, the First Suffolk, and the Suffolk and Norfolk senatorial districts.

Fifth. - Consisting of the First Essex, the Second Essex, the Third Essex, the First Essex and Middlesex, and the Second Essex and Middlesex senatorial districts.

Sixth. - Consisting of the Second Middlesex, the Third Middlesex, the Fourth Middlesex, the Middlesex, Suffolk, and Essex, and the Suffolk and Middlesex senatorial districts.

Seventh. - Consisting of the First Worcester, the Worcester, Hampden, Hampshire and Franklin, the Second Worcester, the Worcester and Middlesex, and the Worcester and Norfolk senatorial districts.

Eighth. - Consisting of the Berkshire, Hampden, Hampshire and Franklin, the Hampshire and Franklin, the First Hampden and Hampshire, the Second Hampden and Hampshire, and the Hampden senatorial districts.

Section 3. For the purposes of choosing senators, and of electing members of state committees of political parties as provided in section one of chapter fifty-two, until the next apportionment, the commonwealth is divided, conformably with the constitution, into the following forty senatorial districts:

Berkshire, Hampden, Hampshire, and Franklin - Consisting of the cities and towns in the county of Berkshire; and the towns of Blandford, Chester, Granville, and Tolland in the county of Hampden; and the towns of Cummington, Middlefield, Plainfield and Worthington in the county of Hampshire; and the towns of Charlemont, Hawley, Heath, Monroe, and Rowe in the county of Franklin.

First Bristol - Consisting of the city of Fall River, and the towns of Freetown, Somerset, Swansea, and Westport, all in the county of Bristol.

Second Bristol - Consisting of the city of New Bedford and the towns of Acushnet, Dartmouth, and Fairhaven, all in the county of Bristol.

First Plymouth and Bristol - Consisting of the towns of Bridgewater, Carver, Halifax, Lakeville, Marion, Mattapoisett, Middleborough, and Rochester in the county of Plymouth; and the city of Taunton, and the towns of Berkley, Dighton, and Raynham in the county of Bristol.

Cape and Islands - Consisting of the towns of Barnstable, Brewster, Chatham, Dennis, Eastham, Falmouth, including Precincts 4 and 7, the towns of Harwich, Mashpee, Orleans, Provincetown, Truro, Wellfleet, and Yarmouth in the county of Barnstable; the county of Dukes; and the county of Nantucket.

First Essex - Consisting of the city of Lynn, and the towns of Lynnfield, Marblehead, Nahant, Saugus, including Precincts 1, 3, 5 and 7-10, and the town of Swampscott, all in the county of Essex.

Second Essex - Consisting of the cities of Beverly, Peabody and Salem and the town of Danvers, all in the county of Essex.

Third Essex - Consisting of the cities of Haverhill and Newburyport, and the towns of Amesbury, Merrimac, Methuen, North Andover, including Precincts 1-4, and Salisbury all in the county of Essex.

First Essex and Middlesex - Consisting of the city of Gloucester, and the towns of

Boxford, Essex, Georgetown, Groveland, Hamilton, Ipswich, Manchester-by-the-Sea, Middleton, Newbury, North Andover, including Precincts 5 and 6, Rockport, Rowley, Topsfield, Wenham and West Newbury in the county of Essex; and the towns of North Reading and Wilmington in the county of Middlesex.

Second Essex and Middlesex - Consisting of the city of Lawrence, and the town of Andover, in the county of Essex; and the towns of Dracut and Tewksbury in the county of Middlesex.

Hampshire and Franklin - Consisting of the city of Northampton, and the towns of Amherst, Chesterfield, Goshen, Hadley, Hatfield, Huntington, Pelham, South Hadley, Westhampton, and Williamsburg in the county of Hampshire; and the towns of Ashfield, Bernardston, Buckland, Colrain, Conway, Deerfield, Gill, Greenfield, Leverett, Leyden, Montague, Shelburne, Shutesbury, Sunderland, Wendell, and Whately in the county of Franklin.

Hampden - Consisting of the cities of Agawam, Chicopee, including Ward 2, Precincts A-D, Ward 4, Precincts A-C, and Ward 5, Precincts A-C, Springfield, including Ward 1, Precincts A-H, Ward 3, Precincts A-H, Ward 4, Precincts A-H, Ward 5, Precinct A, Ward 6, Precincts A-H, and the town of West Springfield, all in the county of Hampden.

First Hampden and Hampshire - Consisting of the city of Springfield, including Ward 2, Precincts A-H, Ward 5, Precincts B-H, Ward 7, Precincts A-H, and Ward 8, Precincts A-H, and the towns of East Longmeadow, Hampden, Longmeadow, Ludlow, and Wilbraham in the county of Hampden; and the town of Granby in the county of Hampshire.

Second Hampden and Hampshire - Consisting of the city of Chicopee, including Ward 1, Precincts A and B, Ward 3, Precincts A-C, Ward 6, Precincts A and B, Ward 7, Precincts A and B, Ward 8, and Precincts A-C, and Ward 9, Precincts A and B, the cities of Holyoke, and Westfield, and the towns of Montgomery, Russell, and Southwick, in the county of Hampden; and the towns of Easthampton and Southampton in the county of Hampshire.

First Middlesex - Consisting of the city of Lowell, and the towns of Dunstable, Groton, Pepperell, Tyngsborough, and Westford, all in the county of Middlesex.

Second Middlesex - Consisting of the cities of Medford, Somerville, including Ward 1, Precincts 2 and 3, Ward 2, Precincts 2 and 3, Ward 3, Precincts 1-3, Ward 4, Precincts 1-3, Ward 5, Precincts 1-3, Ward 6, Precincts 1-3, and Ward 7, Precincts 1-3, the city of Woburn, including Ward 2, Precinct 1 and 2, and the town of Winchester, all in the county of Middlesex.

Third Middlesex - Consisting of the cities of Malden, and Melrose, and the towns of Reading, Stoneham, and Wakefield, all in the county of Middlesex.

Fourth Middlesex - Consisting of the city of Cambridge, including Ward 11, Precinct 3, Woburn, including Ward 1, Precincts 1 and 2, Ward 3, Precincts 1 and 2, Ward 4, Precincts 1 and 2, Ward 5, Precincts 1 and 2, Ward 6, Precincts 1 and 2, and Ward 7, Precincts 1 and 2, and the towns of Arlington, Billerica, Burlington, and Lexington including Precincts 1, 5, 6 and 7, all in the county of Middlesex.

Fifth Middlesex - Consisting of the city of Waltham, including Ward 1, Precincts 1 and 2, Ward 2, Precincts 1 and 2, Ward 3, Precinct 1, Ward 6, Precinct 1, and Ward 7, Precincts 1 and 2, the towns of Bedford, Carlisle, Chelmsford, Concord, Lexington, including Precincts 2-4, 8, and 9, Lincoln, Sudbury, Wayland and Weston, all in the county of Middlesex.

First Middlesex and Norfolk - Consisting of the city of Newton in the county of Middlesex; and the towns of Brookline, and Wellesley, including Precincts A, and C-E, in the county of Norfolk.

Middlesex, Norfolk and Worcester - Consisting of the towns of Ashland, Framingham, Holliston, Hopkinton, and Natick, including Precincts 1-5 and 8, in the county of Middlesex; the towns of Franklin and Medway in the county of Norfolk; and the town of Westborough, including Precinct 3, in the county of Worcester.

Middlesex and Suffolk - Consisting of the city of Cambridge, including Ward 7, Precincts 3 and 4, Ward 9, Precinct 2, Ward 10, Precincts 1, 2 and 4, and Ward 11, Precincts 1 and 2, the city of Waltham, including Ward 3, Precincts 2, Ward 4, Precincts 1 and 2, Ward 5, Precincts 1 and 2, Ward 6, Precinct 2, Ward 8, Precincts 1 and 2, and Ward 9, Precincts 1 and 2, and the towns of Belmont and Watertown in the county of Middlesex; and the city of Boston, including Ward 21, Precinct 9 (VTD 1160), Precinct 10 (VTD 1165), Precinct 11 (VTD 1170), Precinct 12 (VTD 1175), Precinct 13 (VTD 1180), Precinct 14 (VTD 1185), Precinct 15 (VTD 1190), and Precinct 16 (VTD 1195), Ward 22, Precinct 3 (VTD 1210), Precinct 4 (VTD 1215), Precinct 5 (VTD 1220), Precinct 6 (VTD 1225), Precinct 7 (VTD 1230), Precinct 8 (VTD 1235), Precinct 9 (VTD 1240), Precinct 10 (VTD 1245), Precinct 11 (VTD 1250), Precinct 12 (VTD 1255), and Precinct 13 (VTD 1260), in the county of Suffolk.

Middlesex and Worcester - Consisting of the city of Marlborough, and the towns of Acton, Ayer, Boxborough, Hudson, Littleton, Maynard, Shirley, and Stow in the county of Middlesex; and the towns of Berlin, Harvard, Northborough, Southborough, and Westborough, including Precincts 1, 2 and 4 in the county of Worcester.

Norfolk and Plymouth - Consisting of the city of Quincy, and the town of Braintree, including Precincts 1-5, 8, and 10-12, and the town of Holbrook, in the county of Norfolk; and the town of Abington, including Precincts 3 and 4, Norwell, and Rockland, including Precincts 1-7, in the county of Plymouth.

Norfolk, Bristol, and Plymouth - Consisting of the towns of Foxborough, Medfield, Sharon, Stoughton, and Walpole, in the county of Norfolk; the town of Easton, including Precincts 3 and 6, the towns of Mansfield, Norton, Rehoboth, and Seekonk in the county of Bristol; and the town of West Bridgewater in the county of Plymouth.

Norfolk, Bristol, and Middlesex - Consisting of the towns of Millis, Needham, Norfolk, Plainville, Wellesley, including Precincts B, F and G, and Wrentham in the county of Norfolk; the city of Attleborough, and the towns of North Attleborough, in the county of Bristol; and the town of Natick, including Precincts 6, 7, 9 and 10, and the town of Sherborn in the county of Middlesex.

Plymouth and Norfolk - Consisting of the towns of Duxbury, Hingham, Hull, Marshfield, and Scituate in the county of Plymouth; and the towns of Braintree, including Precincts 6, 7, and 9, Cohasset and Weymouth in the county of Norfolk.

Second Plymouth and Bristol - Consisting of the city of Brockton, and the towns of Abington, including Precincts 1 and 2, East Bridgewater, Hanover, Rockland, including Precinct 8, and Whitman in the county of Plymouth; and the town of Easton, including Precincts 1, 2A, 2B, 4 and 5 in the county of Bristol.

Plymouth and Barnstable - Consisting of the towns of Hanson, Kingston, Pembroke, Plymouth, Plympton and Wareham in the county of Plymouth; and the towns of Bourne, Falmouth, including Precincts 1-3, 5, 6 and 8, and Sandwich in the county of Barnstable.

First Suffolk - Consisting of the city of Boston including Ward 3, Precinct 7 (VTD 0140), and Precinct 8 (VTD 0145), Ward 5, Precinct 1 (VTD 0200), Precinct 3 (VTD 0210), Precinct 6 (VTD 0225), Precinct 7 (VTD 0230), Precinct 8 (VTD 0235), Precinct 9 (VTD 0240), and Precinct 10 (VTD 0245), Ward 6, Precinct 1 (VTD 0250), Precinct 2 (VTD 0255), Precinct 3 (VTD 0260), Precinct 4 (VTD 0265), Precinct 5 (VTD 0270), Precinct 6 (VTD 0275), Precinct 7 (VTD 0280), Precinct 8 (VTD 0285), and Precinct 9 (VTD 0290), Ward 7, Precinct 1 (VTD 0295), Precinct 2 (VTD 0300), Precinct 3 (VTD 0305), Precinct 4 (VTD 0310), Precinct 5 (VTD 0315), Precinct 6 (VTD 0320), Precinct 7 (VTD 0325), Precinct 8 (VTD 0330), Precinct 9 (VTD 0335), and Precinct 10 (VTD 0340), Ward 8, Precinct 1 (VTD 0345), Precinct 2 (VTD 0350), Precinct 3 (VTD 0355), Precinct 4 (VTD 0360), Precinct 5 (VTD 0365), Precinct 6 (VTD 0370), and Precinct 7 (VTD 0375), Ward 9, Precinct 1 (VTD 0380), Precinct 2 (VTD 0385), and Precinct 3 (VTD 0390), Ward 13, Precinct 1 (VTD 0545), Precinct 2 (VTD 0550), Precinct 3 (VTD 0555), Precinct 4 (VTD 0560), Precinct 5 (VTD 0565), Precinct 6 (VTD 0570), Precinct 7 (VTD 0575), Precinct 8 (VTD 0580), Precinct 9 (VTD 0585), and Precinct 10 (VTD 0590), Ward 15, Precinct 1 (VTD 0665), Precinct 2 (VTD 0670), Precinct 3 (VTD 0675), Precinct 4 (VTD 0680), Precinct 5 (VTD 0685), Precinct 6 (VTD 0690), Precinct 7 (VTD 0695), Precinct 8 (VTD 0700), and Precinct 9 (VTD 0705), Ward 16, Precinct 1 (VTD 0710), and Precinct 2 (VTD 0715), Ward 17, Precinct 1 (VTD 0770), and Precinct 2 (VTD 0775), and Ward 21, Precinct 1 (VTD 1120), Precinct 2 (VTD 1125), Precinct 3 (VTD 1130), and Precinct 4 (VTD 1135), and Boston Harbor Island, Ward X, Precinct X (VTD 1430), all in the county of Suffolk.

Second Suffolk - Consisting of the city of Boston, Ward 4, Precinct 1 (VTD 0150), Precinct 2 (VTD 0155), Precinct 3 (VTD 0160), Precinct 4 (VTD 0165), Precinct 5 (VTD 0170), Precinct 6 (VTD 0175), Precinct 7 (VTD 0180), Precinct 8 (VTD 0185), Precinct 9 (VTD 0190), and Precinct 10 (VTD 0195), Ward 5, Precinct 2 (VTD 0205), Ward 9, Precinct 4 (VTD 0395), and Precinct 5 (VTD 0400), Ward 10, Precinct 1 (VTD 0405), Precinct 2 (VTD 0410), Precinct 3 (VTD 0415), Precinct 4 (VTD 0420), Precinct 5 (VTD 0425), Precinct 6 (VTD 0430), Precinct 7 (VTD 0435), Precinct 8 (VTD 0440), and Precinct 9 (VTD 0445), Ward 11, Precinct 1 (VTD 0450), Precinct 2 (VTD 0455), Precinct 3 (VTD 0460), Precinct 4 (VTD 0465), and Precinct 5 (VTD 0470), Ward 12, Precinct 1 (VTD 0500), Precinct 2 (VTD 0505), Precinct 3 (VTD 0510), Precinct 4 (VTD 0515), Precinct 5 (VTD 0520), Precinct 6 (VTD 0525), Precinct 7 (VTD 0530), Precinct 8 (VTD 0535), and

Precinct 9 (VTD 0540), Ward 14, Precinct 1 (VTD 0595), Precinct 2 (VTD 0600), Precinct 3 (VTD 0605), Precinct 4 (VTD 0610), Precinct 5 (VTD 0615), Precinct 6 (VTD 0620), Precinct 7 (VTD 0625), Precinct 8 (VTD 0630), Precinct 9 (VTD 0635), Precinct 10 (VTD 0640), Precinct 11 (VTD 0645), Precinct 12 (VTD 0650), Precinct 13 (VTD 0655), and Precinct 14 (VTD 0660), Ward 17, Precinct 3 (VTD 0780), Precinct 5 (VTD 0790), Precinct 7 (VTD 0800), Precinct 8 (VTD 0805), Precinct 10 (VTD 0815), and Precinct 12 (VTD 0825), Ward 18, Precinct 2 (VTD 0845), Precinct 3 (VTD 0850), Precinct 6 (VTD 0865), and Precinct 21 (VTD 0940), and Ward 19, Precinct 1 (VTD 0955), and Precinct 3 (VTD 0965), all in the county of Suffolk.

Middlesex, Suffolk, and Essex - Consisting of the city of Cambridge, including Ward 3, Precincts 2 and 3, Ward 4, Precincts 1 and 2, Ward 6, Precincts 3-4, Ward 7, Precincts 1-2, Ward 8, Precincts 1, 2, 3 and 4, Ward 9, Precincts 1, 3 and 4, and Ward 10, Precinct 3, the cities of Everett, Somerville, including Ward 1, Precinct 1, and Ward 2, Precinct 1 in the county of Middlesex; the city of Boston, including Ward 2, Precinct 1 (VTD 0075), Precinct 2 (VTD 0080), Precinct 3 (VTD 0085), Precinct 4 (VTD 0090), Precinct 5 (VTD 0095), Precinct 6 (VTD 0100), and Precinct 7 (VTD 0105), Ward 21, Precinct 5 (VTD 1140), Precinct 6 (VTD 1145), Precinct 7 (VTD 1150), and Precinct 8 (VTD 1155), and Ward 22, Precinct 1 (VTD 1200), and Precinct 2 (VTD 1205), the city of Chelsea, and the city of Revere, including Ward 6, Precincts 1-3, in the county of Suffolk; and the town of Saugus, including Precincts 2, 4 and 6 in the county of Essex.

Suffolk and Middlesex - Consisting of the city of Boston, including Ward 1, Precinct 1 (VTD 0005), Precinct 2 (VTD 0010), Precinct 3 (VTD 0015), Precinct 4 (VTD 0020), Precinct 5 (VTD 0025), Precinct 6 (VTD 0030), Precinct 7 (VTD 0035), Precinct 8 (VTD 0040), Precinct 9 (VTD 0045), Precinct 10 (VTD 0050), Precinct 11 (VTD 0055), Precinct 12 (VTD 0060), Precinct 13 (VTD 0065), and Precinct 14 (VTD 0070), Ward 3, Precinct 1 (VTD 0110), Precinct 2 (VTD 0115), Precinct 3 (VTD 0120), Precinct 4 (VTD 0125), Precinct 5 (VTD 0130), and Precinct 6 (VTD 0135), and Ward 5, Precinct 4 (VTD 0215), and Precinct 5 (VTD 0220), and the city of Revere, including Ward l, Precincts 1-4, Ward 2, Precincts 1-3, Ward 3, Precincts 1-3, Ward 4, Precincts 1-3, and Ward 5, Precincts 1-3, and the town of Winthrop, in the county of Suffolk; and the city of Cambridge, including Ward 1, Precincts 1-4, Ward 2, Precincts 1-3, Ward 3, Precinct 1 and 4, Ward 4, Precincts 3 and 4, Ward 5, Precincts 1-4, and Ward 6, Precincts 1 and 2 in the county of Middlesex.

Norfolk and Suffolk - Consisting of the town of Canton, including Precincts 4-6, the towns of Dedham, Dover, Norwood, and Westwood, in the county of Norfolk; and the city of Boston, including Ward 18, Precinct 10 (VTD 0885), Precinct 11 (VTD 0890), Precinct 12 (VTD 0895), Precinct 17 (VTD 0920), Precinct 18 (VTD 0925), Precinct 19 (VTD 0930), Precinct 20 (VTD 0935), Precinct 22 (VTD 0945), and Precinct 23 (VTD 0950), Ward 19, Precinct 10 (VTD 1000), Precinct 11 (VTD 1005), and Precinct 13 (VTD 1015), and Ward 20, Precinct 1 (VTD 1020), Precinct 2 (VTD 1025), Precinct 3 (VTD 1030), Precinct 4 (VTD 1035), Precinct 5 (VTD 1040), Precinct 6 (VTD 1045), Precinct 7 (VTD 1050), Precinct 8 (VTD 1055), Precinct 9 (VTD 1060), Precinct 10 (VTD 1065), Precinct 11 (VTD

1070), Precinct 12 (VTD 1075), Precinct 13 (VTD 1080), Precinct 14 (VTD 1085), Precinct 15 (VTD 1090), Precinct 16 (VTD 1095), Precinct 17 (VTD 1100), Precinct 18 (VTD 1105), Precinct 19 (VTD 1110), and Precinct 20 (VTD 1115), in the county of Suffolk.

Suffolk and Norfolk - Consisting of the city of Boston, including Ward 11, Precinct 6 (VTD 0475), Precinct 7 (VTD 0480), Precinct 8 (VTD 0485), Precinct 9 (VTD 0490), and Precinct 10 (VTD 0495), Ward 16, Precinct 3 (VTD 0720), Precinct 4 (VTD 0725), Precinct 5 (VTD 0730), Precinct 6 (VTD 0735), Precinct 7 (VTD 0740), Precinct 8 (VTD 0745), Precinct 9 (VTD 0750), Precinct 10 (VTD 0755), Precinct 11 (VTD 0760), and Precinct 12 (VTD 0765), Ward 17, Precinct 4 (VTD 0785), Precinct 6 (VTD 0795), Precinct 9 (VTD 0810), Precinct 11 (VTD 0820), Precinct 13 (VTD 0830), and Precinct 14 (VTD 0835), Ward 18, Precinct 1 (VTD 0840), Precinct 4 (VTD 0855), Precinct 5 (VTD 0860), Precinct 7 (VTD 0870), Precinct 8 (VTD 0875), Precinct 9 (VTD 0880), Precinct 13 (VTD 0900), Precinct 14 (VTD 0905), Precinct 15 (VTD 0910), and Precinct 16 (VTD 0915), Ward 19, Precinct 2 (VTD 0960), Precinct 4 (VTD 0970), Precinct 5 (VTD 0975), Precinct 6 (VTD 0980), Precinct 7 (VTD 0985), Precinct 8 (VTD 0990), Precinct 9 (VTD 0995), and Precinct 12 (VTD 1010), in the county of Suffolk; and the town of Avon, the town of Canton, including Precincts 1-3, and the towns of Milton and Randolph in the county of Norfolk.

First Worcester - Consisting of the city of Worcester, including Ward 1, Precincts 1-5, Ward 2, Precincts 1-5, Ward 3, Precincts 1-5, Ward 4, Precincts 1-5, Ward 7, Precincts 1-3, Ward 9, Precincts 1-5, and Ward 10, Precincts 1-5, and the towns of Boylston, Clinton, Holden, and West Boylston, all in the county of Worcester.

Worcester, Hampden, Hampshire, and Franklin - Consisting of the towns of Athol, Barre, Brookfield, East Brookfield, Hardwick, Hubbardston, New Braintree, North Brookfield, Oakham, Paxton, Petersham, Phillipston, Royalston, Rutland, Spencer, Sturbridge, Templeton, Warren, West Brookfield, and Winchendon in the county of Worcester; the towns of Brimfield, Holland, Monson, Palmer, and Wales in the county of Hampden; the towns of Belchertown, and Ware in the county of Hampshire; and the towns of Erving, New Salem, Northfield, Orange, and Warwick in the county of Franklin.

Second Worcester - Consisting of the city of Worcester, including Ward 5, Precincts 1-5, Ward 6, Precincts 1-5, Ward 7, Precincts 4 and 5, and Ward 8, Precincts 1-5, and the towns of Auburn, Grafton, Hopedale, Leicester, Millbury, Shrewsbury, Sutton, and Upton, all in the county of Worcester.

Worcester and Middlesex - Consisting of the cities of Fitchburg, Gardner, and Leominster, and the towns of Ashburnham, Bolton, Lancaster, Lunenburg, Princeton, Sterling, and Westminster in the county of Worcester; and the towns of Ashby and Townsend in the county of Middlesex.

Worcester and Norfolk - Consisting of the towns of Blackstone, Charlton, Douglas, Dudley, Mendon, Milford, Millville, Northbridge, Oxford, Southbridge, Uxbridge, and Webster in the county of Worcester; and the town of Bellingham in the county of Norfolk.

SECTION 3. The supreme judicial court shall have original jurisdiction of any petition for a writ of mandamus relative either to the establishment of eight executive councillor districts, or to the establishment of forty senatorial districts under section one. Every such petition shall be filed in court within ten days after the effective date of this act.

The foregoing was laid before the Governor on the twenty-second day of November, 1993 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him with his objections thereto within that time.

Chapter 275. AN ACT FURTHER REGULATING THE TAKING OF BLOOD SAMPLES IN CERTAIN MOTOR VEHICLE ACCIDENTS.

Be it enacted, etc., as follows:

Chapter 38 of the General Laws is hereby amended by inserting after section 4 the following section:-

Section 4A. If, after making inquiry pursuant to section four, the medical examiner is of the opinion that death may have resulted from injuries sustained in a motor vehicle accident, and that the death occurred within four hours of such accident, that the deceased was the operator and sole occupant of the motor vehicle, and that no other individuals were involved in the accident, the medical examiner shall submit to the state police laboratory a sample of blood from the deceased in an amount sufficient for chemical analysis if it is obtainable at an autopsy. If such chemical analysis indicates the presence of a controlled substance or alcohol, such sample shall be preserved for no less than one hundred and twenty days from the date the sample is taken to permit an independent analysis. Such independent analysis shall be done upon the written request and at the expense of the next of kin of the decedent. No independent analysis of blood performed after sixty days pursuant to this section shall be admissible as evidence of the level of alcohol or controlled substance in any legal proceeding. The medical examiner shall not be civilly or criminally liable for any action taken in compliance with this section.

Approved December 6, 1993.

Chapter 276. AN ACT RELATIVE TO THE GRANTING OF LICENSES FOR THE SALE OF BEER AND WINE BY CERTAIN RESTAURANTS IN THE TOWN OF ARLINGTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any limitations imposed by section eleven A and section seventeen of chapter one hundred and thirty-eight of the General Laws, or any other special or general law to the contrary, including, but not limited to chapter eight hundred and

eighty-seven of the acts of nineteen hundred and seventy-seven, the board of selectmen of the town of Arlington shall cause to be placed on the official ballot used in said town of Arlington by registered voters of said town of Arlington at the annual town meeting to be held in the year nineteen hundred and ninety-four, the following question:

"Shall the board of selectmen be authorized to grant licenses for the sale of beer and wine in restaurants?"

Yes _____
No _____

If a majority of the votes cast in said town in answer to said question is in the affirmative, the town shall be taken to have authorized the sale in said town of beer and wine to be drunk on the premises in restaurants. Said licenses shall be subject, however, to all the other provisions of said chapter one hundred and thirty-eight.

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

Approved December 6, 1993.

Chapter 277. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF SOMERVILLE AS THE ALDERMAN WILLIAM J. JOYCE MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge containing the Boston and Maine railroad tracks that run over Medford street in the city of Somerville shall be designated and known as the Alderman William J. Joyce Memorial Bridge, in honor of Alderman William J. Joyce's many years of service in public office in said city of Somerville. A suitable marker bearing said designation shall be attached thereto by the Massachusetts Bay Transportation Authority in compliance with the standards of said authority.

Emergncy Letter: December 8, 1993 @ 10:41 A.M. Approved December 7, 1993.

Chapter 278. AN ACT REQUIRING THE USE OF HELMETS FOR BICYCLE RIDERS AND THEIR PASSENGERS WHO ARE UNDER THE AGE OF TWELVE.

Be it enacted, etc., as follows:

SECTION 1. The second paragraph of section 11B of chapter 85 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out clause (2) and inserting in place thereof the following clause:-

(2) (i) The operator shall ride only upon or astride a permanent and regular seat attached to the bicycle; a passenger shall ride only upon or astride a permanent and regular seat attached to the bicycle or to a trailer towed by the bicycle.

(ii) The operator shall not transport another person between the ages of one to four years, or weighing forty pounds or less, on a bicycle, except in a "baby seat", so-called, attached to the bicycle, in which such other person shall be able to sit upright; provided, however, that such seat is equipped with a harness to hold such other person securely in the seat and that protection is provided against the feet or hands of such person hitting the spokes of the wheel of the bicycle; or upon or astride a seat of a tandem bicycle equipped so that the other person can comfortably reach the handlebars and pedals. The operator shall not transport any person under the age of one year on said bicycle.

(iii) Any person twelve years of age or younger operating a bicycle or being carried as a passenger on a bicycle on a public way, bicycle path or on any other public right-of-way shall wear a helmet. Said helmet shall fit the person's head, shall be secured to the person's head by straps while the bicycle is being operated, and shall meet the standards for helmets established by the American National Standards Institute (ANSI Z 90.4) or subsequent standards or the Snell Memorial Foundation's nineteen hundred and eighty-four standard for use in bicycling or subsequent standards. These requirements shall not apply to a passenger if the passenger is in an enclosed trailer or other device which adequately holds the passenger in place and protects the passenger's head from impact in an accident.

(iv) A violation of clause (ii) or (iii) shall not be used as evidence of contributory negligence in any civil action.

SECTION 2. Said section 11B of said chapter 85, as so appearing, is hereby further amended by inserting after the word "section", in line 89, the following words:- except violations of subclause (iii) of clause (2).

SECTION 3. Section 11D of said chapter 85, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "'It is hereby recommended that a bicycle helmet be worn while riding a bicycle'" and inserting in place thereof the following words:- "Massachusetts law requires that a bicycle helmet be worn by persons twelve years of age and under who are operators or passengers on a bicycle.".

By posting such a sign, such retail business shall be deemed to be in full compliance with this act, and no liability shall be incurred in the event that said helmet is not worn.

SECTION 4. The commonwealth shall notify any retail business affected by section three of this act of its responsibility to post the sign required by said section three. Such notification shall be given immediately upon the effective date of this act.

Approved December 8, 1993.

Chapter 279. AN ACT RELATIVE TO MARATHONS AND WALKATHONS.

Be it enacted, etc., as follows:

Section one hundred and three of chapter two hundred and seventy-two of the General Laws is hereby repealed.

Approved December 8, 1993.

Chapter 280. AN ACT RELEASING A CERTAIN RESTRICTION ON LAND LOCATED IN THE TOWN OF PLYMOUTH.

Be it enacted, etc., as follows:

Chapter 330 of the acts of 1987 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 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 Paul J. Whipple of the town of Plymouth, containing approximately six thousand three hundred and seventy square feet and bounded and described as follows:

Beginning at the Northwesterly corner,

thence by land of Margaret Whipple S 70° 45' 05" East 254.80 feet;

thence by land of Paul J. Whipple S 19° 14' 55" West 25 feet;

thence by land of Paul J. Whipple N 70° 45' 05" West 254.80 feet;

thence by land of Paul J. Whipple N 19° 14' 55" East 25 feet to the point of the beginning.

Section 2. As consideration for the removal of the agricultural restriction held by the commonwealth pursuant to section one, Paul J. Whipple and Margaret Whipple shall convey an agricultural preservation restriction to the commonwealth, containing approximately fifteen thousand seven hundred and seventy square feet, in such form as the attorney general shall prescribe in the following premises:

Beginning at a point being the Northwesterly corner of the parcel on the southerly side of Doten Road;

thence N 76° 52' 50" East by said road 60.38 feet;

thence S 19° 14' 55" West 325.38 feet by land of Paul J. Whipple;

thence N 70° 45' 05" West 51 feet, again by land of Paul J. Whipple;

thence N 19° 14' 55" East 293.05 feet, to the point of beginning.

Approved December 8, 1993.

Chapter 281. AN ACT RELATIVE TO THE OPERATION OF THE WATER SYSTEM FOR THE TOWN OF HANSON.

Be it enacted, etc., as follows:

Section 11 of chapter 221 of the acts of 1992 is hereby amended by striking out, in line 13, the word "fifty" and inserting in place thereof the following word:- fifty E.

Approved December 8, 1993.

Chapter 282. AN ACT RELATIVE TO DISCRIMINATION AGAINST STUDENTS IN PUBLIC SCHOOLS ON THE BASIS OF SEXUAL ORIENTATION.

Be it enacted, etc., as follows:

Section 5 of chapter 76 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- No person shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and courses of study of such public school on account of race, color, sex, religion, national origin or sexual orientation.

Approved December 10, 1993.

Chapter 283. AN ACT RELATIVE TO NON-DISCLOSURE OF PATIENT RECORDS TO PATIENTS.

Be it enacted, etc., as follows:

Section 12CC of chapter 112 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following paragraph:-

For purposes of this section, in the case of a psychotherapist the term "records" in this section shall mean, at the discretion of the psychotherapist, the patient's entire record maintained by such psychotherapist or a summary of the patient's record. If in the reasonable exercise of his professional judgement, the psychotherapist believes providing the entire record would adversely affect the patient's well-being, in such instances, the psychotherapist shall make a summary of the record available to the patient. If a patient requests the entire record, notwithstanding a determination that providing said record is deemed to adversely affect the patient's well-being, the psychotherapist shall make the entire record available to either the patient's attorney, with the patient's consent, or to such other psychotherapist as designated by the patient. For the purpose of this section the word "psychotherapist" shall mean any person defined as such by section twenty B of chapter two hundred and thirty-three or licensed pursuant to section eighty-four of chapter thirteen.

Approved December 10, 1993.

Chapter 284. AN ACT AUTHORIZING THE TOWN OF IPSWICH TO PROVIDE A CERTAIN ANNUITY FOR THE BENEFIT OF JOHN C. THOMAS.

Be it enacted, etc., as follows:

Notwithstanding the provisions of chapter thirty-two of the General Laws or any other general or special law to the contrary, the town of Ipswich is hereby authorized, subject to appropriation by a town meeting, to establish an individual, non-contributory annuity for the benefit of John C. Thomas. The income generating value of said annuity would approximate the difference between the pension for which said John C. Thomas is currently qualified, without early retirement incentive, and that pension he would be eligible to receive if said town accepted the early retirement provisions of a general or special law, and the board of selectmen of said town adopted a "rule of five", and said John C. Thomas made timely application for early retirement under said law. Said annuity shall be subject to the following conditions:

(1) The principal of said annuity shall revert to the said town upon the death of said John C. Thomas.

(2) Said John C. Thomas shall not be entitled to cost-of-living adjustments to the income to be generated from said annuity but shall continue to be eligible for ordinary cost-of-living retirement benefit increases applied to his underlying Essex county retirement system retirement benefits.

Approved December 10, 1993.

Chapter 285. AN ACT AUTHORIZING THE CITY OF PITTSFIELD TO INCREASE THE MEMBERSHIP OF THE COMMUNITY DEVELOPMENT BOARD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section twelve of chapter forty-three C of the General Laws or any other general or special law to the contrary, in addition to the five members provided by said section forty-three C the community development board of the city of Pittsfield shall include two additional members to serve as associate members. Said associate members shall be appointed by the mayor for two year terms which shall overlap.

The chairperson of said community development board may designate one or both associate members to sit on said board for the purpose of acting on special permit applications, subdivision approvals, site plan reviews, approval of issuance of industrial revenue bonds, rezonings, urban renewal plans, chapter one hundred and twenty-one A tax agreements, and any other matters which come before said board in the case of absence, inability to act, vacancy, or conflict of interest on the part of any one or two members of said board.

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

Approved December 10, 1993.

Chapter 286. AN ACT RELATIVE TO DEBT AUTHORIZATION BY THE BRISTOL PLYMOUTH VOCATIONAL REGIONAL TECHNICAL SCHOOL DISTRICT.

Be it enacted, etc., as follows:

Clause (*d*) of section 6 of chapter 751 of the acts of 1965 is hereby amended by striking out, in line 12, the word "thirty" and inserting in place thereof the following word:- sixty.

Approved December 10, 1993.

Chapter 287. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT A PERMANENT RIGHT-OF-WAY EASEMENT 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 convey to the city of Marlborough subject to acceptance by said city of Marlborough, a permanent right of way easement for access and utility over a parcel of land located in the city of Marlborough and adjacent to Maple and Valley streets. Said deed shall be subject to such terms and conditions as set forth in this act and any other conditions as said commissioner shall prescribe, in consultation with the metropolitan district commission.

Said land is bounded and described more particularly as follows:

Beginning at a point in the westerly property line of Parcel 1, hereinafter described, a distance of 205.99 feet plus 70.33 feet, south of the southerly sideline of Valley Street; thence S08°-11'-20"E a distance of 50.71 feet to a point; thence N88°-37'-11"E a distance of 40.61 feet to a point in the easterly property line of Parcel 1, hereinafter described; thence N08°-08'-50"W a distance of 50.70 feet to a point; thence N88°-37'-11"W a distance of 40.65 feet to the point of beginning. The described right of way easement contains approximately 2031 square feet of area.

The right of way is shown as a "Proposed Bridge/Access Easement" on a plan of land entitled: "Compiled Plan of Easement Over Land of Metropolitan District Commission in Marlborough, Massachusetts, Scale 1"=40', Dated March 6, 1993, Prepared by: City of Marlborough, Department of Public Works, Streets and Engineering Division".

SECTION 2. In consideration of the conveyance authorized by section one, the city of Marlborough shall, after consultation with the metropolitan district commission, design and implement appropriate landscaping and beautification, and shall maintain the same for the balance of the land described as follows:

Beginning at a point in the southerly sideline of Valley Street, 239.77 feet northwest of the westerly sideline of Maple Street; thence S10°-32'-40"W a distance of 205.99 feet to a point; thence S08°-11'-20"E a distance of 155.13 feet to a point; thence S26°-58'-20"E a distance of 31.44 feet to a point; thence S03°-05'-53"W a distance of 27.00 feet; thence N89°-51'-11"E a distance of 59.98 feet to a point; thence N26°-58'-20"W a distance of 75.17 feet to a point; thence N08°-08'-50"W a distance of 141.86 feet to a point; thence N10°-31'-40"E a distance of 201.71 feet to a point in the southerly sideline of Valley Street; thence N82°-39'-00"W a distance of 40.14 feet along the southerly sideline of Valley Street to the point of beginning. The described parcel contains approximately 17,071 square feet of area.

The land is shown as Parcel 1 on a plan entitled "Compiled Plan of Easement Over Land of Metropolitan District Commission in Marlborough, Massachusetts, Scale 1"=40', Dated March 6, 1993. Prepared by: City of Marlborough, Department of Public Works, Streets and Engineering Division".

SECTION 3. The grantee of the easement described in section one shall assume all of the expenses as deemed necessary by the commissioner of capital planning and operations for the conveyance of said easement and the expenses associated with the landscaping and maintenance described in section two.

SECTION 4. If the aforementioned purpose for the easement described in section one 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 10, 1993.

Chapter 288. AN ACT ELIMINATING SUBDIVISION CONTROL IN THE CITY OF SOMERVILLE.

Be it enacted, etc., as follows:

The provisions of sections eighty-one K to eighty-one GG, inclusive, of chapter forty-one of the General Laws shall not apply to the city of Somerville.

Approved December 10, 1993.

Chapter 289. AN ACT AUTHORIZING THE CITY OF MALDEN TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES TO THE MALDEN EMERGENCY CENTER.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general law to the contrary, the licensing authority of the city of Malden is hereby authorized to issue to the Malden Emergency Center a license to sell all alcoholic beverages to travelers, strangers and other patrons and customers not under twenty-one years of age, to be served and drunk only in the dining room or dining rooms and in such other public rooms or areas of the Malden Emergency Center as the local licensing authorities may deem reasonable and proper, and approve in writing, under the provisions of section twelve of chapter one hundred and thirty-eight of the General Laws. Said license shall be subject to all the provisions of said chapter one hundred and thirty-eight, including but not limited to, the purposes for which all monies derived from the sale of alcoholic beverages shall be used by the Malden Emergency Center as required of a club under section one of said chapter one hundred and thirty-eight, except for section seventeen and any other provision of law that prohibits the issuance of said type of license to a nonprofit or charitable organization, provided, however, that the licensing authority shall not approve the transfer of said license to any other person, organization, corporation or location provided, further that the issuing of said license shall reduce by one any increase in licenses issued due to census reapportionment under said section seventeen.

Approved December 10, 1993.

Chapter 290. AN ACT FURTHER REGULATING REDUCTIONS IN FORCE UNDER CIVIL SERVICE.

Be it enacted, etc., as follows:

Section 39 of chapter 31 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 13, the word "five-year" and inserting in place thereof the following word:- ten-year.

Approved December 13, 1993.

Chapter 291. AN ACT RELATIVE TO ESTABLISHING A FUNDING SCHEDULE FOR THE MIDDLESEX COUNTY RETIREMENT SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of the second paragraph of subdivision (1) of section twenty-two D of chapter thirty-two of the General Laws or any

other general or special law to the contrary, the Middlesex county retirement system is hereby deemed to have accepted the provisions of said section twenty-two D of said chapter thirty-two upon the acceptance by the Middlesex county retirement board advisory council.

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

Approved December 13, 1993.

Chapter 292. AN ACT AUTHORIZING THE TOWN OF ROCKPORT TO USE CERTAIN PARK LAND TO CONSTRUCT A WATER SUPPLY STANDPIPE.

Be it enacted, etc., as follows:

SECTION 1. The town of Rockport is hereby authorized to use a portion of a certain parcel of park land for the purpose of constructing, operating and maintaining a water supply standpipe. Said parcel being shown on a plan entitled "Plan of Pool Hill Tank Site, Rockport, Massachusetts, property of the town of Rockport" prepared by Donohoe & Parkhurst, Inc. and dated October 13, 1992.

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

Approved December 14, 1993.

Chapter 293. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF FRANKLIN.

Be it enacted, etc., as follows:

SECTION 1. Section 3-1-1 of the charter of the town of Franklin, 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 clause (d), as appearing in section 7 of chapter 705 of the acts of 1989, and inserting in place thereof the following clause:-

(d) Five members and one associate member of a planning board, to be elected from the town at large for three year overlapping terms of office.

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

Approved December 15, 1993.

Chapter 294. AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO LEASE THE KENNARD HOUSE FOR A TERM OF NOT MORE THAN TWENTY YEARS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the board of selectmen and the school committee of the town of Brookline may, by a majority vote of said board and said school committee, let or lease, for not more than twenty years, the property known as the Kennard House, upon such terms and conditions as they deem necessary or desirable, to the Brookline Music School, a nonprofit Massachusetts corporation.

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

Approved December 15, 1993.

Chapter 295. AN ACT ESTABLISHING THE OFFICE OF TREASURER-COLLECTOR IN THE TOWN OF BELCHERTOWN.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section one of chapter forty-one of the General Laws or any other general or special law or rule or regulation to the contrary, the office of treasurer-collector in the town of Belchertown is hereby established. Said treasurer-collector shall be appointed by the board of selectmen for a term not to exceed three years and shall have all the powers and perform all duties hereinbefore performed by the treasurer and collector of said town. Any vacancy in said office shall be filled in a like manner for the unexpired portion of the term.

SECTION 2. Notwithstanding the provisions of section one, the incumbents in the office of treasurer and collector on 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 a treasurer-collector or until they otherwise vacate said offices.

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

Approved December 15, 1993.

Chapter 296. AN ACT FURTHER REGULATING THE PURCHASE OF STATE SERVICES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate the purchase of services by state agencies, 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 7 of the General Laws is hereby amended by inserting after section 51 the following four sections:-

Section 52. The general court hereby finds and declares that using private contractors to provide public services formerly provided by state employees does not always promote the public interest. To ensure that citizens of the commonwealth receive high quality public services at low cost, with due regard for the taxpayers of the commonwealth and the needs of public and private workers, the general court finds it necessary to regulate such privatization contracts in accordance with sections fifty-three to fifty-five, inclusive.

Section 53. As used in sections fifty-two to fifty-five, inclusive, the following words shall have the following meanings:-

"Agency", an executive office, department, division, board, commission or other office or officer in the executive branch of the government of the commonwealth, the Massachusetts Bay Transportation Authority, the Massachusetts Turnpike Authority and the Massachusetts Port Authority.

"Dependent", the spouse and children of an employee if such persons would qualify for dependent status under the Internal Revenue Code or for whom a support order has been or could be granted under chapter two hundred and eight, two hundred and nine, or two hundred and nine C.

"Privatization contract", an agreement or combination or series of agreements by which a non-governmental person or entity agrees with an agency to provide services, valued at one hundred thousand dollars or more, which are substantially similar to and in lieu of, services theretofore provided, in whole or in part, by regular employees of an agency. Any subsequent agreement, including any agreement resulting from a rebidding of previously privatized service, or any agreement renewing or extending a privatization contract, shall not be considered a privatization contract. An agreement solely to provide legal, management consulting, planning, engineering or design services shall not be considered a privatization contract.

Section 54. No agency shall make any privatization contract and no such contract shall be valid unless the agency, in consultation with the executive office for administration and finance, first complies with each of the following requirements:-

(1) The agency shall prepare a specific written statement of the services proposed to be the subject of the privatization contract, including the specific quantity and standard of quality of the subject services. The agency shall solicit competitive sealed bids for the privatization contracts based upon this statement. The day designated by the agency upon which it will accept these sealed bids shall be the same for any and all parties. This statement shall be a public record, shall be filed in the agency and in the executive office for administration and finance, and shall be transmitted to the state auditor for review pursuant to section fifty-five. The term of any privatization contract shall not exceed five years. No amendment to a privatization contract shall be valid if it has the purpose or effect of avoiding any requirement of this section.

(2) For each position in which a bidder will employ any person pursuant to the privatization contract and for which the duties are substantially similar to the duties performed by a regular agency employee or employees, the statement required by paragraph (1) shall include a statement of the minimum wage rate to be paid for said position, which rate shall be the lesser of step one of the grade or classification under which the comparable regular agency employee is paid, or the average private sector wage rate for said position as determined by the executive office for administration and finance from data collected by the department of employment and training and the division of purchased services. Every bid for a privatization contract and every privatization contract shall include provisions specifically establishing the wage rate for each such position, which shall not be less than said minimum wage rate as defined above. Every such bid and contract shall also include provisions for the contractor to pay not less than a percentage, comparable to the percentage paid by the commonwealth for state employees, of the costs of health insurance plans for every employee employed for not less than twenty hours per week pursuant to such contract. Such health insurance plans shall satisfy the requirements of the fifth paragraph of section nine of chapter one hundred and eighteen F, and shall provide coverage to the employee and the employee's spouse and dependent children. Each contractor shall submit quarterly payroll records to the agency, listing the name, address, social security number, hours worked and the hourly wage paid for each employee in the previous quarter. The attorney general may bring a civil action for equitable relief in the superior court to enforce this paragraph or to prevent or remedy the dismissal, demotion or other action prejudicing any employee as a result of a report of a violation of this paragraph.

(3) Every privatization contract shall contain provisions requiring the contractor to offer available employee positions pursuant to the contract to qualified regular employees of the agency whose state employment is terminated because of the privatization contract and who satisfy the hiring criteria of the contractor. Every such contract shall also contain provisions requiring the contractor to comply with a policy of nondiscrimination and equal opportunity for all persons protected by chapter one hundred and fifty-one B, and to take affirmative steps to provide such equal opportunity for all such persons.

(4) The agency shall prepare a comprehensive written estimate of the costs of regular agency employees' providing the subject services in the most cost-efficient manner. The estimate shall include all direct and indirect costs of regular agency employees' providing the subject services, including but not limited to, pension, insurance and other employee benefit costs. For the purpose of this estimate, any employee organization may, at any time before the final day for the agency to receive sealed bids pursuant to paragraph (1), propose amendments to any relevant collective bargaining agreement to which it is a party. Any such amendments shall take effect only if necessary to reduce the cost estimate pursuant to this paragraph below the contract cost pursuant to paragraph (6). Such estimate shall remain confidential until after the final day for the agency to receive sealed bids for the privatization contract pursuant to paragraph (1), at which time the estimate shall become a public record, shall be filed in the agency and in the executive office for administration and finance, and shall be transmitted to the state auditor for review pursuant to section fifty-five.

(5) After consulting any relevant employee organization, the agency shall provide adequate resources for the purpose of encouraging and assisting present agency employees to organize and submit a bid to provide the subject services. In determining what resources are adequate for this purpose, the agency shall refer to an existing collective bargaining agreement of a similar employee organization whose members perform the subject services, if available, which agreement provides similar resources in the same or other agencies; provided, however, that if no such collective bargaining agreement exists, the agency shall refer to any existing collective bargaining agreements providing such resources, and shall provide such resources at the minimum level of assistance provided in said agreements. The agency shall consider any such employee bid on the same basis as all other bids. An employee bid may be made as a joint venture with other persons. Subclause (h) of clause Twenty-sixth of section seven of chapter four shall apply with respect to all employee bids. Sections four, five and six of chapter two hundred and sixty-eight A shall not apply to the activities of agency employees conducted pursuant to this paragraph.

(6) After soliciting and receiving bids, the agency shall publicly designate the bidder to which it proposes to award the contract. The agency shall prepare a comprehensive written analysis of the contract cost based upon the designated bid, specifically including the costs of transition from public to private operation, of additional unemployment and retirement benefits, if any, and of monitoring and otherwise administering contract performance. If the designated bidder proposes to perform any or all of the contract outside the boundaries of the commonwealth, said contract cost shall be increased by the amount of income tax revenue, if any, which will be lost to the commonwealth by the corresponding elimination of agency employees, as determined by the department of revenue to the extent that it is able to do so.

(7) The head of the agency and the commissioner of administration shall each certify in writing to the state auditor, that:

(i) he has complied with all provisions of this section and of all other applicable laws;

(ii) the quality of the services to be provided by the designated bidder is likely to satisfy the quality requirements of the statement prepared pursuant to paragraph (1), and to equal or exceed the quality of services which could be provided by regular agency employees pursuant to paragraph (4);

(iii) the contract cost pursuant to paragraph (6) will be less than the estimated cost pursuant to paragraph (4), taking into account all comparable types of costs;

(iv) the designated bidder and its supervisory employees, while in the employ of said designated bidder, have no adjudicated record of substantial or repeated willful noncompliance with any relevant federal or state regulatory statute including, but not limited to, statutes concerning labor relations, occupational safety and health, nondiscrimination and affirmative action, environmental protection and conflicts of interest; and

(v) the proposed privatization contract is otherwise in the public interest.

A copy of the proposed privatization contract shall accompany the certificate transmitted to the state auditor.

No provision of this section shall apply in any circumstance to the extent that the provision is inconsistent with section thirty-nine M of chapter thirty or sections twenty-six to twenty-seven H, inclusive, or sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine.

Section 55. (a) An agency shall not make any privatization contract and no such contract shall be valid if, within thirty days after receiving the certificate required by section fifty-four, the state auditor notifies the agency of his objection. Such objection shall be in writing and shall state specifically the state auditor's finding that the agency has failed to comply with one or more requirements of said section fifty-four, including that the state auditor finds incorrect, based on independent review of all the relevant facts, any of the findings required by paragraph (7) of said section fifty-four.

(b) For the purpose of reviewing the agency's compliance and certificate pursuant to said section fifty-four, the state auditor or his designee may require by summons the attendance and testimony under oath of witnesses and the production of books, papers and other records relating to such review. All provisions of law relative to summonses in civil cases, including the manner of service, the scope and relevance to such review, and the compensation of witnesses who are not state employees, shall apply to such summonses. Such summonses shall be enforced pursuant to section ten of chapter two hundred and thirty-three.

(c) The state auditor may adopt regulations and prescribe forms to carry out the provisions of this section and section fifty-four.

(d) The objection of the state auditor pursuant to subsection (a) shall be final and binding on the agency, unless the state auditor thereafter in writing withdraws the objection, stating the specific reasons, based upon a revised certificate by the agency and by the commissioner of administration and upon the state auditor's review thereof.

SECTION 2. Section 5 of chapter 268A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "body", in line 31, the following words:- or

(f) a former state employee whose salary was not less than that in step one of job group M-VII in the management salary schedule in section forty-six C of chapter thirty, and who becomes an officer or employee of a business organization which is or was a party to any privatization contract as defined in section fifty-three of chapter seven in which contract he participated as such state employee, if he becomes such officer or employee while the business organization is such a party or within one year after he terminates his state employment, unless before the termination of his state employment the governor determines, in a writing filed with the state ethics commission, that such participation did not significantly affect the terms or implementation of such contract.

SECTION 3. Section 274 of chapter 110 of the acts of 1993, as amended by section 113 of chapter 151 of the acts of 1993, is hereby further amended by adding the following two paragraphs:-

The division shall adopt regulations limiting the reimbursement to providers for the salaries of their officers or managers to the salary level in step seven of job group M-XII in the management salary schedule in section forty-six C of chapter thirty of the General Laws.

The division shall adopt rules and regulations governing contracts between governmental units and social service program providers which shall include, but not be limited to: a provision requiring that all transactions between said providers and related parties shall be disclosed in writing in advance to the division and to such governmental units, either of which may prohibit the transaction by written notice to the provider; a provision requiring that any reductions in a 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; a provision requiring that any contracts for which funds expended by the commonwealth thereunder reimburse or compensate said providers for the amortization of mortgages for the ownership of property, whether owned directly or indirectly by said provider, 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; a provision requiring a complete inventory of equipment purchased by said providers on behalf of the commonwealth, and the return of such equipment to the proper governmental unit upon the completion or termination of the contract; a provision requiring that the uniform financial report include a subsidiary schedule for each component cost, and a related party disclosure statement from each officer, director and trustee of the said providers; provisions prohibiting any subcontract or consultant contract for services from a parent organization, or parent agency, at the national, state or local level; a provision prohibiting the refusal to service any case or type of case, or place any restrictions or limitation on services, the provision of which were mutually agreed upon in the conditions specified in the contract, subsequent to the finalization of such contract either primary or secondary; a provision prohibiting the use of state funding for investment counseling, fund-raising, management consultants and other services that are not directly related to the servicing of clients, patients and other persons served by the provider agency. If after a hearing the division finds a violation of any regulation adopted under this paragraph, the division may order that the contract be terminated, or may assess a civil penalty of not more than two thousand dollars or ten percent of the amount payable under the contract, whichever is greater, which the agency shall withhold from payments otherwise due under the contract. Notwithstanding the foregoing, any provider aggrieved under this paragraph may exercise any legal remedies or cause of action available to such provider under law. If the division determines after a hearing that a provider has committed repeated willful violations of this paragraph, it may debar the provider from further state contracts but such debarment shall not be for a period longer than five years.

SECTION 4. Notwithstanding any general or special law to the contrary, any recreational facility owned by the metropolitan district commission, the department of highways or the department of environmental management shall not be sold, leased, rented or otherwise disposed of unless the city or town within which said recreational facility is located is given first option to purchase, lease, rent or operate said recreational facility at fair market rate. Any such city or town purchasing, renting, leasing or operating such a facility pursuant to this section shall maintain the premises and the facilities located thereon in good order and repair without any additional aid from the commonwealth, unless agreed upon at the time of the transfer and shall perform without additional aid from the commonwealth all required maintenance, repairs and services relating to the facilities' use and occupancy.

SECTION 5. There shall be a commission on state government performance review consisting of nine members, three of whom shall be appointed by the governor, three of whom shall be appointed by the president of the senate, and three of whom shall be appointed by the speaker of the house of representatives. Said commission shall investigate and study the successes and failures of public and private performance of public services in the commonwealth and elsewhere. The commission may recommend appropriate legislation or changes in the procedures of the executive branch. The commission shall report the results of its investigation and study by filing the same with the clerks of the senate and house of representatives not later than October first, nineteen hundred and ninety-four.

SECTION 6. Sections fifty-two to fifty-five, inclusive, of chapter seven of the General Laws, added by section one of this act, shall apply to all privatization contracts executed on or after the effective date of this act.

SECTION 7. Clause (f) of section five of chapter two hundred and sixty-eight A of the General Laws, inserted by section two of this act, shall apply to former state employees whose state employment terminates on or after the effective date of this act.

This bill was returned by the Governor to the Senate, the branch in which it originated, with his objections thereto in writing. Said bill was passed by the Senate on December 14, 1993 and by the House of Representatives on December 15, 1993, the objections of the Governor notwithstanding in the manner prescribed by the Constitution and thereby has the "force of law".

Chapter 297. AN ACT RELATIVE TO THE DEFINITION OF FARMING.

Be it enacted, etc., as follows:

Section 1 of chapter 111 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "livestock", in line 15, the following words:- including horses.

Approved December 16, 1993.

Chapter 298. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF AGAWAM.

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, currently used for highway purposes, located in the town of Agawam, along with easements for the benefit of such property for access, drainage and utilities as deemed necessary by the commissioner, to an individual or entity. Such conveyance shall be 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 highways. Said parcel is shown on a plan entitled, "Plan of land to be abandoned by the Commonwealth of Massachusetts", prepared by Rauchle Associates, Registered Land Surveyors, P.O. Box 207, Westfield, Massachusetts, dated October nineteen hundred and ninety-two.

SECTION 2. The recipient of the property described in section one shall assume the costs of appraisals, surveys and other expenses as deemed necessary by the commissioner.

SECTION 3. The conveyance authorized by section one shall be subject to the retention of any easement interests that the commissioner may determine to be necessary for highway purposes, in consultation with the department of highways.

Approved December 16, 1993.

Chapter 299. AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF MIDDLESEX COUNTY TO CONVEY A CERTAIN PARCEL OF LAND TO THE TOWN OF BILLERICA FOR PARK AND RECREATIONAL PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The county commissioners of Middlesex county are hereby authorized and directed to convey to the town of Billerica a certain parcel of park and recreation land located on the easterly side of Treble Cove road in said town, containing one hundred and ninety-four acres of land to be used for park and recreational purposes.

Said parcel of land is shown on a plan entitled "The County of Middlesex Plan of Land in Billerica", dated October 1980 and recorded in Middlesex north district registry of deeds, Book of Plans M., Plan 732, being the same parcel which was transferred from the control and custody of the sheriff of said county to the county commissioners of said county by chapter four hundred and eighty-six of the acts of nineteen hundred and seventy-nine.

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

Approved December 17, 1993.

Chapter 300. AN ACT RELATIVE TO THE APPROVAL OF CERTAIN BANK HOLDING COMPANY TRANSACTIONS BY THE BOARD OF BANK INCORPORATION AND THE REORGANIZATION OF STATE-CHARTERED STOCK BANKS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately clarify the authority of the board of bank incorporation, 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 first paragraph of section 2 of chapter 167A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Except with the prior written approval of the board of bank incorporation (1) no company shall become a bank holding company; (2) no bank holding company owning, controlling or holding with the power to vote, directly or indirectly, twenty-five per centum or more of the voting stock of each of two or more banking institutions or, in the case of a bank holding company which is itself a banking institution owning, controlling or holding with power to vote, directly or indirectly, twenty-five per centum or more of the voting stock of one or more banking institutions shall (a) acquire direct or indirect ownership or control of any additional voting stock in any such banking institution or (b) acquire direct or indirect ownership or control of any voting stock in any other banking institution if, after such acquisition, such bank holding company will, directly or indirectly, own or control more than five per centum of the voting stock thereof; (3) no bank holding company or affiliate thereof, other than a banking institution, shall acquire all or substantially all of the assets of a banking institution; and (4) no bank holding company shall merge or consolidate with any other bank holding company.

SECTION 2. Section four A of said chapter one hundred and sixty-seven A is hereby repealed.

SECTION 3. Section 34C of chapter 168 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "twenty-six A", in line 17, the following word:- , twenty-six B.

SECTION 4. Section 26C of chapter 170 of the General Laws, as so appearing, is hereby amended by inserting after the word "twenty-six A", in line 18, the following word:- , twenty-six B.

SECTION 5. Chapter 172 of the General Laws is hereby amended by inserting after section 26A, as so appearing, the following section:-

Section 26B. A company having capital stock divided into shares which desires to acquire all the capital stock of any such corporation shall, together with such corporation, submit, in duplicate, to the commissioner a written plan of acquisition of such stock. Such plan shall be in form satisfactory to the commissioner, shall specify the corporation the stock

of which is to be acquired by the company shall prescribe the terms and conditions of the acquisition and the mode of carrying it into effect, including the manner of exchanging the shares of the corporation for shares or other securities of the company. Any such plan may provide for the payment of cash in lieu of the issuance of fractional shares of the company. At the time of submitting said written plan of acquisition, an investigation fee, the amount of which shall be determined annually by the commissioner of administration under the provisions of section three B of chapter seven, shall be paid to the commissioner of banks by the company.

There shall also be submitted, in duplicate, with said plan of acquisition of stock, a certificate of the president or clerk or secretary of the company, certifying that such plan has been approved by the board of directors or other governing body of his company by a majority vote of all the members thereof, and a certificate of the president, secretary or treasurer of each corporation, the acquisition of all the capital stock of which is provided for, certifying that such plan has been approved by the board of directors of his corporation by a majority vote of all the members thereof, and that such plan was thereafter submitted to the stockholders of such corporation at a meeting thereof held upon notice of at least fifteen days, specifying the time, place and object of such meeting and addressed to each stockholder at the address appearing upon the books of the corporation and published at least once a week for two successive weeks in one newspaper in the county in which such corporation has its principal place of business and that such plan has been approved at such meeting by the vote of stockholders owning at least two-thirds in amount of the stock of such corporation.

The commissioner shall examine the plan of acquisition of stock so submitted, and after making such investigation thereof as he deems appropriate he shall, within sixty days after receipt thereof approve or disapprove such plan of acquisition in case such company is not, and would not upon the effectiveness of such plan become, a bank holding company. In approving any such plan, the commissioner may attach such conditions thereto as he deems advisable.

If the commissioner finds that competition among banking institutions will not be unreasonably affected and that public convenience and advantage will be promoted he shall approve such plan of acquisition, and shall endorse his approval thereon and a copy of the plan bearing such endorsement shall be filed within thirty days thereafter in the office of the commissioner. Upon such filing, the plan, and the acquisition provided for therein, shall become effective, unless a later date is specified in the plan, in which event the plan and such acquisition shall become effective upon such later date.

A stockholder of any such corporation which shall have approved such plan of acquisition, who objects to such action, in the manner provided in section eighty-six of chapter one hundred and fifty-six B, shall be entitled, if such plan shall have become effective, to demand payment for his stock from such corporation and an appraisal thereof in accordance with the provisions of sections eighty-six to ninety-eight, inclusive, of chapter one hundred and fifty-six B, which provisions, as modified for the purposes of this paragraph

by the provisions hereof, are hereby made applicable in all such cases, and such stockholder and such corporation shall have the rights and duties and follow the procedure set forth in said sections.

Any corporation organized under or subject to the provisions of chapter one hundred and sixty-eight, one hundred and seventy or one hundred and seventy-two shall have the power to organize a company for the purposes contemplated by this section; and in connection with such organization and the development of a plan of acquisition, any such corporation may incur organization and other expenses in such amounts, in the aggregate, not exceeding two percent of its capital stock, surplus account and undivided profits as the commissioner may approve.

Any such company shall engage directly or indirectly only in such activities as are now or may hereafter be proper activities for bank holding companies registered under the Federal Bank Holding Company Act of 1956, including, without limiting the generality of the foregoing, the issuance and sale of commercial paper and acquiring, managing or controlling corporations organized under or subject to the provisions of chapter one hundred and sixty-eight, one hundred and seventy or one hundred and seventy-two.

The provisions of section twenty-six A shall not apply to an acquisition under this section. A company which acquires any such corporation under this section shall be deemed a bank holding company subject to the provisions of section five of chapter one hundred and sixty-seven A. For the purposes of this section, the word "company" shall have the same meaning as defined in subparagraph (c) of section one of chapter one hundred and sixty-seven A.

SECTION 6. Section 2 of chapter 255B of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- No person, other than a bank as defined in section one of chapter one hundred and sixty-seven, a national banking association, federal savings bank, federal savings and loan association, federal credit union, or any bank, trust company, savings bank, savings and loan association or credit union organized under the laws of any other state of the United States, shall engage in the business of a sales finance company without first obtaining from the commissioner a license to carry on said business in the city or town where the business is to be transacted as provided herein.

Approved December 17, 1993.

Chapter 301. AN ACT ALLOWING EMPLOYEES OF THE MASSACHUSETTS PORT AUTHORITY TO BE ELIGIBLE FOR SOUND INSULATION PROGRAMS.

Be it enacted, etc., as follows:

SECTION 1. Section 7 of chapter 268A of the General Laws is hereby amended by adding the following paragraph:-

This section shall not preclude an officer or employee of the Massachusetts Port Authority from eligibility for any residential sound insulation program administered by said Authority, provided that any such officer or employee has no responsibility for the administration of said program.

SECTION 2. The first paragraph of section 23 of chapter 465 of the acts of 1956, as amended by chapter 328 of the acts of 1960, is hereby further amended by inserting after the word "both", in line 7, the following words:- ; provided, however, that this paragraph shall not preclude an officer or employee of the Authority from eligibility for any residential sound insulation program administered by the Authority, if said officer or employee has no responsibility for the administration of said program.

Approved December 17, 1993.

Chapter 302. AN ACT AUTHORIZING THE STATE-BOSTON RETIREMENT SYSTEM TO PAY AN ANNUAL PENSION TO MARIE LARIVIERE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of sections 1 through 28 of chapter 32 of the General Laws, or any other general or special law to the contrary, the State-Boston retirement system shall pay to Marie Lariviere, a secretary in the commission on affairs of the elderly of the city of Boston who upon appointment to that position on October twenty-eighth, nineteen hundred and seventy was over sixty-five years in age and therefore ineligible for membership in the State-Boston retirement system, an annual pension of three thousand six hundred dollars for as long as she shall live, said pension to be payable from the day following said Marie Lariviere's termination of employment with the city of Boston.

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

Approved December 17, 1993.

Chapter 303. AN ACT RELATIVE TO INVESTIGATIONS OF CERTAIN CASES OF CHILD ABUSE IN THE OFFICES OF THE DISTRICT ATTORNEYS.

Be it enacted, etc., as follows:

Clause (4) of section 51B of chapter 119 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

(4) notify in writing the district attorney for the county in which the child resides by transmitting to such district attorney a copy of the report required under section fifty-one A

and this section if, after an investigation and evaluation undertaken pursuant to clause (1), the department has reasonable cause to believe that any of the following conditions has resulted from abuse or neglect; provided, however, that the department may immediately report cases of serious physical injury to the appropriate office of the district attorney:

(a) a child has died;

(b) a child has been sexually assaulted, as set forth in sections thirteen B, thirteen H, twenty-two, twenty-two A, twenty-three, twenty-four, and twenty-four B of chapter two hundred and sixty-five or section thirty-five A of chapter two hundred and seventy-two;

(c) a child has suffered brain damage, loss or substantial impairment of a bodily function or organ, or substantial disfigurement;

(d) a child has been sexually exploited, which shall mean encouraging a child to engage in prostitution as defined in sections four A and four B of chapter two hundred and seventy-two or in the obscene or pornographic photographing, filming, or depicting of a child as defined in section twenty-nine A of chapter two hundred and seventy-two; or

(e) a child has suffered serious physical abuse or injury that includes, but is not limited to: (i) a fracture of any bone, severe burn, impairment of any organ, or any other serious injury; (ii) an injury requiring the child to be placed on life-support systems; (iii) any other disclosure of physical abuse involving physical evidence which may be destroyed; (iv) any current disclosure by the child of sexual assault; or (v) the presence of physical evidence of sexual assault.

Approved December 17, 1993.

Chapter 304. AN ACT AUTHORIZING THE TOWN OF TISBURY TO ESTABLISH A SPECIAL FUND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws or any other general or special law to the contrary, the town of Tisbury may establish a special fund which shall be kept separate and apart from all other monies by the treasurer of said town and in which shall be deposited the receipts from the sale of land to be used for the construction of affordable housing less accrued taxes and expenses. The principal and interest thereon shall be reserved for appropriation for the purchase of additional land for such purpose and for the expenses of the resident homesite and tenant selection committee of the town.

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

Approved December 17, 1993.

Chapter 305. AN ACT RELATIVE TO THE OPERATION OF MOTOR FREIGHT CARRIERS ON AND OFF THE NATIONAL NETWORK.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 90 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the definition of "Application" the following definition:-

"Articulated bus", a bus consisting of two units, connected in such a way as to permit the safe and convenient passage of passengers while allowing the bus to bend and have some vertical movement at the pivot point, with the design capability of being locked at the pivot point.

SECTION 2. Said section 1 of said chapter 90, as so appearing, is hereby further amended by inserting after the definition of "Routes of reasonable access" the following definition:-

"Saddlemount combination", a combination of vehicles in which a truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The saddle is a mechanism which connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a double saddlemount combination and when three vehicles are so towed the combination is called a triple saddlemount combination. Such combinations may include one fullmount.

SECTION 3. Said section 1 of said chapter 90, as so appearing, is hereby further amended by inserting after the definition of "Farming" the following definition:-

"Fullmount", a smaller vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination.

SECTION 4. 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 or house trailer, forty feet, or in the case of a moter bus, forty-five feet, or in the case of an articulated bus, sixty feet, or in the case of a traditional automobile transporter, a traditional boat transporter and a truck-trailer 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 stringer-steered automobile transporter or stringer-steered boat transporter, seventy-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 trailer in a tractor-trailer unit, forty-eight feet, or in the case of a semi-trailer or trailer in tandem unit, twenty-eight

feet, or in the case of semi-trailers in a B-train assembly unit, twenty-eight feet, such a length being exclusive of the B-train assembly when being used between the first and second semi-trailer, but the B-train assembly is to be included in the length measure of the semi-trailer when no second semi-trailer is mounted on the B-train assembly with the length limitation of the semi-trailer to be forty-eight feet in that instance, or in the case of a driveaway saddlemount with fullmount vehicle transporter combination including double and triple saddlemount combinations conforming to safety regulations at 49 CFR 393.71, seventy-five 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 highways to be a through route, from said department. The lengths of semi-trailers or trailers operating under the provisions of this section 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 driveaway saddlemount vehicle or fullmount vehicle transporter combination or of any house trailer and tow vehicle combination authorized to operate under this section shall not exceed sixty feet except as otherwise specifically authorized by this section or authorized by 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 semi-trailer in such units does not exceed forty-eight feet, or to tandem units or B-train assembly units when the trailer or semi-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 mounted so as not to cause a hazard to pedestrians on or adjacent to any 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 inches width specified in this section; provided, however, that such other safety devices may be so mounted and so extend beyond the permitted width only in such manner and to such extent as determined by the department, but in no event shall such safety device extend more than three inches beyond the maximum vehicle width on each side. For the purposes 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 vehicle, semi-trailer, or trailer, shall be excluded from the length computation of such vehicle, semi-trailer or trailer; provided, however, that such appurtenances shall not be designed or used for carrying cargo. Notwithstanding the provisions of this section authorizing operation of vehicles on ways within the commonwealth, the department for specific safety reasons, may declare individual ways, unavailable for through-route travel by particular vehicles, provided signs are erected to indicate such vehicle exclusions.

Notwithstanding other provisions of this section, the combined overall length of a pole dolly or pole dickey and the load being carried thereon may, while being used for 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 5. The second paragraph of said section 19 of said chapter 90, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Unless otherwise specifically authorized by law, no motor vehicle shall be operated on any way to draw more than one trailer or other vehicle without a permit so to operate from the department of highways.

SECTION 6. Section nineteen C of said chapter ninety is hereby repealed.

SECTION 7. Section 19F of said chapter 90, as appearing in the 1992 Official Edition, is hereby amended by striking out, in lines 7 and 8, the words "as designated by the department" and inserting in place thereof the following word:- authorized.

SECTION 8. Said section 19F of said chapter 90, as so appearing, is hereby further amended by inserting after the word "nineteen G:", in line 8, the following words:- motor buses not exceeding forty-five feet in length; articulated buses not exceeding sixty feet in length;.

SECTION 9. Said section 19F of said chapter 90, as so appearing, is hereby further amended by striking out, in line 27, the words "the provisions of section nineteen C or".

SECTION 10. Said section 19F of said chapter 90, as so appearing, is hereby further amended by striking out, in line 34, the words "as designated by the department" and inserting in place thereof the following word:- authorized.

SECTION 11. Said section 19F of said chapter 90, as so appearing, is hereby further amended by inserting after the word "box", in line 77, the following words:- , deck or plate.

SECTION 12. Said section 19F of said chapter 90, as so appearing, is hereby further amended by striking out the last paragraph.

SECTION 13. Said chapter 90 is hereby further amended by striking out section 19G, as so appearing, 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, and which is not authorized by section nineteen to operate without permit on ways within the commonwealth, may be authorized to operate on routes of reasonable access, as defined in section one, as follows:

the operator of any terminal, or the owner, lessee or operator of any vehicle, may request in writing to the department a specific route of reasonable access. Such requested route of reasonable access shall be deemed approved by the department if the department does not disapprove it in writing and for specific reasons of safety within ninety days of receipt of said request. Although a requested route may be established, it shall remain subject to disapproval or alteration in writing by the department at any time for specific safety reasons. A conclusive safety evaluation of a requested route shall be based on the application of templates to the route configurations for purposes of determining if such route is capable of safely accommodating the operating characteristics of the particular type of

vehicle or, where a statistical record has been established, may be based on verifiable accident frequency.

Emergency Letter: December 17, 1993 @1:15 P.M. Approved December 17, 1993.

Chapter 306. AN ACT EXEMPTING FROM CIVIL OR CRIMINAL LIABILITY CERTAIN ELDER AFFAIRS COUNSELORS.

Be it enacted, etc., as follows:

Chapter 19A of the General Laws is hereby amended by inserting after section 36, as appearing in the 1992 Official Edition, the following section:-

Section 37. No person trained and designated by the department of elder affairs as a counselor or coordinator in the serving health information needs of elders program, whether acting on a compensated or volunteer basis shall be liable in any civil or criminal action by reason of the good faith performance of his official duties. The department shall make publicly available a description of the function and the responsibilities of such counselor.

Approved December 17, 1993.

Chapter 307. AN ACT FURTHER REGULATING THE STATUTE OF LIMITATIONS FOR FILING CIVIL DAMAGE SUITS BY MINOR VICTIMS OF SEXUAL ABUSE.

Be it enacted, etc., as follows:

Chapter 260 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after section 4B the following section:-

Section 4C. Actions for assault and battery alleging the defendant sexually abused a minor shall be commenced within three years of the acts alleged to have caused an injury or condition or within three years of the time the victim discovered or reasonably should have discovered that an emotional or psychological injury or condition was caused by said act, whichever period expires later; provided, however, that the time limit for commencement of an action under this section is tolled for a child until the child reaches eighteen years of age.

For purposes of this section, "sexual abuse" shall mean the commission of any act against a minor as set forth in section thirteen B, thirteen H, twenty-two, twenty-two A, twenty-three, twenty-four or twenty-four B of chapter two hundred and sixty-five or section two, three, four, four A, four B, seven, eight, thirteen, seventeen, twenty-nine A, thirty-four, thirty-five or thirty-five A of chapter two hundred and seventy-two.

Approved December 17, 1993.

Chapter 308. AN ACT PROVIDING FOR THE LICENSING AND REGULATION OF CHECK CASHERS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately establish the procedures for the licensing and regulation of persons engaged in the business of cashing checks, drafts or money orders for a consideration, 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 General Laws are hereby amended by inserting after chapter 169 the following chapter:-

CHAPTER 169A.

LICENSING OF CHECK CASHERS.

Section 1. For the purposes of this chapter, the following words shall have the following meanings unless the context clearly requires otherwise:-

"Casher of checks", a person or entity engaged in cashing checks, drafts or money orders for a consideration in excess of one dollar per item.

"Commissioner", the commissioner of banks.

"Licensee", a casher of checks, licensed under the provisions of this chapter.

"Mobile unit", a motor vehicle or other movable means from which the business of a licensee is to be conducted.

"Primary business", the principal business of the licensee as determined by the commissioner, exclusive of any business conducted as an agent of the state lottery commission.

Section 2. No person or entity shall engage in cashing checks, drafts or money orders for a consideration in excess of one dollar per item without first obtaining a license from the commissioner. Nothing in this chapter shall be construed to 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 or a federal savings bank. The commissioner shall establish rules and regulations, which may include an adequate capitalization requirement, for each place of business or mobile unit of a licensee to aid in the administration and enforcement of this chapter.

Section 3. The application for such license shall be in writing, shall be in a form prescribed by the commissioner and shall contain the name, residential address and the address where the business of the applicant is to be conducted, 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, together with such further information as the commissioner may require including, but not limited to, a description of the nature of the business to be conducted, the proposed hours of operation on a daily basis and the area intended to be served; provided, however, that if such business is to be conducted from a mobile unit, the said application shall contain the Massachusetts motor

vehicle registration number or other satisfactory identification of such mobile unit and a description of the area in which the applicant seeks to utilize such mobile unit. 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. Upon the receipt of such application, the commissioner shall furnish the applicant a form of notice, specifying the name of the applicant, the name under which the business will be conducted and the location thereof, the name, complete address and occupation of the principals as set forth in the application and assigning a closing date for receipt by the commissioner of comments by interested parties on such application. The applicant shall publish said notice at least three weeks before such closing date or such other period as may be determined by the commissioner, in a newspaper designated by the commissioner and published in the city or town wherein such business is to be conducted; provided, however, that if there is no newspaper published in such city or town, publication shall be in the city or town wherein a newspaper is published which is nearest to the proposed location of the business.

The commissioner may, after such hearing and notice thereof as he may deem necessary, reject an application for a license if he is not satisfied that the financial responsibility, character, reputation, integrity and general fitness of the applicant, and of the members thereof if the applicant is a partnership or association, and of the directors and principal officers if the applicant is a corporation, are such as to command the confidence of the public and to warrant the belief that the business will be operated honestly, fairly, soundly and efficiently in the public interest consistent with the purposes of this chapter, or that the proposed business and the hours of operation, as specified in the application, would not be detrimental to the economy or the public safety of the area to be served, or if he finds that any of the following exist:

(a) the applicant made a false statement of a material fact in the application for a license;

(b) an officer, director or member of the applicant business has, within ten years prior to the filing of the application, been (i) convicted of or pleaded nolo contendere to a felony, or (ii) committed an act involving fraud or deceit, which act is substantially related to the qualifications, functions or duties of a person engaged in the business of a casher of checks;

(c) the applicant violated any of the provisions of this chapter or regulations promulgated hereunder, any similar regulatory scheme of another jurisdiction, or any other law applicable to the conduct of the business sought to be licensed;

(d) a check cashing store located at the address at which the applicant intends to operate his business has lost its license to operate within six months of the date of the new application;

(e) the applicant fails to demonstrate a public need for the establishment of a check cashing business in the area specified in such application; provided, however, that in determining whether demonstration of public need has been satisfied, the commissioner shall

consider, but shall not be limited to consideration of, the number of financial institutions in such area providing check cashing services, similar services provided in such area by nondepository institutions and such other factors which would indicate that the approval of the application for license would not provide a convenience to the people who would be served by the applicant or that it would be detrimental to the economy or the public safety in such area.

The commissioner shall make decision to approve or deny an application for a license within ninety days after the filing thereof; provided, however, that failure of the commissioner to act within such period shall not be deemed to be an approval of such application.

Section 4. If the commissioner refuses to issue a license, he shall notify the applicant of the denial, and 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 such denial to the superior court sitting in the county in which the business of the applicant is located. The court shall hear all pertinent evidence, determine the facts and, upon the facts as so determined, review such denial and affirm the same or order the commissioner to issue such license, as justice and equity may require.

Section 5. Each license shall state the address at which the business is to be conducted and, if a mobile unit, the appropriate identification thereof, and shall state fully the name of the licensee. If a licensee intends to carry on business in more than one location or, in the case of a mobile unit, in an area greater than that specified on the license, he shall procure a license for each place or area where such business is to be conducted. A copy of such license shall be prominently displayed in the place of business or the mobile unit of the licensee. Such license shall not be transferable or assignable and shall expire annually on April first. A change of location or closing of the place of business of the licensee at the address stated on the license, including any change in the area of operation of a mobile unit, shall require prior approval of the commissioner. A request for such relocation or change in the area of operation shall be in writing setting forth the reasons therefor and shall be accompanied by a relocation investigation fee to be determined annually by the commissioner of administration under the provisions of section three B of chapter seven.

If there shall be any change among the officers, partners or directors of any licensee, the licensee shall forthwith notify the commissioner of the name, address and occupation of each new officer, partner or director and provide such other information as the commissioner may require.

Section 6. A schedule of fees and charges to be assessed for the cashing of checks, drafts or money orders shall be filed by each licensee with the commissioner annually on or before a date to be set by the commissioner and, together with any revisions thereto, shall be conspicuously posted in each place of business and mobile unit of a licensee. An amendment to such schedule occurring between filing dates or a change in the hours of operation, as specified in the application for license filed pursuant to section three, shall be

filed, in writing, with the commissioner forthwith.

Section 7. The licensee shall provide each patron cashing a check, draft or money order with a receipt of such transaction stating thereon the amount of the check, draft or money order cashed, the fee charged and the total amount received by such patron.

Section 8. The commissioner may suspend or revoke a license issued pursuant to this chapter if he finds that:

(a) the licensee has violated a provision of this chapter or any rule or regulation adopted hereunder or any other law applicable to the conduct of its business; or

(b) a fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted said commissioner in refusing to issue such license.

Except as provided in subsection (a) of section nine, no license shall be revoked or suspended except after notice and hearing pursuant to chapter thirty A.

A licensee may surrender a license by delivering to the commissioner written notice that it hereby surrenders such license, but such surrender shall not affect the civil or criminal liability of such licensee for acts committed before such surrender.

No revocation, suspension or surrender of a license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any person.

In lieu of suspension or revocation of a license issued hereunder, the commissioner may fine a licensee up to a maximum of five hundred dollars per day for each violation.

The commissioner may suspend or revoke, or impose a fine on, only the particular license or licenses for particular places of business or locations with respect to which grounds for revocation occur or exist; provided, however, that if said commissioner shall find that such grounds for revocation are of general application to all places of business or locations of the licensee or that such grounds for fine, suspension or revocation have occurred or exist with respect to a substantial number of places of business or locations of such licensee, said commissioner may suspend, revoke or impose fines with respect to all of the licenses issued to such licensee.

Section 9. (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 adopted hereunder, said commissioner 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 a 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 for a hearing from such licensee, the matter will be scheduled for such 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 such order, shall, by written finding of facts and conclusions of law, vacate, modify or issue a permanent cease and desist order.

(c) No order under this section, except an order issued pursuant to subsection (b), may be entered without prior notice and opportunity for a hearing. The commissioner may vacate or modify an order under this section upon a finding that the conditions which required such order have changed and that it is in the public interest to vacate or modify such order.

An order issued pursuant to this section shall be subject to review as provided in chapter thirty A.

Section 10. For the purpose of discovering violations of this chapter or a rule or regulation promulgated hereunder, or for securing information lawfully required by him, the commissioner may, at any time, and as often as he may determine, either personally or by a person designated by him, investigate the business and examine the books, accounts, records and files used therein of a licensee. The total charge for such examination, which shall be paid by the licensee within thirty days after receipt of an invoice therefor, shall be determined annually by the commissioner of administration under the provisions of section three B of chapter seven for each person participating in such examination. For such purpose, the commissioner and his duly designated representative shall have access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of all such licensees. The commissioner and any person designated by him may require the attendance of and examine under oath all persons whose testimony he may require relative to such business. Copies of reports of such examinations of a licensee shall be furnished to such licensee and shall not be exhibited to any other person, organization or agency; provided, however, that the commissioner may, upon the request of a law enforcement agency made in the course of its official duties, provide copies of such reports to any such law enforcement agency.

Section 11. The licensee shall keep and use within the commonwealth such books, accounts and records as will enable the commissioner to determine whether such licensee is complying with the provisions of this chapter and with the rules and regulations promulgated hereunder by the commissioner. Licensees shall preserve such books, accounts and records for at least three years. Preservation by photographic reproduction thereof or records in photographic form shall constitute compliance with the requirements of this section.

Each licensee shall, annually, on or before a date to be determined by the commissioner, file a report with said commissioner providing such information as said commissioner may require concerning its business and operations during the preceding calendar year. Such reports shall not be exhibited to any other person, organization or agency; provided, however, that the commissioner may, upon the request of a law enforcement agency made in the course of its official duties, provide copies of such reports

to any such law enforcement agency. The commissioner shall evaluate such reports and make such recommendations, if any, as he deems necessary to the general court.

Section 12. The commissioner or an aggrieved party may enforce the provisions of this chapter, or restrain any violations thereof, by filing a civil action in a court of competent jurisdiction. A violation of this chapter or a rule or regulation adopted hereunder, shall constitute a violation of chapter ninety-three A.

Section 13. A licensee who commits a willful violation of the provisions of this chapter or a rule or regulation adopted hereunder, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or both.

SECTION 2. On or before July first, nineteen hundred and ninety-four, a person engaged in the business of cashing checks, drafts or money orders for a consideration in excess of one dollar per item shall apply to the commissioner of banks for a license pursuant to section three of chapter one hundred and sixty-nine A of the General Laws; provided, however, that the provisions of clause (e) of the second paragraph of said section three shall not apply to a person so applying for a license to operate at a location at which such applicant has been engaged in the conduct of the business of cashing checks, drafts or money orders prior to the effective date of this act.

Approved December 17, 1993.

Chapter 309. AN ACT FURTHER REGULATING HEALTH CARE.

Be it enacted, etc., as follows:

SECTION 1. The definition of "Health care provider" of section 1 of chapter 111 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "worker", in line 25, the following words:- , doctor of chiropractic,.

SECTION 2. The definition of "Medical peer review committee" of said section 1 of said chapter 111, as so appearing, is hereby amended by inserting after the word "providers", in line 34, the following words:- , including doctors of chiropractic,.

Approved December 17, 1993.

Chapter 310. AN ACT PROVIDING FOR THE PROTECTION OR RESTORATION OF THE RIGHTS OF CERTAIN PUBLIC EMPLOYEES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately protect or restore the rights of certain public employees, 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 534 of the acts of 1976 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. If the rights of any person acquired under the provisions of chapter thirty-one of the General Laws or under any rule made thereunder have been prejudiced through no fault of his own, the civil service commission may take such action as will restore or protect such rights, notwithstanding the failure of any person to comply with any requirement of said chapter thirty-one or any such rule as a condition precedent to the restoration or protection of such rights.

This bill was returned by the Governor to the House of Representatives, the branch in which it originated with his objections thereto. Said bill was passed by the House on December 1, 1993, and by the Senate on December 6, 1993, the objections of the Governor notwithstanding, and in the manner prescribed by the Constitution and therefore has the force of law.

Chapter 311. AN ACT DESIGNATING A CERTAIN ROTARY IN THE TOWN OF HINGHAM AS THE HONORABLE NATHANIEL M. HURWITZ ROTARY.

Be it enacted, etc., as follows:

The rotary on Route 3A in the town of Hingham shall be designated and known as the Honorable Nathaniel M. Hurwitz Rotary in honor of the late Nathaniel M. Hurwitz who served as a state representative from nineteen hundred and fifty-three to nineteen hundred and fifty-five and who was commissioner of veterans' affairs. The department of highways shall erect suitable markers thereat bearing such designation in compliance with the standards of said department.

Approved December 20, 1993.

Chapter 312. AN ACT RELATIVE TO DISABILITY RETIREMENT BENEFITS FOR FIREFIGHTERS WHO CONTRACT LUNG CANCER.

Be it enacted, etc., as follows:

SECTION 1. Section 94B of chapter 32 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "systems", in line 4, the following words:- , lung or respiratory tract.

SECTION 2. This law shall take effect notwithstanding any other general or special law to the contrary.

Approved December 21, 1993.

Chapter 313. AN ACT RELATIVE TO THE SALE OF WINE AT AUCTIONS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 138 of the General Laws is hereby amended by inserting after section 15A the following two sections:-

Section 15D. 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 commission, grant temporary licenses for the sale of wines at auction, not to be drunk on the premises, to applicants which are nonprofit charitable corporations organized under chapter one hundred and eighty and registered with the public charities division of the office of attorney general. Each such 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 license shall be for a duration of more than ten consecutive calendar days, and no holder of any license shall be granted more than two such 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 twelve. Any wine sold under this section shall have been donated at no charge to the license holder, and all proceeds from such sales shall be used for the holder's charitable purposes. 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 operation of such auctions, and such other terms and conditions as are necessary to preserve public order.

Section 15E. 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 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 to preserve public order.

SECTION 2. Sections fifteen D and fifteen E of said chapter one hundred and thirty-eight are hereby repealed.

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

Approved December 21, 1993.

Chapter 314. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF TEWKSBURY TO SAID TOWN.

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 to the town of Tewksbury, by deed approved as to form by the attorney general, a certain parcel of land located on the grounds of the Tewksbury Hospital in the town of Tewksbury under the control of the department of public health, for the expansion of the town of Tewksbury baseball facilities, said parcel being bounded and described as follows:

Beginning at a point on Chandler Street running in a northeast direction for a distance along Chandler Street of 1,560 feet plus or minus to land of Lafortune,

thence, in a southeast direction along land of Lafortune and Chandonnet a distance of 475 feet plus or minus to a point on Livingston Street,

thence, turning and running in a southerly direction along Livingston Street for a distance of 570 feet plus or minus to a point on East Street,

thence, turning and running in a southwest direction along East Street a distance of 1,600 feet plus or minus to the point of beginning.

Said parcel containing 15 acres plus or minus.

SECTION 2. In the event that the property described in section one is not used for the purpose described in section one within five years of the effective date of this act, or if the use for the aforementioned purpose ceases at any time, the property shall revert to the commonwealth under such terms and conditions as the commissioner may prescribe.

Approved December 21, 1993.

Chapter 315. AN ACT AUTHORIZING THE TOWN OF SHARON TO CONVEY A CERTAIN PARCEL OF PARK LAND.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section seven of chapter forty-five of the General Laws, or any other general or special law to the contrary, the town of Sharon, acting by and through its board of selectmen, is hereby authorized to convey a certain parcel of park and recreation land to Edward Lyons, as he is trustee of the Vista Realty Trust, or his nominee, the consideration for which shall be the conveyance of certain land by said trustee to said town in accordance with Article 4 of the special town meeting held on September twenty-seventh, nineteen hundred and ninety-three. Said parcel is bounded and described as follows:

Beginning at a point on the easterly right of way (R.O.W.) line of Hampton Road. Said point of beginning (P.O.B.) being the right of way (R.O.W.) road side monument and bounded on the westerly side by Hampton Road.

Thence running No 29 -19'-08" W, one hundred fifty-one point sixty-six feet (151.66 ft.) to a point. Said point being bounded on the westerly side by Hampton Road and bounded on the northerly side by Town of Sharon land, 26 Oak Hill Drive book 4049 page 63.

Thence running No 60 -40'-52" E, one hundred seventy-four point seventeen feet (174.17 ft.) to a point. Said point being bounded on the northerly side by Town of Sharon land, 26 Oak Hill Drive book 4049, page 63.

Thence running S 29 -19'-08" E, two hundred forty point sixty feet (240.60 ft.) to a point. Said point being bounded on the easterly side by Town of Sharon land, 26 Oak Hill Drive book 4049, page 63.

Thence running S 68 -11'-20" W, one hundred eighty point zero feet (180.00 ft.) to a point. Said point being bounded on the southerly side by Town of Sharon land, 26 Oak Hill Drive book 4049 page 63.

Thence running northwest a distance of sixty-five point sixty-one feet (65.61 ft.) with a radius to a point. Said point being the point of beginning (P.O.B.). Said point also being bounded on the westerly side by Hampton Road right of way (R.O.W.) line.

Approved December 21, 1993.

Chapter 316. AN ACT RELATIVE TO DRIVERS LICENSE EXAMINATIONS.

Be it enacted, etc., as follows:

Section 8 of chapter 90 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following paragraph:-

An applicant for a license under this section shall be required to answer questions on the examination to determine the applicant's knowledge of the laws regarding operating a

motor vehicle while under the influence of alcoholic beverages, including the relevant sections of this chapter and chapter one hundred and thirty-eight. The registrar shall determine the nature and number of such questions.

Approved December 21, 1993.

Chapter 317. AN ACT AUTHORIZING THE ESTABLISHMENT OF RESIDENTS ONLY PARKING AREAS IN THE CITY OF NEW BEDFORD.

Be it enacted, etc., as follows:

SECTION 1. The traffic commission of the city of New Bedford is hereby authorized to enact regulations which shall establish one or more parking districts within said city in which parking on public ways shall be restricted to residents only. Said residents only parking districts shall be created only in areas of high population concentration where the proximity of public educational, religious, recreational, transportation or health facilities make the parking of vehicles by parties other than residents common, convenient, and consistent.

SECTION 2. Any such regulations may (1) designate one or more districts in which residents only parking shall be in effect, (2) authorize the issuance of permits, stickers, placards, or other means of identification of resident vehicles, including an application process for same, (3) set fees for said permits and fines for violations of resident only district parking regulations, (4) include provisions for visitor parking, delivery vehicles, service repair vehicles and other temporary parking categories, (5) describe signage and other methods of identifying residents only parking districts, (6) designate hours and dates when residents only parking will be effective, and (7) address such other administrative or enforcement issues as the traffic commission may deem necessary. Any such regulations may delegate all the powers enumerated above except that contained in clause (1) to designate residents only districts to a board, committee, or officer of the city of New Bedford.

SECTION 3. No regulation shall be adopted until a public hearing is held on said regulation by the traffic commission of the city of New Bedford. Notice of said hearing shall be posted in a public place and published in a newspaper of general circulation in said city at least twice in two separate weeks, the first time to be not less than fourteen days before the scheduled date of hearing. Actual notice shall be given by first class mail to all owners of property, as shown on the latest assessors' records, abutting the portion of a public way for which said residents only parking restriction will be effective. Any such regulation shall not be adopted until a petition requesting designation as residents only parking district and signed by sixty percent or more of said property owners is filed with said traffic commission. A two-thirds majority of said traffic commission shall be required to enact the proposed regulation.

SECTION 4. For purposes of this act, a motor vehicle qualifying for resident status permitting parking in an area restricted to residents only parking by a regulation enacted hereunder shall be registered under chapter ninety of the General Laws as principally garaged in the city of New Bedford and owned or used by a person residing in such area. Nothing herein shall authorize the assignment of any specific space to any person or vehicle; nor shall any regulation enacted hereunder supercede any statute related to handicapped parking.

Approved December 21, 1993.

Chapter 318. AN ACT AUTHORIZING THE BOARD OF SELECTMEN OF THE TOWN OF OAK BLUFFS TO APPOINT THE TOWN TREASURER.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section one of chapter forty-one of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Oak Bluffs shall appoint a suitable person, who need not be a resident of said town, town treasurer for a term of one to three years, and may remove him at any time for cause after a hearing. Upon the taking of the oath of office by such person so appointed, the term of the existing town treasurer shall terminate.

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

Approved December 21, 1993.

Chapter 319. AN ACT RELATIVE TO PROCEDURES FOR ACTIONS AGAINST CERTAIN DECEDENTS.

Be it enacted, etc., as follows:

Section 9A of chapter 197 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following paragraph:-

If an executor or administrator has not been appointed, then an action allowed under this section may be maintained without such appointment, and shall be maintained naming the decedent as the defendant. In such event any service of process that may be necessary shall be made upon the entity providing the insurance or bond.

Approved December 21, 1993.

Chapter 320. AN ACT AUTHORIZING THE TOWN OF SWAMPSCOTT TO LEASE A CERTAIN PARCEL OF LAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section three of chapter forty of the General Laws, but subject to the provisions of chapter thirty B of the General Laws, the town of Swampscott, acting by and through its board of selectmen and chief procurement officer, is hereby authorized to lease or rent, a certain parcel of land and buildings thereon, acquired for public works purposes, to the Joseph L. Stevens Post 1240, Veterans of Foreign Wars, Inc., for a term not to exceed twenty years upon such terms and conditions as said board of selectmen and said chief procurement officer shall determine.

Said parcel is shown as a portion of Lot 3 on Assessor's Plate 3.

SECTION 2. In consideration for the lease described in section one, the said Joseph L. Stevens Post 1240, Veterans of Foreign Wars, Inc. shall convey in fee to the town of Swampscott Lots 581, 582, 588, 590, 591 and 592 shown on Assessor's Plate 9.

Approved December 21, 1993.

Chapter 321. AN ACT FURTHER REGULATING THE ISSUING OF A CERTAIN REGISTRATION NUMBER BY THE BOARD OF REGISTRATION OF SANITARIANS.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the board of registration of sanitarians established under section fifty-one of chapter thirteen of the General Laws is hereby authorized and directed to retire registration number 001 in honor of Otis M. Peluso who has held such number since the establishment of said board.

Approved December 21, 1993.

Chapter 322. AN ACT RELATIVE TO FIREFIGHTERS IN THE TOWN OF HATFIELD.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section eighty-five H of chapter thirty-two, section one hundred and eleven F of chapter forty-one of the General Laws or any other general or special law to the contrary, the town of Hatfield is hereby authorized to make payments, in the event that one or more of its firefighters is injured and disabled, or killed, in the line of duty, at the levels which would otherwise be authorized as authorized by law assuming and

as if such firefighter's salary were that of a full time entry level permanent firefighter in Hampshire county, such amount to be the average of the three such salaries in the towns of Amherst and Easthampton and the city of Northampton at the time pertinent, and the town is also hereby authorized to provide such compensation directly or through insurance.

Approved December 21, 1993.

Chapter 323. AN ACT PROVIDING FOR THE APPOINTMENT OF THE TOWN CLERK IN THE TOWN OF OXFORD.

Be it enacted, etc., as follows:

SECTION 1. Section 4-1-1 of the charter of the town of Oxford, 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, in line 3, the words "a town clerk".

SECTION 2. Section 4-6-1 of said charter is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A town clerk shall be appointed by the town manager.

SECTION 3. Section 5-3-9 of said charter is hereby amended by inserting after the word "accountant", in line 5, the following words:- a town clerk who shall be a resident of the town within six months of said appointment and any vacancy in said office shall be filled in a like manner.

Approved December 21, 1993.

Chapter 324. AN ACT FURTHER REGULATING THE EMPLOYMENT OF CERTAIN BUILDING OFFICIALS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the further regulation of certain building officials under the state building code, 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 143 of the General Laws is hereby amended by inserting after section 3Y the following section:-

Section 3Z. Notwithstanding the provisions of any general or special law to the contrary, in any city, town or district which accepts the provisions of this section, any part time inspector of buildings, building commissioner, local inspector or alternate inspector

may practice for hire or engage in the business for which he is certified, licensed or registered under the building code, while serving as such inspector; provided, however, that within the area over which he has jurisdiction as inspector or alternate inspector, he shall not exercise any of his powers and duties as such inspector, including those of enforcement officer of the state building code for the construction, reconstruction, alteration, repair, demolition or removal work done by himself, his employer, employee or one employed with him.

The inspection of such work shall be performed by the inspector of buildings or building commissioner of another city, town or district or by a special assistant inspector of buildings or assistant building commissioner who is appointed solely for the purpose of performing such inspections by the mayor of a city, the board of selectmen of a town or the governing board of a district.

This section shall take effect in a city, town or district upon its acceptance in a city, by the vote of the city council, subject to the provisions of the charter of such city; in a town, by a vote of town meeting; in a municipality having a town council form of government, by a vote of the town council, subject to the provisions of the charter of such municipality; and in a district, by the vote of the cities and towns of the district.

Approved December 22, 1993.

Chapter 325. AN ACT RELATIVE TO CERTAIN ELECTRICAL WORK.

Be it enacted, etc., as follows:

Section 3L of chapter 143 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 31, the word "twenty" and inserting in place thereof the following words:- five hundred.

Approved December 22, 1993.

Chapter 326. AN ACT RELATIVE TO TRESPASSING ON CERTAIN STATE OWNED LAND.

Be it enacted, etc., as follows:

Section 123 of chapter 266 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in lines 4 to 6, inclusive, the words "the state prison, state prison colony, Massachusetts reformatory, reformatory for women, state farm" and inserting in place thereof the following words:- any correctional institution of the commonwealth.

Approved December 22, 1993.

Chapter 327. AN ACT RELATIVE TO THE REGISTRATION OF MOTOR VEHICLES USED TO TRANSPORT HANDICAPPED PERSONS.

Be it enacted, etc., as follows:

Section 2 of chapter 90 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 215, the words "a non-profit" and inserting in place thereof the following word:- any.

Approved December 22, 1993.

Chapter 328. AN ACT RELATIVE TO POLITICAL PARTIES.

Be it enacted, etc., as follows:

SECTION 1. Section 5 of chapter 55 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the tenth paragraph the following paragraph:-

A state committee referred to in section one of chapter fifty-two may incorporate pursuant to the provisions of chapter one hundred and eighty; provided, however, that such incorporation shall not relieve any person, including the chairperson or treasurer, from any responsibility imposed by this chapter or other election law or from any civil or criminal penalty imposed thereby. Prior to filing the articles of incorporation with the state secretary, the articles shall be submitted to the director, who shall examine the same within sixty days. The director may require such amendment thereof or additional information as he considers necessary. If he finds the articles comply with law he shall so certify and endorse his approval thereto. Any amendment to the articles of organization shall be approved in like manner.

SECTION 2. Section 7 of said chapter 55, as so appearing, is hereby amended by striking out, in line 24, the word "one" and inserting in place thereof the following word:- five.

Approved December 22, 1993.

Chapter 329. AN ACT RELATIVE TO THE POSITIONS OF SUPERINTENDENT AND MAJOR OF THE POLICE DEPARTMENT OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 1 of chapter 664 of the acts of 1968, as amended by chapter 829 of the acts of 1970, is hereby amended by striking out the second and third sentences and inserting in place thereof the following two sentences:- All of the offices and positions in said police department shall be subject to the provisions of chapter

thirty-one of the General Laws, except the offices of chief of police, superintendent and major. Such police officers shall have, within the territorial limits of the authority, the powers and duties which are conferred or imposed upon police officers of cities and towns under the provisions of section ninety-eight of chapter forty-one of the General Laws, and shall have the powers and duties which are conferred or imposed upon police officers under section ninety-three of chapter one hundred and fifty-nine of the General Laws to the same extent as though they had been appointed on petition of the authority pursuant to the provisions of section fifty-one of chapter twenty-two C of the General Laws, and the provisions of said section ninety-eight, and of said section ninety-three, shall apply to such police officers in the exercise of the aforesaid powers and duties.

SECTION 2. Section 4 of said chapter 664, as amended by said chapter 829, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- Sections fifty-one, fifty-two and fifty-three of chapter twenty-two C of the General Laws and sections ninety-two, ninety-four and ninety-five of chapter one hundred and fifty-nine of the General Laws shall not apply to the police department of the authority established by this act or to the police officers appointed pursuant thereto.

Approved December 23, 1993.

Chapter 330. AN ACT RELATIVE TO THE OFFICE OF CITY COUNCILOR IN THE CITY OF BEVERLY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter two hundred and thirty of the acts of nineteen hundred and ninety-three or any other general or special law to the contrary, if a vacancy in the office of city councilor elected at large in the city of Beverly occurs in the year nineteen hundred and ninety-four, the city council shall, at its option:

(*a*) elect, by majority vote, from the qualified voters of the city, a person to fill such vacancy;

(*b*) order a special election to fill such vacancy with a primary to be held twenty-eight days prior thereto; or

(*c*) order a special election to fill such vacancy.

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

Approved December 23, 1993.

Chapter 331. AN ACT RELATIVE TO THE LIMITATION OF TORT LIABILITY OF CERTAIN SAILING PROGRAMS.

Be it enacted, etc., as follows:

Section 85V of chapter 231 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in lines 28 and 29, the words ", no nonprofit association conducting a sports" and inserting in place thereof the following words:- or who renders services to a sailing program of a nonprofit association, no nonprofit association conducting a sports or a sailing.

Approved December 23, 1993.

Chapter 332. AN ACT PROVIDING FOR THE REIMBURSEMENT FOR CERTIFIED REGISTERED NURSE ANESTHETIST SERVICES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 175 of the General Laws is hereby amended by inserting after section 47L the following section:-

Section 47M. All individual or group accident and health insurance policies and health service contracts delivered, issued or renewed by an insurer or nonprofit health service corporation which provide benefits to individual subscribers and members within the commonwealth or to all group members having a principal place of employment within the commonwealth shall provide benefits for services rendered by a certified registered nurse anesthetist designated as such a certified registered nurse anesthetist by the board of registration in nursing pursuant to the provisions of section eighty B of chapter one hundred and twelve; provided, however, that the following conditions are met: (1) the service rendered is within the scope of the certified registered nurse anesthetist's license; and (2) the policy or contract currently provides benefits for identical services rendered by a provider of health care licensed by the commonwealth.

SECTION 2. Chapter 176A of the General Laws is hereby amended by inserting after section 8N the following section:-

Section 8 O. Any contract between a subscriber and the corporation under an individual or group hospital service plan delivered, issued or renewed in the commonwealth shall provide as benefits to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment within the commonwealth, for services rendered by a certified registered nurse anesthetist designated as such a certified registered nurse anesthetist by the board of registration in nursing pursuant to the provisions of section eighty B of chapter one hundred and twelve; provided, however, that the following conditions are met: (1) the service rendered is within the scope of the certified registered nurse anesthetist's license; and (2) the policy or contract currently provides benefits for identical services rendered by a provider of health care licensed by the commonwealth.

SECTION 3. Chapter 176B of the General Laws is hereby amended by adding the following section:-

Section 4M. Any subscription certificate under an individual or group medical service agreement delivered, issued or renewed in the commonwealth shall provide as benefits to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment within the commonwealth, for services rendered by a certified registered nurse anesthetist designated as such a certified registered nurse anesthetist by the board of registration in nursing pursuant to the provisions of section eighty B of chapter one hundred and twelve; provided, however, that the following conditions are met: (1) the service rendered is within the scope of the certified registered nurse anesthetist's license; and (2) the policy or contract currently provides benefits for identical services rendered by a provider of health care licensed by the commonwealth.

SECTION 4. The first paragraph of section 4 of chapter 176G of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following sentence:- Such health maintenance contract shall also provide coverage for services rendered by a certified registered nurse anesthetist as set forth in section forty-seven M of chapter one hundred and seventy-five, subject to the terms of a negotiated agreement between the health maintenance organization and the provider of health care services.

Approved December 23, 1993.

Chapter 333. AN ACT ESTABLISHING THE CRIME OF HOME INVASION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately establish the crime of home invasion, 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 265 of the General Laws is hereby amended by inserting after section 18B, as appearing in the 1992 Official Edition, the following section:-

Section 18C. Whoever knowingly enters the dwelling place of another knowing or having reason to know that one or more persons are present within or knowingly enters the dwelling place of another and remains in such dwelling place knowing or having reason to know that one or more persons are present within while armed with a dangerous weapon, uses force or threatens the imminent use of force upon any person within such dwelling place whether or not injury occurs, or intentionally causes any injury to any person within such dwelling place shall be punished by imprisonment in the state prison for life or for any term of not less than twenty years. The sentence imposed upon a person who, after having been convicted of violating any provision of this section, commits a second or subsequent offense under the provisions of this section shall not be suspended or placed on probation.

Approved December 27, 1993.

Chapter 334. AN ACT BANNING THE SALE OF CALIFORNIA REFORMULATED GASOLINE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, no agency of the commonwealth shall adopt a requirement for the sale or use of California Reformulated Gasoline.

Approved December 27, 1993.

Chapter 335. AN ACT RELATIVE TO DRUG-FREE PARKS AND PLAYGROUNDS.

Be it enacted, etc., as follows:

Section 32J of chapter 94C of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "session", in line 5, the following words:- , or within one hundred feet of a public park or playground.

Approved December 27, 1993.

Chapter 336. AN ACT RELATIVE TO CERTAIN INFORMATION RECEIVED BY LOCAL HISTORIC COMMISSIONS.

Be it enacted, etc., as follows:

Section 8D of chapter 40 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 22, the words ", unless otherwise provided by by-law or ordinance".

Approved December 27, 1993.

Chapter 337. AN ACT AUTHORIZING CREDIT UNIONS TO MAKE CERTAIN REPAIRS TO FORECLOSED REAL ESTATE.

Be it enacted, etc., as follows:

Section 75 of chapter 171 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

A credit union 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, a sum not to exceed five thousand dollars as determined by the directors for repairs thereto for the purpose of the sale of said real estate. Any expenditure greater than five thousand dollars shall require the prior written approval of the commissioner.

Approved December 27, 1993.

Chapter 338. AN ACT REQUIRING PHYSICIAN ASSISTANTS TO REPORT ELDER ABUSE.

Be it enacted, etc., as follows:

Section 15 of chapter 19A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 1, the words "a medical" and inserting in place thereof the words:- physician assistant, medical.

Approved December 27, 1993.

Chapter 339. AN ACT RELATIVE TO PRIVILEGED COMMUNICATIONS BETWEEN SOCIAL WORKER AND CLIENT.

Be it enacted, etc., as follows:

SECTION 1. The second paragraph of section 135A of chapter 112 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out clause (f).

SECTION 2. The fourth paragraph of section 135B of said chapter 112, as so appearing, is hereby amended by striking out clauses (e) and (f) and inserting in place thereof the following four clauses:-

(e) In the initiation of proceedings under paragraph C of section twenty-three or under section twenty-four of chapter one hundred and nineteen, or section three of chapter two hundred and ten or to give testimony in connection therewith;

(f) In any proceeding whereby the social worker has acquired the information while conducting an investigation pursuant to section fifty-one B of chapter one hundred and nineteen;

(g) In any other case involving child custody, adoption or the dispensing with the need for consent to adoption in which, upon a hearing in chambers, the judge, in the exercise of his discretion, determines that the social worker has evidence bearing significantly on the client's ability to provide suitable care or custody, and that it is more important to the welfare of the child that the communication be disclosed than that the relationship between client and social worker be protected; provided, however, that in such case of adoption or the dispensing with the need for consent to adoption, a judge shall determine that the client has been informed that such communication would not be privileged; or

(h) In any proceeding brought by the client against the social worker and in any malpractice, criminal or license revocation proceeding in which disclosure is necessary or relevant to the claim or defense of the social worker.

Approved December 27, 1993.

Chapter 340. AN ACT PROHIBITING CERTAIN ACTS AGAINST CHILDREN.

Be it enacted, etc., as follows:

SECTION 1. Section 133 of chapter 127 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "thirteen B", in line 4, the following word:- , thirteen J.

SECTION 2. Chapter 265 of the General Laws is hereby amended by inserting after section 13I the following section:-

Section 13J. (a) For the purposes of this section, the following words shall, unless the context indicates otherwise, have the following meanings:-

"Bodily injury", substantial impairment of the physical condition including any burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury which occurs as the result of repeated harm to any bodily function or organ including human skin or any physical condition which substantially imperils a child's health or welfare.

"Child", any person under fourteen years of age.

"Person having care and custody", a parent, guardian, employee of a home or institution or any other person with equivalent supervision or care of a child, whether the supervision is temporary or permanent.

"Substantial bodily injury", bodily injury which creates a permanent disfigurement, protracted loss or impairment of a function of a body member, limb or organ, or substantial risk of death.

(b) Whoever commits an assault and battery upon a child and by such assault and battery causes bodily injury shall be punished by imprisonment in the state prison for not more than five years or imprisonment in the house of correction for not more than two and one-half years.

Whoever commits an assault and battery upon a child and by such assault and battery causes substantial bodily injury shall be punished by imprisonment in the state prison for not more than fifteen years or imprisonment in the house of correction for not more than two and one-half years.

Whoever, having care and custody of a child, wantonly or recklessly permits bodily injury to such child or wantonly or recklessly permits another to commit an assault and battery upon such child, which assault and battery causes bodily injury, shall be punished by imprisonment for not more than two and one-half years in the house of correction.

Whoever, having care and custody of a child, wantonly or recklessly permits substantial bodily injury to such child or wantonly or recklessly permits another to commit an assault and battery upon such child, which assault and battery causes substantial bodily injury, shall be punished by imprisonment in the state prison for not more than five years, or by imprisonment in a jail or house of correction for not more than two and one-half years.

SECTION 3. The second paragraph of section 1 of chapter 273 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the first sentence.

Approved December 28, 1993.

Chapter 341. AN ACT TRANSFERRING THE POWERS AND DUTIES OF THE MEMBERS OF THE ECONOMIC DEVELOPMENT AND INDUSTRIAL CORPORATION OF THE CITY OF BOSTON TO THE MEMBERS OF THE BOSTON REDEVELOPMENT AUTHORITY.

Be it enacted, etc., as follows:

SECTION 1. Section 12 of chapter 652 of the acts of 1960 is hereby amended by adding the following paragraph:-

Notwithstanding the provisions of section five of chapter one hundred and twenty-one B of the General Laws or any other general or special law to the contrary, the members of the Boston Redevelopment Authority shall be constituted as and shall have the powers of and discharge the duties of the members of the Economic Development and Industrial Corporation of Boston as set forth in chapter one thousand and ninety-seven of the acts of nineteen hundred and seventy-one. For such purposes, said members shall constitute themselves separately and shall separately record all actions taken by them pursuant to said chapter one thousand and ninety-seven.

SECTION 2. Section 3 of chapter 1097 of the acts of 1971 is hereby amended by striking out the first three paragraphs and inserting in place thereof the following two paragraphs:-

There is hereby created a public body politic and corporate, to be known as the Economic Development and Industrial Corporation of Boston, in this act called the corporation, which shall be an instrumentality of the commonwealth, consisting of the five members of the Boston Redevelopment Authority. Each of the members shall be sworn to the faithful performance of his official duties as a member of the corporation. A majority of the five members shall constitute a quorum for the transaction of any business, but the action of a majority of the entire membership 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 of the commonwealth.

The members of the corporation shall serve terms concurrently with the terms served as members of the Boston Redevelopment Authority. All matters pertaining to vacancy, reappointment and removal of the members of the said corporation shall be governed by sections five, six and seven of chapter one hundred and twenty-one B of the General Laws. For the purposes of chapter two hundred and sixty-eight A of the General Laws, the members of the corporation shall be deemed to be special municipal employees.

SECTION 3. The terms of the members of the Economic Development and Industrial Corporation appointed prior to the effective date of this act are hereby annulled.

SECTION 4. No act authorized to be taken by the members of the corporation pursuant to chapter one thousand and ninety-seven of the acts of nineteen hundred and seventy-one shall be construed to be an act of the Boston Redevelopment Authority, nor shall any act of the members of said authority be deemed to be an act of said corporation, and nothing in this act shall be deemed to authorize any action by the corporation giving rise to any debt, obligation, responsibility or liability on the part of said authority.

SECTION 5. Nothing in this act shall be deemed to impair any existing obligation of the corporation including any bonds issued under the authority of chapter one thousand and ninety-seven of the acts of nineteen hundred and seventy-one.

SECTION 6. This act shall take effect upon its passage.

Approved December 28, 1993.

Chapter 342. AN ACT PROVIDING FOR THE APPOINTMENT OF A TREASURER-COLLECTOR IN THE TOWN OF SEEKONK.

Be it enacted, etc., as follows:

SECTION 1. The office of treasurer-collector of the town of Seekonk is hereby established. Said treasurer-collector shall be appointed by the board of selectmen of said town on the recommendation of the director of finance and shall report directly to said director.

SECTION 2. The first paragraph of section 4 of article 3 of the charter of the town of Seekonk, 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 adding the following clause:-

(*i*) treasurer-collector.

SECTION 3. Section 1 of article 4 of said charter is hereby amended by striking out clauses (*c*) and (*d*).

SECTION 4. Upon the appointment and qualifications of the treasurer-collector, the terms of office of the persons holding said offices of treasurer and collector shall terminate.

SECTION 5. This act shall be submitted to the voters of the town of Seekonk at an annual or special town election 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-three entitled 'An Act providing for the appointment of a treasurer-collector in the town of Seekonk' be accepted?"

If a majority of the votes cast in answer to said question is in the affirmative, said act shall take full effect as of July first, nineteen hundred and ninety-four, but not otherwise.

Approved December 28, 1993.

Chapter 343. AN ACT AUTHORIZING THE TOWN OF HANSON TO PAY A CERTAIN BILL.

Be it enacted, etc., as follows:

The town of Hanson is hereby authorized to appropriate for the payment of, and after such appropriation the treasurer of said town of Hanson is hereby authorized to pay to Overhead Door Co. of Boston, an unpaid bill incurred by the town and totalling sixteen thousand nine hundred and sixty-three dollars said bill being legally unenforceable against said town, notwithstanding the failure of said town to comply with the appropriate provisions of law relating to competitive bidding in awarding the contract.

Approved December 28, 1993.

Chapter 344. AN ACT RELATIVE TO THE LAWRENCE W. LLOYD MEMORIAL POOL LOCATED IN THE CITY OF MELROSE.

Be it enacted, etc., as follows:

SECTION 1. The city of Melrose is hereby authorized to convey to the commonwealth, without monetary consideration and by deed approved as to form by the attorney general, a certain parcel of land, with structures thereon, known as the Lawrence W. Lloyd memorial pool.

Said parcel is shown as the lot "To Be Conveyed by City of Melrose to Commonwealth of Massachusetts. Area = 54,400 Sq. Ft." on a plan entitled "Commonwealth of Massachusetts, Metropolitan District Commission, Park Engineering Division, Lynn Fells Parkway Dated: October 6, 1971, Benjamin Fink, Director of Park Engineering", being plan accession number 47210 V.T.

SECTION 2. The conveyance of the parcel authorized by section one shall be contingent upon the metropolitan district commission rehabilitating, maintaining and seasonally operating the Lawrence W. Lloyd memorial pool. If said commission fails to commence such rehabilitation within one year of the effective date of this act or fails to maintain and operate said pool for the nineteen hundred and ninety-four season or at any time thereafter, fails to operate said pool, subject to appropriation, in the city of Melrose may

exercise a right of reversion by serving a written notice upon the division of capital planning and operations not less than sixty days prior to the effective date of such reversion. Said division is hereby authorized to execute and deliver such documents as may be required to perfect title in said city of Melrose in the event of such reversion.

Approved December 28, 1993.

Chapter 345. AN ACT RELATIVE TO THE QUALIFICATION OF BIDDERS ON CONSTRUCTION PROJECTS OF THE MASSACHUSETTS HIGHWAY DEPARTMENT.

Be it enacted, etc., as follows:

Chapter 29 of the General Laws is hereby amended by striking out section 8B, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 8B. The commissioner of highways or the commissioner of the metropolitan district commission shall require that any person proposing to bid on any work, excepting the construction, reconstruction, repair or alteration of buildings, to be awarded by the department of highways or by the metropolitan district commission, respectively, and the commissioner of highways shall require that any person proposing to bid on any such work to be awarded by a municipality under section thirty-four of chapter ninety, submit a statement under the penalties of perjury setting forth his qualifications to perform such work. Such statement shall be in such detail and form and shall be submitted at such times as such commissioner may prescribe under rules promulgated by said department or commission, respectively, subject to the requirements of chapter thirty A. Such rules may require such information as may be necessary to implement this section and may establish a basis for the classification and maximum capacity rating of bidders which shall determine the class and aggregate amount of work such bidders are qualified to perform. The statement shall set forth, among other matters that may be prescribed by the rules, the proposed bidders's financial resources, his current bonding capacity, his experience, the number and kinds of equipment which he has for use on such work, and the number, size and completion dates of other construction jobs, whether in this state or another state, which he has under contract. The information contained within such statement, together with other relevant available information and the proposed bidder's past performance on work of a similar nature, may be considered by said department or commission in determining whether or not the proposed bidder is qualified to perform any specific work for which proposals to bid are invited.

Based on information received and available and on past performance of the prospective bidder on work of a similar nature, each such commissioner, acting through a prequalification committee consisting of engineering personnel of said department or commission, respectively, to be appointed by him, shall determine the class and aggregate amount of work that a prospective bidder is qualified to perform, and shall limit a proposed

bidder to such class and aggregate amount of work as he may be qualified to perform. Said aggregate amount of work shall not be less than the amount of the bidder's current bonding capacity, as verified to the commissioner's satisfaction, by a surety company incorporated pursuant to section one hundred and five of chapter one hundred and seventy-five, or authorized to do business in the commonwealth under section one hundred and six of said chapter one hundred and seventy-five, and satisfactory to the commissioner. Said department or commission shall limit the bid proposals to be furnished to a prospective bidder to such bidders as are determined by its commissioner to have the classification and capacity rating to perform the work required.

Any such statement filed with either such commissioner by a prospective bidder shall be confidential, and shall be used only by the department of highways or the metropolitan district commission, as the case may be, in determining the qualifications of such prospective bidder to perform work for said department or commission, or for a municipality under the provisions of said section thirty-four. No information contained in such statement shall be imparted to any other person without the written consent of said bidder.

If any prospective bidder fails to file the statement required by this section, or if, in the judgment of the commissioner, the prospective bidder is not qualified to carry out the work required under a contract which is proposed to be awarded, the commissioner shall refuse to furnish such prospective bidder with bid proposals for such work and shall reject any bid by such prospective bidder for such work.

Only persons filing the statement required herein shall be authorized as prime contractors and then only as to the class and aggregate amount of work which their qualifications warrant.

Any bidder qualified as authorized herein shall be promptly notified by the commissioner.

Any prospective bidder who is aggrieved by any decision or determination of the prequalification committee or the commissioner which affects his right to bid may file a new application for qualification at any time, or within fifteen days after receiving notice of such decision the applicant may request in writing a hearing before an appeal board to reconsider his application or qualifications. The appeal board in the department of highways shall consist of the commissioner, the associate commissioners and the chief engineer of highways, or their designees, and the appeal board in the metropolitan district commission shall consist of the commissioner, the associate commissioners, and the director or chief engineer of the division involved, or their designees.

Any bidder or prospective bidder who so requests shall be granted a hearing by such appeal board at which he may submit any and all additional information or evidence bearing upon his finances, current bonding capacity, experience or other qualifications which may be relevant thereto. Such hearing shall be held without delay and the board shall promptly render its decision after taking into consideration all relevant information or evidence submitted relating to the bidder's qualifications. The appeal board may modify, amend or reverse any previous decision of the prequalification committee or the commissioner with

respect to the qualification of the applicant or may sustain such previous decision. Such hearing shall be deemed to be an adjudicatory proceeding, and any bidder or prospective bidder who is aggrieved by the decision of the appeal board shall have a right to judicial review under the applicable provisions of said chapter thirty A.

The commissioner of highways or the commissioner of the metropolitan district commission shall not consider any bid filed with him by any person for any contract to be awarded by said department or commission, respectively, who has not been qualified as required by the rules promulgated by said department or commission, and any such bid of any unqualified bidder may be rejected without being opened. No contract shall be awarded to any bidder not qualified to bid thereon at the time fixed for receiving bids.

Any person, firm or corporation who knowingly and willfully makes, or causes to be made, any false or fraudulent statement in any application for qualification filed with such department or commission as required herein shall, upon final conviction, be disqualified from submitting bids on contracts advertised by the department or commission for a period of one year following the date of said conviction.

This section shall not apply to any prospective bidder the aggregate amount of whose work with said department of highways or with said metropolitan district commission, including the amount of his proposal, is less than fifty thousand dollars.

Approved December 29, 1993.

Chapter 346. AN ACT RELATIVE TO SEWER ASSESSMENTS IN THE TOWN OF WILMINGTON.

Be it enacted, etc., as follows:

Chapter 297 of the acts of 1958 is hereby amended by striking out section 6, as most recently amended by chapter 518 of the acts of 1977, and inserting in place thereof the following section:-

Section 6. The town shall by vote determine what proportion of the cost of said system or systems of sewerage and sewage disposal, if any, the town shall pay. In providing for the payment of the cost of said system or systems of sewerage and sewage disposal, including the use of said system or systems by abutters to the system or systems of sewerage and sewage disposal, including public and private institutions, the town may avail itself of any or all of the methods permitted by the General Laws, including annual charges, as provided for in section sixteen of chapter eighty-three thereof, which may be applied to the payment of the cost of operation, maintenance and repairs of the system or systems of sewerage and sewage disposal, and to defray also such portion of the cost of the construction of said system or systems as the town shall by vote determine. The charges and assessments shall be paid by every person or institution who enters his or its particular sewer into the system or systems of sewerage and sewage disposal of the town. The provisions of said General Laws relative to the assessment, apportionment, division, reassessment, abatement

and collection of sewer assessments, to liens therefor and to interest thereon, except as provided herein, shall apply to assessments and annual charges made under this act, and the interest shall be at a rate of five percent, per annum. The collector of taxes of said town shall certify the payment or payments of such assessments or apportionments thereof to the board of sewer commissioners, who shall preserve a record thereof.

Approved December 29, 1993.

Chapter 347. AN ACT ESTABLISHING A SICK LEAVE BANK FOR LINDA BARNARD, AN EMPLOYEE OF THE EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

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 executive office of health and human services, 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, rule or regulation to the contrary, the executive office of health and human services is hereby authorized and directed to establish a sick leave bank for Linda Barnard, an employee of said office. Any employee of said office may voluntarily contribute one or more of his sick, personal or vacation days to said sick leave bank for use by said Linda Barnard.

Approved December 29, 1993.

Chapter 348. AN ACT RELATIVE TO THE BOARD OF LIBRARY TRUSTEES OF THE TOWN OF TRURO.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section ten of chapter seventy-eight of the General Laws, the number of trustees on the board of library trustees of the town of Truro shall be five.

SECTION 2. The charter of the town of Truro, 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 6-3-1(e) and inserting in place thereof the following section:-

Section 6-3-1(e). A board of library trustees of five members.

Approved December 29, 1993.

Chapter 349. AN ACT RELATIVE TO THE ANNUAL OBSERVANCE OF NATIVE AMERICAN DAY.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after section 12UU the following section:-

Section 12VV. The governor shall annually issue a proclamation setting apart the third Friday of September as Native American Day and recommending that said day be observed in an appropriate manner by the people.

Approved December 29, 1993.

Chapter 350. AN ACT RELATIVE TO THE DETERMINATION OF NEED FOR INNOVATIVE SERVICES AND NEW TECHNOLOGIES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate the use of innovative services and new technologies, 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 25B of chapter 111 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "dollars", in line 109, the following words:- ; provided, however, that expenditures for, or the acquisition of, any replacement of medical, diagnostic or therapeutic equipment defined as new technology or innovative services for which a determination of need has issued or which was exempt from determination of need, shall not require a determination of need and shall not be included in the calculation of the expenditure minimum.

SECTION 2. Section 25C of said chapter 111, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

No person or agency of the commonwealth or any political subdivision thereof shall provide an innovative service or use a new technology, as such terms are defined in section twenty-five B, in any location other than in a health care facility, as such term is defined in section twenty-five B, unless the person or agency first is issued a determination of need therefor by the department.

SECTION 3. Said section 25C of said chapter 111, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

No person or agency of the commonwealth or any political subdivision thereof shall acquire for location in other than a health care facility a unit of medical, diagnostic, or therapeutic equipment, other than equipment used to provide an innovative service or which

is a new technology, as such terms are defined in section twenty-five B, with a fair market value in excess of one hundred and fifty thousand dollars unless the person or agency notifies the department of the person's or agency's intent to acquire such equipment and of the use that will be made of the equipment. Such notice shall be made in writing and shall be received by the department at least thirty days before contractual arrangements are entered into to acquire the equipment with respect to which notice is given. A determination by the department of need therefor shall be required for any such acquisition (i) if the notice required by this paragraph is not filed in accordance with the requirements of this paragraph, and (ii) if the requirements for exemption under subsection (a) of section twenty-five C½ are not met.

SECTION 4. Said section 25C of said chapter 111, as so appearing, is hereby further amended by inserting after the word "twenty-five C½", in line 69, the following:- ; provided, however, that in no event shall any person who acquires a unit of magnetic resonance imaging equipment for location other than in a health care facility refer or influence any referrals of patients to said equipment, unless said person is a physician directly providing services with that equipment; provided, however, that for the purposes of this section, no public advertisement shall be deemed a referral or an influence of referrals; and provided, further, that any person who has an ownership interest in said equipment, whether direct or indirect, shall disclose said interest to patients utilizing said equipment in a conspicuous manner.

Each person or agency operating a unit of equipment described in this section shall submit annually to the department information and data in connection with utilization and volume rates of said equipment on a form or forms prescribed by the department.

SECTION 5. Subsection (c) of section 25C½ of said chapter 111, as so appearing, is hereby amended by striking out, in lines 88 to 91, inclusive, the words ", or if the department finds, within thirty days after receipt of notice in accordance with this subsection, that the equipment will be used to provide services for inpatients of a hospital, other than on an occasional and irregular basis",- and by striking out the last sentence.

SECTION 6. Notwithstanding the provisions of any general or special law to the contrary, any person who, under the solo or group practice exclusion from the definition of "clinic" contained in section fifty-two of chapter one hundred and eleven of the General Laws, (*i*) prior to the effective date of this section, filed notice of intent to acquire medical, diagnostic or therapeutic equipment used to provide an innovative service or which is a new technology, as such terms are defined in section twenty-five B of said chapter one hundred and eleven, other than magnetic resonance imaging equipment, or (*ii*) on or before December thirty-first, nineteen hundred and ninety-one, acquired medical, diagnostic or therapeutic equipment used to provide an innovative service or which is a new technology, as such terms are defined in section twenty-five B of said chapter one hundred and eleven, may do so without obtaining a determination of need from the department of public health. Notwithstanding the foregoing, no such person may implement an addition, expansion, conversion, or transfer of ownership, as such terms are defined in sections twenty-five B to

twenty-five G, inclusive, of said chapter one hundred and eleven, and the regulations promulgated thereunder, unless such person first notifies the department of public health.

SECTION 7. Sections one, two, three and five shall take effect as of December thirty-first, nineteen hundred and ninety-one.

Approvd December 29, 1993

Chapter 351. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE CITY OF TAUNTON.

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 G, inclusive, and section forty J of chapter seven of the General Laws, to sell and convey by deed a certain parcel of land located in the city of Taunton to the Taunton Development Corporation for municipal industrial development purposes, in accordance with and subject to all terms, conditions, covenants, easements, reservations and restrictions established therefor pursuant to section three of this act, said land being approximately that identified as "part A, 217.9 acres" in the proposed land acquisition summary on a plan entitled "composite plan showing existing conditions and proposed acquisition areas at Paul A. Dever State School, prepared for Taunton Development Corporation, May 1991, by Tibbets Engineering Corporation". The purchase price payable by the Taunton Development Corporation for said parcel shall be the full and fair market value of the property as of the time of conveyance to the Taunton Development Corporation, determined by independent appraisal, for its highest and best use. The inspector general shall review and approve said appraisal and said review shall include a review of the methodology utilized for said appraisal. The inspector general shall prepare a report of his review and file said report with the commissioner for submission to the house and senate committees on ways and means and house and senate chairmen of the joint committee on state administration in accordance with section five of this act. The Taunton Development Corporation shall pay said purchase price in full at the time of said conveyance.

SECTION 2. If the commissioner determines to sell the property described in section one to the Taunton Development Corporation, the commissioner shall not be required to comply with the provisions of section forty H of chapter seven of the General Laws, provided that the purchase price and other terms and conditions of such sale comply with section one and all other requirements of this act applicable thereto. In connection with any sale or rental of all or any part of said property by the Taunton Development Corporation to any individual or entity, the mayor of the city of Taunton, hereinafter referred to as the mayor, and the president of the Taunton Development Corporation, hereinafter referred to as the president, shall comply with the provisions of section sixteen of chapter thirty B of

the General Laws as they apply to a governmental body.

In connection with any sale or rental of all or any part of said property by the Taunton Development Corporation to any individual or entity, the mayor and president shall issue a request for proposals. The request for proposals shall specify: (1) a listing and description of uses determined to be feasible or consistent with the purposes of this act; (2) all evaluation criteria that will be utilized for the evaluation of proposals, together with a statement that evaluations shall be based solely on the criteria set forth in the request for proposals; (3) all items or categories of information which must be included in each development proposal, and a format for submitting such information; and (4) those terms and conditions of the land disposition agreement which are not subject to negotiation, including, without limitation, all covenants, easements, reservations and restrictions of the conveyance of said property to the Taunton Development Corporation established pursuant to section three of this act, provided that the agreement shall incorporate by reference the development proposal submitted by the selected developer and provided further that the land disposition agreement shall include remedies on behalf of the city and the corporation in the event the developer fails to fulfill its obligations as set forth in the land disposition agreement.

Taking into consideration the proposed price and the evaluations based on the criteria set forth in the request for proposals, the mayor and the president shall determine the responsible and responsive developer submitting the most advantageous proposal. The mayor and the president may reject any and all proposals if they determine that rejection is in the best interests of the city. The mayor and president shall retain for a period of one year all proposals relating to the rental or sale and make them available for public inspection. No agreement for the rental or sale of the property shall be valid unless such agreement contains the following declaration, signed by the mayor and president:

The undersigned certify under the penalties of perjury that we have fully complied with the requirements of section two of chapter _____ of the Acts of 1993 in connection with the property described herein.

_____

Mayor, City of Taunton Date

_____

President, Taunton Development Corporation

_____

Date

SECTION 3. Prior to the sale of the property described in section one, the commissioner of the division of capital planning and operations shall work in consultation with the commissioner of mental retardation to determine what terms and conditions and covenants, easements, reservations and restrictions shall be prescribed as part of any disposition of said property and the validity of any deed or any rental agreement, if any,

executed by or on behalf of the commonwealth by said commissioner. Such provisions shall include, but not be limited to, such matters as proper control of the industrial park traffic and noise and environmental impact on the Dever State School, reservation of easements on said property for water, power, sewer, and other utilities, and access for the Dever State School, implementation of proper protections for the Dever State School's present water and sewer and other utility systems, the creation of an appropriate physical barrier between the Taunton Industrial Park and the Dever State School to ensure the privacy and safety of employees and residents thereof and to preserve the ambiance of the Dever State School.

SECTION 4. The purchase price paid pursuant to section one shall be deposited in the General Fund of the commonwealth.

SECTION 5. The commissioner shall, thirty days before the execution of any agreement authorized by this act, or any subsequent amendment thereof, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. The inspector general shall issue his review and comment within fifteen days of receipt of any agreement or amendment. The commissioner shall submit the agreement and any subsequent amendments thereof, the reports, and the comments of the inspector general, if any, to the house and senate committees on ways and means and the house and senate chairmen of the joint committee on state administration at least fifteen days prior to execution.

SECTION 6. From and after any transfer of the property described in section one to the Taunton Development Corporation, the use thereof shall be subject to any and all covenants, easements, reservations and restrictions established pursuant to section three of this act.

SECTION 7. In the event that the property described in section one is not used for the purposes described in section one within three years of the effective date of this act, or if the use for the aforementioned purpose ceases at any time, the property shall revert to the commonwealth.

Approved December 30, 1993.

Chapter 352. AN ACT PROVIDING FOR THE LAYING OUT AND ACCEPTANCE OF CERTAIN WAYS BY THE CITY OF ATTLEBORO.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the city of Attleboro is hereby authorized to lay out and accept as public ways any of the ways listed in a document on file with the city clerk.

The planning board for the city of Attleboro shall hold a public hearing on the issue of the laying out and acceptance as public ways so listed by April first, nineteen hundred and ninety-four at which time interested persons shall be given an opportunity to be heard. Within twenty-one days after said hearing, the planning board shall submit a communication

to the municipal council with its recommendations as to which ways in said document should be laid out and accepted as public ways by the city of Attleboro.

The communication from the planning board shall be referred to a standing committee of the municipal council or to a special committee appointed by the president of the council for the sole purpose of considering the proposal to lay out and accept as public ways the ways so listed. Within forty-five days of such referral, the municipal council shall hold a public hearing on said proposal.

At least fourteen days prior to the public hearing by the municipal council, written notice of the intention of the city to lay out and accept as a public way and of the intention to hold a public hearing thereon shall be sent to the owners of land abutting or being a part of the ways so listed. In addition, notice of the city's intention to lay out and accept as public ways those ways so listed shall be published in a newspaper of general circulation in the city once in each of two successive weeks, the first publication to be not less than fourteen days prior to such hearing. Such notice shall also be posted in a conspicuous place in the city hall for a period of not less than fourteen days prior to such hearing.

The standing or special committee shall report to the full council within fourteen days of the public hearing with recommendations as to which ways so listed should and should not be laid out and accepted as public ways by the city of Attleboro.

The municipal council may then vote to adopt, amend or reject the proposal to lay out and accept as public ways any or all of the ways listed.

Such vote by the municipal council shall be subject to the approval of the mayor as provided in section three G of the city charter. If the mayor approves the vote, or if the municipal council notwithstanding the mayor's disapproval shall again adopt said proposal by a two-thirds vote of the full council, the ways contained in the final proposal shall be considered laid out and shall be accepted as public ways.

Approved December 30, 1993.

Chapter 353. AN ACT PROVIDING FOR THE APPOINTMENT OF THE TOWN CLERK IN THE TOWN OF BELCHERTOWN.

Be it enacted, etc., as follows:

SECTION 1. The town clerk of the town of Belchertown shall be appointed by the board of selectmen of said town for a term not to exceed three years and the person so appointed shall have all the powers and duties by law vested in the office of town clerk. Any vacancy in such office shall be filled in like manner for the unexpired portion of the term.

SECTION 2. Notwithstanding the provisions of section one, the incumbent in the office of town clerk on the effective date of this act shall continue to hold such office and to perform the duties thereof until the expiration of the term for which he was elected and the appointment and qualification of a successor town clerk or until said individual otherwise vacates such office.

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

Approved December 30, 1993.

Chapter 354. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF RANDOLPH.

Be it enacted, etc., as follows:

SECTION 1. Any holder of elective office may be recalled therefrom by the registered voters of the town of Randolph as provided in this act.

SECTION 2. Any five hundred registered voters of the town of Randolph 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 for recall. Said town clerk shall, within five days, certify thereon the number of signatures which are names of registered voters of the town. The town clerk shall, upon certification, deliver to said voters making the affidavit copies of petition blanks demanding such recall, copies of which shall be kept available. The blanks shall be issued by the town clerk with the clerk's signature and official seal attached thereto. They shall be dated, addressed to the board of selectmen and contain the names of all 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 demand the election of a successor to said office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. The recall petition shall be returned and filed with the town clerk within twenty-one days after the certification of the affidavit and shall have been signed by at least twenty 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 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.

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 without delay, and said 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 five days thereafter, order an election to be held on a date 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 to occur within one hundred days after date of certification, the board of 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 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 the officer 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 office until the recall election. If then re-elected, he shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in section seven. If not re-elected in the recall election, the officer 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 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 the said propositions. Under the proposition there shall appear the word "Candidates", the directions 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 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 votes on the question is in the negative, the ballots for candidates need not be counted.

SECTION 7. No recall affidavit shall be filed against an officer within six months after he takes office, nor in the case of an officer subject to a recall election and recalled thereby, until at least six months after the election at which his recall was submitted to the voters.

Approved December 30, 1993.

Chapter 355. AN ACT RELATIVE TO THE POWERS OF THE TOWN ADMINISTRATOR OF THE TOWN OF TRURO.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section eight B of chapter forty of the General Laws, the town administrator of the town of Truro shall appoint, as may be necessary, the director, clerk and employees of the council on aging.

SECTION 2. The charter of the town of Truro, 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 adding the following section:-

Section 5-4-6. The town administrator shall appoint, as may be necessary, the director, clerk and employees of the council on aging.

Approved December 30, 1993.

Chapter 356. AN ACT RELATIVE TO THE EXPENDITURE OF CERTAIN SURPLUS BOND PROCEEDS BY THE TOWN OF ROCKLAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter forty-four of the General Laws, the town of Rockland is hereby authorized to appropriate to reduce its tax levy for the fiscal year beginning July first, nineteen hundred and ninety-three the sum of four thousand three hundred and eighty-nine dollars from the balance of bond proceeds of bonds issued in nineteen hundred and seventy-four and nineteen hundred and seventy-nine.

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

Approved December 30, 1993.

Chapter 357. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF ROCKLAND.

Be it enacted, etc., as follows:

SECTION 1. Subsection (c) of section 2:02G of Article II of the charter of the town of Rockland, 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 adding the following words:- for a term of three years.

SECTION 2. Subsection (e) of said section 2:02G of said Article II of said charter is hereby amended by adding the following words:- for a term of three years.

SECTION 3. Subsection (j) of said section 2:02G of said Article II of said charter is hereby amended by adding the following words:- for a term of three years.

SECTION 4. Said section 2:02G of said Article II of said charter is hereby further amended by striking out subsection (r) and inserting in place thereof the following subsection:-

(r) A Director of the Council on Aging for a term of three years.

SECTION 5. Subsection (e) of section 2:02H of said Article II of said charter is hereby amended by striking out, in line 1, the words "for the" and inserting in place thereof the word:- on.

SECTION 6. Section 2:02L of said Article II of said charter is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The selectmen shall make their annual appointments within thirty days following the annual town election.

SECTION 7. Article V of said charter is hereby amended by striking out section 5:01 and inserting in place thereof the following section:-

Section 5:01 The annual town election which is Article 1 of the annual town meeting shall be held on the second Saturday of April in each year.

SECTION 8. This act shall take effect upon its passage.

Approved December 30, 1993.

Chapter 358. AN ACT RELATIVE TO SUBSIDIZED HOUSING IN THE CITY OF LYNN.

Be it enacted, etc., as follows:

The provisions of subsection 10 of section four of chapter one hundred and fifty-one B of the General Laws shall not apply to any person furnishing rental accommodations in the city of Lynn in a multiple dwelling, a publicly assisted housing accommodation or a housing development, which dwelling, accommodation or development is economically integrated, as defined herein and which was established under the provisions of paragraph (4) of clause (k) of section twenty-six of chapter one hundred and twenty-one B of the General Laws. For the purposes of this subsection, "economically integrated" shall mean that forty percent or more of the units are:

(i) occupied or under rental agreement to persons receiving assistance, subsidy or supplement; or

(ii) subsidized for the purpose of making them available to low income persons; or

(iii) provided or operated under any other regulatory agreement, statute, regulation or program by which rental accommodations are made available to low income persons.

Approved December 30, 1993.

Chapter 359. AN ACT AUTHORIZING THE COMMISSIONER OF REVENUE TO ACT UPON A CERTAIN REQUEST FOR AN ABATEMENT OF REAL ESTATE TAXES IN THE CITY OF SPRINGFIELD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section eight of chapter fifty-eight of the General Laws or any other general or special law to the contrary, the commissioner

of revenue is hereby authorized to act upon a certain request by the board of assessors in the city of Springfield to abate all real estate taxes, interest and charges of the fiscal years nineteen hundred and eighty-three to nineteen hundred and eighty-eight, inclusive, not to exceed two thousand eight hundred ten dollars and forty-two cents, arising out of the payments of said taxes by Zofia and Antoni Skrodzki to the city of Springfield. The board of assessors in the city of Springfield is hereby authorized to grant such abatement in said amount regarding the property located at 40 Briggs street in said Springfield.

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

Approved December 30, 1993.

Chapter 360. AN ACT RELATIVE TO THE POSITION OF BOARD OF HEALTH PUBLIC HEALTH NURSE IN THE TOWN OF BILLERICA.

Be it enacted, etc., as follows:

SECTION 1. The position of public health nurse in the board of health in the town of Billerica 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 December 30, 1993.

Chapter 361. AN ACT AUTHORIZING THE CITY OF HAVERHILL TO REIMBURSE CERTAIN MONIES PAID IN ERROR AS PERSONAL PROPERTY TAXES.

Be it enacted, etc., as follows:

The city of Haverhill is hereby authorized to reimburse NETCO Automation the sum of five thousand four hundred and eight dollars paid to said city as personal property taxes in error for the fiscal years nineteen hundred and eighty-seven, nineteen hundred and eighty-eight and nineteen hundred and eighty-nine.

Approved December 30, 1993.

Chapter 362. AN ACT PROVIDING FOR THE GRANTING OF LEAVES OF ABSENCES FOR CERTAIN SCHOOL DEPARTMENT EMPLOYEES BY SCHOOL SUPERINTENDENTS.

Be it enacted, etc., as follows:

Chapter 71 of the General Laws is hereby amended by striking out section 41A, as

appearing in the 1992 Official Edition, and inserting in place thereof the following two sections:-

Section 41A. The school superintendent may grant a leave of absence for study or research to any teacher, registered nurse, principal, supervisor, director, school librarian, school business administrator, or assistant superintendent, serving at discretion which would increase his professional ability, such leave to be for a period not exceeding one year at full or partial pay; provided, however, that prior to the granting of such leave he shall enter into a written agreement with the superintendent that upon termination of such leave he will return to service in the public schools of such city or town for a period equal to twice the length of such leave and that, in default of completing such service, he will refund to the city or town an amount equal to such proportion of salary received by him while on leave as the amount of service not actually rendered as agreed bears to the whole amount of service agreed to be rendered. A school superintendent may also grant a leave of absence to any teacher, registered nurse, principal, supervisor, or school business administrator, serving at discretion for service to a statewide professional education organization of which such teacher, registered nurse, principal, supervisor, or school business administrator is a member and has been elected to hold the office of president therein, such leave to be for a period not exceeding four full years at full or partial pay; provided, however, that such professional education organization shall reimburse the school committee for any salary paid to said teacher, registered nurse, principal, supervisor, or school business administrator during such period. Any employee granted a leave of absence under this section may receive compensation from any grants or gifts received for the purpose of this section pursuant to section thirty-seven A, as well as from funds appropriated therefore.

Any teacher, registered nurse, principal, supervisor, director, school librarian, school business administrator, or assistant superintendent who is elected to a state office, or elected by the people to the office of mayor shall, upon his written request made to the school superintendent, be granted a leave of absence without pay for such position for all or such portion of the term for which he was elected as he may from time to time designate, and shall not as a result of such election, be suspended or discharged or suffer any loss of rights.

A school committee may grant a leave of absence for study or research, or for service to a statewide professional education organization, and shall grant a leave of absence for service as an elected state official or elected mayor, to a school superintendent under the same terms and conditions as are described above for leaves granted to other professional staff.

Section 41B. A school superintendent shall grant to a teacher who has been accepted to serve in the Peace Corps of the United States and who is currently in good standing in a public school of the commonwealth a leave of absence for the term of such service. Such leave shall be without pay and shall not be counted as creditable service for retirement purposes but such member shall be restored to his previous or a similar position, with the same status, pay, length of service credit and seniority, whenever applicable, as he held on the date of such leave of absence.

Approved December 30, 1993.

Chapter 363. AN ACT FURTHER REGULATING GROUP INSURANCES FOR CITIES AND TOWNS.

Be it enacted, etc., as follows:

Section 10A of chapter 32B of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

Any town which is a member of the Cape Cod municipal health group which does not provide dental benefits under this chapter may provide that any general, group or blanket insurance policy it purchases makes dental benefits available to employees at said employees' expense.

Approved December 30, 1993.

Chapter 364. AN ACT RELATIVE TO THE MATURITIES OF CERTAIN BONDS AND NOTES ISSUED BY THE TOWN OF WINCHESTER.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section nineteen of chapter forty-four of the General Laws or any other general or special law to the contrary the maturities of each issue of bonds or notes issued for the Library Renovation Project for which monies for the design were appropriated on May twenty-seventh, nineteen hundred and ninety-three, may be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable as determined by the officers authorized to issue such bonds or notes.

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

Approved December 30, 1993.

Chapter 365. AN ACT ESTABLISHING AN INFRASTRUCTURE INVESTMENT FUND IN THE TOWN OF HOLDEN.

Be it enacted, etc., as follows:

SECTION 1. The town of Holden is hereby authorized to create and maintain a special fund to be known as the Infrastructure Investment Fund.

Said town of Holden may appropriate to the Infrastructure Investment Fund by a majority vote at an annual or special town meeting in any year an amount not exceeding ten percent of the amount raised in the preceding fiscal year by taxation of real estate and tangible personal property. The aggregate amount of the Infrastructure Investment Fund at any time shall not exceed ten percent of the equalized valuation of the town of Holden as defined in section one of chapter forty-four of the General Laws. Any interest shall be added to and become a part of the Fund.

The treasurer of the town of Holden shall be the custodian of the Fund and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, co-operative banks or trust companies organized under the laws of the commonwealth or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loan associations situated in the commonwealth.

The Infrastructure Investment Fund may be appropriated at an annual town meeting or a special town meeting by a two-thirds vote. For any purpose for which said town of Holden would be authorized to borrow money under section seven or eight of said chapter forty-four, other than clauses (1) and (2) of section eight of said chapter forty-four, and to pay the debt service on said projects, and which is approved by the infrastructure fund board established under section two of this act.

SECTION 2. There shall be an infrastructure investment fund board of the town of Holden consisting of seven voters of said town of Holden, of whom at least four shall be members of the finance committee of said town of Holden. Said board shall choose its own officers, set its own rules and shall serve without pay, except the clerk, who shall receive reasonable compensation for his services. The clerk of said board may or may not be a member of the board.

The infrastructure investment fund board of said town of Holden shall be appointed by the moderator of said town of Holden. The initial terms of the members shall be for one, two or three years, and so arranged that the terms of approximately one-third of the members will expire each year, and their successors shall be appointed for terms of three years each. Said board shall meet at the call of the moderator of said town of Holden or of its chairman and shall choose its chairman and clerk. The moderator shall forthwith fill by appointment any vacancies which occur in this membership and said appointee shall serve for the remainder of his predecessor's term of office.

The infrastructure investment fund board shall consider matters relating to appropriations from the Infrastructure Investment Fund, and may, but it is not required to, make recommendations to said town of Holden or to any board, committee or official thereof relative to such matters and establish policies relative to the funding of capital projects of said town of Holden and set priorities and schedules for such capital projects.

Approved December 30, 1993.

Chapter 366. AN ACT EXEMPTING THE POSITION OF CHIEF OF POLICE IN THE TOWN OF CHELMSFORD 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 Chelmsford shall be exempt from the provisions of chapter thirty-one of the General Laws.

SECTION 2. The town manager shall provide an employment contract with any person appointed to the position of chief of police for a term not to exceed three years.

SECTION 3. The town manager prior to making a search for candidates for the position of chief of police shall consider qualified applicants from the uniformed members of the police department of the town of Chelmsford who have served as such for no less than six years.

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

Approved December 30, 1993.

Chapter 367. AN ACT ESTABLISHING A TOWN MANAGER FORM OF GOVERNMENT FOR THE TOWN OF ARLINGTON, BY REDUCING THE NUMBER OF POSITIONS ON THE SCHOOL COMMITTEE IN THE TOWN.

Be it enacted, etc., as follows:

SECTION 1. Section 5 of chapter 503 of the acts of 1952 is hereby amended by inserting after the word "town", in line 3, the following words:- except that the number of positions thereon shall be limited to seven.

SECTION 2. Section one of this act shall take effect after positions on the school committee of the town have been reduced to seven from its current number of nine positions, which shall occur on the date of the annual town election to be held in the year nineteen hundred and ninety-five, pursuant to the provisions of section two of chapter forty-one of the General Laws. Until such date, section five of chapter five hundred and three of the acts of nineteen hundred and fifty-two shall not be construed to invalidate such reduction; provided, however, that pursuant to the provisions of said section two of said chapter forty-one of the General Laws said town shall reduce the number of positions on said school committee from nine to seven by election at the nineteen hundred and ninety-four annual election of two members and by the election at the nineteen hundred and ninety-five annual election of two members.

Approved December 30, 1993.

Chapter 368. AN ACT RELATIVE TO THE NUMBER OF ALL ALCOHOLIC BEVERAGE LICENSES IN THE TOWN OF IPSWICH.

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 of the town of Ipswich is hereby authorized to issue two additional licenses for the sale of alcoholic beverages to

be drunk on the premises under the provisions of section twelve of said chapter one hundred and thirty-eight to the Bay Side Grill, Inc. d/b/a Steep Hill Grill and to George A. DePaolo and Michael A. DePaolo d/b/a Paolo's. Said licenses shall be subject to all of 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 licenses to any other person, organization, corporation or location; provided, further, that such increase shall have no effect on the two licenses already authorized over the town's quota which are not part of the town's permanent authorization and that such new quota for all alcoholic year-round licenses in said town shall be eighteen.

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

Emergency Letter: December 31, 1993 @ 1:05 P.M. Approved December 30, 1993.

Chapter 369. AN ACT RELATIVE TO TRUST COMPANIES.

Be it enacted, etc., as follows:

SECTION 1. Section 15 of chapter 172 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in lines 3 and 4, the words ", and they shall be sworn to the faithful performance of their duties, and" and inserting in place thereof the following word:- who.

SECTION 2. Section 16 of said chapter 172, as so appearing, is hereby amended by inserting after the word "month", in line 2, the following words:- ; provided, however, that upon application in writing by the corporation, the commissioner in his discretion may waive or modify this requirement.

Approved December 30, 1993.

Chapter 370. AN ACT RELATIVE TO ESTABLISHING THE NORTHEAST INTERSTATE DAIRY COMPACT.

Be it enacted, etc., as follows:

SECTION 1.

ARTICLE I. STATEMENT OF PURPOSE, FINDINGS AND DECLARATION OF POLICY

§ 1. STATEMENT OF PURPOSE, FINDINGS AND DECLARATION OF POLICY

The purpose of this compact is to recognize by constitutional prerequisite the interstate character of the northeast dairy industry and to form an interstate commission for the northeast region. The mission of the commission is to take such steps as are necessary to assure the continued viability of dairy farming in the northeast, and to assure consumers of an adequate, local supply of pure and wholesome milk.

The participating states find and declare that the dairy industry is the paramount agricultural activity of the northeast. Dairy farms, and associated suppliers, marketers, processors and retailers, are an integral component of the region's economy and their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

The participating states further find that dairy farms are essential to the region's rural communities and character. The farms preserve open spaces, sculpt the landscape and provide the land base for a diversity of recreational pursuits. In defining the rural character of our communities and landscape, dairy farms also provide a major draw for our tourist industries.

By entering into this compact, the participating states affirm that their ability to regulate the price which northeast dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the northeast dairy industry, with all the associated benefits.

Recent, dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the northeast dairy region. Historically, individual state regulatory action has been an effective emergency remedy available to farmers confronting a distressed market. The federal order system, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices for dairy products, without preempting the power of states to regulate milk prices above the minimum levels so established. Based on this authority, each state in the region has individually attempted to implement at least one regulatory program in response to the current dairy industry crisis.

In today's regional dairy marketplace, cooperative, rather than individual, state action may address more effectively the market disarray. Under our constitutional system, properly authorized, states acting cooperatively may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

In establishing their constitutional regulatory authority over the region's fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the federal order system nor encourage the merging of federal orders. Specific provisions of the compact itself set forth this basic principle.

Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact also contains a contingency provision should the federal order system be discontinued. In that event, the interstate commission is authorized to regulate the marketplace in replacement of the order system. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this compact result in discontinuance of the order system.

ARTICLE II. DEFINITIONS AND RULES OF CONSTRUCTION

§ 2. DEFINITIONS

For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(1) "Commission" means the commission established by this compact.

(2) "Compact" means this interstate compact.

(3) "Region" means the territorial limits of the states which are or become parties to this compact.

(4) "Participating state" means a state which has become a party to this compact by the enactment of concurring legislation.

(5) "Regulated area" means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.

(6) "Pool plant" means any milk plant located in a regulated area.

(7) "Partially regulated plant" means a milk plant not located in a regulated area but having Class I distribution within such area, or receipts from producers located in such area. Commission regulations may exempt plants having such distribution or receipts in amounts less than the limits defined therein.

(8) "Compact over-order price" means a minimum price required to be paid to producers for Class I milk established by the commission in regulations adopted pursuant to sections ten and eleven of this compact, which is above the price established in federal marketing orders or by state farm price regulation in the regulated area. Such price may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission.

(9) "Commission marketing order" means regulations adopted by the commission pursuant to sections ten and eleven of this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the commission. Such order may establish minimum prices for any or all classes of milk.

(10) "Milk" means the lacteal secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the commission for regulatory purposes.

(11) "Class I milk" means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subdivision (b) of section three.

(12) "State dairy regulation" means any state regulation of dairy prices, and associated assessments, whether by statute, marketing order or otherwise.

§ 3. RULES OF CONSTRUCTION

(a) This compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the compact shall be construed to provide the commission the option to replace them with one or more commission marketing orders pursuant to this compact.

(b) This compact shall be construed liberally in order to achieve the purposes and intent enunciated in section one. It is the intent of this compact to establish a basic structure by which the commission may achieve those purposes through the application, adaptation and development of the regulatory techniques historically associated with milk marketing and to afford the commission broad flexibility to devise regulatory mechanisms to achieve the purposes of this compact. In accordance with this intent, the technical terms which are associated with market order regulation and which have acquired commonly understood general meanings are not defined herein but the commission may further define the terms used in this compact and develop additional concepts and define additional terms as it may find appropriate to achieve its purposes.

ARTICLE III. COMMISSION ESTABLISHED

§ 4. COMMISSION ESTABLISHED

There is hereby created a commission to administer the compact, composed of delegations from each state in the region. A delegation shall include not less than three nor more than five persons. Each delegation shall include at least one dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, and one consumer representative. Delegation members shall be residents and voters of, and subject to such confirmation process as is provided for in, the appointing state. Delegation members shall serve no more than three consecutive terms with no single term of more than four years, and be subject to removal for cause. In all other respects, delegation members shall serve in accordance with the laws of the state represented. The compensation, if any, of the members of a state delegation shall be determined and paid by each state, but their expenses shall be paid by the commission. Each state delegation shall be entitled to one vote in the conduct of the commission's affairs.

§ 5. VOTING REQUIREMENTS

All actions taken by the commission, except for the establishment or termination of an over-order price or commission marketing order, and the adoption, amendment or rescission of the commission's bylaws, shall be by majority vote of the delegations present. Establishment or termination of an over-order price or commission marketing order shall require at least a two-thirds vote of the delegations present. The establishment of a regulated area which covers all or part of a participating state shall require also the affirmative vote of that state's delegation. A majority of the delegations from the participating states shall constitute a quorum for the conduct of the commission's business.

§ 6. ADMINISTRATION AND MANAGEMENT

(a) The commission shall elect annually from among the members of the participating state delegations a chairperson, a vice-chairperson, and a treasurer. The commission shall appoint an executive director and fix his or her duties and compensation. The executive director shall serve at the pleasure of the commission, and, together with the treasurer, shall be bonded in an amount determined by the commission. The commission may establish through its by-laws an executive committee composed of one member elected by each delegation.

(b) The commission shall adopt by-laws for the conduct of its business by a two-thirds vote, and shall have the power by the same vote to amend and rescind these by-laws. The commission shall publish its by-laws in convenient form with the appropriate agency or officer in each of the participating states. The by-laws shall provide for appropriate notice to the delegations of all commission meetings and hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to other agencies or officers of participating states as provided by the laws of those states.

(c) The commission shall file an annual report with the Secretary of Agriculture of the United States, and with each of the participating states by submitting copies to the governor, both houses of the legislature, and the head of the state department having responsibilities for agriculture.

(d) In addition to the powers and duties elsewhere prescribed in this compact, the commission shall have the power:

(1) to sue and be sued in any state or federal court;

(2) to have a seal and alter the same at pleasure;

(3) to acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or other similar manner, for its corporate purposes;

(4) to borrow money and to issue notes, to provide for the rights of the holders thereof and to pledge the revenue of the commission as security therefor, subject to the provisions of section eighteen of this compact;

(5) to appoint such officers, agents, and employees as it may deem necessary, prescribe their powers, duties, and qualifications; and

(6) to create and abolish such offices, employments, and positions as it deems necessary for the purposes of the compact and provide for the removal, term, tenure, compensation, fringe benefits, pension, and retirement rights of its officers and employees. The commission may also retain personal services on a contract basis.

§ 7. RULEMAKING POWER

In addition to the power to promulgate a compact over-order price or commission marketing orders as provided by this compact, the commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate in any other respect the purposes of this compact.

ARTICLE IV. POWERS OF THE COMMISSION

§ 8. POWERS TO PROMOTE REGULATORY UNIFORMITY, SIMPLICITY, AND INTERSTATE COOPERATION

The commission is hereby empowered to:

(1) Investigate or provide for investigations or research projects designed to review the existing laws and regulations of the participating states, to consider their administration and costs, to measure their impact on the production and marketing of milk and their effects on the shipment of milk and milk products within the region.

(2) Prepare and transmit to the participating states model dairy laws and regulations dealing with the inspection of farms and plants, sanitary codes, labels for dairy products and their imitations, standards for dairy products, license standards, producer security programs, and fair trade laws.

(3) Study and recommend to the participating states joint or cooperative programs for the administration of the dairy laws and regulations and to prepare estimates of cost savings and benefits of such programs.

(4) Encourage the harmonious relationships between the various elements in the industry for the solution of their material problems. Conduct symposiums or conferences designed to improve industry relations, or a better understanding of problems.

(5) Prepare and release periodic reports on activities and results of the commission's efforts to the participating states.

(6) Review the existing marketing system for milk and milk products and recommend changes in the existing structure for assembly and distribution of milk which may assist, improve, or promote more efficient assembly and distribution of milk.

(7) Investigate costs and charges for producing, hauling, handling, processing, distributing, selling and for all other services performed with respect to milk.

(8) Examine current economic forces affecting producers, probable trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers, and the need for an emergency order to relieve critical conditions on dairy farms.

§ 9. EQUITABLE FARM PRICES

(a) The powers granted in this section and section ten shall apply only to the establishment of a compact over-order price, so long as federal milk marketing orders remain in effect in the region. In the event that any or all such orders are terminated, this article shall authorize the commission to establish one or more commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

(b) A compact over-order price established pursuant to this section shall apply only to Class I milk. Such over-order price shall not exceed one dollar fifty cents per gallon. Beginning in nineteen hundred and ninety, and using that year as a base, the foregoing one dollar fifty cents per gallon maximum shall be adjusted annually by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the applicable federal order or state dairy regulation and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to such adjustments as the commission may prescribe in regulations.

(c) A commission marketing order shall apply to all classes and uses of milk.

(d) The commission is hereby empowered to establish the minimum price for milk to be paid by pool plants, partially regulated plants and all other handlers receiving milk from producers located in a regulated area. This price shall be established either as a compact over-order price or by one or more commission marketing orders. Whenever such a price has been established by either type of regulation, the legal obligation to pay such price shall be determined solely by the terms and purpose of the regulation without regard to the situs of the transfer of title, possession or any other factors not related to the purposes of the regulation and this compact. Producer-handlers as defined in an applicable federal market order shall not be subject to a compact over-order price. The commission shall provide for similar treatment of producer-handlers under commission marketing orders.

(e) In determining the price, the commission shall consider the balance between production and consumption of milk and milk products in the regulated area, the costs of production including, but not limited to the price of feed, the cost of labor including the reasonable value of the producer's own labor and management, machinery expense, and interest expense, the prevailing price for milk outside the regulated area, the purchasing power of the public and the price necessary to yield a reasonable return to the producer and distributor.

(f) When establishing a compact over-order price, the commission shall take such action as necessary and feasible to ensure that the over-order price does not create an incentive for producers to generate additional supplies of milk.

(g) The commission shall whenever possible enter into agreements with state or federal agencies for exchange of information or services for the purpose of reducing regulatory burden and cost of administering the compact. The commission may reimburse other agencies for the reasonable cost of providing these services.

§ 10. OPTIONAL PROVISIONS FOR PRICING ORDER

Regulations establishing a compact over-order price or a commission marketing order may contain, but shall not be limited to, any of the following:

(1) Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.

(2) With respect to a commission marketing order only, provisions establishing or providing a method for establishing separate minimum prices for each use classification prescribed by the commission, or a single minimum price for milk purchased from producers or associations of producers.

(3) With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for Class I milk.

(4) Provisions for establishing either an over-order price or a commission marketing order may make use of any reasonable method for establishing such price or prices including flat pricing and formula pricing. Provision may also be made for location adjustments, zone differentials and for competitive credits with respect to regulated handlers who market outside the regulated area.

(5) Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered, or for the payment of producers delivering milk to the same handler of uniform prices for all milk delivered by them.

(A) With respect to regulations establishing a compact over-order price, the commission may establish one equalization pool within the regulated area for the sole purpose of equalizing returns to producers throughout the regulated area.

(B) With respect to any commission marketing order, as defined in section two, subdivision nine, which replaces one or more terminated federal orders or state dairy regulation, the marketing area of now separate state or federal orders shall not be merged without the affirmative consent of each state, voting through its delegation, which is partly or wholly included within any such new marketing area.

(6) Provisions requiring persons who bring Class I milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-order price or commission marketing order. No such provisions shall discriminate against milk producers outside the regulated area. The provisions for compensatory payments may require payment of the difference between the Class I price required to be paid for such milk in the state of production by a federal milk marketing order or state dairy regulation and the Class I price established by the compact over-order price or commission marketing order.

(7) Provisions specially governing the pricing and pooling of milk handled by partially regulated plants.

(8) Provisions requiring that the account of any person regulated under a compact over-order price shall be adjusted for any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or other state dairy regulation within the regulated area.

(9) Provisions requiring the payment by handlers of an assessment to cover the costs of the administration and enforcement of such order pursuant to Article VII, Section 18(a).

(10) Provisions for reimbursement to participants of the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966.

(11) Other provisions and requirements as the commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

ARTICLE V. RULEMAKING PROCEDURE

§ 11. RULEMAKING PROCEDURE

Before promulgation of any regulations establishing a compact over-order price or commission marketing order, including any provision with respect to milk supply under subsection 9(f), or amendment thereof, as provided in Article IV, the commission shall conduct an informal rulemaking proceeding to provide interested persons with an opportunity to present data and views. Such rulemaking proceeding shall be governed by

section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. {553). In addition, the commission shall, to the extent practicable, publish notice of rulemaking proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the commission shall hold a public hearing. The commission may commence a rulemaking proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

§ 12. FINDINGS AND REFERENDUM

(a) In addition to the concise general statement of basis and purpose required by section 4(b) of the Federal Administrative Procedure Act, as amended, (5 U.S.C. sec. 553(c)), the commission shall make findings of fact with respect to:

(1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers under Article IV.

(2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

(3) Whether the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

(4) Whether the terms of the proposed regional order or amendment are approved by producers as provided in section thirteen.

§ 13. PRODUCER REFERENDUM

(a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing a compact over-order price or a commission marketing order, including any provision with respect to milk supply under subsection 9(f), is approved by producers, the commission shall conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by regulation of the commission. The terms and conditions of the proposed order or amendment shall be described by the commission in the ballot used in the conduct of the referendum, but the nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

(b) An order or amendment shall be deemed approved by producers if the commission determines that it is approved by at least two-thirds of the voting producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which would be regulated under the proposed order or amendment.

(c) For purposes of any referendum, the commission shall consider the approval or disapproval by any cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act, bona fide engaged in marketing milk, or in rendering services for or advancing the interests

of producers of such commodity, as the approval or disapproval of the producers who are members or stockholders in, or under contract with, such cooperative association of producers, except as provided in subdivision (1) hereof and subject to the provisions of subdivisions (2) through (5) hereof.

(1) No cooperative which has been formed to act as a common marketing agency for both cooperatives and individual producers shall be qualified to block vote for either.

(2) Any cooperative which is qualified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote. The notice shall be given in a timely manner as established, and in the form prescribed, by the commission.

(3) Any producer may obtain a ballot from the commission in order to register approval or disapproval of the proposed order.

(4) A producer who is a member of a cooperative which has provided notice of its intent to approve or not to approve a proposed order, and who obtains a ballot and with such ballot expresses his approval or disapproval of the proposed order, shall notify the commission as to the name of the cooperative of which he or she is a member, and the commission shall remove such producer's name from the list certified by such cooperative with its corporate vote.

(5) In order to insure that all milk producers are informed regarding a proposed order, the commission shall notify all milk producers that an order is being considered and that each producer may register his approval or disapproval with the commission either directly or through his or her cooperative.

§ 14. TERMINATION OF OVER-ORDER PRICE OR MARKETING ORDER

(a) The commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this article whenever it finds that such order or price obstructs or does not tend to effectuate the declared policy of this compact.

(b) The commission shall terminate any regulations establishing an over-order price or a commission marketing order issued under this article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the commission, have been engaged in the production of milk the price of which is regulated by such order; provided, that such majority have, during such representative period, produced for market more than 50 per centum of the volume of milk the price of which is regulated by such order; but such termination shall be effective only if announced on or before such date as may be specified in such marketing agreement or order.

(c) The termination or suspension of any order or provision thereof, shall not be considered an order within the meaning of this article and shall require no hearing, but shall comply with the requirements for informal rulemaking prescribed by section four of the Federal Administrative Procedure Act, as amended (5 U.S.C. {553).

ARTICLE VI. ENFORCEMENT

§ 15. RECORDS, REPORTS, ACCESS TO PREMISES

(a) The commission may by rule and regulation prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the commission is authorized to examine the books and records of any regulated person relating to his or her milk business and for that purpose, the commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

(b) Information furnished to or acquired by the commission officers, employees, or its agents pursuant to this section shall be confidential and not subject to disclosure except to the extent that the commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the commission. The commission may promulgate regulations further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of general statements based upon the reports of a number of handlers, which do not identify the information furnished by any person, or (ii) the publication by direction of the commission of the name of any person violating any regulation of the commission, together with a statement of the particular provisions violated by such person.

(c) No officer, employee, or agent of the commission shall intentionally disclose information, by inference or otherwise, which is made confidential pursuant to this section. Any person violating the provisions of this section shall upon conviction be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office. The commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or United States Attorney.

§ 16. SUBPOENA, HEARINGS AND JUDICIAL REVIEW

(a) The commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

(b) Any handler subject to an order may file a written petition with the commission stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the commission. After such hearing, the commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(c) The district courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within thirty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the commission by delivering to it a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the commission with directions either (1) to make such ruling as the court shall determine

to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subdivision shall not impede, hinder, or delay the commission from obtaining relief pursuant to section eighteen. Any proceedings brought pursuant to section eighteen (except where brought by way of counterclaim in proceedings instituted pursuant to this section) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this section.

§ 17. ENFORCEMENT WITH RESPECT TO HANDLERS

(a) Any violation by a handler of the provisions of regulations establishing an over-order price or a commission marketing order, or other regulations adopted pursuant to this compact shall:

(1) Constitute a violation of the laws of each of the signatory states. Such violation shall render the violator subject to a civil penalty in an amount as may be prescribed by the laws of each of the participating states, recoverable in any state or federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

(2) Constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating states.

(b) With respect to handlers, the commission shall enforce the provisions of this compact, regulations establishing an over-order price, a commission marketing order or other regulations adopted hereunder by:

(1) Commencing an action for legal or equitable relief brought in the name of the commission in any state or federal court of competent jurisdiction; or

(2) With the agreement of the appropriate state agency of a participating state, by referral to the state agency for enforcement by judicial or administrative remedy.

(c) With respect to handlers, the commission may bring an action for injunction to enforce the provisions of this compact or the order or regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.

ARTICLE VII. FINANCE

§ 18. FINANCE OF START-UP AND REGULAR COSTS

(a) To provide for its start-up costs, the commission may borrow money pursuant to its general power under section six, subdivision (d), paragraph four. In order to finance the costs of administration and enforcement of this compact, including pay back of start-up costs, the commission is hereby empowered to collect an assessment from each handler who purchases milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to one year from the date the commission convenes, in an amount not to exceed one-tenth of one percent of the applicable federal market order blend price per hundredweight of milk purchased from producers during the period of the assessment. The initial assessment may apply to the projected purchases of handlers for the two-month period following the date the commission convenes. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the commission's ongoing operating expenses.

(b) The commission shall not pledge the credit of any participating state or of the United States. Notes issued by the commission and all other financial obligations incurred by it, shall be its sole responsibility and no participating state or the United States shall be liable therefor.

§ 19. AUDIT AND ACCOUNTS

(a) The commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(b) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the commission.

(c) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any participating state or of the United States.

ARTICLE VIII. ENTRY INTO FORCE; ADDITIONAL MEMBERS AND WITHDRAWAL

§ 20. ENTRY INTO FORCE; ADDITIONAL MEMBERS

The compact shall enter into force effective when enacted into law by any three states of the group of states composed of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia, and when the consent of Congress has been obtained. This compact shall also be open to states which are contiguous to any of the named states and open to states which are contiguous to participating states.

§ 21. WITHDRAWAL FROM COMPACT

Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after notice in writing of the withdrawal is given to the commission and the governors of all other participating states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

§ 22. SEVERABILITY

If any part or provision of this compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part or provision directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact.

SECTION 2. Section 24 of chapter 94A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following two paragraphs:-

Upon formal enactment of any compact relative to uniform milk control by the United States Congress and participating states, there shall be appointed by the governor a delegation of five persons whose duty it shall be to cast the vote of the commonwealth as

provided for in said compact, two of whom shall be farmers as defined in section one A of chapter one hundred and twenty-eight who shall be principally engaged in dairying and nominated by an organization of dairy farmers based in Massachusetts with a majority of its membership residents of Massachusetts; one of whom shall be a licensed milk dealer; one who shall be a consumer; and the commissioner or his designee, who shall serve as chairman. Terms of appointment of the gubernatorial members shall be for three years, except that upon initial formation of the delegation two persons shall be appointed to serve terms of two years and two persons shall be appointed to serve terms of three years.

Upon formal enactment of any compact relative to uniform milk control by the United States Congress and participating states, the commissioner shall report annually to the joint committee on natural resources and agriculture and the house and senate committees on ways and means as to the status of said compact as well as its impacts upon the farmers, milk dealers, and consumers of the commonwealth.

Approved December 30, 1993.

Chapter 371. AN ACT EXPANDING THE MOHAWK TRAIL REGIONAL SCHOOL DISTRICT TO A KINDERGARTEN THROUGH TWELVE REGIONAL SCHOOL DISTRICT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to expand immediately the Mohawk Trail Regional School District to a kindergarten through grade twelve regional school district, therefore it is hereby declared to be a public emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding the provisions of the Mohawk Trail regional school district agreement or any general or special law to the contrary, said district shall be expanded to a kindergarten through grade twelve regional school district encompassing the towns of Ashfield, Buckland, Colrain, Heath, Plainfield, and Shelburne and shall operate according to the regional school agreement voted upon prior to July first, nineteen hundred and ninety-three by said towns except where this legislation expressly grants exemptions. Said towns shall receive additional state aid pursuant to section sixteen D of chapter seventy-one of the General Laws. The Hawlemont Regional School District shall remain a kindergarten through grade six regional school district encompassing the towns of Charlemont and Hawley operating under their existing regional school agreement. The towns of Charlemont and Hawley shall be members of the expanded Mohawk Trail Regional School District only for grades seven through twelve and shall not incur any additional costs as a result of the expansion of the Mohawk Trail Regional School District pursuant to this act. The towns of

Charlemont and Hawley shall not be eligible for any increase in additional state aid for grades kindergarten through six pursuant to said section sixteen D of said chapter seventy-one as a result of the expansion of the Mohawk Trail Regional School District pursuant to this act. The towns of Charlemont and Hawley shall be exempt from that portion of any capital expenditure, operating expenditure or debt incurred by grades kindergarten through six, inclusive, within the expanded Mohawk Trail Regional School District.

The Ashfield-Plainfield Elementary Regional School District, the Buckland-Colrain-Shelburne Regional School District and Union 65 shall thereby be dissolved upon the formation of the Mohawk Trail Kindergarten Through Twelve Regional School District.

The rights of the town of Rowe will be guaranteed as per the Mohawk Trail regional school district agreement in effect prior to this act.

Approved December 31, 1993.

Chapter 372. AN ACT EXEMPTING THE POSITION OF PUBLIC HEALTH DIRECTOR IN THE CITY KNOWN AS THE TOWN OF METHUEN FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of public health director in the city known as the town of Methuen shall not be subject to 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 employed as public health director on the effective date of this act.

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

Approved December 31, 1993.

Chapter 373. AN ACT PROVIDING FOR ALTERNATE MEMBERS ON THE CONSERVATION COMMISSION OF THE CITY KNOWN AS THE TOWN OF METHUEN.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section eight C of chapter forty of the General Laws, the city known as the town of Methuen may, by ordinance, provide for two alternate members of the conservation commission. Said alternate members may be designated by the chairman of said conservation commission to sit on said conservation commission in the case of absence, inability to act, or conflict of interest on the part of any members thereof, or, in the event of a vacancy on the commission until said vacancy is filled in accordance with the provisions of said section eight C of said chapter forty.

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

Approved December 31, 1993.

Chapter 374. AN ACT INCREASING THE SALARIES OF THE MEMBERS OF THE BOSTON REDEVELOPMENT AUTHORITY.

Be it enacted, etc., as follows:

SECTION 1. Section 14A of chapter 652 of the acts of 1960, as most recently amended by chapter 871 of the acts of 1977, is hereby further amended by striking out, in lines 2 and 3, the words "seven thousand five hundred" and inserting in place thereof the following words:- ten thousand.

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

Approved December 31, 1993.

Chapter 375. AN ACT RELATIVE TO THE JOINT UNDERWRITING AUTHORITY.

Be it enacted, etc., as follows:

Section 6 of chapter 362 of the acts of 1975 is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

Any licensed physician, licensed dentist or hospital upon proof that such physician, dentist or hospital has made a reasonable effort to obtain medical malpractice insurance coverage and has been unable to obtain such insurance shall be entitled to apply to the association for such coverage. Such application may be made on behalf of an applicant by a broker or agent authorized by the applicant. If the association determines that the applicant meets the underwriting standards of the association as prescribed in the plan of operation and there is no unpaid, uncontested premium due from the applicant for prior insurance as shown by the insured having failed to make written objection to premium charges within thirty days after billing, the association, upon receipt of the premium, or such portion thereof as is prescribed in the plan of operation, shall cause to be issued a policy of medical malpractice insurance for a term of one year. If at any time the commissioner determines that medical malpractice insurance is not adequately available to any provider of health care in the commonwealth, other than a licensed physician, licensed dentist or hospital, he shall, after proper notice and hearing, promulgate an order allowing the particular provider of health care to be eligible for application to the association. Any licensed dentist insured by the association on or before the effective date of this act shall be entitled to remain insured by the association.

This Bill was returned by the Governor to the House of Representatives, the branch in which it originated with his objections thereto. Said bill was passed by the House on December 15, 1993 and by the Senate on December 21,1993, the objections of the Governor notwithstanding, and in the manner prescribed by the Constitution and therefore has the force of law.

Chapter 376. AN ACT RELATIVE TO ESCAPES OR ATTEMPTED ESCAPES FROM COURTHOUSES.

Be it enacted, etc., as follows:

Chapter 268 of the General Laws is hereby amended by striking out section 16, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 16. A prisoner of any penal institution including a prisoner who is held in custody for a court appearance or a person committed under the provisions of section five or six of chapter one hundred and twenty-three A to a treatment center or branch thereof described in sections two and four of said chapter one hundred and twenty-three A, or a prisoner committed to any jail or correctional institution under a lawful order of a court, who escapes or attempts to escape from any such institution or from land appurtenant thereto, or from any courthouse or from land appurtenant thereto or from the custody of any officer thereof while being conveyed to or from said institution, center or branch, or fails to return from any temporary release from said institution under the provisions of section ninety A of chapter one hundred and twenty-seven, or fails to return from any temporary release from said institution, center or branch, may be pursued and recaptured and shall be punished by imprisonment in the state prison for not more than ten years or by imprisonment in a jail or house of correction for not more than two and one-half years.

Approved January 3, 1994.

Chapter 377. AN ACT AUTHORIZING THE SHELBURNE FALLS FIRE DISTRICT TO APPOINT A CLERK/TREASURER AND TAX COLLECTOR.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the Shelburne Falls fire district commissioners are hereby authorized to appoint a district clerk for a term of up to three years, effective on district election day April eleventh, nineteen hundred and ninety-four, unless the position of district clerk is vacated at an earlier date.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the Shelburne Falls fire district commissioners are hereby authorized to appoint a tax collector for a term of up to three years, effective on district election day April eleventh, nineteen hundred and ninety-four, unless the position of tax collector is vacated at an earlier date.

SECTION 3. The Shelburne Falls fire district commissioners are hereby authorized to combine the positions of district clerk, treasurer, and tax collector into one or more positions to be appointed by the district commissioners for a term of up to three years effective on district election day April eleventh, nineteen hundred and ninety-four, unless the positions are vacated at an earlier date.

Approved January 3, 1994.

Chapter 378. AN ACT AUTHORIZING ALTERNATE MEMBERS FOR THE HISTORICAL COMMISSION OF THE CITY KNOWN AS THE TOWN OF METHUEN.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section eight D of chapter forty of the General Laws, the city known as the town of Methuen may, by ordinance, provide for alternate members of the historical commission. Said alternate members may be designated by the chairman of said historical commission to sit on said historical commission.

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

Approved January 3, 1994.

Chapter 379. AN ACT AUTHORIZING THE CITY OF MALDEN TO GUARANTY A BORROWING BY THE MALDEN PUBLIC LIBRARY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the city of Malden is hereby authorized to enter into a contract, guaranty or other credit support document pursuant to which said city shall pledge its full faith and credit to assure the timely payment by the Malden Public Library, a corporation established pursuant to chapter one hundred and forty-six of the acts of eighteen hundred and eighty-five to provide a public library for the citizens of the city of Malden, of the principal and premium, if any, of and interest on, and its timely payment and punctual performance of all liabilities and obligations relating to, a loan from the Massachusetts Industrial Finance Agency made pursuant to chapter twenty-three A of the General Laws, and of revenue bonds to be issued

by said Massachusetts Industrial Finance Agency pursuant to said chapter twenty-three A to provide said loan or an alternative source of funds. Said loan to be made and said revenue bonds or source of funds to be issued to provide for the acquisition, construction, improvement and equipping of a project in said city of Malden consisting generally of the expansion and renovation of the library facilities owned, maintained and operated by the Malden Public Library and related working capital.

SECTION 2. The terms, including but not limited to, principal amount, interest rate or rates, maturity date, debt service, which need not be level payment, redemption provisions and prices, and manner and terms of sale of said bonds and said loan shall be as determined by the Massachusetts Industrial Finance Agency as authorized by and in accordance with chapter twenty-three A of the General Laws or by the alternative source of funds and, solely for purposes of said contract, guaranty or other credit support document, with the approval of the mayor of the city of Malden.

SECTION 3. For the purposes authorized in section one and subject to section two, the mayor of the city of Malden is authorized, acting singly, on behalf of and in the name of said city, to approve the form of and terms and conditions contained in said contract, guaranty or other credit support document, to execute and deliver said contract, guaranty or other credit support document, and to effect the pledge or assignment of said contract, guaranty or other credit support document to secure said bonds or alternative source of funds, his execution thereof conclusively to identify the same as having been so approved.

SECTION 4. The obligations of the city of Malden under any contract, guaranty or other credit support document entered into pursuant to this act shall constitute a pledge of the full faith and credit of said city as though said contract, guaranty or other credit support document were indebtedness incurred in accordance with the provisions of chapter forty-four of the General Laws, but such obligations shall not be taken into account in determining the outstanding indebtedness of said city for purposes of section ten of said chapter forty-four or any other provision of general or special law imposing a limitation on the amount of indebtedness which may be incurred by said city.

SECTION 5. This act shall take effect upon its passage.

Approved January 3, 1994.

Chapter 380. AN ACT RELATIVE TO SAFETY IN THE PUBLIC SCHOOLS.

Be it enacted, etc., as follows:

SECTION 1. Section 37H of chapter 71 of the General Laws, as inserted by section 36 of chapter 71 of the acts of 1993, is hereby amended by striking out subsection (e) and inserting in place thereof the following subsection:-

(e) When a student is expelled under the provisions of this section, no school or school district within the commonwealth shall be required to admit such student or to provide educational services to said student. If said student does apply for admission to another school or school district, the superintendent of the school district to which the application is made may request and shall receive from the superintendent of the school expelling said student a written statement of the reasons for said expulsion.

SECTION 2. Said chapter 71 is hereby further amended by inserting after said section 37H, inserted by section 36 of chapter 71 of the acts of 1993, the following section:-

Section 37H½. Notwithstanding the provisions of section eighty-four and sections sixteen and seventeen of chapter seventy-six:

(1) Upon the issuance of a criminal complaint charging a student with a felony or upon the issuance of a felony delinquency complaint against a student, the principal or headmaster of a school in which the student is enrolled may suspend such student for a period of time determined appropriate by said principal or headmaster if said principal or headmaster determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school. The student shall receive written notification of the charges and the reasons for such suspension prior to such suspension taking effect. The student shall also receive written notification of his right to appeal and the process for appealing such suspension; provided, however, that such suspension shall remain in effect prior to any appeal hearing conducted by the superintendent.

The student shall have the right to appeal the suspension to the superintendent. The student shall notify the superintendent in writing of his request for an appeal no later than five calendar days following the effective date of the suspension. The superintendent shall hold a hearing with the student and the student's parent or guardian within three calendar days of the student's request for an appeal. At the hearing, the student shall have the right to present oral and written testimony on his behalf, and shall have the right to counsel. The superintendent shall have the authority to overturn or alter the decision of the principal or headmaster, including recommending an alternate educational program for the student. The superintendent shall render a decision on the appeal within five calendar days of the hearing. Such decision shall be the final decision of the city, town or regional school district with regard to the suspension.

(2) Upon a student being convicted of a felony or upon an adjudication or admission in court of guilt with respect to such a felony or felony delinquency, the principal or headmaster of a school in which the student is enrolled may expel said student if such principal or headmaster determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school. The student shall receive written notification of the charges and reasons for such expulsion prior to such expulsion taking effect. The student shall also receive written notification of his right to appeal and the process for appealing such expulsion; provided, however, that the expulsion shall remain in effect prior to any appeal hearing conducted by the superintendent.

The student shall have the right to appeal the expulsion to the superintendent. The student shall notify the superintendent, in writing, of his request for an appeal no later than five calender days following the effective date of the expulsion. The superintendent shall hold a hearing with the student and the student's parent or guardian within three calendar days of the expulsion. At the hearing, the student shall have the right to present oral and written testimony on his behalf, and shall have the right to counsel. The superintendent shall have the authority to overturn or alter the decision of the principal or headmaster, including recommending an alternate educational program for the student. The superintendent shall render a decision on the appeal within five calender days of the hearing. Such decision shall be the final decision of the city, town or regional school district with regard to the expulsion.

Upon expulsion of such student, no school or school district shall be required to provide educational services to such student.

SECTION 3. The department of education and the department of youth services shall, pursuant to a study and recommendations conducted by the MassJobs Council, assure that an educational opportunity is provided for a student whose admission to a school or right to educational services is regulated by the provisions of this act.

Said study shall contain a statistical analysis of the number of students who have been expelled and the services that are now provided, and recommendations for the provision of education to expelled students in the future. Said study shall be completed within five months and shall be submitted to the house and senate clerk and the house and senate chairmen of the joint committee on education, arts and humanities.

Approved January 4, 1994.

Chapter 381. AN ACT PROVIDING FOR APPOINTMENT OF THE TAX COLLECTOR IN THE TOWN OF LEICESTER.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section one of chapter forty-one of the General Laws, the board of selectmen of the town of Leicester shall, upon the expiration of the term of the incumbent tax collector, appoint a person to the office of tax collector for a term of three years. He may be removed for cause. He shall have the power, perform the duties and be subject to the liabilities and penalties now or hereafter conferred or imposed by law on tax collectors. Any vacancy in the office shall be filled in like manner by appointment by the board of selectmen for the remaining unexpired term.

Approved January 4, 1994.

Chapter 382. AN ACT RELATIVE TO THE PROMPT COLLECTION OF WATER AND SEWER BILLS.

Be it enacted, etc., as follows:

Chapter 244 of the General Laws is hereby amended by inserting after section 15 the following section:-

Section 15A. A mortgagee taking possession of mortgaged premises prior to foreclosure or a mortgagee conveying title to mortgaged premises pursuant to the provisions of this chapter shall, within thirty days of taking possession or conveying title, notify all residential tenants of said premises, and the office of the assessor or collector of taxes of the municipality in which the premises are located and any persons, companies, districts, commissions or other entities of any kind which provide water or sewer service to the premises, of said taking possession or conveying title.

Approved January 4, 1994.

Chapter 383. AN ACT AUTHORIZING THE COMMISSIONER OF THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE CITY OF SPRINGFIELD TO WESTERN NEW ENGLAND COLLEGE.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations is hereby authorized, notwithstanding the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to sell and convey by a 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, situated in the city of Springfield to Western New England College, at fair market value after appraisal and subject to the requirements of section two of this act, and to such other terms and conditions as said commissioner may prescribe. Said parcel is shown on a plan entitled "A Map of Lands Owned By the Commonwealth of Massachusetts in the City of Springfield, Massachusetts. Scale 1"=100' June 25, 1981 R.C. Moore, P.E.", and bounded and described as follows:

Westerly by Evergreen Road, 1,555.67 feet;

Northerly by land of Western New England College as shown on said plan, 878.69 feet;

Westerly by last named land, 502.48 feet;

Northerly by land now formerly of the City of Springfield as shown on said plan, 549 feet;

Easterly by Ashland Avenue, 1,180.41 feet;

Northerly by land of owner unknown, 24.75 feet;

Easterly by land of owner unknown, 1,013.16 feet;

Southerly by land now or formerly of the Commonwealth of Massachusetts as shown on said plan, a total distance of 1,262.25 feet;

Easterly by last named land, 275 feet; and

Southerly by land of owners unknown, 225 feet.

Being part of the premises described in Land Court Certificate of Title #13908.

SECTION 2. The recipient of said conveyance 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 sale of this parcel.

Approved January 4, 1994.

Chapter 384. AN ACT FURTHER REGULATING INSURANCE COVERAGE FOR CERTAIN INHERITED DISEASES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate insurance coverage for certain inherited diseases, 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 32A of the General Laws is hereby amended by inserting after section 17 the following section:-

Section 17A. The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for nonprescription enteral formulas for home use for which a physician has issued a written order and which are medically necessary for the treatment of malabsorption caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, gastrointestinal motility, chronic intestinal pseudo-obstruction, and inherited diseases of amino acids and organic acids. Coverage for inherited diseases of amino acids and organic acids shall include food products modified to be low protein in an amount not to exceed two thousand five hundred dollars annually for any insured individual.

Section 2. Chapter 175 of the General Laws is hereby amended by striking out section 47I, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 47I. Any individual policy of accident and sickness insurance issued pursuant to section one hundred and eight, and any group blanket policy of accident and sickness insurance issued pursuant to section one hundred and ten, shall provide coverage for nonprescription enteral formulas for home use for which a physician has issued a written order and which are medically necessary for the treatment of malabsorption caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, gastrointestinal motility, chronic

intestinal pseudo-obstruction, and inherited diseases of amino acids and organic acids. Coverage for inherited diseases of amino acids and organic acids shall include food products modified to be low protein in an amount not to exceed two thousand five hundred dollars annually for any insured individual.

SECTION 3. Said chapter 175 is hereby further amended by striking out section 47I, as amended by section 2 of this act, and inserting in place thereof the following section:-

Section 47I. Any individual policy of accident and sickness insurance issued pursuant to section one hundred and eight, and any group blanket policy of accident and sickness insurance issued pursuant to section one hundred and ten, shall provide coverage for nonprescription enteral formulas for home use for which a physician has issued a written order and which are medically necessary for the treatment of malabsorption caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, gastrointestinal motility, or chronic intestinal pseudo-obstruction.

SECTION 4. Chapter 176A of the General Laws is hereby amended by striking out section 8L, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 8L. Any contract between a subscriber and the corporation under an individual or group hospital service plan that shall be delivered, issued or renewed in the commonwealth shall provide, as benefits to all individual subscribers and members within the commonwealth, coverage for nonprescription enteral formulas for home use for which a physician has issued a written order and which are medically necessary for the treatment of malabsorption caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, gastrointestinal motility, chronic intestinal pseudo-obstruction, and inherited diseases of amino acids and organic acids. Coverage for inherited diseases of amino acids and organic acids shall include food products modified to be low protein in an amount not to exceed two thousand five hundred dollars annually for any insured individual.

SECTION 5. Said chapter 176A is hereby further amended by striking out section 8L, as amended by section 4 of this act, and inserting in place thereof the following section:-

Section 8L. Any contract between a subscriber and the corporation under an individual or group hospital service plan that shall be delivered, issued or renewed in the commonwealth shall provide, as benefits to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment within the commonwealth, coverage for nonprescription enteral formulas for home use, for which a physician has issued a written order and which are medically necessary for the treatment of malabsorption caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, gastrointestinal motility or chronic intestinal pseudo-obstruction.

SECTION 6. Chapter 176B of the General Laws is hereby amended by striking out section 4K, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 4K. Any subscription certificate under an individual or group medical service agreement that shall be delivered, issued or renewed in the commonwealth shall provide, as benefits to all individual subscribers and members within the commonwealth, all group members having a principal place of employment within the commonwealth and all persons included in section four C, coverage for nonprescription enteral formulas for home use for which a physician has issued a written order and which are medically necessary for the treatment of malabsorption caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, gastrointestinal motility, chronic intestinal pseudo-obstruction, and inherited diseases of amino acids and organic acids. Coverage for inherited diseases of amino acids and organic acids shall include food products modified to be low protein in an amount not to exceed two thousand five hundred dollars annually for any insured individual.

SECTION 7. Said chapter 176B is hereby further amended by striking out section 4K, as amended by section 6 of this act, and inserting in place thereof the following section:-

Section 4K. Any subscription certificate under an individual or group medical service agreement that shall be delivered, issued or renewed in the commonwealth shall provide, as benefits to all individual subscribers and members within the commonwealth, all group members having a principal place of employment within the commonwealth and all persons included in section four C, coverage for nonprescription enteral formulas for home use for which a physician has issued a written order and which are medically necessary for the treatment of malabsorption caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, gastrointestinal motility, or chronic intestinal pseudo-obstruction.

SECTION 8. Chapter 176G of the General Laws is hereby amended by striking out section 4D, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 4D. A group health maintenance contract shall provide coverage for nonprescription enteral formulas for home use for which a physician has issued a written order and which are medically necessary for the treatment of malabsorption caused by Crohn's disease, ulcerative colitis, gastroesophageal reflux, gastrointestinal motility, chronic intestinal pseudo-obstruction, and inherited diseases of amino acids and organic acids. Coverage for inherited diseases of amino acids and organic acids shall include food products modified to be low protein in an amount not to exceed two thousand five hundred dollars annually for any insured individual.

SECTION 9. Said chapter 176G is hereby further amended by striking out section 4D, as amended by section 8 of this act, and inserting in place thereof the following section:-

Section 4D. Any group health maintenance contract shall provide coverage for nonprescription enteral formulas for home use as set forth in section forty-seven I of chapter one hundred and seventy-five.

SECTION 10. The commissioner of the department of public health, in consultation with the commissioner of the division of insurance, is hereby authorized and directed to report on the practices of other states with respect to public or private programs that assist,

subsidize, purchase or otherwise ensure the availability of modified low protein foods, including but not limited to milk, to persons with phenylketonuria, or PKU, so-called. Said report shall examine the incidence of PKU in such states and to the extent feasible, the income distribution of such persons. Said report shall examine the legal basis for making or requiring such public or private assistance, including, but not limited to, mandatory insurance requirements and publicly supported assistance programs. Said report shall examine the administrative and direct service costs of and funding sources for said programs and the range and average amounts of assistance obtained by such persons. Said report shall further include a survey of the types and costs of such foods, their availability in the commonwealth and an assessment of whether group or bulk purchasing would result in savings for such persons. The commissioner shall file said report, and recommendations, if any, for making such assistance available in the commonwealth, with the house committee on ways and means not later than May first, nineteen hundred and ninety-four.

SECTION 11. Sections two, four, six, and eight of this act shall take effect on January first, nineteen hundred and ninety-four. Sections three, five, seven and nine shall take effect on January first, nineteen hundred and ninety-five.

Approved January 4, 1994.

Chapter 385. AN ACT RELATIVE TO THE LICENSING OF FORESTERS.

Be it enacted, etc., as follows:

Chapter 132 of the General Laws is hereby amended by adding the following four sections:-

Section 47. As used in sections forty-seven to fifty-one, inclusive, the following words shall have the following meanings, unless the context clearly requires otherwise:-

"Forestry", the science, the art and the practice of conserving and managing for human benefit the natural resources, including trees, other plants, animals, soil and water, that occur on and in association with forest lands.

"Practice of forestry", any professional services requiring the application of forestry principles and techniques. Such services shall include, but not be limited to, forest inventory, forest management planning, timber appraisal, the responsibility for the direction and supervision of silvicultural activities, use and protection of forested areas, and the evaluation of the economic and biological consequences of forest management activities.

Section 48. No person shall hold himself out as a forester and engage in the practice of forestry in the commonwealth unless he is licensed in accordance with section forty-nine.

A person who violates the provisions of this section or who fraudulently obtains or attempts to obtain such license or continues to practice forestry after suspension, expiration or revocation of his license, shall be punished by a fine of not less than five hundred nor more than one thousand dollars for each such violation. The superior court shall have jurisdiction to enforce the provisions of this section and to remedy any violation thereof.

Section 49. The director of the division of forests and parks shall promulgate rules and regulations hereunder, and shall issue licenses to persons to engage in the practice of forestry in accordance with such rules and regulations. Said director may revoke or suspend such license, if after hearing, he determines that any licensed forester has engaged in fraud, negligence, incompetence or misconduct in the practice of forestry. Licenses issued by said director shall expire annually on the anniversary date of the license granted for said forester. The fee for the issuance of such license shall be determined annually by the secretary of administration under the provisions of section three B of chapter seven, and such fees shall defray the entire cost of the administration of sections forty-seven to fifty-one, inclusive.

Section 50. There is hereby established a forester licensing committee, consisting of nine members, one of whom shall be the director of forests and parks, who shall act as chairman, one of whom shall be the chairman of the state forestry committee established in section forty-one or his designee, one of whom shall be the chief forester of the department, and six persons to be appointed by the governor, one of whom shall be a person nominated by the Massachusetts Association of Professional Foresters, one of whom shall be a licensed timber harvester, one of whom shall be an owner of classified forestland, one of whom shall be a representative of the executive office of consumer affairs, one of whom shall be a representative of the executive office of environmental affairs, and one of whom shall be a representative of an environmental organization. The forester licensing committee shall recommend qualifications and procedures for the licensing of foresters and shall assist the director in the preparation of rules and regulations for such licensing. Members of said commission shall serve without compensation.

Approved January 4, 1994.

Chapter 386. AN ACT RELATIVE TO CORPORATE TAX DISCLOSURE.

Be it enacted, etc., as follows:

SECTION 1. Subsection (a) of section 83 of chapter 62C of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "record", in line 25, the following words:- ; provided, however, that such report or amended report shall be available for public inspection only after the state secretary has expunged the name of the taxpayer and the location, including street address, of the taxpayer's principal office as required by subsection (n).

SECTION 2. Subsection (c) of said section 83 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 56, the word "and",- and by striking out, in line 58, the figure "355C-B." and inserting in place thereof the following:- 355C-B; and

(9) the amount of each tax credit taken against the excise imposed by chapter sixty-three, as reported on form 355A, 355B, 355C-A or 355C-B.

SECTION 3. Subsection (d) of said section 83 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 68, the word "and",- and by striking out, in line 70, the word "B.T.C." and inserting in place thereof the following:- B.T.C.; and

(6) the amount of each tax credit taken against the excise imposed by chapter sixty-three, as reported on form 63 B.T.C.

SECTION 4. Subsection (e) of said section 83 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 84, the word "and",- and by striking out, in line 86, the word "DL-2." and inserting in place thereof the following:- DL-2; and

(7) the amount of each tax credit taken against the excise imposed by chapter sixty-three, as reported on form DL-1 or DL-2.

SECTION 5. Subsection (f) of said section 83 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 101, the word "and",- and by striking out, in line 103, the figure "63-22." and inserting in place thereof the following:- 63-22; and

(6) the amount of each tax credit taken against the excise imposed by chapter sixty-three, as reported on form 63-22.

SECTION 6. Subsection (g) of said section 83 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 117, the word "and",- and by striking out, in line 119, the figure "63-20-23." and inserting in place thereof the following:- 63-20-23; and

(6) the amount of each tax credit taken against the excise imposed by chapter sixty-three, as reported on form 63-20-23.

SECTION 7. Subsection (h) of said section 83 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 132, the word "and",- and by striking out, in line 134, the figure "63-23." and inserting in place thereof the following:- 63-23; and

(6) the amount of each tax credit taken against the excise imposed by chapter sixty-three, as reported on form 63-23.

SECTION 8. Subsection (i) of said section 83 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 142, the word "and",- and by striking out, in line 144, the figure "176-I." and inserting in place thereof the following:- 176-I; and

(6) the amount of each tax credit taken against the excise imposed by chapter sixty-three, as reported on form 176-I.

SECTION 9. Said section 83 of said chapter 62C, as so appearing, is hereby further amended by adding the following subsection:-

(n) Upon receipt of a report filed under this section the state secretary shall assign the report a number, chosen by the state secretary at random, which number shall be used to identify the report for purposes of public inspection of the report and any amendments thereto. A taxpayer shall be assigned the same number for its reports and any amendments thereto each year. The state secretary shall make available for public inspection copies of all reports and amended reports filed under this section after assigning such numbers and expunging from each copy the name of the taxpayer and the location, including street address, of the taxpayer's principal office.

SECTION 10. This act shall take effect as of December thirty-first, nineteen hundred and ninety-three.

Emergency Letter: January 5, 1994 @1:28 P.M. Approved January 4, 1994.

Chapter 387. AN ACT RELATIVE TO THE USE OF SEAT BELTS IN MOTOR VEHICLES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the use of safety belts in certain motor vehicles, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted, etc., as follows:

SECTION 1. Chapter 90 of the General Laws is hereby amended by inserting after section 13 the following section:-

Section 13A. No person shall operate a private passenger motor vehicle or ride in a private passenger motor vehicle, a vanpool vehicle or truck under eighteen thousand pounds on any way unless such person is wearing a safety belt which is properly adjusted and fastened; provided, however, that this provision shall not apply to:

(a) any child less than twelve years of age who is subject to the provisions of section seven AA;

(b) any person riding in a motor vehicle manufactured before July first, nineteen hundred and sixty-six;

(c) any person who is physically unable to use safety belts; provided, however, that such condition is duly certified by a physician who shall state the nature of the handicap, as well as the reasons such restraint is inappropriate; provided, further, that no such physician shall be subject to liability in any civil action for the issuance or for the failure to issue such certificate;

(d) any rural carrier of the United States Postal Service operating a motor vehicle while in the performance of his duties; provided, however, that such rural mail carrier shall be subject to department regulations regarding the use of safety belts or occupant crash protection devices;

(e) anyone involved in the operation of taxis, liveries, tractors, trucks with gross weight of eighteen thousand pounds or over, buses, and passengers of authorized emergency vehicles.

Any person who operates a motor vehicle without a safety belt, and any person sixteen years of age or over who rides as a passenger in a motor vehicle without wearing a safety belt in violation of this section, shall be subject to a fine of twenty-five dollars. Any operator of a motor vehicle shall be subject to an additional fine of twenty-five dollars for each person under the age of sixteen and no younger than twelve who is a passenger in said

motor vehicle and not wearing a safety belt. The provisions of this section shall be enforced by law enforcement agencies only when an operator of a motor vehicle has been stopped for a violation of the motor vehicle laws or some other offense.

Any person who receives a citation for violating this section may contest such citation pursuant to section three of chapter ninety C. A violation of this section shall not be considered as a conviction of a moving violation of the motor vehicle laws for the purpose of determining surcharges on motor vehicle premiums pursuant to section one hundred and thirteen B of chapter one hundred and seventy-five.

SECTION 2. The provisions of section one of this act shall apply to any municipal, county or district public employee.

SECTION 3. Failure to wear a properly fastened safety belt shall not be considered as contributory negligence or used as evidence in any civil action.

SECTION 4. The registrar of motor vehicles shall require, pursuant to his authority under section twenty-nine of chapter ninety of the General Laws, that police officers shall record the use or non-use of safety belts when reporting automobile accidents.

SECTION 5. The secretary of public safety shall direct the governor's highway safety bureau to conduct an extensive public information and education program in motor vehicle occupant protection, evaluate the effectiveness of this act, including the degree of compliance with the provisions of this act and report its findings to the general court no later than June first, nineteen hundred and ninety-five.

SECTION 6. The secretary of consumer affairs shall direct the commissioner of insurance to evaluate the effectiveness of this act and frequency of bodily injury claims during the year following the effective date of this act and report its findings and recommendations to the general court.

SECTION 7. The commissioner of insurance shall mandate a minimum five percent reduction in bodily injury premiums if the observed safety belt use rate among all occupants equals or exceeds fifty percent one year after this law has been in effect. Annual surveys of belt use shall be conducted by the governor's highway safety bureau and shall conform to standards approved by the National Highway Traffic Safety Administration.

Annual safety belt survey results shall be a criterion in all future regulatory actions regarding bodily injury premiums. If at any time the safety belt use rate in the commonwealth exceeds the national average, additional reductions in bodily injury premiums shall take effect.

SECTION 8. No insurance company doing business in the commonwealth shall deny coverage to any individual who has failed to wear a safety belt during the occurrence of an accident resulting in bodily injury; nor shall any insurance company deny an individual the right to purchase a motor vehicle liability policy based on a violation of the provisions of section thirteen A of chapter ninety of the General Laws.

SECTION 9. This act shall take effect on February first, nineteen hundred and ninety-four.

This bill was returned by the Governor to the House of Representatives, the branch in which it originated with his objections thereto. Said bill was passed by the House on January 4, 1994 and in concurrence by the Senate on January 4, 1993, the objections of the Governor notwithstanding, and in the manner prescribed by the Constitution and therefore has the force of law.

Chapter 388. AN ACT RELATIVE TO THE RENTING OF VIDEOS.

Be it enacted, etc., as follows:

Chapter 93 of the General Laws is hereby amended by adding the following section:-

Section 106. (1) No persons engaged in the business of leasing or renting videos or any employee thereof shall maintain records that would indicate the title or category of any video leased or rented by a borrower other than the records necessary to ensure a completed transaction of such video. Records indicating the name of the borrower together with the title or category of the video shall be eliminated within thirty days after the transaction is completed. A transaction shall not be considered complete until all contractual rights or obligations between the parties regarding a particular video have been satisfied, including any credit due, late fees, rewinding charges or settlement for property damage and any investigation related thereto.

(2) No persons engaged in the business of leasing or renting videos or any employees thereof shall make available to a third party records that would indicate the name of the borrower or the title or category of any video leased or rented by a borrower, except under a proceeding authorized by 18 USC 2710(b)(2) (C) and (F).

(3) Any violation of this section shall be punishable by imprisonment in a house of correction for not more than sixty days or a fine of one thousand dollars, or both such fine and imprisonment.

This bill was returned by the Governor to the Senate, the branch in which it originated with his objections thereto. Said bill was passed by the Senate on December 21, 1993 and in the House of Representatives on January 4, 1994, the objections of the Governor notwithstanding, and in the manner prescribed by the Constitution and therefore has the force of law.

Chapter 389. AN ACT AUTHORIZING THE RETIREMENT BOARD OF THE CITY OF SPRINGFIELD TO PAY CERTAIN BENEFITS TO THE SURVIVING SPOUSE OF JAMES DANIEL TATRO.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any other general or special law to the contrary, the retirement board of the city of Springfield is hereby authorized to pay Susan Tatro, the surviving spouse of James Daniel Tatro, an accidental death benefit as provided

under the provisions of section nine of chapter thirty-two of the General Laws, and said city of Springfield is hereby authorized to pay reasonable funeral and burial expenses as provided under the provision of section one hundred G of chapter forty-one of the General Laws.

SECTION 2. Section one shall take effect as of November twenty-five, nineteen hundred and ninety-three.

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

Approved January 7, 1994.

Chapter 390. AN ACT RELATIVE TO THE TRITON REGIONAL SCHOOL DISTRICT.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section fourteen E of chapter seventy-one of the General Laws or any other general or special law, rule or regulation to the contrary, the Triton Regional School District is hereby authorized to elect members to the regional school district committee in districtwide elections to be held annually on the second Tuesday in May. The cost incurred by a town for conducting a districtwide election shall be reimbursed by the Triton Regional School District.

Approved January 7, 1994.

Chapter 391. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT AN EASEMENT INTEREST IN CERTAIN LAND LOCATED IN THE TOWN OF GRAFTON.

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 an easement interest in certain land located in the town of Grafton to an individual or entity, subject to the requirements of sections two to four, inclusive, and to such additional terms and conditions as the commissioner may prescribe, said easement is shown on a plan entitled "THE COMMONWEALTH OF MASSACHUSETTS, EASEMENT PLAN of LAND in GRAFTON, MASSACHUSETTS, Worcester County, January 8, 1993; Scale: 1 inch = 40 feet; record owner: THE COMMONWEALTH OF MASSACHUSETTS, Assessor Map 12, Parcel 20 and Assessor Map 21, Parcel 1B; Book 1730, Page 248; prepared by James P. Troupes, P. L. S., P. O. Box 9, Woodville, MA, 01784".

SECTION 2. No such deed conveying by or on behalf of the commonwealth said easement described in section one shall be valid unless such deed provides that said easement be used for the purpose of providing communication services to the area.

SECTION 3. If at any time the easement interest is not used for the purpose described in section two, the easement interest shall revert to the commonwealth upon terms and conditions as determined by the commissioner.

SECTION 4. The recipient of said easement shall assume the costs of appraisals, surveys and any other expenses deemed necessary by the commissioner of the department of capital planning and operations for the granting of said easement.

SECTION 5. The commissioner of the division of capital planning and operations is hereby authorized, notwithstanding the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to grant an easement over a certain parcel of vacant land located in the city of Worcester to the city of Worcester for roadway purposes, subject to such terms and conditions as the commissioner may prescribe. Said easement is described as Parcel 9 - C shown on a plan entitled "Plan of Land in Worcester, Massachusetts. To Be Conveyed As A Permanent Easement For Street Purposes To The City Of Worcester By Commissioner Of Massachusetts Department Of Mental Health Scale 1"=100' June 9, 1989".

Approved January 7, 1994.

Chapter 392. AN ACT RELATIVE TO CERTAIN INSURANCE PAYMENTS BY THE MONTACHUSETT REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the Montachusett regional vocational technical school district committee is hereby authorized to enter into an agreement with the Montachusett Regional Teachers Association, which may become part of the collective bargaining agreement between said committee and said association providing that said district may pay fifty percent of the premium actually paid for group insurance by the surviving spouses of teachers who taught for ten years or more in said district and who died while employed by said district until such time as the surviving spouse remarries.

Approved January 7, 1994.

Chapter 393. AN ACT RELATIVE TO HEALTH CARE FOR UNINSURED CHILDREN.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for a comprehensive program for children between birth and age

twelve who are otherwise uninsured, 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. Paragraph (e) of section 2T of chapter 29 of the General Laws, added by section 82 of chapter 110 of the acts of 1993, is hereby amended by striking out, in line 2, the words "age six" and inserting in place thereof the following word:- birth.

SECTION 2. Section 16 of chapter 118F of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 18, the word "three" and inserting in place thereof the following word:- four,- and by inserting after paragraph (c) the following paragraph:-

(d) a children's health protection account which shall consist of voluntary contributions by persons and entities, and appropriations from the commonwealth and which shall be used for payment of premiums for health insurance plans provided to children pursuant to section seventeen B.

SECTION 3. Section 17A of said chapter 118F, as so appearing, is hereby amended by striking out subsection (i) and inserting in place thereof the following subsection:-

(i) to fund a program of primary and preventive health care for the benefit of dependent and adoptive children from birth through age twelve as defined in section seventeen B.

SECTION 4. Said chapter 118F is hereby further amended by striking out section 17B, as so appearing, and inserting in place thereof the following section:-

Section 17B. There is hereby established a managed care program of uninsured primary and preventive health care services for the benefit of dependent and adopted youths from birth through age twelve. Said program shall be administered by the department which shall have authority to promulgate regulations for the implementation of the requirements established by this section. Said program shall be funded from the children's health protection account of the medical security trust fund established pursuant to clause (d) of section sixteen of chapter one hundred and eighteen F.

Health care services made available under said program shall include the following:-

(1) preventive pediatric care in a participating doctor's office, community health center, health maintenance organization or school-based clinic, including not less than one well-child visit a year, immunizations, tuberculin testing, hematocrit, hemoglobin and other appropriate blood testing, urinalysis, and routine tests to screen for lead poisoning, and such services as are periodically recommended by the American Academy of Pediatrics; provided that services are provided by a participating independent laboratory for diagnostic laboratory tests shall be reimbursed by said program;

(2) unlimited sick visits in a participating doctor's office, community health center, health maintenance organization, school-based clinic or a patient's home;

(3) emergency care in the outpatient department or emergency room of a participating hospital of up to one thousand dollars per year, including related laboratory and diagnostic radiology services and the professional radiological component for the prompt treatment of an accidental injury, including fractures, dislocations and burns, or a medical emergency;

(4) first-aid treatment and follow up care, including the changing or removal of casts, burn dressings or sutures, in a participating doctor's office, community health center, health maintenance organization or school-based clinic;

(5) outpatient surgery and anesthesia for inguinal hernia and ear tubes, but not including the professional component for related radiology or pathology services;

(6) medically necessary outpatient mental health services not to exceed twenty-six visits per year;

(7) prescription drugs up to one hundred dollars per year, provided that program enrollees shall be charged a co-payment of three dollars for each interchangeable drug prescription and four dollars for each brand-name drug prescription, except as provided herein;

(8) mandatory enrollment of the parent, guardian or the person with whom the program enrollee resides, of program enrollees from birth through age twelve in a smoking education program certified for participation by the department in consultation with the department of public health;

(9) routine eye examinations once per year.

Said program shall also include cost-containment measures to ensure that only medically necessary services are rendered to program enrollees. Said program shall incorporate eligibility standards according to the regulations of the department of medical security. The cost of such program shall be further funded, in part, by premiums and copayments contributed by enrollees according to a sliding scale established by the department of medical security.

Revenues generated by said program, except for premiums and copayments, shall be deposited in the children's health protection account of the medical security trust fund established pursuant to clause (d) of section sixteen of chapter one hundred and eighteen F and made available to said program.

The department shall promulgate regulations necessary to implement the requirements of this section in consultation with the department of public health and the division of medical administration within the executive office of health and human services. The department shall further cooperate with the said division to maximize federal reimbursements made on behalf of enrollees in said program, including federal financial participation made available under Title XIX of the Social Security Act.

SECTION 5. Item 4513-1000 of section 2 of chapter 110 of the acts of 1993 is hereby amended by striking out, in lines 8 to 12, inclusive, the words:- "to the department of medical security for the establishment of a primary and preventive health care program for dependent and adoptive youth from ages six to twelve pursuant to the provisions of section one hundred and fifty-seven of this act;" and inserting in place thereof the following

words:- to the children's health protection account of the medical security trust fund established pursuant to clause (d) of section sixteen of chapter one hundred and eighteen F.

SECTION 6. Item 4600-1200 of section 2 of said chapter 110 is hereby amended by striking out, in lines 1 and 2, the words "preventive pediatric health care program established pursuant to section seventeen A" and inserting in place thereof the following words:- children's health protection account of the medical security trust fund established pursuant to clause (d) of section sixteen.

SECTION 7. Section 308 of said chapter 110 is hereby amended by striking out, in line 3, the words "age six" and inserting in place thereof the word:- birth.

Approved January 7, 1994.

Chapter 394. AN ACT PROVIDING FOR THE APPOINTMENT OF THE TREASURER IN THE TOWN OF SHIRLEY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section one of chapter forty-one of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Shirley shall appoint the town treasurer.

SECTION 2. Notwithstanding the provisions of section one of this act, the incumbent in the office of town treasurer upon the effective date of this act shall continue to hold said office and to perform the duties thereof until the expiration of his term or a precedent vacating of office.

Approved January 7, 1994.

Chapter 395. AN ACT AUTHORIZING AND DIRECTING THE STATE SUPERINTENDENT OF STATE OFFICE BUILDINGS TO INSTALL A PLAQUE IN THE STATE HOUSE IN HONOR OF MASSACHUSETTS POLICE OFFICERS KILLED IN THE LINE OF DUTY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the installation of a certain plaque in the state house, 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 state superintendent of state office buildings is hereby authorized and directed, in consultation with the art commission, established under the provisions of section nineteen

of chapter six of the General Laws, to install in a suitable place in the state house a plaque, provided and maintained by the Massachusetts Police Association, the Boston Police Patrolmen's Association and the Massachusetts State Police honoring the Massachusetts police officers who have been killed in the line of duty.

Approved January 7, 1994.

Chapter 396. AN ACT EXEMPTING THE OFFICE OF CHIEF OF POLICE OF THE TOWN OF AMESBURY 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 to the contrary, the position of chief of the police department of the town of Amesbury shall not be subject to 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 office of chief of the police department of the town of Amesbury on the effective date of this act.

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

Approved January 7, 1994.

Chapter 397. AN ACT EXEMPTING THE POSITION OF FIRE DIRECTOR OF THE CITY OF NORTH ADAMS FROM THE PROVISIONS OF CIVIL SERVICE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any provision of the general laws, or special act, to the contrary, the position of fire director of the city of North Adams shall be exempt from the provisions of chapter thirty-one of the general laws, provided however, the provisions of this section shall not impair the civil service status of any incumbent of the position of fire director in the city of North Adams on the effective date of this act.

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

Approved January 7, 1994.

Chapter 398. AN ACT EXEMPTING THE POSITION OF POLICE DIRECTOR OF THE CITY OF NORTH ADAMS FROM THE PROVISIONS OF CIVIL SERVICE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any provision of the general laws, or special act, to the contrary, the position of police director of the city of North Adams shall be exempt from the provisions of chapter thirty-one of the general laws, provided however, the provisions of this section shall not impair the civil service status of any incumbent of the position of police director in the city of North Adams on the effective date of the act.

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

Approved January 7, 1994.

Chapter 399. AN ACT RELATIVE TO THE WITHDRAWAL OF ADDITIONAL RETIREMENT DEDUCTIONS BY CERTAIN MEMBERS OF THE RETIREMENT SYSTEM OF THE CITY OF CHICOPEE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of chapter thirty-two of the General Laws or any other general or special law to the contrary, any member of the retirement system of the city of Chicopee may withdraw accumulated additional deductions under paragraph (g) of subdivision (1) of section twenty-two of said chapter thirty-two upon written application to the appropriate retirement board official prior to January first, nineteen hundred and ninety-five.

Approved January 7, 1994.

Chapter 400. AN ACT ESTABLISHING A SICK LEAVE BANK FOR C. STEPHEN ENNIS, AN EMPLOYEE OF THE DEPARTMENT OF YOUTH SERVICES.

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 department of youth services, 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, rule or regulation to the contrary, the department of youth services is hereby authorized and directed to establish a sick leave bank for C. Stephen Ennis an employee of said department. Any employee of

said department may voluntarily contribute one or more of his sick, personal or vacation days to said sick leave bank for use by said C. Stephen Ennis.

Approved January 7, 1994.

Chapter 401. AN ACT ESTABLISHING A SICK BANK FOR SYLVIA AYERS, AN EMPLOYEE OF THE DEPARTMENT OF SOCIAL SERVICES.

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 department of social services, 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 rule or regulation to the contrary, the department of social services is hereby authorized and directed to establish a sick leave bank for Sylvia Ayers, an employee of said department. Any employee of said department may voluntarily contribute one or more of his sick, personal or vacation days to said sick leave bank for use by said Sylvia Ayers.

Approved January 7, 1994.

Chapter 402. AN ACT ESTABLISHING A SICK LEAVE BANK FOR BARBARA RILEY, AN EMPLOYEE OF THE DEPARTMENT OF MENTAL RETARDATION.

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 department of mental retardation, 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, rule or regulation to the contrary, the department of mental retardation is hereby authorized and directed to establish a sick leave bank for Barbara Riley, an employee of said department. Any employee of said department may voluntarily contribute one or more of his sick, personal or vacation days to said sick leave bank for use by said Barbara Riley.

Approved January 7, 1994.

Chapter 403. AN ACT ESTABLISHING A SICK LEAVE BANK FOR TRUDY ELLIS, EMPLOYEE OF THE WRENTHAM STATE SCHOOL.

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 Wrentham State School, 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 rule or regulation to the contrary, the Wrentham state school is hereby authorized and directed to establish a sick leave bank for Trudy Ellis, an employee of said school. Any employee of said school may voluntarily contribute one or more sick, personal or vacation days to said sick leave bank for use by said Trudy Ellis.

Approved January 7, 1994.

Chapter 404. AN ACT FURTHER REGULATING THE MAXIMUM SPEED LIMIT FOR MOTOR VEHICLES ON CERTAIN ROADWAYS OF THE COMMONWEALTH.

Be it enacted, etc., as follows:

SECTION 1. Chapter 90 of the General Laws is hereby amended by inserting after section 17 the following section:-

Section 17A. Unless otherwise prohibited by federal law, the maximum speed for motor vehicles traveling 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, interstate highway route 91 from the Vermont border to Northampton, Exit 21, and interstate 95 from the Newbury interchange 56 to the Danvers interchange 50, shall be sixty-five miles per hour.

SECTION 2. Chapter two hundred and forty of the acts of nineteen hundred and ninety-one is hereby repealed.

Approved January 10, 1994.

Chapter 405. AN ACT RELATIVE TO SCHOOL BASED NUTRITION AND CHILDHOOD HUNGER RELIEF PROGRAMS.

Be it enacted, etc., as follows:

Section 1G of chapter 15 of the General Laws, as most recently amended by section 3

of chapter 71 of the acts of 1993, is hereby further amended by adding the following paragraph:-

The board shall further establish a school breakfast and summer food service outreach program. Said program or elements of said program shall be operated directly through the department or contracted out.

(a) Said program shall be designed to:

(i) increase the participation of low-income children in existing school breakfast programs and secondarily to encourage other schools to start a breakfast program. The target of said program is to bring the participation level of children who qualify for free or reduced price breakfasts under federal income eligibility guidelines to at least eighty-five percent of those eligible;

(ii) increase the number of summer food service programs offered across the state, with particular emphasis on needy communities, and to ensure that at least eighty-five percent of the children eligible under federal income guidelines participate in these programs.

(b) The school breakfast related outreach program activities shall include, but not be limited to:

(i) development of an outreach campaign to promote the link between a nutritious breakfast and the ability to learn; to make the school breakfast program attractive to all children; and to create a positive picture of school as a basic source of breakfast for all income groups. The efforts should be particularly targeted toward communities with the highest need and should include outreach to linguistic minorities;

(ii) technical assistance shall be provided and technical assistance materials shall be produced including, but not be limited to, facts and guidelines on United States Department of Agriculture requirements; ideas for increasing participation; ideas for safeguarding confidentiality; ways to involve parents and other members of the community; and suggestions for creative menus; and

(iii) technical assistance shall be provided for the development of new and innovative proposals including a "school breakfast period" during existing school hours in schools in which a majority of children are program eligible, and a universal breakfast program in school systems with eighty percent of the students eligible.

(c) The summer food service related outreach program activities shall include, but not be limited to:

(i) an outreach effort to public schools, public entities and private non-profit agencies which would be eligible to provide the summer food services program. Said outreach shall include information and incentives to encourage eligible organizations to be local sponsors or meal preparation sites for the federal summer food service program;

(ii) ongoing support and technical assistance shall be made available to existing programs year round to ensure that they continue to offer the program and to assist in increasing participation levels;

(iii) reviewing and developing training methods and materials provided however that particular attention be given to providing appropriate training for first time sponsors;

(iv) targeting communities and schools which have the highest percentage of program eligible children and establishing an order of descending priorities based on the percentage of program eligible children; provided, however, that there should be a concerted effort to outreach potential participants who are linguistic minorities; and

(v) establishing start up grants not to exceed two thousand five hundred dollars to encourage the participation of first time summer food service sites.

(d) In all activities of this school breakfast and summer food service outreach program, local communities shall be encouraged and assisted in maximizing the use of federal resources.

(e) Said school breakfast and summer food service outreach program shall work to ensure that local programs are carried out in a manner which protects the confidentiality of those children receiving subsidized meals.

(f) The commissioner shall submit a report to the clerk of the house of representatives who shall forward the same to the joint committee on education, arts and humanities on or before December thirty-first, nineteen hundred and ninety-four and on December thirty-first of each year thereafter. The report shall include, but not be limited to: the percentage of eligible children participating in school breakfast programs statewide during the previous school year; the amount of additional federal dollars brought into the state by all school breakfast and summer food service outreach program activities; the number of additional school breakfast and summer food service programs started in the preceding year; and the increase in participation in summer food services and school breakfast programs.

Approved January 10, 1994.

Chapter 406. AN ACT FURTHER REGULATING CERTAIN WILD CANID HYBRIDS AND WILD FELID HYBRIDS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 131 of the General Laws is hereby amended by inserting after section 77, as appearing in the 1992 Official Edition, the following section:-

Section 77A. No person shall possess, sell, trade, breed, import, export or release a wild canid hybrid or wild felid hybrid, except as otherwise provided by rules and regulations of the division. Any mammal which is the offspring of the reproduction between any species of wild canid or hybrid wild canid and a domestic dog or hybrid wild canid, or is represented by its owner to be a wolf hybrid, coyote hybrid, coy dog or any other kind of wild canid hybrid, or which is the offspring of the reproduction between any species of wild felid or hybrid wild felid and a domestic cat or hybrid wild felid or is represented by its owner to be a wild felid hybrid. All mammals shall be considered to be wild mammals and subject to the

provisions of this chapter.

The provisions of this act shall not apply to an owner or other person possessing any such animal as of January first, nineteen hundred and ninety-four who has received a permit from the director; provided, however, that such permit has been acquired on or before July thirty-first, nineteen hundred and ninety-four. Such owner or other person shall be subject to the rules and regulations promulgated by the division. Such rules and regulations may include, but shall not be limited to, provisions for the housing of such animals.

The provisions of this section shall not apply to an owner or person possessing a domesticated show or pet cat registered with a nationally or internationally recognized breeding association or registry which certifies the pedigree and registration of such cat to be without any wild felid parentage for a minimum of three generations.

SECTION 2. Section 90 of said chapter 131, as so appearing, is hereby amended by inserting after the tenth paragraph the following paragraph:-

Whoever violates any provision of section seventy-seven A shall be punished by a fine of not less than one hundred nor more than five hundred dollars.

Approved January 10, 1994.

Chapter 407. AN ACT RELATIVE TO THE PROCEDURE FOR SETTLEMENT APPROVAL OF CLAIMS OF MINORS AND INCOMPETENT PERSONS.

Be it enacted, etc., as follows:

The first paragraph of section 140C½ of chapter 231 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following sentence:- With respect to a settlement for which approval is requested under this section, a guardian or a guardian ad litem appointed by said trial court shall have the same authority as if appointed pursuant to a proceeding under chapter two hundred and one.

Approved January 10, 1994.

Chapter 408. AN ACT FURTHER REGULATING THE DENIAL, REVOCATION OR SUSPENSION OF LOCAL LICENSES AND PERMITS.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 57 of chapter 40 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any city or town which accepts the provisions of this section, may by by-law or ordinance deny any application for, or revoke or suspend any local license or permit including renewals and transfers issued by

any board, officer, department for any person, corporation or business enterprise, who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges.

SECTION 2. Paragraph (b) of said first paragraph of said section 57 of said chapter 40, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice.

Approved January 10, 1994.

Chapter 409. AN ACT TO LIMIT MUNICIPAL LIABILITY DURING HOUSEHOLD HAZARDOUS WASTE COLLECTIONS.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 21E of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the definition of "Hazardous material" the following definition:-

"Household hazardous waste collection", the collection of hazardous materials from households under a program sponsored by a municipality.

SECTION 2. Paragraph (a) of section 5 of said chapter 21E, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Except as provided in paragraphs (b) and (k), such liability shall be joint and several.

SECTION 3. Said section 5 of said chapter 21E, as so appearing, is hereby further amended by adding the following paragraph:-

(k) In any action under this chapter, the liability of a municipality when sponsoring and conducting a household hazardous waste collection for injury or loss of property or personal injury or death shall be limited to acts or omissions of the municipality or its agents or employees, during the course of the household hazardous waste collection which are shown to have been the result of negligence or reckless, wanton or intentional conduct; provided, however, that persons conducting a household hazardous waste collection for a

municipality on a volunteer basis shall not incur any personal liability except for acts or omissions which are shown to have been the result of reckless, wanton or intentional conduct.

Approved January 10, 1994.

Chapter 410. AN ACT AUTHORIZING THE CITY OF TAUNTON TO LEASE CERTAIN PARCELS OF LAND.

Be it enacted, etc., as follows:

Notwithstanding the provisions of chapter thirty B and section three of chapter forty of the General Laws or any other general or special law to the contrary, the city of Taunton is hereby authorized to lease certain parcel of land located in the city of Taunton to the Taunton Girls Softball Association. Said parcel is shown as Parcel "C" on a plan entitled "A plan of land in Taunton, Mass. to be leased to the Taunton Girl's Softball League & the Taunton Western Little League, Scale: 1" = 100', September 11, 1993 (Revised 9/25/93) C.J. Kelly & N. Kelly, 104 Partridge Circle, Taunton, Mass"; and to lease a certain parcel of land located in said city to the Taunton Western Little League. Said parcel is shown as Parcel "A" on the above described plan.

Payment for the leases shall be one dollar for a term of ninety-nine years to each organization.

The leases shall provide that the lessees' 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 lessees may agree; not limited to but including the lessees' agreement to provide comprehensive general liability insurance in an amount satisfactory to the city of Taunton and said policies are to include the city of Taunton as an additional insured party.

The lessees shall cause to be erected at the lessees' costs on the leased premises such softball and little league fields, parking areas, access roads, buildings, fixtures, and improvements as shall be necessary. The design and construction of any such softball and little league fields, parking areas, access roads, buildings, fixtures, and improvements shall not be deemed a public building or public work for the purposes of chapter seven, sections thirty-nine A to thirty-nine R, inclusive, of chapter thirty, chapter thirty B or chapter one hundred and forty-nine of the General Laws. Plans for all softball and little league fields, parking area, access roads, buildings fixtures, and improvements shall first be submitted to the municipal council for approval prior to any construction. The lessees shall also be responsible for the maintenance of the premises including said fields, parking areas, access drives, buildings and fixtures. Said facilities shall meet all applicable building code requirements set forth by the commonwealth and the city of Taunton. In like manner, any alteration, additions, or demolitions of buildings improvements, or fixtures shall require the prior written approval of the municipal council.

The softball and little league fields, buildings, and improvements shall not be subject to municipal assessment or taxation, but the lessees shall be responsible for and pay all utilities.

The lessees shall not lease, sublease or convey any interest in the softball and little league fields or buildings, fixtures and improvements thereon without prior written approval of the municipal council. The leases described herein shall limit use to recreational activities supervised by a nonprofit community organization which offers softball and little league programs which are open to the members of the public.

Upon the termination of either lease, the premises and all buildings, improvements, and fixtures thereon shall be the property of the city of Taunton. If the aforementioned purpose as described is not begun within two years after the effective date of this act, or ceases at any time thereafter, said parcel or parcels shall revert to the city under such terms and conditions as the city prescribes.

Approved January 10, 1994.

Chapter 411. AN ACT AUTHORIZING THE COMMISSIONER OF THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE CERTAIN PARCELS OF LAND IN THE CITY OF PITTSFIELD.

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 acquire by eminent domain, purchase or otherwise, seven parcels of park land in the city of Pittsfield to be used for highway purposes and further described in section two.

SECTION 2. Parcels 11-16-C, 11-CD-1-C, 11-41-C, and 11-42-C are shown on a plan entitled, "Plan of Land Owned by Berkshire County Showing Parcel Required for Highway Purpose". Parcels 11-27-C, 11-32-C, and 11-35-C are shown on a plan entitled, "Plan of Land Owned by the City of Pittsfield Showing Parcel Required for Highway Purposes". Said plans shall be kept on file by the chief engineer of the department of highways.

Approved January 10, 1994.

Chapter 412. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE CITY OF BOSTON.

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, a certain parcel of land known as Pagel Playground located in the city of Boston to the city of Boston for recreational purposes and subject to the requirements of sections two, three and four of this act and to such additional terms and conditions as the commissioner may prescribe.

Said parcel of land contains sixty-six thousand one hundred and forty square feet more or less, and is bounded and described as follows:

Beginning at the intersection of the boundary line between land now or formerly of Bowers Motor Sales, Inc. and land of the city of Boston with the northwesterly side line of Hyde Park Avenue, as shown on said plan:

Thence the line runs south 6° 17' 49" west by said northwesterly side line of Hyde Park Avenue, two hundred fifty and 00/000 (250.00) feet to a point at land now or formerly of Bowers Motor Sales, Inc.;

Thence north 83° 42' 11" west by said land of Bowers Motor Sales, Inc. one hundred ninety-six and 65/100 (196.65) feet to a point of land now or formerly of the New York, New Haven & Hartford Railroad;

Thence south 47° 50' 05" east by said land of the city of Boston two hundred sixty-one and 63/100 (261.63) feet to a point of beginning; being shown on the aforesaid plan and comprising sixty-six thousand one hundred forty (66,140) square feet more or less of land owned by the commonwealth.

SECTION 2. A deed conveying by or on behalf of the commonwealth the property described in section one shall not be valid unless such deed provides that said property shall be used for recreational purposes.

SECTION 3. The city of Boston shall pay the costs of appraisals, surveys or other expenses deemed necessary by said commissioner for the conveyance of this property.

SECTION 4. Title to the aforesaid parcel of land shall revert to the commonwealth, without consideration, if the land is not used for the purposes stated in section two, or if any condition or restriction imposed under the authority of this act is not complied with within five years from the effective date of this act.

Approved January 10, 1994.

Chapter 413. AN ACT RELATIVE TO CONSTRUCTION OF SIDEWALKS.

Be it enacted, etc., as follows:

Section 7 of chapter 44 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out clause (6) and inserting in place thereof the following clause:-

(6) For macadam pavement or other road material, or for the resurfacing with such pavement or other road material of municipally owned or operated off-street parking areas, under specifications approved by the department of highways, or for the construction of sidewalks of brick, bituminous concrete, stone or concrete, five years.

Approved January 10, 1994.

Chapter 414. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE WAREHAM FIRE DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, a holder of an elected office in the Wareham Fire District may be recalled therefrom by the registered voters of the district who reside in the territory comprising said district as hereinafter provided.

SECTION 2. Any thirty registered voters of the Wareham Fire District may initiate a recall petition by filing with the district clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for such recall. Said district clerk shall thereupon deliver to the voters who filed such affidavit a sufficient number of copies of petition blanks demanding such recall, printed forms of which said clerk shall keep on hand. The blanks shall be issued by said district clerk with his signature and official seal attached thereto, they shall be dated and addressed to the prudential committee of said district and shall contain the names of all persons to whom issued, the number of blanks so issued, the name of the person sought to be recalled, the grounds for such recall as stated in the affidavit, and they 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 district clerk. Said recall petition shall be returned and filed with said clerk within twenty days after filing of the affidavit and shall have been signed by at least one hundred and fifty registered voters of said district. To every signature shall be added the place of residence of the signer, giving the street and number. The district clerk shall, within twenty-four hours of receipt thereof, submit the signed petition to the registrars of voters for the town of Wareham, and the registrars shall, within five business days, certify thereon the number of signatures which are the names of registered voters in said district.

SECTION 3. If the petition shall be found and certified by the district clerk to be sufficient, said district clerk shall submit the same with his certificate to the prudential committee within ten business days and said prudential committee shall, within ten business days, give written notice of the receipt of said certificate to the officer sought to be recalled and shall, if such officer does not resign within five days thereafter, thereupon order an election to be held on a date fixed by said committee, not less than sixty-five days nor more than ninety days after the date of the certificate of the district clerk that a sufficient petition

has been filed; provided, however, that if any other district election is to occur within one hundred days after the date of such certificate, said prudential committee may, in its discretion, postpone the holding of such 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 date of such certificate. 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. An officer sought to be recalled may be a candidate to succeed himself and, unless such officer requests otherwise in writing, the district clerk shall place his name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of the same shall be in accordance with the provisions of law relating to elections, unless otherwise provided herein.

SECTION 5. The incumbent shall continue to perform the duties of his office until the recall election. If not recalled, such incumbent shall continue in the office for the remainder of his unexpired term, subject to recall as before, except as provided in this act. If such officer is not re-elected in the recall election, he shall be deemed removed upon the qualification of his successor who shall hold office during the remainder of 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) or by indicating his intentions by suitable mechanical means, may vote for either of said propositions. Under the propositions shall appear the word "Candidates", the directions to voters required by section forty-two of chapter fifty-four, and the names of candidates nominated as hereinbefore provided. 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; provided, however, that at least three hundred of those entitled to vote in the election shall have voted. 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 within six months after he takes office nor, in the case of an officer subject 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. No person who has been recalled from office or who has resigned from office while recall proceedings were pending against him, shall be appointed to a district office within two years after such removal or resignation.

Approved January 10, 1994.

Chapter 415. AN ACT RELATIVE TO MEDICAL PEER REVIEW COMMITTEES.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 111 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "otherwise", in line 52, the following words:- ; provided, however, that for purposes of sections two hundred and three and two hundred and four, a nonprofit corporation, the sole voting member of which is a professional society having as members persons who are licensed to practice medicine, shall be considered a medical peer review committee; provided, further, that its primary purpose is the evaluation and assistance of health care providers impaired or allegedly impaired by reason of alcohol, drugs, physical disability, mental instability or otherwise.

SECTION 2. Section 85N of chapter 231 of the General Laws, as so appearing, is hereby amended by inserting after the word "warranted", in line 9, the following words:- ; nor shall an individual be liable in a suit for damages as a result of acts, omissions or proceedings undertaken or performed within the scope of his duties to a nonprofit corporation, the sole voting member of which is a professional society having as members persons who are licensed to practice medicine; provided, however, that such individual acts in good faith and in the reasonable belief that based on all of the facts the action or inaction on his part was warranted.

Approved January 11, 1994.

Chapter 416. AN ACT FURTHER REGULATING THE TRANSFER OF CERTAIN ALCOHOLIC BEVERAGES.

Be it enacted, etc., as follows:

Section 22 of chapter 138 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Licensees for the sale of alcoholic beverages or alcohol, as the case may be, may transport and deliver anywhere in the commonwealth alcoholic beverages or alcohol lawfully bought or sold by them, in vehicles owned or leased by them or their employees, if each vehicle used for such transportation and delivery is covered by a permit issued by the commission; provided, however, that vehicles owned or leased by holders of permits under section nineteen A may be used only for the transportation of samples or of no more than twenty-four gallons of alcoholic beverages or alcohol; provided, further, that the salesperson possesses the proper invoice and that a record of these deliveries is kept available by the wholesaler for commission inspection. The permit fee for each vehicle shall be thirty dollars.

Approved January 11, 1994.

Chapter 417. AN ACT ESTABLISHING ALTERNATIVE PROCEDURES FOR DETERMINING COMPETENCY TO TESTIFY AND FOR TAKING TESTIMONY OF A WITNESS WITH MENTAL RETARDATION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately establish alternative procedures for determining competency to testify and for taking testimony of a witness with mental retardation, 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 278 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after section 16D the following section:-

Section 16E. (a) For the purposes of this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Witness with mental retardation", a witness in a proceeding whom the presiding justice has found after hearing, as provided in paragraph (1) of subsection (b), to have mental retardation.

"Mental retardation", substantial limitations in present functioning, manifesting before age eighteen, and characterized by significantly subaverage intellectual functioning, existing concurrently with related limitations in two or more of the following applicable skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work.

(b) (1) In any judicial proceeding in which a witness with mental retardation will testify, the court, on its own motion or on motion of the proponent of the witness with mental retardation and after hearing on the witness' competency to testify, may order the use of one of the alternative procedures for taking testimony of the witness with mental retardation as hereinafter described; provided, however, that the court finds at the time of the order, by clear and convincing evidence in the case of a criminal proceeding, and by a preponderance of the evidence, in the case of a noncriminal proceeding, that the witness with mental retardation is likely, as a result of submitting to usual procedures for determining competency or as a result of testifying in open court, as the case may be, (i) to suffer severe psychological or emotional trauma; or (ii) to suffer a temporary loss of or regression in cognitive or behavioral functioning or communicative abilities, such that his ability to testify will be significantly impaired. If the court orders the use of an alternative procedure pursuant to this section, the court shall make and enter specific findings upon the record describing the reasons for such order.

(2) A judge who makes findings in accordance with paragraph (1), may order any of the following alternative procedures for determining the competency to testify or for taking the testimony of the witness with mental retardation:

(i) taking the testimony of the witness with mental retardation while permitting a person familiar to the witness, such as a family member, clinician, counselor, social worker or friend, to sit near or next to him;

(ii) taking the testimony of the witness with mental retardation in court but off the witness stand;

(iii) if the proceeding is a bench proceeding, taking the testimony of the witness with mental retardation in a setting familiar to the witness;

(iv) if the proceeding is a jury trial, videotaping the testimony, out of the presence of the jury or in a location chosen by the court or by agreement of the parties; or

(v) the procedure set forth in clause (i) in combination with clause (ii), (iii) or (iv).

(c) Testimony taken by a videotape pursuant to an order under paragraph 2 of subsection (b) shall be taken in the presence of the judge, counsel for all parties, and such other persons as the court may allow. Counsel shall be given the opportunity to examine or cross-examine the witness with mental retardation to the same extent as he would be permitted if ordinary procedures had been followed.

(d) In a criminal proceeding, the defendant shall have the right to be present during the taking of the testimony, to have an unobstructed view of the witness with mental retardation, and to have the witness' view of the defendant be unobstructed.

(e) An order issued under clause iv of paragraph (2) of subsection (b) that the testimony of the witness with mental retardation be videotaped out of the presence of the jury shall provide that the videotape be shown in court to the jury in the presence of the judge, the parties, and the parties' counsel. At such courtroom showing, the audio portion of the video shall be entered into the record as would any oral testimony and shall be treated in all respects as oral testimony to the jury.

(f) The videotape or giving of testimony taken by an alternative procedure pursuant to an order issued under clause iv of paragraph (2) of subsection (b) shall be admissible as substantive evidence to the same extent as and in place of live testimony by the witness in any proceeding for which such order is issued, or in any related proceeding against the same party when consistent with the interests of justice; provided, however, that such order is entered or re-entered based on current findings at the time when, or within a reasonable time prior to, the offering of the videotape or testimony into evidence; and, provided further, that in the case of a related criminal proceeding, the requirements of subsection (d) were satisfied when the videotape was recorded or the alternative procedure was used.

(g) Whenever pursuant to an order issued under clause iv of paragraph (2) of subsection (b), testimony is recorded on videotape, the court shall ensure that:

(i) the recording equipment is capable of making an accurate recording and is operated by a competent operator;

(ii) the recording is in color and is taken in well-lit conditions;

(iii) the presence of the presiding judge, the attorneys, the defendant or parties, if in the room, and all other persons present, is stated on the recording;

(iv) the witness with mental retardation is visible at all times and, to the extent reasonably possible, the recording shows all persons present in the room as a jury would perceive them in open court;

(v) every voice on the recording is audible and identifiable;

(vi) the recording is accurate, undistorted in picture or sound quality, and has not been altered; and

(vii) each party is afforded an opportunity to view the recording before it is shown in the courtroom.

(h) The fact that the witness with mental retardation has been found in a court proceeding to be incompetent to make informed decisions of a personal, medical or financial nature, or that he is under a guardianship or conservatorship, shall not preclude the witness from testifying if he is found to be competent to testify, and shall not preclude a determination of competency to testify.

(i) The use of alternative procedures shall not be denied because they may take significantly more time than conventional procedures.

(j) Expert opinion shall be admissible at any hearing held pursuant to this section, including hearings to determine the competency of a witness with mental retardation to testify.

(k) Nothing in this section shall be construed to prohibit a court from using other appropriate means, consistent with this section and other general or special laws and with the defendant's rights, to protect a witness with mental retardation from trauma during a court proceeding.

Approved January 11, 1994.

Chapter 418. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT AN EASEMENT OVER A CERTAIN PARCEL OF LAND LOCATED IN THE CITY OF LOWELL.

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, in consultation with the University of Massachusetts at Lowell, is hereby authorized and directed to grant an easement by deed approved as to form by the attorney general, without consideration, over a parcel of land located in the city of Lowell to the United States of America for development of a public pedestrian walkway, known as the Canalway and related activities pursuant to the Lowell National Historical Park Act, consistent with the preservation plan developed pursuant to said act, subject to the requirements of sections two and three. Said parcel is designated as Tract 103-05, Lowell Historic Preservation District is shown as "Proposed Easement Number 1" on a certain plan entitled: "Canalway Easement Plan of Land in Lowell, MA, Middlesex County, prepared for Lowell Historic Preservation Commission" by C.T. Male Associates, P.C., said plan to be recorded at the Middlesex north district registry of deeds.

Being a portion of the premises conveyed by City Development Authority, a public body, to Lowell Technological Institute on behalf of the commonwealth by deed dated December 2, 1968 and recorded at said registry of deeds in Book 1874, at Page 160.

SECTION 2. The commissioner of the division of capital planning and operations shall grant a right of reasonable access by foot and vehicle over adjacent lands to facilitate the installation and maintenance of improvements related to said easement.

SECTION 3. The commonwealth shall not assume any costs for appraisals, surveys, and other expenses deemed necessary by the commissioner of the division of capital planning and operations for the disposition of this property, or for its development or maintenance.

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

Approved January 11, 1994.

Chapter 419. AN ACT AUTHORIZING THE HYANNIS FIRE DISTRICT TO SUPPLY ITSELF AND ITS INHABITANTS WITH WATER.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 313 of the acts of 1984 is hereby amended by adding the following paragraph:-

Notwithstanding the provisions of section fourteen of chapter two hundred and eighty-six of the acts of nineteen hundred and eleven the execution and administration of the operations of the water department of the district shall be vested in the board of commissioners.

SECTION 2. Said chapter 313 is hereby further amended by inserting after section 2 the following six sections:-

Section 2A. The Hyannis Fire District, hereinafter called the district, may supply itself and its inhabitants with water for the extinguishment of fires and for domestic, manufacturing and other purposes, with power to establish 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 for the use of the same.

Section 2B. For the purposes aforesaid, the district, acting by and through its board of commissioners, may contract with any municipality, acting through its water department, or with any water company, or with any water district, for whatever water may be required, authority to furnish the same being hereby granted, and may take by eminent domain under 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 supply by means of driven, artesian or other wells or filter galleries, within the limits of the district, not already appropriated for the purposes of a public supply and the water and flowage rights connected with any such water sources; and for said purposes 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, that no source of water supply or lands necessary for preserving the quality of the water shall be so taken or used without first obtaining the advice and approval of the state department of environmental protection, and that the location and arrangement of all dams, reservoirs, springs, wells, filter galleries, 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 said department. The district may 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 also the establishment and maintenance of filter beds and purification works and systems, which shall be subject to the approval of said department, 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 water works; and for that purpose may construct, lay, acquire and maintain aqueducts, conduits, pipes and other works under or over any land, water courses, railroad, railways and public or other ways, and along such ways, in the district in such manner as not unnecessarily to obstruct the same; and for the purpose of constructing, laying, maintaining, operating and repairing such aqueducts, conduits, pipes and other works, and for all proper purposes of this act, the district may 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 ways. The district shall not enter upon, or construct or lay any conduit, pipe or other works within, the location of any railroad corporation except at such time and in such manner as it may agree upon with such corporation, or, in the case of failure so to agree, as may be approved by the department of public utilities. The district may enter upon any lands for the purpose of making surveys, test wells or pits and borings, and may take or otherwise acquire the right to occupy temporarily any lands necessary for the construction of any work or for any purpose authorized by this act.

Section 2C. Any person sustaining damages to his property by any taking under this act or anything done under authority thereof may recover such damages from the district under said chapter seventy-nine or said chapter eighty A.

Section 2D. The aforementioned board of commissioners shall fix just and equitable prices and rates for the use of water, and shall prescribe the time and manner of payment. The income of the water works shall be appropriated to defray all operating expenses. It may also be appropriated to retire outstanding debt. If there should be a net surplus remaining it may be appropriated for such new construction as said commissioners, with the approval of the district, may determine. Said commissioners shall annually, and as often as said district may require, render a report upon the condition of the works under their charge and an account of their doings, including an account of receipts and expenditures.

Section 2E. Whoever wilfully or wantonly corrupts, pollutes or diverts any water obtained or supplied under this act, or wilfully or wantonly injures any dam, well, reservoir,

pumping or filtration plant, building, standpipe, tank, fixture or other structure, or other property owned, held or used by the district under authority and for the purposes of this act, shall forfeit and pay to the district three times the amount of the damages assessed therefor, to be recovered in an action of tort, and upon conviction of any one of the above wilful or wanton acts shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than two and one-half years.

Section 2F. No money shall be drawn from the treasury of the district to pay any expense of, or to discharge any liability incurred on account of, its system of water supply, unless and until such payment is approved in writing by a majority of the board of commissioners.

SECTION 3. This act shall take effect upon the acceptance by a two-thirds majority vote of the voters of the Hyannis Fire District present and voting thereon at a district meeting called for the purpose within three years after its passage.

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

Approved January 11, 1994.

Chapter 420. AN ACT RELATIVE TO CERTAIN SHORT TERM MORTGAGE LOANS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 167E of the General Laws is hereby amended by striking out section 3, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 3. Any bank may make or acquire mortgage loans of the several classes or types specified in this chapter evidenced by a note which provides for installment payments of principal or interest, or both, that will not amortize the outstanding principal amount in full by the maturity of such note; provided, however, that if the term of mortgage securing the note is for a period longer than such note and such loan is secured by a first lien on a dwelling house in the commonwealth of four or fewer separate households occupied or to be occupied in whole or in part by the mortgagor, such loan shall be subject to the conditions and restrictions imposed under the provisions of section sixty of chapter one hundred and eighty-three.

The provisions of this section shall apply to a loan made for personal, family or household purposes.

SECTION 2. Section 60 of chapter 183 of the General Laws, as so appearing, is hereby amended by striking out the first two paragraphs and inserting in place thereof the following three paragraphs:-

Whenever any note made to finance or refinance the purchase of and secured by a first lien on a dwelling house in the commonwealth of four or fewer separate households occupied or to be occupied in whole or in part by the mortgagor provides for installment payments of principal or interest or both that will not amortize the outstanding principal amount in full by the maturity of such note and the term of the mortgage securing the note is for a period longer than such note, such note and its disposition at maturity shall be subject to automatic renewal or extension of the note at the option of the mortgagor and such conditions and restrictions imposed by the commissioner. Such conditions and restrictions shall include, but not be limited to, the following: the minimum term of the note; the method by which the rate of interest on a renewed or extended note may be assigned; the maximum increase in the rate of interest at renewal or extension of note; provisions for decreases in the rate of interest at renewal or extension of the note as may be warranted by market conditions; requirements for advance notification and explanation of adjustment of the rate of interest in connection with renewing or extending the note, provided that such notification and explanation shall occur no less than thirty days prior to the rate adjustment.

Notwithstanding any provision of law to the contrary, the commissioner may, by further conditions and restrictions, provide that the rate of amortization may be varied, including utilizing a period of negative amortization, in order to adjust the rate of interest.

The provisions of this section shall apply to a note evidencing a loan given for personal, family or household purposes.

Approved January 11, 1994.

Chapter 421. AN ACT REMOVING THE CITY OF NORTH ADAMS AS A MEMBER OF THE NORTHERN BERKSHIRE SOLID WASTE MANAGEMENT DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. The third paragraph of section 1 of chapter 135 of the acts of 1988, as amended by section 1 of chapter 457 of the acts of 1991, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- The district is composed of and includes all the lands and residents within the towns of Adams, Cheshire, Clarksburg, Florida, Hancock, Lanesborough, New Ashford, Savoy, Windsor and Williamstown which, by vote at an annual or special town meeting, 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.

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

Approved January 11, 1994.

Chapter 422. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT EASEMENTS OVER CERTAIN PARK AND CONSERVATION LAND IN THE TOWNS OF CANTON AND MILTON TO THE MASSACHUSETTS WATER RESOURCES AUTHORITY.

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 five permanent sewer easements, together with appurtenant temporary construction sewer easements, in a parcel of land in the towns of Canton and Milton, acquired by the metropolitan park commissioners, a predecessor agency to 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 the commissioner may prescribe, in consultation with the metropolitan district commission.

Said easements are as follows:

Parcel 1. The first permanent sewer easement is located in the town of Canton, containing an area of 1,801 square feet as shown as Parcel No. 1 on Sheet 17 of a plan entitled "Plan of New Neponset Valley Sewer System Easements and Land Takings in Milton, Canton, and Norwood, Mass. to be acquired by the Massachusetts Water Resources Authority" dated May, 1993, prepared by ASEC Corporation, and being more particularly bounded and described as follows:

Beginning at a point at the most northeasterly corner of the existing 1930 Neponset Valley sewer easement; thence, running N30°44'23"W for a distance of forty-seven and thirteen hundredths feet (47.13') through land of the commonwealth of Massachusetts, Metropolitan District Commission to a corner;

thence, turning and running N27°19'17"E for a distance of fifty-five and ninety-one hundredths feet (55.91') through said land to a corner on the southerly street layout line of Greenlodge Street;

thence, turning and running S13°15'37"E for a distance of sixty-one and forty-eight hundredths feet (61.48') along said layout line to a corner;

thence, turning and running S27°19'17"W for a distance of thirty-four and fourteen hundredths feet (34.14') through said land to the point of beginning.

Said permanent sewer easement being over land of the Commonwealth of Massachusetts, Metropolitan District Commission, described in an order of taking recorded in the Norfolk County Registry of Deeds in Book 853, Page 581.

Parcel 2. The second permanent sewer easement is located in said town of Canton, containing an area of 11,810 square feet as shown as Parcel No. 2 on Sheet 17 of a plan entitled "Plan of New Neponset Valley Sewer System Easements and Land Takings in Milton, Canton, and Norwood, Mass. to be acquired by the Massachusetts Water Resources Authority" dated May, 1993, prepared by ASEC Corporation, and being more particularly bounded and described as follows:

Beginning on the northerly street layout line of the new Greenlodge Street; thence, running N27°19'17"E for a distance of two hundred seventy-three and thirteen hundredths feet (273.13') through land of the Commonwealth of Massachusetts, Metropolitan District Commission to a corner on the southerly line of the 1931 state layout of old Greenlodge Street, formerly Route 128;

thence, turning and running S59°15'24"E for a distance of forty and seven hundredths feet (40.07') along said layout line to a found stone bound with an escutcheon plug - lead pin, being the corner;

thence, turning and running S27°19'17"W for a distance of three hundred seventeen and forty-three hundredths feet (317.43') to a corner on the northerly street layout line of new Greenlodge Street;

thence, turning and running N13°15'37"W for a distance of sixty-one and forty-eight hundredths feet (61.48') along said layout line to the point of beginning.

Said permanent sewer easement being over land of the Commonwealth of Massachusetts, Metropolitan District Commission, described in an order of taking recorded in the Norfolk County Registry of Deeds in Book 853, Page 581.

Parcel 3. The third permanent sewer easement is located in said town of Canton, Massachusetts, containing an area of 8,401 square feet as shown as Parcel No. 3 on Sheet 17 of a plan entitled "Plan of New Neponset Valley Sewer System Easements and Land Takings in Milton, Canton, and Norwood, Mass. to be acquired by the Massachusetts Water Resources Authority" dated May, 1993, prepared by ASEC Corporation, and being more particularly bounded and described as follows:

Beginning on the northerly line of the 1931 state highway layout of old Greenlodge Street, formerly Route 128;

thence, running N14°52'52"E for a distance of two hundred twelve and forty-six hundredths feet (212.46') through land of the Commonwealth of Massachusetts, Metropolitan District Commission to a corner on the southerly line of the 1955 state highway layout of Route 128;

thence, turning and running S53°00'43"E for a distance of forty-three and seventeen hundredths feet (43.17') along said line to a corner;

thence, turning and running S14°52'52"W for a distance of two hundred seven and fifty-eight hundredths feet (207.58') through said land to a corner by a disturbed stone bound with an escutcheon plug - lead pin on the northerly line of the 1931 state highway layout of old Greenlodge Street, formerly Route 128;

thence, turning and running N59°15'24"W for a distance of forty-one and fifty-eight hundredths feet (41.58') along said layout line to the point of beginning.

Said permanent sewer easement being over land of the Commonwealth of Massachusetts, Metropolitan District Commission, described in an order of taking recorded in the Norfolk County Registry of Deeds in Book 853, Page 581.

Parcel 4. The fourth permanent sewer easement is located in said town of Canton, containing an area of 143,160 square feet as shown as Parcel No. 4 on Sheets 17 and 18 of a plan entitled "Plan of New Neponset Valley Sewer System Easements and Land Takings

in Milton, Canton, and Norwood, Mass. to be acquired by the Massachusetts Water Resources Authority" dated May, 1993, prepared by ASEC Corporation, and being more particularly bounded and described as follows:

Beginning on the northerly line of the 1963 state highway layout line of Route 128;

thence, running N14°52'52"E for a distance of two thousand one hundred eighteen and seventy-eight hundredths feet (2118.78') through land of the Commonwealth of Massachusetts, Metropolitan District Commission to a corner;

thence, turning and running N35°30'14"E for a distance of about five thousand eighteen feet (5018+') through said land to a point on the Canton/Milton town line;

thence, turning and running southeasterly along said town line for a distance of about thirty-one feet (31+') to a corner;

thence, turning and running S35°30'14"W for a distance of about eighty-nine feet (89+') through said land to a corner;

thence, turning and running N54°29'46"W for a distance of ten and no hundredths feet (10.00') through said land to a corner;

thence, turning and running S35°30'14"W for a distance of four thousand nine hundred sixteen and thirty-two hundredths feet (4916.32') through said land to a corner;

thence, turning and running S14°52'52"W for a distance of two thousand eighty and eighty-four hundredths feet (2080.84') through said land to a corner on the northerly line of the 1963 state highway layout of Route 128;

thence, turning and running S45°08'01"W for a distance of thirty-nine and seventy hundredths feet (39.70') on said layout line to the point of beginning.

Said permanent sewer easement being overland of the Commonwealth of Massachusetts, Metropolitan District Commission, described in an order of taking recorded in the Norfolk County Registry of Deeds in Book 853, Page 581.

Parcel 5. The fifth permanent sewer easement is located in the town of Milton, containing an area of 77,460 square feet as shown Parcel No. 5 on Sheets 17 and 18 of a plan entitled "Plan of New Neponset Valley Sewer System Easements and Land Takings in Milton, Canton, and Norwood, Mass. to be acquired by the Massachusetts Water Resources Authority" dated May, 1993, prepared by ASEC Corporation, and being more particularly bounded and described as follows:

Beginning at a point on the Canton/Milton town line; thence, running N35°30'14"E for a distance of about two thousand two hundred nine feet (2209+') through land of the Commonwealth of Massachusetts, Metropolitan District Commission, to a corner; thence, turning and running N41°24'00"E for a distance of about one thousand two hundred fifty-one feet (1251+') through said land to a corner on the southwesterly line of the existing 1930 Neponset Valley sewer easement; thence, turning and running southeasterly along said line for a distance of about thirty-two feet (32+') to a corner; thence, turning and running S41°24'00"W for a distance of three hundred twenty-three feet (323') through said land to a corner; thence, turning and running N48°36'00"W for a distance of ten and no hundredths feet (10.00') through said land to a corner; thence, turning and running S41°24'00"W for a

distance of about nine hundred twenty-four feet (924+'); thence, turning and running S35°30'14"W for a distance of one thousand seven hundred five and seventy-five hundredths feet (1705.75') through said land to a corner; thence, turning and running S54°29'46"E for a distance of ten and no hundredths feet (10.00') through said land to a corner; thence, turning and running S35°30'14"W for a distance of about five hundred eleven feet (511+') through said land to a point on the Canton/Milton town line; thence, turning and running northwesterly along said town line for a distance of about thirty-one feet (31+') to the point of beginning.

Temporary Construction Easements. The appurtenant temporary construction easements are located in the town of Canton and the town of Milton, shown on Sheets 17 and 18 of a plan entitled "Plan of New Neponset Valley Sewer System Easements and Land Takings in Milton, Canton, and Norwood, Mass. to be acquired by the Massachusetts Water Resources Authority" dated May, 1993, prepared by ASEC Corporation, and associated landscaping plans on file at the Massachusetts Water Resources Authority.

SECTION 2. The more precise configuration of the parcels described in section one shall be shown on the plan of land referenced in section one, as such plan is further revised, if necessary, and recorded with the Norfolk county registry of deeds. In the event that the property so described in section one 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.

SECTION 3. All right, title and interest in the parcels described in section one shall revert to the commonwealth in the event the Massachusetts Water Resources Authority no longer needs such land for the purpose of installing, maintaining and operating a sewer line.

SECTION 4. All costs associated with the transfer and use of the parcels described in section one shall be borne by the Massachusetts Water Resources Authority.

Approved January 11, 1994.

Chapter 423. AN ACT RELATIVE TO TRANSIENT VENDORS IN CITIES AND TOWNS.

Be it enacted, etc., as follows:

Notwithstanding the provisions of sections one to twelve A, inclusive, of chapter one hundred and one of the General Laws, the town of Barnstable shall exempt any individual licensed under said chapter one hundred and one from the local fee, charge, deposit or bond required; provided, however, that such exemption shall apply to the sale of merchandise held in temporary indoor events of not more than five days duration in the town of Barnstable.

Approved January 11, 1994.

Chapter 424. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL PLANNING AND OPERATIONS TO LEASE CERTAIN PROPERTY IN THE TOWN OF CARLISLE.

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 not to exceed twenty years, a parcel of state-owned land with a house and a shed located thereon at six hundred and forty-nine North road in the town of Carlisle 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 department of environmental management.

SECTION 2. The lessee of said parcel shall assume the costs of appraisals, surveys, and other expenses as deemed necessary by the commissioner for the disposition of the property.

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

Approved January 11, 1994.

Chapter 425. AN ACT RELATIVE TO CERTAIN BUDGETS AND RELATED DOCUMENTS IN THE TOWN OF ARLINGTON.

Be it enacted, etc., as follows:

SECTION 1. Chapter 503 of the acts of 1952 is hereby amended by striking out section 31 as amended by section 14 of chapter 634 of the acts of 1956, and inserting in place thereof the following section:-

Section 31. Estimates of Expenditures. - On or before the second day of January of each year, the town manager shall submit to the selectmen, with copies thereof to each member of the finance committee, a carefully detailed estimate, in writing, of the fiscal requirements for the ensuing fiscal year of each fund and department under his control and he shall state the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town. All other boards and departments not under the control of the manager shall likewise submit detailed estimates for their respective departments on said second day of January and shall furnish copies thereof to the town manager. All the estimates required by this section shall include a statement of the expenditures for the same purposes in the two preceding years.

SECTION 2. Said chapter 503 is hereby further amended by striking out section 32, as amended by section 15 of said chapter 634, and inserting in place thereof the following section:-

Section 32. Preparation of an annual budget and final budget document. - The selectmen shall consider the estimates submitted by the town manager and other department heads, and shall on or before the first day of February of each year transmit their recommendation relative thereto to each member of the finance committee. On or before the first day of September each year, the comptroller shall prepare and submit to the selectmen, the town manager, and all other boards and departments not under the control of the town manger, including the school department, a final budget document setting forth the boards and departments of the town by name and the categories of expenditures from all sources to be made during the fiscal year. The name of the fund and the amount it contributes to each board and departmental budget shall be identified. A comparison of prior year budgeted to actual revenues and expenditures shall be included for each board and department and in total. The budget shall include a summary schedule of all major revenues, expenditures and other financing sources of the town. An update to the budget shall be prepared and distributed within thirty days of the final adjournment of a special town meeting wherein additional appropriations have been voted.

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

Approved January 11, 1994.

Chapter 426. AN ACT RELATIVE TO AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY CERTAIN LAND TO JEFFREY JAMES VON ER.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations is hereby authorized and directed, notwithstanding the provisions of sections forty E to forty L, inclusive, of chapter seven of the General Laws, to sell and convey by deed, a certain parcel of conservation land located in the town of New Marlborough, to Jeffrey James Von Er, subject to the requirements of sections two to five, inclusive, and to such additional terms, conditions, and restrictions as the commissioner may prescribe, in consultation with the department of environmental management.

Said parcel of land is shown as parcel #2 on a plan of land entitled "Plan of Land Surveyed for Jeffrey James Von Er and Barry C. Webber in New Marlborough, Massachusetts," dated August, 1992, and prepared from a field survey by Kelly, Granger, Parsons & Associates, Inc. of Great Barrington.

SECTION 2. In consideration for and simultaneously with such conveyance, Jeffrey James Von Er shall acquire and convey to the commonwealth by deed, the fee simple interest in a parcel of land, of not less than equal value as established by independent fair-market appraisal, said parcel to be designated by the commissioner of the division of capital planning and operations acting in consultation with the commissioner of the department of

environmental management. The deed of such parcel of land shall convey to the commonwealth good, clear, and marketable title and shall be subject to such terms and conditions as are deemed advisable or necessary by the commissioner of the department of environmental management.

SECTION 3. 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 purpose of a residential site.

SECTION 4. Jeffrey James Von Er shall assume all costs for appraisals, surveys, and other expenses as deemed necessary by the commissioner for the conveyance of these properties.

SECTION 5. The more precise configuration of the parcels described in section one, 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 Berkshire county. 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 January 11, 1994.

Chapter 427. AN ACT RELATIVE TO THE QUINCY CITY HOSPITAL.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 312 of the acts of 1981, as appearing in section 1 of chapter 412 of the acts of 1990, is hereby further amended by striking out the first sentence and inserting in place thereof the following eight sentences:- Except as otherwise specifically provided in this act, expenditure from the account authorized by section one shall be made by the director of the Quincy city hospital, without appropriation, and used for the operation, maintenance and service development of said hospital and for capital, equipment and plant for said hospital. Said account authorized by section one shall be deemed to be a trust fund. Said fund shall be maintained on behalf of the Quincy hospital by the Quincy city hospital investment committee, appointed as provided for in this section, hereinafter referred to as the investment committee, and the funds therein shall be invested by the treasurer of the city of Quincy solely at the direction of and within the discretion of the investment committees, and income accruing thereon shall inure to the benefit of said Quincy city hospital provided that said funds shall be invested in the same manner and be subject to the same terms and conditions as provided in section fifty-four of chapter forty-four of the General Laws. Said investment committee shall consist of the treasurer of the city of Quincy, the auditor of the city of Quincy, the director and chief financial officer of the Quincy city hospital; three members of the board of managers of the Quincy city hospital who shall be appointed by the board of managers of said hospital for such terms as

it deems appropriate; provided, however, that such term of appointment shall be for less than two years; and two persons with expertise in financial investment activities who shall be appointed by the board of managers of said hospital for such terms as it deems appropriate; provided, however, that such term of appointment shall be for less than two years. Said investment committee shall take all actions by affirmative vote of at least five of its members. Said investment committee shall report in writing, at least quarterly, to the board of managers of the Quincy city hospital and to the mayor and the city council of said city of its activities and investments. Said investment committee is hereby authorized to enter into contracts for such professional services as it deems proper to advise said committee relative to the investment of the funds in said account, and is further authorized to expend funds from said account for said purpose. Funds in such account that are deposited in or invested in a banking institution as permitted by said section fifty-four of said chapter forty-four may be used by the Quincy city hospital, with the approval of the investment committee, to secure credit on behalf of said hospital from any such banking institution.

SECTION 2. Said section 2 of said chapter 312, as so appearing, is hereby further amended by striking out the fifth sentence.

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

Approved January 11, 1994.

Chapter 428. AN ACT RELATIVE TO A BOND AUTHORIZATION FOR THE MANAGEMENT AND DISPOSAL OF LOW-LEVEL RADIOACTIVE WASTE.

Be it enacted, etc., as follows:

SECTION 1. To provide for a program for the management and disposal of low-level radioactive waste, including the siting of a low-level radioactive waste storage, treatment or disposal facility located in the commonwealth or for entering into agreements with other states, regions, districts or other entities for storage, treatment or disposal of such low-level radioactive waste, the sums set forth in section two of this act, for the several purposes and subject to the conditions in this act, are hereby made available, subject to the provisions of law regulating the disbursement of public funds and the approval thereof.

SECTION 2.

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Executive Office.

Item

2000-4945 Notwithstanding any general or special law to the contrary for the purpose of siting a low-level radioactive waste storage, treatment, or disposal facility in the commonwealth or for entering into agreements with other states, regions, districts,

or other entities for storage, treatment, or disposal of such low-level radioactive waste, as defined in section one of chapter one hundred and eleven H of the General Laws; provided however, that upon the recommendation of the secretary of the executive office of environmental affairs the comptroller is authorized and directed to transfer funds from this item to other items of appropriation for the purposes defined herein; and provided, further, that any such funds so transferred shall be reported to the house and senate committees on ways and means no later than thirty days after such transfer has been completed $45,000,000

NO SECTION 3.

NO SECTION 4.

SECTION 5. Section 4A of said chapter 111H, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) The board shall, on or before July first of each year, submit to the governor, the state auditor, the secretary of the executive office of administration and finance, the house and senate committees on ways and means, and the joint committee on natural resources and agriculture an annual report. Said annual report shall include a detailed statement of: all assessments, interests and penalties collected pursuant to this section and section four B for the previous fiscal year; all disbursements made by the board and executive office of environmental affairs for that fiscal year from said fund; any monies otherwise appropriated to the board and said secretary; and any other monies so obligated to the board or said secretary for the purposes of implementing the provisions of this chapter; as well as any other information the board deems appropriate.

SECTION 6. To meet the expenditures necessary in carrying out the provisions of section two of this act, the state treasurer, upon the request of the governor, shall 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-five million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Low-Level Radioactive Waste Management, Act of 1993, and shall be issued for such maximum term of 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 eighteen. All interest and payments on account of the principal of such obligation shall be payable from the General Fund. Bonds 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 7. 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 as authorized by section two of this act, and may issue and renew from time to time such notes of the commonwealth therefor, bearing interest payable at such time and at

such rate 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 maturation of such notes, whether original or renewal shall not be later than June thirtieth, two thousand and eighteen. Notes and the interest thereon issued under the authority of this section, notwithstanding any other provision of this act, shall be general obligations of the commonwealth.

SECTION 8. The total sum of all principal and interest payments incurred by the commonwealth and made pursuant to obligations secured by such bonds and notes pursuant to sections two, six and seven of this act shall be repaid to the commonwealth by means of a reimbursement surcharge on waste disposed of at a facility established using these expenditures, either through siting in the commonwealth or by agreement with other states, regions, districts or other entities, or, if no such facility or agreement is achieved by January first of the year two thousand, then on all generators producing waste in Massachusetts requiring disposal in a licensed low level radioactive waste disposal facility or storing waste for later disposal in such a facility, said reimbursement surcharge to be established and collected pursuant to regulations adopted pursuant to section four(a) (7) of chapter one hundred eleven H of the General Laws, and may include reimbursements made pursuant to an agreement between the commonwealth and another state or states. All such monies repaid by said generators shall be deposited in the general fund.

SECTION 9. The state auditor is hereby authorized and directed to review all expenditures of the secretary of the executive office of environmental affairs, the low-level radioactive waste management board, established pursuant to chapter one hundred and eleven H of the General Laws, and the state treasurer incurred pursuant to activities related to said chapter one hundred and eleven H and sections two, six, and seven of this act for which said secretary and said board have sought reimbursement through a surcharge established by regulation pursuant to section eight of this act from said generator of low-level radioactive waste, as defined in section one of said chapter one hundred and eleven H. The state auditor, on or before January first of each year, shall submit to the house and senate committees on ways and means, the joint committee on natural resources and agriculture, said secretary, said board, and said state treasurer an annual report of its review and findings of the expenditures of said secretary, said board, and said state treasurer in the fiscal year ending on the thirtieth day of June preceding each said first day of January.

SECTION 10. The low-level radioactive waste management board, established pursuant to chapter one hundred and eleven H of the General Laws, shall submit any regulations establishing a reimbursement surcharge schedule pursuant to section eight of this act to the joint committee on natural resources and agriculture and the house and senate committees on ways and means for their review not more than ninety days prior to the effective date of said regulations.

Approved January 11, 1994.

Chapter 429. AN ACT RELATIVE TO THE DISCLOSURE OF INFORMATION RELATING TO INVESTIGATIONS OF ALLEGED ABUSE OF DISABLED PERSONS.

Be it enacted, etc., as follows:

Paragraph (1) of section 5 of chapter 19C of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following three paragraphs:-

If requested in writing by the commission or by any agency it designates, any mandated reporter required to make a report pursuant to section ten, shall disclose such documents relevant to any investigation being conducted pursuant to this chapter to the department or to the agency. For the purposes of this section the word "documents" shall include, but not be limited to, any records, charts, reports, reviews, assessments, papers, correspondence and any other data or material.

Any privilege created by statute or common law relating to confidential communications or any statute prohibiting the disclosure of information shall neither preclude the disclosure of such documents to the commission or its designated agency nor prevent the admission of such documents in any civil or disciplinary proceeding arising out of the alleged abuse or neglect of the disabled person; provided, however, that absent the written consent of an individual to whom the requested documents relate, any information which is protected by the attorney-client privilege, the psychotherapist-client privilege, or the clergy-penitent privilege shall not be subject to such disclosure.

Any party required to provide documents in compliance with the provisions of this section shall not be liable in any civil or criminal action for providing such documents to the commission or any designated agency.

Emergency Letter: January 11, 1994 @ 3:35 P.M. Approved January 11, 1994

Chapter 430. AN ACT AUTHORIZING THE COMMISSIONER OF THE DIVISION OF CAPITAL PLANNING AND OPERATIONS AND THE DEPARTMENT OF HIGHWAYS TO ESTABLISH AND LAYOUT A HIGHWAY OVER A CERTAIN PARCEL OF LAND IN THE CITY OF SPRINGFIELD.

Be it enacted, etc., as follows:

The commissioner of the division of capital planning and operations and the department of highways are hereby authorized to establish and create a highway layout on behalf of the city of Springfield over a certain parcel of conservation land owned by and located in said city of Springfield. This parcel of land is known as parcel 26-1-C. Said parcel is to be diverted from its present use to a highway use.

Said parcel is shown as Parcel 26-1-C on a plan entitled "Springfield Hampden County Plan of Land Showing Parcel Needed For Highway From The City Of Springfield"

which is on file by the chief engineer of the department of highways.

Approved January 11, 1994.

Chapter 431. AN ACT RELATIVE TO REDUCTION IN FORCE FOR CERTAIN EMPLOYEES OF THE FIRE FORCE OF THE TOWN OF CHELMSFORD.

Be it enacted, etc., as follows:

SECTION 1. Chapter 47 of the acts of 1990 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. Notwithstanding the provisions of any general or special law to the contrary, but subject to the provisions of the sixth paragraph of section twenty-six of chapter thirty-one of the General Laws, if permanent employees of the fire force of the town of Chelmsford serving in any position in a title above the lowest title on such force are to be separated from such positions because of lack of money or abolition of such positions, they shall be separated from such positions according to their seniority in such title based on their length of service after permanent promotion in such force and shall be reinstated to such positions held by them according to such seniority and, for the purposes of separation of permanent employees from service on such fire force, seniority shall be based on length of service by title in the fire force of said town, excluding service in any other departmental unit of the town of Chelmsford or any other city or town and shall be reinstated in said fire force according to such seniority.

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

Approved January 11, 1994.

Chapter 432. AN ACT TO PROMOTE THE EFFECTIVE MANAGEMENT OF THE CRIMINAL JUSTICE SYSTEM THROUGH TRUTH-IN SENTENCING.

Be it enacted, etc., as follows:

SECTION 1. (a) There is established, as an independent commission in the judicial branch of the commonwealth, a Massachusetts sentencing commission which shall consist of nine voting members and six non-voting members. The governor shall appoint the voting members of the commission, and shall designate one member as chairman. Three of the voting members shall be present district court, Boston municipal court or superior court department judges, selected from a list of seven judges recommended by the chief justice for administration and management, and at least one district court judge or Boston municipal

court and one superior court judge shall be appointed. Two of the voting members shall be an assistant district attorney, selected from a list of seven assistant district attorneys recommended by the Massachusetts District Attorneys' Association. One of the voting members shall be an assistant attorney general, selected from a list of three assistant attorneys general recommended by the attorney general. Two of the voting members shall be members of the Massachusetts Association of Criminal Defense Attorneys, selected from a list of five such members recommended by the Massachusetts Association of Criminal Defense Attorneys. One voting member shall be a public defender, selected from a list of three public defenders recommended by the committee for public counsel services. The non-voting members shall be the commissioner of corrections, or his designee; the commissioner of probation, or his designee; and the secretary of public safety, or his designee; the chairman of the Massachusetts Parole Board, or his designee; the President of the Massachusetts Sheriffs Association or his designee; a victim witness advocate selected by the victim witness board.

The chairman and the members of the commission shall be subject to removal from the commission by the governor only for neglect of duty or malfeasance in office or for a showing of other good cause.

(b) (1) The voting members of the Commission shall be appointed for six-year terms; provided, however, that the initial terms of the first members of the commission shall be staggered so that four members, including the chairman, serve terms of six years; three members serve terms of four years; and two members serve terms of two years. Terms of those members appointed by their public office or position shall and when the member leaves that public office or position, and a successor shall be appointed in the prescribed manner.

(2) No voting member may serve more than two full terms. A voting member appointed to fill a vacancy which occurs before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(3) Members of the commission shall serve without compensation, but each member shall be reimbursed by the commonwealth for all reasonable expenses incurred in the performance of official duties.

(4) Judges may serve on the commission and not be required to resign their appointment as judge.

(c) The commission shall have the power to perform such functions as may be necessary to carry out the purposes of this chapter, and may delegate to any member or designated person such powers as may be appropriate to the accomplishment of the duties of the commission as set forth below. In particular, the commission shall:

(1) appoint and fix the salary and duties of a director and other personnel, who shall serve at the discretion of the commission;

(2) submit appropriations requests to the secretary of administration and finance;

(3) utilize, with their consent, the services, equipment, personnel, information, and facilities of Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(4) enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

(5) accept and employ, in carrying out the provisions of this title, voluntary and uncompensated services;

(6) request such information, data, and reports from any Massachusetts agency or judicial officer as the commission may from time to time require and as may be produced consistent with other law;

(7) serve as a clearinghouse for the collection, preparation, and dissemination of information on sentencing practices and assist courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

(8) make recommendations to the legislature concerning modification or enactment of laws relating to crimes, sentencing, and correctional matters, as well as recommendations concerning programatic, budgetary and capital matters that the commission finds to be necessary and advisable to carry out the purposes of this act;

(9) hold hearings and call witnesses to assist the Commission in the exercise of its powers or duties.

(d) The commission shall act by affirmative vote of at least five of its voting members.

(e) Upon the request of the commission, each agency and department of the commonwealth is hereby authorized and directed to make its services, equipment, personnel, facilities and information available to the greatest practicable extent to the commission in the execution of its functions. The commission shall, to the extent practicable, utilize existing resources of the administrative office of the Massachusetts courts for the purpose of avoiding unnecessary duplication.

(f) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member on any action taken by it.

(g) The director shall supervise the activities of persons employed by the commission and perform other duties assigned to the director by the commission. The director shall, subject to the approval of the commission, appoint such officers and employees as are necessary in the execution of the functions of the commission.

SECTION 2. The purposes of the Massachusetts sentencing commission shall be to recommend sentencing policies and practices for the commonwealth which:

(1) punish the offender justly;

(2) secure the public safety of the commonwealth by providing a swift and sure response to the commission of crime;

(3) meet the purposes of sentencing which are:

(A) to reflect the seriousness of the offense;

(B) to promote respect for the law;

(C) to provide just punishment for the offense;

(D) to afford adequate deterrence to criminal conduct;

(E) to protect the public from further crimes of the defendant; and

(F) to provide the defendant with educational or vocational training;

(4) provide certainty and fairness in sentencing, avoiding unwarranted sentencing disparities among defendants with similar criminal records who have been found guilty of similar criminal conduct, while maintaining judicial discretion and sufficient flexibility to permit individualized sentences warranted by mitigating or aggravating factors;

(5) promote truth in sentencing, in order that all parties involved in the criminal justice process, including the prosecution, the defendant, the court, the victim and the public, are aware of the nature and length of the sentence and basis of it;

(6) ration correctional capacity and other criminal justice resources to sentences imposed, making said rationing explicit, rational and coherent, in order to:

(a) afford sufficient correctional capacity to incarcerate violent offenders consistent with paragraph one;

(b) evaluate, on a yearly basis, the performance of said rationing, making appropriate remedial recommendations consistent with subparagraph (8) of paragraph (c) of section one;

(c) prevent the prison population in the commonwealth from exceeding the capacity of the prisons, and to prevent premature release for any other reason, and to serve the ends of truth in sentencing by taking into account, in establishing sentencing policies and practices for the commonwealth, the nature and capacity of correctional facilities and community sanctions available in the commonwealth consistent with protecting public safety;

(7) encourage the development and implementation of intermediate sanctions in appropriate cases as a sentencing option, consistent with protecting public safety;

(8) enhance the value of criminal sanctions and ensure that the criminal penalties imposed are the most appropriate ones by encouraging the development of a wider array of criminal sanctions;

(9) make offenders accountable to the community for their criminal behavior, through community service, restitution, and a range of intermediate sanctions;

(10) evaluate the impact, if any, of the repeal of section one hundred and twenty-nine of chapter one hundred and twenty-seven of the General Laws on correctional facility capacity for the purpose of sentencing;

(11) nothing contained in this section shall be construed as creating any right of action.

SECTION 3. (a) (1) The commission, by affirmative vote of at least six members of the commission, and consistent with all pertinent provisions of this act and the General Laws, except as hereinafter provided, shall recommend sentencing guidelines.

(2) The sentencing guidelines shall be used by the district and superior courts of the commonwealth, and the Boston municipal court, in imposing a sentence in every criminal case. Said sentence shall not be suspended in whole or in part. The sentencing judge shall impose a sentence within a range prescribed by the sentencing guidelines for every offense, unless the sentencing judge sets forth in writing reasons for departing from that range, on a sentencing statement as set forth in paragraph (h) of section three herein, based on a finding that there exists one or more aggravating or mitigating circumstances that should result in a sentence different from the one otherwise prescribed by the guidelines. The commission shall establish non-exclusive aggravating and mitigating circumstances to guide the sentencing judge, as set forth in paragraph (d) of section three. In the absence of an applicable sentencing guideline the court shall impose an appropriate sentence, having due regard for the purposes set forth in section two.

(3) The sentencing guidelines shall be based on reasonable offense characteristics, taking into account the nature and seriousness of each offense, and reasonable offender characteristics taking into account the offender's character, background, amenability to correction, and criminal history and the availability of the commonwealth's criminal justice and public safety resources.

For every criminal offense under the laws of the commonwealth, the guidelines shall establish:

(A) The circumstances, if any, under which the imposition of intermediate sanctions may be proper, and the circumstances under which imprisonment may be proper.

(B) Appropriate intermediate sanctions for offenders for whom straight imprisonment may not be necessary or appropriate. In establishing such intermediate sanctions, the commission shall make specific reference to noninstitutional sanctions, including but not limited, to standard probation, intensive supervision probation, community service, home confinement, day reporting, residential programming, restitution and means-based fines.

(C) A target sentence for offenders for whom an intermediate sanction may not be appropriate based on a combination of reasonable offense and offender characteristics for each offense, and the adequacy of the commonwealth's criminal justice and public safety resources. The guidelines shall provide that, for each target sentence, the sentencing judge may impose a maximum sentence within a range to be established by the commission for each offense, and a minimum sentence of two-thirds of the maximum sentence; provided, however, that for target sentences of two years or greater the range may not be greater than twenty percent greater or less than the target sentence; and provided, further, that for target sentences of less than two years, the sentencing judge may impose an intermediate sanction. Within that range, the sentencing court may impose any sentence without stating its reasons therefor.

The commission shall act consistent with the need for flexibility, expeditious administration, case-flow management and resources of the trial court departments in sentencing guidelines.

(D) The circumstances, which shall not be considered exclusive, under which a sentencing judge may depart upward or downward from the range otherwise prescribed by the guidelines.

(b) The commission shall adopt, in conjunction with the sentencing guidelines, general policy statements, which shall be used in interpreting the guidelines.

(c) In its development of the sentencing guidelines, the commission shall conduct an empirical study in order to ascertain, to the extent practical, a survey of those individuals appearing before the commonwealth's criminal courts, and those committed to probation, prison and jail. It should also include the average sentences imposed for all offenses prior to the promulgation by the commission of the sentencing guidelines, and the length of prison terms actually served in such cases. The commission shall not be bound by such average sentences, and shall independently develop a sentencing range that is consistent with the purposes of sentencing described in section two; provided, however, that the commission shall assure that the target sentences established for each offense shall not be higher than the averages determined herein, solely because of the repeal of "good time" as set forth in section eight A of this act. The commission shall utilize this data and develop any other data it deems necessary, in order to assess the impact of the sentencing guidelines and carry out the purposes set forth in said section two.

(d) In establishing non-exclusive aggravating and mitigating circumstances pursuant to subparagraph (2) of paragraph (a) of section three, the commission shall determine whether the following kinds of factors, among others, are relevant, and shall take such factors into account only to the extent that it deems to be relevant:

(1) factors which describe the nature and circumstances of the offense conduct;

(2) factors which describe the offender's mental state at the time of the offense;

(3) factors which describe the relationship, if any, between the offender and victim;

(4) factors which describe the nature and degree of the harm caused by the offense;

(5) the community view of the gravity of the offense;

(6) the public concern generated by the offense;

(7) the deterrent effect a particular sentence may have on the commission of the offense by others;

(8) the current incidence of the offense in the community and in the commonwealth as a whole;

(9) the role in the offense of each offender in cases involving multiple offenders;

(10) the age of the offender;

(11) the mental and emotional condition of the offender, to the extent that such condition mitigates the defendant's culpability or to the extent that such condition is otherwise plainly relevant;

(12) the offender's physical condition, including drug dependence;

(13) the offender's family ties and responsibilities;

(14) the offender's community ties;

(15) the offender's degree of dependence upon criminal activity for a livelihood;

(16) the offender's character and personal history; and

(17) the offender's amenability to correction, treatment, or supervision.

(e) The maximum sentence within the range established by the sentencing guidelines for each offense shall not exceed the maximum penalty for the offense as set forth in the General Laws. The minimum sentence within said range shall not be below any mandatory minimum term prescribed by statute. However, except for the crimes set forth in section one of chapter two hundred and sixty-five of the General Laws, the sentencing judge may depart from said range, and impose a sentence below any mandatory minimum term prescribed by statute, if the judge sets forth in writing reasons for departing from that range, on a sentencing statement as set forth in paragraph (h) of section three, based on a finding that there exists one or more mitigating circumstances that should result in a sentence different from the one otherwise prescribed by the guidelines and below any applicable mandatory minimum term.

The commission shall assure that the guidelines are entirely neutral as to the race, sex, national origin, creed, religion and socio-economic status of offenders.

(f) The commission periodically shall assess the impact of the sentencing guidelines in order to determine the type and amount of correctional resources needed. In particular, the commission shall examine the impact of said guidelines on intermediate sanctions and correctional institutions and may consult with all appropriate authorities for this purpose. Beginning in the year after the sentencing guidelines become law, but no later than May first, the following persons shall submit comments and recommendations to the commission regarding the implementation and impact of the sentencing guidelines: The governor's chief legal counsel, the commissioner of probation; the chairman of the parole board; every district attorney; the chief counsel of the committee for public counsel services; the commissioner of corrections; the chief justices of the superior court, district court, and Boston municipal court; the attorney general; and the Massachusetts Association of Criminal Defense Attorneys.

(g) Beginning in the calendar year following the effective date of the sentencing guidelines, the commission, at or after the beginning of a regular session of the legislature, but not later than the first day of October, may promulgate and submit to the legislature amendments to the sentencing guidelines. Such amendments shall be accompanied by a report stating the reasons therefor. The amendments to the guidelines shall only take effect if enacted into law.

(h) The commission shall promulgate the form of a sentencing statement, conforming to the sentencing guidelines, which shall be used by the sentencing judge in the application of the guidelines when imposing a sentence. The sentencing statement shall be simple and easy to complete. The sentencing judge shall complete the statement for every sentence imposed. One copy of the sentencing statement shall be included in the case file, and one copy shall be forwarded by the court to the commissioner, which shall be used by the commission to submit to the legislature, at least annually, an analysis of sentencing patterns under the guidelines.

(i) Any inmate sentenced to a state or county correctional facility prior to the effective date of the sentencing guidelines shall be subject to the law, regulation and rules governing the issuance of parole and the supervision of parole at the time the offense was committed.

(j) Those persons sentenced to a term of imprisonment as prescribed by the sentencing guidelines established by the Sentencing Commission may be eligible for parole after serving the minimum sentence imposed, less credit for deductions for good conduct earned under section one hundred and twenty-nine D of chapter one hundred and twenty-seven of the General Laws.

(k) The provisions of the General Laws relating to publication and public hearing procedure, shall apply to the promulgation of guidelines pursuant to this section.

For the purposes of this act, the words intermediate sanction shall mean any of a number of sanctions which are served or satisfied by the offender within the community in which the offender committed the offense or in the community in which the offender resides and may include, but shall not be limited to, standard probation, intensive supervision probation, community service, home confinement, day reporting, residential programming, restitution and means-based fines; provided, however, that in no event shall a state employee be replaced by an offender serving an intermediate sanction.

SECTION 4. (a) A defendant may file a notice of appeal for review of an otherwise final sentence if:

(1) the sentence was imposed in violation of law; or

(2) the sentence was imposed as a result of an incorrect application of the sentencing guidelines; or

(3) the departure upward from the applicable guideline range was an abuse of discretion; or

(4) the sentence was imposed for an offense for which there is no sentencing guideline and is plainly unreasonable.

(b) The commonwealth, with the personal approval of the attorney general or a district attorney, may appeal an otherwise final sentence if:

(1) the sentence was imposed in violation of law;

(2) the sentence was imposed as a result of an incorrect application of the sentencing guidelines;

(3) the departure downward from the applicable guideline range was an abuse of discretion; or

(4) the sentence was imposed for an offense for which there is no sentencing guideline and is plainly unreasonable.

(c) In the case of a plea agreement entered into pursuant to Rule twelve of the Massachusetts rules of criminal procedure.

(1) a defendant may not appeal a sentence unless the sentence imposed is greater than the sentence prescribed by the sentencing guidelines; and

(2) the commonwealth may not appeal a sentence unless the sentence imposed is less than the sentence prescribed by the sentencing guidelines.

(3) a sentence imposed by the court in accordance with the recommendation of either the defendant or the commonwealth may not be appealed by the party which made the recommendation; and a sentence imposed in accordance with a jointly-agreed recommendation may not be appealed by either the defendant or the commonwealth.

(d) Appeals from sentences imposed under the sentencing guidelines shall be conducted in accordance with the Massachusetts rules of appellate procedure.

(e) If imprisonment is imposed, the entry of an appeal under the provisions of this section shall not stay the execution of the sentence unless the judge imposing it, upon a showing of a reasonable likelihood of success, finds that execution of the sentence should be stayed pending final determination of the appeal.

SECTION 5. The Massachusetts sentencing commission shall submit the initial sentencing guidelines promulgated under this act to the general court within twelve months after the effective date of this act unless the date for submission is extended by law. The guidelines shall take effect only if enacted into law.

SECTION 6. The Massachusetts sentencing commission, the chief justice for administration and management of the trial court, the secretary of health and human services, and the secretary of public safety are hereby authorized and directed to make an investigation and study for submission to the house and senate committees on ways and means, not later then twelve months after the effective date of this act, relative to developing a full range of sentencing options, including but not limited to probation, home confinement, intensive supervision, community service, restitution, day reporting, day fines, other intermediate sanctions, incarceration in the house of correction, and prison. The purpose of such sanctions shall be to enhance public safety and to ensure that persons so committed are:

(*a*) held accountable, in degree or kind, for offense committed,

(*b*) supervised in order to enhance public safety and to ensure that the conditions of sentence or parole are fully complied with and

(*c*) provided opportunities for appropriate treatment and rehabilitation.

Such study shall include:

(*a*) the definition of terms and conditions of each sentencing option;

(*b*) an inventory of existing sentencing options;

(*c*) a plan for the development, implementation, administration, and funding of existing expanded and new sentencing options;

(*d*) a plan to research and evaluate sentencing options;

(*e*) a plan to incorporate rehabilitation services, including but not limited to, drug and alcohol treatment, violence prevention, sex offender programming, job readiness, education and literacy and other human services programs, and a plan for delivery of such services.

SECTION 7. Section 168 of chapter 6 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "general", in line 4, the following words:- the chairperson of the Massachusetts sentencing commission.

SECTION 8. Said chapter 6 is hereby further amended by inserting after section 168 the following section:-

Section 168A. The commissioner of probation, the commissioner of corrections, the chairman of the parole board and the county commissioners of counties other than Suffolk county shall transmit to the criminal history systems board in such form and at such times as the board shall require, detailed and complete records relative to all probation and parole cases, and permits to be at liberty granted or issued by them, respectively, the revoking of the same and the length of time served on each sentence of imprisonment by each prisoner so released specifying the institution where each such sentence was served; and under the direction of the board a record shall be kept of all such cases as the board may require. Police officials shall cooperate with the board in obtaining and reporting information concerning persons under the care and custody of the probation department and parole board. The commissioner of probation, commissioner of corrections, chairman of the parole board and commissioner of youth services shall at all times give to the board such information as may be obtained from the records concerning persons under sentence or who have been released.

The information obtained and recorded shall not be regarded as public records and shall not be open for public inspection but shall be accessible to the justices, the departments of probation, corrections, and youth services, the parole board, the Massachusetts sentencing commission, and to such local and state governments as the board may determine. Upon payment of a fee of three dollars for each search, such records shall be accessible to such departments of the federal government and to such educational and charitable corporations and institutions as the board may determine.

SECTION 9. Chapter 6A of the General Laws is hereby amended by inserting after section 18½ the following section:-

Section 18¼. It shall be the function of the secretary of public safety:

(1) to develop and implement, in conjunction with the criminal history systems board, an improved system for recording, updating and communicating among criminal justice agencies of the executive office, and the trial court, the attorney general, the Massachusetts sentencing commission, the county sheriffs, and district attorneys, all criminal offender record information and information relevant to sentencing, probation, community corrections, correctional institutions, rehabilitation, and parole decisions in a manner consistent with law and with the rights of all persons who are subjects of such information;

(2) to develop and implement a criminal justice management information system including the organized collection, storage, retrieval, analysis, and dissemination of information among criminal justice agencies of the executive office of public safety, and the trial court, the attorney general, the Massachusetts sentencing commission, the county sheriffs, and the district attorneys of the seven districts;

(3) to develop and implement a criminal justice research and evaluation program including the organized collection, storage, retrieval and analysis of information in order to monitor and provide oversight of criminal justice agencies of the executive office, and trial court, the attorney general, the Massachusetts sentencing commission, the county sheriffs,

the district attorneys, and the public;

(4) to develop standards for and coordinate training of state and county institutional and other personnel employed by an agency within the executive office of public safety.

(5) to develop and evaluate programs for the economical provision of sufficient state and county correctional resources to maintain public safety, and prevent overcrowding, and to operate criminal justice agencies and facilities safely and efficiently at or below nationally accepted rates of capacity;

(6) to develop improved systems of classification of persons committed to the custody of probation, corrections, county corrections or parole for the purposes of determining supervision treatment and custody needs of such persons, of integrating and coordinating the functions of these agencies, and of balancing the resources and demands of these agencies; and

(7) to develop and evaluate programs designed to reduce the rate of recidivism among persons committed to the custody of state and county correctional institutions, and parole, to better integrate and coordinate the functions of these agencies, and to balance the resources and demands of these agencies.

SECTION 10. Section one hundred and twenty-nine of chapter one hundred and twenty-seven of the General Laws is hereby repealed.

SECTION 11. Said chapter 127 is hereby further amended by striking out section 133, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 133. Parole permits may be granted by the parole board to prisoners subject to its jurisdiction at such time as the board in each case may determine; provided, however, that no prisoner sentenced to the state prison shall be eligible for such permit until such prisoner shall have served the minimum term of sentence, pursuant to section twenty-four of chapter two hundred and seventy-nine, as such minimum term of sentence may be reduced by deductions allowed under section one hundred and twenty-nine D. Where an inmate is serving two or more consecutive or concurrent state prison sentences, a single parole eligibility shall be established for all such sentences. Prisoners who are granted parole permits shall remain subject to the jurisdiction of the board until the expiration of the maximum term of sentence or, if a prisoner has two or more sentences to be served otherwise than concurrently, until the aggregate maximum term of such sentence, unless earlier terminated by the board under the provisions of section one hundred thirty A. Sentences of imprisonment in the state prison shall not be suspended in whole or in part.

SECTION 12. Section 133B of said chapter 127, as so appearing, is hereby amended by inserting after the word "seventy-nine", lines 2 and 3, the following words:- except for those persons sentenced to a term of imprisonment as prescribed by the sentencing guidelines established by the sentencing commission,.

SECTION 13. Subparagraph 1 of paragraph D of section 99 of chapter 272 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following clause:-

e. for investigative or law enforcement officers to violate the provisions of this section for the purposes of ensuring the safety of any law enforcement officer or agent thereof who is acting in an undercover capacity, or as a witness for the commonwealth; provided, however, that any such interception which is not otherwise permitted by this section shall be deemed unlawful for purposes of paragraph P.

SECTION 14. Section seventeen of chapter two hundred seventy-nine of the General Laws is hereby repealed.

SECTION 15. Section eighteen of chapter two hundred seventy-nine of the General Laws is hereby repealed.

SECTION 16. Said chapter 279 is hereby further amended by striking out section 24, as so appearing, and inserting in place thereof the following section:-

Section 24. If a convict is sentenced to the state prison, except for life or as an habitual criminal, the court shall not fix the term of imprisonment, but shall fix a maximum and a minimum term for which he may be imprisoned. The maximum term shall not be longer than the longest term fixed by law for the punishment of the crime of which he has be convicted, and the minimum term shall be a term set by the court, except that, where an alternative sentence to a house of correction is permitted for the offense, a minimum state prison term may not be less than one year.

SECTION 17. Section twenty-eight of chapter two hundred seventy-nine of the General Laws is hereby repealed.

SECTION 18. Section thirty-one of chapter two hundred seventy-nine of the General Laws is hereby repealed.

SECTION 19. Section thirty-two of chapter two hundred seventy-nine of the General Laws is hereby repealed.

SECTION 20. Section thirty-three of chapter two hundred seventy-nine of the General Laws is hereby repealed.

SECTION 21. Sections ten, eleven, fourteen, fifteen, seventeen, eighteen, nineteen, and twenty shall take effect on July first, nineteen hundred and ninety-four. Notwithstanding any other provision of this act, the law in effect at the time an offense is committed shall govern sentencing for said offense.

Approved January 12, 1994.

Chapter 433. AN ACT RELATIVE TO CERTAIN BETTERMENT IN THE CITY OF GLOUCESTER.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section thirteen of chapter eighty of the General Laws or any other general or special law to the contrary, the city of Gloucester is hereby authorized to establish interest on sewer betterment projects completed after nineteen hun-

dred and eighty-nine and assessed under the provisions of said chapter eighty at a percentage or fixed fee per unit basis to be determined by said city.

Approved January 12, 1994.

Chapter 434. AN ACT PROVIDING FOR A UNIFORM CUSTODIAL TRUST ACT.

Be it enacted, etc., as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 203A the following chapter:-

CHAPTER 203B.

UNIFORM CUSTODIAL TRUST ACT.

Section 1. This chapter shall be known as and may be cited as the Massachusetts Uniform Custodial Trust Act.

As used in this chapter the following words shall, unless the context requires otherwise, have the following meanings:-

"Adult", an individual who is at least eighteen years of age.

"Beneficiary", an individual for whom property has been transferred to or held under a declaration of trust by a custodial trustee for the individual's use and benefit under this chapter.

"Conservator", a person appointed or qualified by a court to manage the estate of an individual or a person legally authorized to perform substantially the same functions.

"Court", the probate and family court.

"Custodial trust property", an interest in property transferred to or held under a declaration of trust by a custodial trustee under this chapter and the income from and proceeds of such interest.

"Custodial trustee", a person designated as trustee of a custodial trust under this chapter or a substitute or successor to the person so designated.

"Guardian", a person appointed or qualified by a court as a guardian of an individual, including a limited guardian, but not a person who is only a guardian ad litem.

"Incapacitated", lacking the ability to manage property and business affairs effectively by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, disappearance, minority, or other disabling cause.

"Legal representative", a personal representative or conservator.

"Member of the beneficiary's family", a beneficiary's spouse, descendant, stepchild, parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

"Person", an individual, corporation, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity.

"Personal representative", an executor, administrator, or special administrator of a decedent's estate, a person legally authorized to perform substantially the same functions, or a successor to any of them.

"State", a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

"Transferor", a person who creates a custodial trust by transfer or declaration.

"Trust company", a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

Section 2. (a) A person may create a custodial trust of property by a written transfer of the property to another person, evidenced by registration or by other instrument of transfer, executed in any lawful manner, naming as beneficiary, an individual who may be the transferor, in which the transferee is designated, in substance, as custodial trustee under this chapter.

(b) A person may create a custodial trust of property by a written declaration, evidenced by registration of the property or by other instrument of declaration executed in any lawful manner, describing the property and naming as beneficiary an individual other than the declarant, in which the declarant as titleholder is designated, in substance, as custodial trustee under this chapter. A registration or other declaration of trust for the sole benefit of the declarant shall not constitute a custodial trust under this chapter.

(c) Title to custodial trust property shall be in the custodial trustee and the beneficial interest shall be in the beneficiary.

(d) Except as provided in subsection (e), a transferor may not terminate a custodial trust.

(e) The beneficiary, if not incapacitated, or the conservator of an incapacitated beneficiary, may terminate a custodial trust by delivering to the custodial trustee a writing signed by the beneficiary or conservator declaring the termination. If not previously terminated, the custodial trust shall terminate on the death of the beneficiary.

(f) Any person may augment existing custodial trust property by the addition of other property pursuant to this chapter.

(g) The transferor may designate, or authorize the designation of, a successor custodial trustee in the trust instrument.

(h) This chapter shall not displace or restrict other means of creating trusts. A trust whose terms do not conform to this chapter may be enforceable according to its terms under other law.

Section 3. (a) A person having the right to designate the recipient of property payable or transferable upon a future event may create a custodial trust upon the occurrence of the future event by designating in writing the recipient, followed in substance by: "as custodial trustee for _____ (name of beneficiary) under the Massachusetts Uniform Custodial Trust Act."

(b) Persons may be designated as substitute or successor custodial trustees to whom the property shall be paid or transferred in the order named if the first designated custodial

trustee is unable or unwilling to serve.

(c) A designation under this section may be made in a will, a trust, a deed, a multiple-party account, an insurance policy, an instrument exercising a power of appointment, or a writing designating a beneficiary of contractual rights. Otherwise, to be effective, the designation shall be registered with or delivered to the fiduciary, payor, issuer, or obligor of the future right.

Section 4. (a) Obligations of a custodial trustee, including the obligation to follow directions of the beneficiary, shall arise under this chapter upon the custodial trustee's acceptance, express or implied, of the custodial trust property.

(b) The custodial trustee's acceptance may be evidenced by a writing stating in substance:

CUSTODIAL TRUSTEE'S RECEIPT AND ACCEPTANCE

I, _____ (name of custodial trustee) acknowledge receipt of the custodial trust property described below or in the attached instrument and accept the custodial trust as custodial trustee for _____ (name of beneficiary) under the Massachusetts Uniform Custodial Trust Act. I undertake to administer and distribute the custodial trust property pursuant to the Massachusetts Uniform Custodial Trust Act. My obligations as custodial trustee are subject to the directions of the beneficiary unless the beneficiary is designated as, is, or becomes incapacitated. The custodial trust property consists of

_____

Dated: _____

_____

(Signature of Custodial Trustee)

(c) Upon accepting custodial trust property, a person designated as custodial trustee under this chapter shall be subject to personal jurisdiction of the court with respect to any matter relating to the custodial trust.

Section 5. (a) Unless otherwise directed by an instrument designating a custodial trustee pursuant to section three, a person, including a fiduciary other than a custodial trustee, who holds property of, or owes a debt to, an incapacitated individual not having a conservator may make a transfer to an adult member of the beneficiary's family or to a trust company as custodial trustee for the use and benefit of the incapacitated individual. If the value of the property or the debt exceeds twenty thousand dollars, the transfer shall not be effective unless authorized by the court.

(b) A written acknowledgement of delivery, signed by a custodial trustee, is a sufficient receipt and discharge for property transferred to the custodial trustee pursuant to this section.

Section 6. (a) Beneficial interests in a custodial trust created for multiple beneficiaries shall be deemed to be separate custodial trusts of equal undivided interests for each beneficiary. Except in a transfer or declaration for use and benefit of husband and wife, for whom survivorship is presumed, a right of survivorship shall not exist unless the instrument creating the custodial trust specifically provides for such rights of survivorship

such rights required by law.

(b) Custodial trust property held under this chapter by the same custodial trustee for the use and benefit of the same beneficiary may be administered as a single custodial trust.

(c) A custodial trustee of custodial trust property held for more than one beneficiary shall separately account to each beneficiary pursuant to sections seven and fifteen for the administration of the custodial trust.

Section 7. (a) If appropriate, a custodial trustee shall register or record the instrument vesting title to custodial trust property.

(b) If the beneficiary is not incapacitated, a custodial trustee shall follow the directions of the beneficiary in the management, control, investment, or retention of the custodial trust property. In the absence of effective contrary direction by the beneficiary while not incapacitated, the custodial trustee shall observe the standard of care that would be observed by a prudent person dealing with property of another and not limited by any other law restricting investments by fiduciaries; provided, however, that a custodial trustee, in the custodial trustee's discretion, may retain any custodial trust property received from the transferor. If a custodial trustee has a special skill or expertise or is named custodial trustee on the basis of representation of a special skill or expertise, the custodial trustee shall use such skill or expertise.

(c) Subject to subsection (b), a custodial trustee shall take control of and collect, hold, manage, invest, and reinvest custodial trust property.

(d) A custodial trustee at all times shall keep custodial trust property of which the custodial trustee has control, separate from all other property in a manner sufficient to identify it clearly as custodial trust property of the beneficiary. Custodial trust property, the title to which is subject to recordation, is so identified if an appropriate instrument so identifying the property is recorded, and custodial trust property subject to registration is so identified if it is registered, or held in an account in the name of the custodial trustee, designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Massachusetts Uniform Custodial Trust Act."

(e) A custodial trustee shall keep records of all transactions with respect to custodial trust property, including information necessary for the preparation of tax returns, and shall make the records and information available at reasonable times to the beneficiary or legal representative of the beneficiary.

(f) The exercise of a durable power of attorney for an incapacitated beneficiary shall not be effective to terminate or direct the administration or distribution of a custodial trust.

Section 8. (a) A custodial trustee, acting in a fiduciary capacity, shall have all the rights and powers over custodial trust property which an unmarried adult owner has over individually owned property, but a custodial trustee may exercise such rights and powers in a fiduciary capacity only.

(b) This section shall not relieve a custodial trustee from liability for a violation of section seven.

Section 9. (a) A custodial trustee shall pay to the beneficiary or expend for the beneficiary's use and benefit so much or all of the custodial trust property as the beneficiary while not incapacitated may direct from time to time.

(b) If the beneficiary is incapacitated, the custodial trustee shall expend so much or all of the custodial trust property as the custodial trustee considers advisable for the use and benefit of the beneficiary and individuals who were supported by the beneficiary when the beneficiary became incapacitated, or who are legally entitled to support by the beneficiary. Expenditures may be made in the manner, when, and to the extent that the custodial trustee determines suitable and proper, without court order and without regard to other support, income, or property of the beneficiary.

(c) A custodial trustee may establish checking, savings, or other similar accounts of reasonable amounts under which either the custodial trustee or the beneficiary may withdraw funds from, or draw checks against, the accounts. Funds withdrawn from, or checks written against, the account by the beneficiary are distributions of custodial trust property by the custodial trustee to the beneficiary.

Section 10. (a) The custodial trustee shall administer the custodial trust as for an incapacitated beneficiary if (i) the custodial trust was created under section five, (ii) the transferor has so directed in the instrument creating the custodial trust, or (iii) the custodial trustee has determined that the beneficiary is incapacitated.

(b) A custodial trustee may determine that the beneficiary is incapacitated in reliance upon (i) previous direction or authority given by the beneficiary while not incapacitated, including direction or authority pursuant to a durable power of attorney, (ii) the certificate of the beneficiary's physician, or (iii) other persuasive evidence.

(c) If a custodial trustee for an incapacitated beneficiary reasonably concludes that the beneficiary's incapacity has ceased, or that circumstances concerning the beneficiary's ability to manage property and business affairs have changed since the creation of a custodial trust directing administration as for an incapacitated beneficiary, the custodial trustee may administer the trust as for a beneficiary who is not incapacitated.

(d) On petition of the beneficiary, the custodial trustee, or other person interested in the custodial trust property or the welfare of the beneficiary, the court shall determine whether the beneficiary is incapacitated.

(e) Absent determination of incapacity of the beneficiary under subsection (b) or (d), a custodial trustee who has reason to believe that the beneficiary is incapacitated shall administer the custodial trust in accordance with the provisions of this chapter applicable to an incapacitated beneficiary.

(f) Incapacity of a beneficiary shall not terminate (i) the custodial trust, (ii) any designation of a successor custodial trustee, (iii) rights or powers of the custodial trustee, or (iv) any immunities of third persons acting or instructions of the custodial trustee.

Section 11. A third person in good faith and without a court order may act on instructions of, or otherwise deal with, a person purporting to make a transfer as, or purporting to act in the capacity of, a custodial trustee. In the absence of knowledge to the contrary, the third person shall not be responsible for determining:

(1) the validity of the purported custodial trustee's designation;

(2) the propriety of, or the authority under this chapter for, any action of the purported custodial trustee;

(3) the validity or propriety of an instrument executed or instruction given pursuant to this chapter either by the person purporting to make a transfer or declaration or by the purported custodial trustee; or

(4) the propriety of the application of property vested in the purported custodial trustee.

Section 12. (a) A claim based on a contract entered into by a custodial trustee acting in a fiduciary capacity, an obligation arising from the ownership or control of custodial trust property, or a tort committed in the course of administering the custodial trust, may be asserted by a third person against the custodial trust property by proceeding against the custodial trustee in a fiduciary capacity, whether or not the custodial trustee or the beneficiary is personally liable.

(b) A custodial trustee shall not be personally liable to a third person:

(1) on a contract properly entered into in a fiduciary capacity unless the custodial trustee fails to reveal such capacity or to identify the custodial trust in the contract; or

(2) for an obligation arising from control of custodial trust property or for a tort committed in the course of the administration of the custodial trust unless the custodial trustee is personally at fault.

(c) A beneficiary shall not be personally liable to a third person for an obligation arising from beneficial ownership of custodial trust property or for a tort committed in the course of administration of the custodial trust unless the beneficiary is personally in possession of the custodial trust property giving rise to the liability or is personally at fault.

(d) Subsections (b) and (c) shall not preclude actions or proceedings to establish liability of the custodial trustee or beneficiary to the extent the person sued is protected as the insured by liability insurance.

Section 13. (a) Before accepting the custodial trust property, a person designated as custodial trustee may decline to serve by notifying the person who made the designation, the transferor, or the transferor's legal representative. If an event giving rise to a transfer has not occurred, the substitute custodial trustee designated under section three shall become the custodial trustee, or, if a substitute custodial trustee has not been designated, the person who made the designation may designate a substitute custodial trustee pursuant to section three. In other cases, the transferor or the transferor's legal representative may designate a substitute custodial trustee.

(b) A custodial trustee who has accepted the custodial trust property may resign by (i) delivering written notice to a successor custodial trustee, if any, the beneficiary and, if the beneficiary is incapacitated, to the beneficiary's conservator, if any, and (ii) transferring or registering, or recording an appropriate instrument relating to, the custodial trust property, in the name of, and delivering the records to, the successor custodial trustee identified under subsection (c).

(c) If a custodial trustee or successor custodial trustee is ineligible, resigns, dies, or becomes incapacitated, the successor designated under subsection (g) of section two or under section three shall become custodial trustee. If there is no effective provision for a successor, the beneficiary, if not incapacitated, may designate a successor custodial trustee. If the beneficiary is incapacitated, or fails to act within ninety days after the ineligibility, resignation, death, or incapacity of the custodial trustee, the beneficiary's conservator shall become successor custodial trustee. If the beneficiary does not have a conservator or the conservator fails to act, the resigning custodial trustee may designate a successor custodial trustee.

(d) If a successor custodial trustee is not designated pursuant to subsection (c), the transferor, the legal representative of the transferor or of the custodial trustee, an adult member of the beneficiary's family, the guardian of the beneficiary, a person interested in the custodial trust property, or a person interested in the welfare of the beneficiary, may petition the court to designate a successor custodial trustee.

(e) A custodial trustee who declines to serve or resigns, or the legal representative of a deceased or incapacitated custodial trustee, as soon as practicable, shall put the custodial trust property and records in the possession and control of the successor custodial trustee. The successor custodial trustee may enforce the obligation to deliver custodial trust property and records and becomes responsible for each item as received.

(f) A beneficiary, the beneficiary's conservator, an adult member of the beneficiary's family, a guardian of the person of the beneficiary, a person interested in the custodial trust property, or a person interested in the welfare of the beneficiary, may petition the court to remove the custodial trustee for cause and designate a successor custodial trustee, to require the custodial trustee to furnish a bond or other security for the faithful performance of fiduciary duties, or for other appropriate relief.

Section 14. Except as otherwise provided in the instrument creating the custodial trust, in an agreement with the beneficiary, or by court order, a custodial trustee:

(1) shall be entitled to reimbursement from custodial trust property for reasonable expenses incurred in the performance of fiduciary services;

(2) shall have a noncumulative election, to be made no later than six months after the end of each calendar year, to charge a reasonable compensation for fiduciary services performed during such year; and

(3) need not furnish a bond or other security for the faithful performance of fiduciary duties.

Section 15. (a) Upon the acceptance of custodial trust property, the custodial trustee shall provide a written statement describing the custodial trust property and shall thereafter provide a written statement of the administration of the custodial trust property (i) once each year, (ii) upon request at reasonable times by the beneficiary or the beneficiary's legal representative, (iii) upon resignation or removal of the custodial trustee, and (iv) upon termination of the custodial trust. The statements shall be provided to the beneficiary or to the beneficiary's legal representative, if any. Upon termination of the beneficiary's interest,

the custodial trustee shall furnish a current statement to the person to whom the custodial trust property is to be delivered.

(b) A beneficiary, the beneficiary's legal representative, an adult member of the beneficiary's family, a person interested in the custodial trust property, or a person interested in the welfare of the beneficiary may petition the court for an accounting by the custodial trustee or the custodial trustee's legal representative.

(c) A successor custodial trustee may petition the court for an accounting by a predecessor custodial trustee.

(d) In an action or proceeding under this chapter or in any other proceeding, the court may require or permit the custodial trustee or the custodial trustee's legal representative to account. The custodial trustee or the custodial trustee's legal representative may petition the court for approval of final accounts.

(e) If a custodial trustee is removed, the court shall require an accounting and order delivery of the custodial trust property and records to the successor custodial trustee and the execution of all instruments required for transfer of the custodial trust property.

(f) On petition of the custodial trustee or any person who could petition for an accounting, the court, after notice to interested persons, may issue instructions to the custodial trustee or review the propriety of the acts of a custodial trustee or the reasonableness of compensation determined by the custodial trustee for the services of the custodial trustee or others.

Section 16. (a) Except as provided in subsection (c), unless previously barred by adjudication, consent, or limitation, a claim for relief against a custodial trustee for accounting or breach of duty shall be barred as to a beneficiary, a person to whom custodial trust property is to be paid or delivered, or the legal representative of an incapacitated or deceased beneficiary or payee:

(1) who has received a final account or statement fully disclosing the matter unless an action or proceeding to assert the claim is commenced within two years after receipt of the final account or statement; or

(2) who has not received a final account or statement fully disclosing the matter unless an action or proceeding to assert the claim is commenced within three years after the termination of the custodial trust.

(b) Except as provided in subsection (c), a claim for relief to recover from a custodial trustee for fraud, misrepresentation, or concealment related to the final settlement of the custodial trust or concealment of the existence of the custodial trust, shall be barred unless an action or proceeding to assert the claim is commenced within five years after the termination of the custodial trust.

(c) A claim for relief shall not be barred by this section if the claimant:

(1) is a minor, until the earlier of two years after the claimant becomes an adult or dies;

(2) is an incapacitated adult, until the earliest of two years after (i) the appointment of a conservator, (ii) the removal of the incapacity, or (iii) the death of the claimant; or

(3) was an adult, now deceased, who was not incapacitated, until two years after the claimant's death.

Section 17. (a) Upon termination of a custodial trust, the custodial trustee shall transfer the unexpended custodial trust property:

(1) to the beneficiary, if not incapacitated or deceased;

(2) to the conservator or other recipient designated by the court for an incapacitated beneficiary; or

(3) upon the beneficiary's death, in the following order:

(i) as last directed in a writing signed by the deceased beneficiary while not incapacitated and received by the custodial trustee during the life of the deceased beneficiary;

(ii) to the survivor of multiple beneficiaries if survivorship is provided for pursuant to section six;

(iii) as designated in the instrument creating the custodial trust; or

(iv) to the estate of the deceased beneficiary.

(b) If, when the custodial trust would otherwise terminate, the distributee is incapacitated, the custodial trust shall continue for the use and benefit of the distributee as beneficiary until the incapacity is removed or the custodial trust is otherwise terminated.

(c) Death of a beneficiary shall not terminate the power of the custodial trustee to discharge obligations of the custodial trustee or beneficiary incurred before the termination of the custodial trust.

Section 18. (a) If a transaction, including a declaration with respect to or a transfer of specific property, otherwise satisfies applicable law, the criteria of section two shall be satisfied by:

(1) the execution and either delivery to the custodial trustee or recording of an instrument in substantially the following form:

TRANSFER UNDER THE MASSACHUSETTS UNIFORM CUSTODIAL TRUST ACT

I, _____ (name of transferor or name and representative capacity if a fiduciary), transfer to _____ (name of trustee other than transferor), as custodial trustee for _____ (name of beneficiary) as beneficiary and _____ as distributee on termination of the trust in absence of direction by the beneficiary under the Massachusetts Uniform Custodial Trust Act, the following: (insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).

Dated: _____

_____

(Signature); or

(2) the execution and the recording or giving notice of its execution to the beneficiary of an instrument in substantially the following form:

DECLARATION OF TRUST UNDER THE MASSACHUSETTS UNIFORM CUSTODIAL TRUST ACT

I, _____ (name of owner of property), declare that henceforth I hold as custodial trustee for _____ (name of beneficiary other than transferor) as beneficiary and _____ as distributee on termination of the trust in absence of direction by the beneficiary under the Massachusetts Uniform Custodial Trust Act, the following: (Insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).

Dated: _____

_____

(Signature)

(b) Customary methods of transferring or evidencing ownership of property may be used to create a custodial trust, including any of the following:

(1) registration of a security in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance "as custodial trustee for _____ (name of beneficiary) under the Massachusetts Uniform Custodial Trust Act";

(2) delivery of a certificated security, or a document necessary for the transfer of an uncertificated security, together with any necessary endorsement, to an adult other than the transferor or to a trust company as custodial trustee, accompanied by an instrument in substantially the form prescribed in clause (1) of subsection (a);

(3) payment of money or transfer of a security held in the name of a broker or a financial institution or its nominee to a broker or financial institution for credit to an account in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Massachusetts Uniform Custodial Trust Act";

(4) registration of ownership of a life or endowment insurance policy or annuity contract with the issuer in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Massachusetts Uniform Custodial Trust Act";

(5) delivery of a written assignment to an adult other than the transferor or to a trust company whose name in the assignment is designated in substance by the words: "as custodial trustee for _____ (name of beneficiary) under the Massachusetts Uniform Custodial Trust Act";

(6) irrevocable exercise of a power of appointment, pursuant to its terms, in favor of a trust company, an adult other than the donee of the power, or the donee who holds the power if the beneficiary is other than the donee, whose name in the appointment is designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Massachusetts Uniform Custodial Trust Act";

(7) delivery of a written notification or assignment of a right to future payment under a contract to an obligor which transfers the right under the contract to a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, whose name in the notification or assignment is designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Massachusetts Uniform Custodial Trust Act";

(8) execution, delivery, and recordation of a conveyance of an interest in real property in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Massachusetts Uniform Custodial Trust Act";

(9) issuance of a certificate of title by an agency of a state or of the United States which evidences title to tangible personal property:

(i) issued in the name of a trust company, an adult other than the transferor, or the transferor if the beneficiary is other than the transferor, designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Massachusetts Uniform Custodial Trust Act"; or

(ii) delivered to a trust company or an adult other than the transferor or endorsed by the transferor to that person, designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Massachusetts Uniform Custodial Trust Act"; or

(10) execution and delivery of an instrument or gift to a trust company or an adult other than the transferor, designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Massachusetts Uniform Custodial Trust Act."

Section 19. (a) This chapter shall apply to a transfer or declaration creating a custodial trust that refers to this chapter if, at the time of the transfer or declaration, the transferor, beneficiary, or custodial trustee is a resident of or has its principal place of business in the commonwealth or custodial trust property is located in the commonwealth. The custodial trust remains subject to this chapter despite a later change in residence or principal place of business of the transferor, beneficiary, or custodial trustee, or removal of the custodial trust property from the commonwealth.

(b) A transfer made pursuant to a law of another state substantially similar to this chapter shall be governed by the law of such other state and may be enforced in the commonwealth.

SECTION 2. This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

SECTION 3. If any provision of this act or its application to any person or circumstance is held invalid the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Approved January 12, 1994.

Chapter 435. AN ACT RELATIVE TO THE POSITION OF ACTING TOWN MANAGER OF THE TOWN OF WATERTOWN.

Be it enacted, etc., as follows:

Section 3-5 (*b*) of Article 3 of the charter of the city known as the town of Watertown, 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 the last sentence and inserting in place thereof the following sentence:- The appointment of an acting town manager shall be for a term not to exceed four months; provided, however, one renewal, not to exceed a second four months, may be permitted.

Approved January 12, 1994.

Chapter 436. AN ACT AUTHORIZING THE TOWN OF MASHPEE TO LEASE A CERTAIN PARCEL OF CONSERVATION LAND.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Mashpee, acting by and through its board of selectmen, is hereby authorized to lease a certain parcel of conservation land to the Veterans of Foreign Wars Mashpee Memorial Post 5489 on such terms and conditions as said board may prescribe.

Said parcel is shown on a plan of land entitled "PROPOSED VFW SITE" dated August, nineteen hundred and ninety-two which is on file in the office of the town clerk.

Approved January 12, 1994.

Chapter 437. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT EASEMENTS AND AIR RIGHTS OVER CERTAIN PARCELS OF LAND LOCATED IN THE CITY OF LOWELL.

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 easements and air rights over certain parcels of land located in the city of Lowell, 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 in consultation with the commissioner of the department of environmental management, is

hereby authorized, 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, to grant easements and air rights, by deed or deeds approved as to form by the attorney general, over certain parcels of land, including park and environmental land located in the city of Lowell to the Bio Development Corporation for construction of energy related, steam transport pipes. Construction and development must be consistent with the Lowell Preservation Plan, subject to the requirements of sections two to six, inclusive, and such additional terms and conditions as said commissioner may prescribe in consultation with the department of environmental management. Said parcels are described in the following instruments: Order of Taking dated December 1, 1986 and recorded in the Middlesex north district registry of deeds in Book 3830, Page 70; deed from Frank and Claire Barrett dated May 27, 1977 and recorded in said registry in Book 2251, Page 235; and deed from Paul and Lorraine Desmarais dated October 7, 1977 and recorded in said registry in Book 2279, Page 435. In order to ensure consistency with park purposes, said easements to be granted shall be described in a plan submitted by Bio Development Corporation to the commissioner. Said commissioner may grant a right of reasonable access by foot and vehicle over adjacent lands to facilitate the installation and maintenance of improvements related to said easements.

SECTION 1A. 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 1B. In consideration for said easements, Bio Development Corporation shall make a contribution to the conservation trust, as provided for in section one of chapter one hundred and thirty-two A of the General Laws, based on the fair market value of the easements granted, or provided any other form of compensation as determined by the commissioner of capital planning and operations in consultation with the department of environmental management.

SECTION 2. Said easements shall not be inconsistent with the commonwealth's use and operation of the canal system as a state and national park. 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. The department of environmental management shall not assume any costs for appraisals, surveys, and other expenses deemed necessary by the commissioner of capital planning and operations for the disposition of this property, or for its development or maintenance.

Approved January 12, 1994.

Chapter 438. AN ACT RELATIVE TO THE HOLDING OF MULTIPLE OFFICES IN THE TOWN OF ARLINGTON.

Be it enacted, etc., as follows:

SECTION 1. Section 9 of chapter 503 of the acts of 1952, as amended by section 2 of chapter 634 of the acts of 1956, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- A member of the board of selectmen, or of the school committee, or of the finance committee shall, during the term for which he was elected or appointed, be ineligible either by election or appointment to hold any other town office, except the office of town meeting member and except for membership on a committee, board or commission when the participation of such member is required by town by-law or by a vote of the town meeting.

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

Approved January 12, 1994.

Chapter 439. AN ACT FURTHER REGULATING UNTRUE AND MISLEADING ADVERTISEMENTS.

Be it enacted, etc., as follows:

Section 91 of chapter 266 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in lines 18 and 19, the words "five hundred nor more than one" and inserting in place thereof the following words:- one thousand nor more than two.

Approved January 12, 1994.

Chapter 440. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT AN EASEMENT IN CERTAIN LAND LOCATED IN THE TOWN OF WESTBOROUGH.

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 an easement for access to, utilities, and the construction, maintenance, operation, replacement, addition to and removal of a water irrigation system within a certain parcel of land and the SuAsCo watershed project located in the town of Westborough, to the town of Westborough, subject to the requirements of sections two and three, inclusive, and to such additional terms and conditions as the commissioner may prescribe in consultation with the department of environmental management. Said easement shall be located within the SuAsCo watershed project and the

westerly side of Mill street and is shown within Lot 21 on Assessors Map 19 and on file in the assessors office in the town of Westborough.

SECTION 2. The town of Westborough shall assume the costs of appraisals, surveys, and other expenses as deemed necessary by the commissioner for the granting of the easement described in section one.

SECTION 3. In the event that the easement described in section one is not used for the purposes stated in said section one within five years of the effective date of this act, if the town of Westborough ceases to use the easement for such purposes at any time thereafter upon notice delivered to the town of Westborough by the commissioner, or the SuAsCo reservoir dam, so-called, is abandoned or removed, said easement shall revert to the commonwealth upon such terms and conditions as the commissioner may prescribe. The granting of this easement shall not place an obligation on the commonwealth to provide water from the SuAsCo watershed project to the town of Westborough.

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

Approved January 12, 1994.

Chapter 441. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF LEICESTER AS THE LEICESTER KOREAN WAR VETERANS BRIDGE.

Be it enacted, etc., as follows:

The bridge carrying Pleasant street over railroad tracks in the town of Leicester shall be designated and known as the Leicester Korean War Veterans Bridge. The department of highways shall erect suitable markers bearing such designation in compliance with the standards of said department.

Approved January 12, 1994.

Chapter 442. AN ACT RELATIVE TO THE EQUITABLE DISTRIBUTION OF MARITAL ESTATES.

Be it enacted, etc., as follows:

Section 19 of chapter 32 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:-

Nothing in this section shall prevent a member's annuity pension or a retirement allowance from being attached, taken on execution, assigned, or subject to other process to satisfy a support order under chapter two hundred and eight, two hundred and nine, two hun-

dred and nine A, two hundred and nine C, two hundred and seventy-three or an assignment of marital property under chapter two hundred and eight.

Approved January 12, 1994.

Chapter 443. AN ACT RELATIVE TO TOWN MEETING MEMBERS IN THE TOWN OF DARTMOUTH.

Be it enacted, etc., as follows:

The first paragraph of section 3 of chapter 26 of the acts of 1927 is hereby amended by striking out the first sentence, as amended by section 1 of chapter 66 of the acts of 1993, and inserting in place thereof the following sentence:- Any representative town meeting held under the provisions of this act, except as otherwise provided herein, shall be limited to the voters elected under section two, with the following designated as town meeting members at large; namely, any member of the general court of the commonwealth from the town, the selectmen, the moderator, the town clerk, the chairman of the trustees of the public library, the chairman of the planning board, the chairman of the school committee, the chairman of the board of assessors, the chairman of the board of health, the chairman of the board of public works and the chairman of the finance committee.

Approved January 12, 1994.

Chapter 444. AN ACT VALIDATING CERTAIN ACTIONS BY THE TOWN OF LANESBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the procedures followed by the town of Lanesborough at a special town meeting held on October nineteenth, nineteen hundred and ninety-three, in accepting the following streets and public ways: Park Drive, Victoria Lane, Noppet, North Mountain Road and Lynne Court are hereby ratified, validated and confirmed.

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

Approved January 12, 1994.

Chapter 445. AN ACT ENLARGING THE RADIUS WITHIN WHICH A CREDIT UNION MAY MAKE CERTAIN LOANS.

Be it enacted, etc., as follows:

The first paragraph of section 65 of chapter 171 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- In making loans on real estate, as specified, a credit union shall also be subject to the condition that each loan shall be on real estate situated within the commonwealth or within a radius of one hundred miles of the main office of the credit union without regard to geographical location.

Approved January 12, 1994.

Chapter 446. AN ACT ELIMINATING CIVIL LIABILITY FOR CERTAIN PHYSICIAN ASSISTANTS WHO RENDER EMERGENCY CARE OR TREATMENT TO INJURED PERSONS.

Be it enacted, etc., as follows:

Chapter 112 of the General Laws is hereby amended by striking out section 12B, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 12B. No physician duly registered under the provisions of section two, two A, nine, nine A or nine B, no physician assistant duly registered under the provisions of section nine I or his employing or supervising physician, and no nurse duly registered or licensed under the provisions of section seventy-four, seventy-four A or seventy-six, or resident in another state, in the District of Columbia or in a province of Canada, and duly registered therein, who, in good faith, as a volunteer and without fee, renders emergency care or treatment, other than in the ordinary course of his practice, shall be liable in a suit for damages as a result of his acts or omissions, nor shall he be liable to a hospital for its expenses if, under such emergency conditions, he orders a person hospitalized or causes his admission.

Approved January 12, 1994.

Chapter 447. AN ACT RELATIVE TO THE COMPOSITION OF THE ECONOMIC ASSISTANCE COORDINATING COUNCIL.

Be it enacted, etc., as follows:

Section 3B of chapter 23A of the General Laws, inserted by section 4 of chapter 19 of the acts of 1993, is hereby amended by striking out the second sentence and inserting in

place thereof the following sentence:- The EACC shall consist of: the secretary of economic affairs or his designee, who shall serve as co-chairperson; the secretary of communities and development or his designee, who shall serve as co-chairperson; the secretary of labor or his designee; the director of MOBD or his designee; the director of the industrial service program or his designee; the director of the Bay State Center for Applied Technology or his designee; and seven members to be appointed by the governor, one of whom shall be from the western region of the commonwealth, one of whom shall be from the central region of the commonwealth, one of whom shall be from the eastern region of the commonwealth, one of whom shall be from the southeastern region of the commonwealth, one of whom shall be from the Cape Cod and Islands, and one of whom shall be the chancellor of a higher educational institution within the commonwealth, and one of whom shall be from the Merrimack Valley, and all of whom shall have expertise in issues pertaining to training, business relocation, and inner city and rural redevelopment, and who are knowledgeable in public policy and international and state economic and industrial trends.

Approved January 12, 1994.

Chapter 448. AN ACT AUTHORIZING AND DIRECTING THE TOWN OF NEW MARLBOROUGH TO ABATE AND REFUND CERTAIN PROPERTY TAXES.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of New Marlborough is hereby authorized to abate real estate taxes assessed in the name of David W. Jacquier in the amount of seven thousand five hundred fifty-six dollars and twenty-four cents for fiscal years nineteen hundred and eighty-eight to nineteen hundred and ninety-three, inclusive, and to refund to said David W. Jacquier the sum of seven thousand five hundred fifty-six dollars and twenty-four cents.

Approved January 12, 1994.

Chapter 449. AN ACT RELATIVE TO CERTAIN CONSERVATION RESTRICTIONS IN THE TOWN OF SUDBURY.

Be it enacted, etc., as follows:

SECTION 1. The town of Sudbury, acting by and through its board of selectmen, is hereby authorized to release a certain parcel of land subject to the conservation restriction granted to the town of Sudbury by Arden B. MacNeill, on June thirteenth, nineteen hundred and eighty-four, and recorded at Middlesex south registry of deeds, Book 17249, Page 611,

from said restriction. The parcel of land to be released is shown as proposed release of conservation restriction on a plan entitled "Easement Plan of Land in Sudbury, MA", dated November second, nineteen hundred and ninety-two by Colburn Engineering, Inc. to be recorded with the Middlesex south district registry of deeds.

In consideration for the release of said conservation restriction, William C. Drake and Georg-Jean Drake, owners of said parcel of land, shall grant to the town of Sudbury, a conservation restriction on the land shown as Lot 46 on said plan.

SECTION 2. The town of Sudbury, acting by and through its board of selectmen, is hereby authorized to release a certain parcel of land subject to the conservation restriction granted to the town of Sudbury by Arden B. MacNeill, on June thirteenth, nineteen hundred and eighty-four, and recorded at Middlesex south registry of deeds, Book 17249, Page 611, from said restriction. The parcel of land to be released is shown as Parcel "A" on a plan entitled "Easement Plan", dated January twenty-seventh, nineteen hundred and ninety-three by Schofield Brothers of New England, to be recorded with the Middlesex south district registry of deeds.

In consideration for the release of said conservation restriction, David Gruber and Joann Gruber, owners of said parcel of land, shall grant to the town of Sudbury, a conservation restriction on the land shown as Parcel "B" on said plan.

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

Approved January 12, 1994.

Chapter 450. AN ACT RELATIVE TO CERTAIN AGRICULTURAL PROVISIONS OF THE ZONING ENABLING ACT.

Be it enacted, etc., as follows:

The first paragraph of section 3 of chapter 40A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following two sentences:- For the purpose of this section, the term horticulture shall include the growing and keeping of nursery stock and the sale thereof. Said nursery stock shall be considered to be produced by the owner or lessee of the land if it is nourished, maintained and managed while on the premises.

Approved January 12, 1994.

Chapter 451. AN ACT AUTHORIZING THE COUNTY OF NANTUCKET TO CONVEY CERTAIN LAND.

Be it enacted, etc., as follows:

SECTION 1. The county of Nantucket is hereby authorized to convey the Creek's Shore reservation, Creek's parking lot, Smith Point reservation and Surfside parking lot to the town of Nantucket, exclusive of public ways and bike paths owned by said county.

SECTION 2. The provisions of chapter thirty B of the General Laws and any rights of first refusal in the commonwealth under the provisions of section fourteen of chapter thirty-four of the General Laws shall not be applicable to any conveyance authorized by this act.

SECTION 3. A majority of the voters at an annual or special town meeting shall approve any and all transfers authorized hereby, prior to such conveyances taking effect.

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

Approved January 12, 1994.

Chapter 452. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT A CONVEYANCE OF CERTAIN LAND LOCATED IN THE TOWN OF HUBBARDSTON.

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, a certain parcel of land located in the town of Hubbardston, to an individual or entity, subject to the requirements of section two and three and to such additional terms and conditions as the commissioner may prescribe, in consultation with the metropolitan district commission, said parcel is shown as "Parcel A" on "Plan of Property owned by the Commonwealth of Massachusetts, Metropolitan District Commission, to be conveyed to Elliot Card", prepared by Cullinan Engineering Co. Inc. and dated February 26, 1987.

SECTION 2. The purchaser of the parcel described in section one shall assume the costs of appraisals, surveys, and other expenses as deemed necessary by the commissioner for the sale of said parcel.

SECTION 3. In the event that the parcel described in section one is not used for residential purposes, or any sewage disposal system or any of its components are installed on the property, said property shall revert to the commonwealth under such terms and conditions as the commissioner shall prescribe.

Approved January 12, 1994.

Chapter 453. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO LEASE A CERTAIN PARCEL OF LAND IN THE CITY OF MALDEN NOW UNDER THE CONTROL OF THE METROPOLITAN DISTRICT COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. The division of capital planning and operations is hereby authorized to execute and deliver in the name of and on behalf of the commonwealth, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws and subject to such terms and conditions as determined by said division in consultation with the metropolitan district commission, and in keeping with the provisions of this act, one or more instruments to lease, for a period not to exceed ten years, a certain portion of state-owned land located in the city of Malden to an individual or entity for parking purposes only. Said land is more particularly described as follows:

A certain parcel of land situated in the city of Malden and shown on a plan entitled "Study Plan of Land in Malden, Mass., Scale 1"=20' dated November 3, 1987 bounded and described as follows:

Beginning at a point, said point on a westerly sideline of Canal Street and being the lot corner between land now or formerly of Trustees of Anthony W. Spadafora Trust and Land now or formerly of Commonwealth of Massachusetts Metropolitan District Commission;

Thence S 01°-31'-40" W by the sideline of Canal street, a distance of one hundred and twenty and 00/100 (120.00) feet;

Thence S 59°-51'-40" W by land now or formerly of Products Research and Chemical Corporation a distance of forty-eight and 17/100 (48.17) feet;

Thence N 01°-31'-40" E by land now or formerly of Commonwealth of Massachusetts, Metropolitan District Commission a distance of seventy-four and 00/100 (74.00) feet;

Thence N 65°-47'-33" W by land now or formerly of Commonwealth of Massachusetts, Metropolitan District Commission a distance of one hundred forty-five and 23/100 (145.23) feet;

Thence N 01°-31'-40" E by land now or formerly of Commonwealth of Massachusetts, Metropolitan District Commission a distance of fifteen and 00/100 (15.00) feet;

Thence S 88°-28'-20" E by land now or formerly of Trustees of Anthony W. Spadafora Trust a distance of one hundred seventy-five and 00/100 (175.00) feet to the said point of beginning containing 11,200 square feet of land, more or less, according to said plan.

SECTION 2. Said original lease or leases of said state-owned land to said individual or entity shall be for not less than fair market value for comparable rentals in the locality. Said division, in consultation with the metropolitan district commission, may renew such lease or leases, after notification to the general court, for an additional period of ten years; provided, however, that any additional renewal or leases for any further terms of years shall

also require notice to the general court. The deputy commissioner of said division shall file with the clerk of the house of representatives who shall forward to the joint committee on state administration and with the inspector general of the commonwealth a copy of the lease authorized by this act at least twenty business days prior to the execution thereof by said division. The inspector general shall review and file comments and any recommendations thereto with the joint committee on state administration within fifteen business days of the receipt of such lease by the inspector general, and said inspector general shall deliver a copy of such comments and recommendations to the division. Said lease, when executed by the deputy commissioner, shall be deemed conclusively authorized hereby; provided, however, that all provisions therein are consistent with the provisions of this act. The 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 for recording and any and all other agreements and instruments related to the lease authorized hereby which the division may determine appropriate from time to time. Any such notice of lease, lease instrument, or instruments, when executed by the commissioner shall be deemed conclusively authorized hereby; provided, however, that all provisions therein are consistent with this act. No sub-lease of such land or any portion thereof shall be executed without prior notice to the general court. The aforementioned lease or leases shall not be transferable to any other party or parties other than those mentioned in this act without prior notice to the general court.

SECTION 3. The lease or leases authorized by section one of this act shall be restricted solely to the parking of motor vehicles, free of charge, and said land shall not be built upon in any manner without the written approval of the division of capital planning and operations and the metropolitan district commission, a copy of which shall be sent to the joint committee on state administration to be kept on file.

SECTION 4. It shall be a condition of said lease or leases that the lessee shall, subject to the written approval of the division and oversight by the metropolitan district commission, demolish at the expense of said lessee, an abandoned wood frame building now on the portion of said land to be leased and declared to be excess by said division and said commission.

SECTION 5. The lessee of the lease described in section one shall assume the costs of appraisals, surveys and other expenses as deemed necessary by the commissioner of the division of capital planning and operations for the leasing of said property.

SECTION 6. The lease or leases authorized by this act shall terminate if at any time said land is used for any purpose other than parking.

Approved January 12, 1994.

Chapter 454. AN ACT PROVIDING A CERTAIN EXEMPTION FOR THE TOWN OF NEWBURY.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Newbury shall have one precinct for the purpose of forming congressional, state representative, state senatorial or councillor districts but may have three polling places for the purpose of any state or municipal election.

Approved January 12, 1994.

Chapter 455. AN ACT RELATIVE TO THE CONDUCT OF OPEN MEETINGS OF GOVERNMENTAL BODIES.

Be it enacted, etc., as follows:

Section 23B of chapter 39 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "section.", in line 162, the following paragraph:-

Such order may also include a civil fine against the governmental body in an amount no greater than one thousand dollars for each meeting held in violation of this section.

Approved January 13, 1994.

Chapter 456. AN ACT PROVIDING FOR AN EARLY RETIREMENT INCENTIVE PROGRAM FOR EMPLOYEES OF THE MASSACHUSETTS HOUSING FINANCE AGENCY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for an early retirement incentive program for employees of the Massachusetts Housing Finance Agency, 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 chapter thirty-two of the General Laws or any other general or special law to the contrary, the Massachusetts Housing Finance Agency's employees' retirement system, established under the provisions of sections one to twenty-eight, inclusive, of chapter thirty-two of the General Laws, shall establish and implement a retirement incentive for public employees, hereinafter referred to as the retirement incentive program, in accordance with provisions of this act; provided, that, in order to be deemed eligible by said board for any of the benefit options under said retirement

incentive program, an employee (i) shall be an employee of the Massachusetts Housing Finance Agency on the effective date of this act or shall have been a member in active service of the Massachusetts Housing Finance Agency employees' retirement system on January first, nineteen hundred and ninety-three; (ii) shall be classified in Group I of said retirement system in accordance with the provisions of paragraph (g) of subdivision (2) 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 (1) of section five of said chapter thirty-two or subdivision (1) of section ten of said chapter thirty-two upon the date of retirement requested in his written application for retirement with said board; and (iv) shall have filed such written application with said board in accordance with section two of this act.

The total number of Group 1 employees who shall be eligible to receive the benefit of said early retirement program shall be limited to fourteen; provided, however, that the retirement of employees with greater creditable service shall be approved before approval is given to employees with lesser creditable service. No employee shall be eligible for more than one of the incentives offered herein; and no employee shall become eligible for one incentive by making application for a different incentive.

For the purpose of this act, words shall have the same meanings as in chapter thirty-two of the General Laws, unless otherwise expressly provided or unless the context clearly requires otherwise. An employee of the Massachusetts Housing Finance Agency who retires and receives an additional benefit in accordance with the provisions of this act shall be deemed to be retired for the purposes of superannuation under the provisions of said chapter thirty-two and shall be subject to the provisions of said chapter.

SECTION 2. Notwithstanding the provisions of section five of said 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 retirement benefit provided hereunder, an eligible employee, except as otherwise provided in this section, shall file his application for retirement hereunder with the Massachusetts Housing Finance Agency employees' retirement system after January first, nineteen hundred and ninety-four but not later than January thirty-first, nineteen hundred and ninety-four; provided, however, that the retirement date requested shall be February fifteenth, nineteen hundred and ninety-four or thirty days from the effective date of this act, whichever last occurs.

SECTION 3. An employee who is eligible for the retirement incentive program in accordance with the provisions of section one may request, in his application for retirement, that the Massachusetts Housing Finance Agency employees' retirement system credit him with an additional retirement benefit in accordance with the provisions of this section; provided, however, that each such employee shall request and receive five years of creditable service or five years of age or a combination of years of creditable service and years of age, the sum of which shall not be greater than five years, for the purpose of determining his superannuation retirement allowance pursuant to the provisions of paragraph (a) of subdivision (2) of section five of chapter thirty-two of the General Laws. Notwithstanding such credit, the total normal yearly amount of the retirement allowance, as determined in ac-

cordance with the provisions of said section five of said chapter thirty-two, of an employee who retires and receives an additional retirement benefit provided herein shall not exceed four-fifths of the average annual rate of his regular compensation as determined in accordance with the provisions of said section five of said chapter thirty-two.

SECTION 4. For a married employee who retires and receives an additional benefit under the provisions of this act, 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) a certification by the Massachusetts Housing Finance Agency employees' retirement system that such spouse has received notice of such election as hereinafter provided. If a member who is married files an election which is not so signed by his spouse, the Massachusetts Housing Finance Agency employees' retirement system shall, within fifteen days, notify the member's spouse by registered mail of the option election; provided, however, that such option election shall not take effect until thirty days following the date on which such notification is sent; and, provided further, that such election may be changed by the member at any time within 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 an 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 Massachusetts Housing Finance Agency employees' retirement system of the notice required hereunder.

SECTION 5. The Massachusetts Housing Finance Agency employees' retirement system shall provide retirement counseling to employees who consider retiring or who choose to retire under the retirement incentive program established by this act. Such counseling shall include, but not be limited to, the following: (i) a full explanation of the retirement benefits provided by this act; (ii) a comparison of the expected lifetime retirement benefits payable to such employee under the retirement incentive program and under the existing provisions of chapter thirty-two of the General Laws; (iii) the election of a retirement option under the provisions of section twelve of said chapter thirty-two; (iv) the restrictions on employment after retirement; (v) the provision of health care benefits under the provisions of chapter thirty-two A of the General Laws; (vi) the provisions of law relative to the payment of cost of living adjustments to the retirement allowance in years in which there is such an adjustment; and (vii) the effect of federal and state taxation on retirement income. Each such employee shall sign a statement that he has received such counseling or that he chooses not to receive such counseling prior to the approval by the Massachusetts Housing Finance Agency employees' retirement system of such employee's application for superannuation benefits and the additional benefit provided by this act.

SECTION 6. The executive secretary of the Massachusetts Housing Finance Agency employees' retirement system shall analyze, study, and valuate the costs and actuarial liabilities attributable to the additional benefits payable in accordance with the provisions of section three; provided that said executive secretary shall file a report with the

board of directors of the Massachusetts Housing Finance Agency on or before December thirty-first, nineteen hundred and ninety-three, or within six months of the effective date of this act, whichever last occurs.

SECTION 7. The executive secretary of the Massachusetts Housing Finance Agency employees' retirement system shall prepare a funding schedule which shall reflect the costs and actuarial liabilities attributable to the additional benefits, including any ancillary costs including, but not limited to the payment of accrued vacation, unused sick leave or any other severance payment payable under the retirement incentive program, in accordance with the provisions of section three and said schedule shall be designed to reduce the Massachusetts Housing Finance Agency's additional pension liability attributable to such costs and liabilities to zero on or before June thirtieth, two thousand and eight. Said executive secretary shall file such funding schedule with the Massachusetts Housing Finance Agency's board of directors on or before March first, nineteen hundred and ninety-four, and shall file updates thereto annually on or before March first of each year; provided, however, that if, within forty-five days of each such filing, the board of directors of the Massachusetts Housing Finance Agency shall not have taken action to disapprove such schedule or update thereto, such schedule or update thereto shall be deemed to be approved; and, provided further, that if such schedule or update thereto is not so approved, said executive secretary shall review any comments made by said board and prepare and submit for approval in like manner another schedule. In each of the fiscal years until the actuarial liability determined under this section and section six shall be reduced to zero, it shall be deemed an obligation of the Massachusetts Housing Finance Agency to fund such liability and the Massachusetts Housing Finance Agency shall appropriate to the pension reserve investment trust fund in each such fiscal year the amount required by the funding schedule and the updates thereto approved under the provisions of this section.

Approved January 13, 1994.

Chapter 457. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY CERTAIN PROPERTY IN THE CITY OF TAUNTON TO SAID CITY.

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 at full and fair market value and convey by deed approved as to form by the attorney general to the city of Taunton certain real property, formerly used for mental health purposes, located on Davis Street in said city and known as Lovering Colony for use solely as a golf course or recreational open space. The full and fair market value of the property shall be determined by independent appraisal, for said property's use as a golf

course and recreational open space. The inspector general shall review and approve said appraisal and said review shall include a review of the methodology utilized for said appraisal. The inspector general shall prepare a report of his review and file said report with the commissioner for submission to the house and senate committees on ways and means and the house and senate chairmen of the joint committee on state administration. Said conveyance shall include easements for the benefit of said property for access, drainage and utilities as deemed necessary by the commissioner, and shall be subject to such additional terms and conditions as the commissioner, in consultation with the department of mental health, may prescribe. Said city shall assume the costs of appraisals, surveys, and other expenses deemed necessary by the commissioner.

The commissioner shall, thirty days before the execution of any agreement authorized by this act, or any subsequent amendment thereof, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. The inspector general shall issue his review and comment within fifteen days of receipt of any agreement or amendment. The commissioner shall submit the agreement and any subsequent amendments thereof, the reports, and the comments of the inspector general, if any, to the house and senate committees on ways and means and the house and senate chairmen of the joint committee on state administration at least fifteen days prior to execution.

Before the sale of any state land may be executed the terms and conditions of the sale as appearing in the deed must meet the approval of the state auditor and of the inspector general. The deed shall be deemed valid only if both the state auditor and inspector general find the sale of such land to be in the best interest of the commonwealth.

A copy of the proposed deed for the sale of any state land must be sent by both entities involved in the transaction to the state auditor and to the inspector general for approval.

(a) no sale shall be valid if, within thirty days after receiving a copy of the proposed deed, either the state auditor or the inspector general notifies the respective entities of his objection.

(b) for the purpose of reviewing the proposed deed to insure that it is in the interest of the commonwealth, the state auditor or the inspector general may require by summons the attendance and testimony under oath of witnesses and the production of books, papers, and other records relating to such review.

(c) the objection of either the state auditor or the inspector general shall be final and binding, unless the objection is thereafter withdrawn in writing by the state auditor and/or the inspector general.

Approved January 13, 1994.

Chapter 458. AN ACT PROVIDING INSURANCE COVERAGE FOR BONE MARROW TRANSPLANTS FOR CERTAIN PATIENTS WITH BREAST CANCER.

Be it enacted, etc., as follows:

SECTION 1. Chapter 175 of the General Laws is hereby amended by inserting after section 47L the following section:-

Section 47M. Any individual policy of accident and sickness insurance issued pursuant to section one hundred and eight, and any group blanket policy of accident and sickness insurance issued pursuant to section one hundred and ten, shall provide coverage for a bone marrow transplant or transplants for persons who have been diagnosed with breast cancer that has progressed to metastatic disease; provided, however, that said person shall meet the criteria established by the department of public health. The department of public health shall promulgate rules and regulations establishing criteria for eligibility for coverage hereunder which shall be consistent with medical research protocols reviewed and approved by the National Cancer Institute.

SECTION 2. Chapter 176A of the General Laws is hereby amended by inserting after section 8N the following section:-

Section 8 O. Any contract between a subscriber and the corporation under an individual or group hospital service plan that shall be delivered, issued or renewed in the commonwealth shall provide, as benefits to all individual subscribers or members within the commonwealth and to all group members having a principal place of employment within the commonwealth, coverage for a bone marrow transplant or transplants for persons who have been diagnosed with breast cancer that has progressed to metastatic disease; provided, however, that said person shall meet the criteria established by the department of public health. The department of public health shall promulgate rules and regulations establishing criteria for eligibility for coverage hereunder which shall be consistent with medical research protocols reviewed and approved by the National Cancer Institute.

SECTION 3. Chapter 176B of the General Laws is hereby amended by inserting after section 4N the following section:-

Section 4 O. Any subscription certificate under an individual or group medical service agreement that shall be delivered, issued or renewed in the commonwealth shall provide as a benefit for all individual subscribers or members within the commonwealth and all group members having a principal place of employment within the commonwealth, coverage for a bone marrow transplant or transplants for persons who have been diagnosed with breast cancer that has progressed to metastatic disease; provided, however, that said person shall meet the criteria established by the department of public health. The department of public health shall promulgate rules and regulations establishing criteria for eligibility for coverage hereunder which shall be consistent with medical research protocols reviewed and approved by the National Cancer Institute.

SECTION 4. Chapter 176G of the General Laws is hereby amended by inserting after section 4E the following section:-

Section 4F. Any group health maintenance contract shall provide coverage for a bone marrow transplant or transplants for persons who have been diagnosed with breast cancer that has progressed to metastatic disease; provided, however, that said person shall meet the criteria established by the department of public health. The department shall promulgate rules and regulations establishing criteria for eligibility for coverage hereunder which shall be consistent with medical research protocols reviewed and approved by the National Cancer Institute.

SECTION 5. Chapter 32A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding after section 17 the following new section:-

Section 17A. The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for a bone marrow transplant for persons who have been diagnosed with breast cancer that has progressed to metastatic disease provided, however, that said person shall meet the criteria established by the department of public health. The department of public health shall promulgate rules and regulations establishing criteria for eligibility for coverage hereunder which shall be consistent with medical research protocols reviewed and approved by the National Cancer Institute.

Approved January 13, 1994.

Chapter 459. AN ACT RELATIVE TO EXPANDING THE ROLE OF NURSES IN THE DELIVERY OF HEALTH CARE SERVICES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 13 of the General Laws is hereby amended by striking out section 13, as appearing in the 1992 Official Edition, and inserting in place the following section:-

Section 13. (a) The governor shall appoint thirteen members to a board of registration in nursing hereinafter called the board. When making such appointments the governor shall consider persons suggested by nursing organizations in the commonwealth. Members shall be residents of the commonwealth. The composition of the board shall be as follows: nine registered nurses; three licensed practical nurses; one consumer.

(b) At the time of appointment or reappointment, nurse members shall:

(1) be currently licensed as nurses in the commonwealth;

(2) have at least eight years of experience in nursing practice in the ten years immediately preceding the appointment; and

(3) be currently employed in nursing in the commonwealth at the time of appointment or reappointment.

(c) Registered nurse board members shall include representatives from long-term care, acute care, and community health settings in the following manner:

(1) one representative from each level of nursing education whose graduates are eligible to write nursing licensure examinations; provided, however that baccalaureate and higher degree programs shall be considered one level;

(2) two registered nurses in advanced practice, both of whom must meet requirements for authorization as a registered nurse in advanced practice as established by the board, at least one of whom is employed providing direct patient care at the time of appointment;

(3) one registered nurse who is currently employed as a nursing service administrator and who is responsible in that role for agency or service wide policy development and implementation;

(4) two registered nurses not authorized in advanced nursing practice and who provide direct patient care.

(d) Licensed practical nurse board members shall include representatives from long-term care, acute care, and community health settings.

(e) The consumer board member shall be knowledgeable in consumer health concerns and shall neither be, nor ever have been, associated directly or indirectly with the provision of health care.

(f) Board members shall serve for a term of three years and until the governor appoints a successor, no member may serve more than two consecutive full terms in any category. Completion of an unexpired term does not constitute a full term. No fewer than four members of the board shall be appointed each year.

(g) The governor shall fill any vacancy on the board within ninety days of the date that position becomes vacant.

(h) The present members of the board holding office upon the effective date of this act shall serve as members for the duration of their respective terms.

SECTION 2. Said chapter 13 is hereby further amended by striking out section 14, as so appearing, and inserting in place thereof the following section:-

Section 14. The board shall:

(a) meet at least four times per year and shall elect a chairperson and officers annually;

(b) appoint, employ and prescribe the duties of a qualified registered nurse to serve as executive director of the board, who shall not be subject to chapter thirty-one and who shall employ persons, as necessary, to administer section thirteen and this section and sections seventy-four to eighty-one C, inclusive, of chapter one hundred and twelve, and who shall receive such salary as may be fixed in accordance with chapter thirty;

(c) have responsibility and power to administer, coordinate, and enforce the provisions of section thirteen and this section and sections seventy-four to eighty-one C, inclusive, of chapter one hundred and twelve, without limitation to such other powers, duties, and authorities as it may be granted by its status;

(d) be authorized to make, adopt, amend, repeal, and enforce such rules and regulations consistent with law as it deems necessary for the protection of the public health, safety and welfare and for proper administration and enforcement of its responsibilities;

(e) conduct such hearings and keep records and minutes as are necessary to carry out its duties;

(f) collect reasonable fees established pursuant to the provisions of section three B of chapter seven; provided, however, that in setting the level of said fees, the secretary of administration shall take into consideration the projected costs of assuring sufficient funding to meet the purposes of this section, including, but not limited to, clauses (g) to (k), inclusive;

(g) conduct studies of the supply of nurses in the commonwealth and, in conjunction with other agencies of the commonwealth, evaluate the demand for nursing services;

(h) provide consultation, conduct conferences, forms, studies and research on nursing practice, nursing education and related matters;

(i) prepare and publish materials the board determines integral to the delivery of safe and effective nursing care;

(j) notify all licensees annually about all changes in law and rules and regulations regarding nursing licensure and nursing practice; and

(k) participate in, including attending at meetings of, and paying fees to, national organizations of state boards of nursing.

SECTION 3. Said chapter 13 is hereby further amended by striking out section 14A, as so appearing, and inserting in place thereof the following section:-

Section 14A. There shall be an assistant to the executive director of the board, who shall have been a registered nurse for at least five years prior to appointment, who shall be appointed by the director, with the approval of the board.

SECTION 4. Chapter 112 of the General Laws is hereby amended by striking out section 74, as so appearing, and inserting in place thereof the following section:-

Section 74. The board of registration in nursing in this section and in sections seventy-four A to eighty-one C, inclusive, called the board, shall hold examinations for the registration of nurses at such times and places as it shall determine. Applications for registration, signed and sworn to by the applicant, shall be made on blanks approved by the board. An applicant who furnishes satisfactory proof that he is of good moral character and a graduate of a school for nurses approved by the board shall, upon payment of a fee as determined by the secretary of administration pursuant to chapter seven of the General Laws, be examined by the board, and if found qualified, shall be registered, with the right to use the title registered nurse and to practice as such, and shall receive a certificate thereof from the board.

An applicant failing to pass an examination satisfactory to the board shall be entitled to additional examinations under the rules of the board, but shall file a new application and pay a fee as determined under the aforementioned provision for each such examination.

Every person registered hereunder who continues to hold himself out as a registered nurse shall, on or before his birthday in each even-numbered year, renew his registration for the ensuing two year period by payment of a fee as determined by the aforementioned provision to the board, and thereupon, the board shall issue a certificate showing that the holder

thereof, is entitled to practice as a registered nurse for the period covered by said payment; provided, however, that if a birthday of any person who shall be registered hereunder shall occur within three months after such original registration, such person need not renew his registration until his birthday in the even-numbered year next following the birthday aforesaid; provided, further, that every person seeking renewal of registration hereunder shall provide evidence of such continuing education as the board shall require by regulation unless the board accepts the training and experience of any such person in lieu of said continuing education requirement.

The board shall promulgate rules and regulations as to the type and amount of continuing education required for such nurse as a qualification for licensing or relicensing; criteria for approved programs, which shall not exclude programs offered by health care facilities licensed by the department of public health or institutions chartered by the commonwealth; procedure for the approval of such programs; mechanism for the verifications of compliance by each person seeking renewal or registration and provision for inactive status.

The board shall have the authority from time to time to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of the continuing education requirements. Said regulations shall provide that the minimum number of hours required shall not be less than fifteen hours. For the purposes of this section and of section seventy-four A, the birthday of a person born on February twenty-ninth shall be deemed to be February twenty-eighth. In default of such renewal, a person registered hereunder shall forfeit the right to practice as a registered nurse or to hold himself out as such until such fee shall have been paid.

The board, after a hearing, by vote of a majority of its members, may annul the registration and cancel the certificate of any nurse who has been found guilty of a felony.

SECTION 5. Said chapter 112 is hereby further amended by striking out section 74A, as so appearing, and inserting in place thereof the following section:-

Section 74A. The board shall hold examinations for the licensing of practical nurses at such times and places as it shall determine. Applications for licenses as practical nurses, signed and sworn to by the applicants, shall be made on blanks approved by the board. An applicant who furnishes satisfactory proof that he is of good moral character and that he is a graduate of a school for practical nurses approved by the board or is a graduate of an accredited school of professional nursing or was a student in good standing at an accredited school of professional nursing before completing the program of studies and, at the time of withdrawal, had completed a program of study, theory and clinical practice equivalent to that required for graduation from an approved school of practical nursing, shall, upon payment of a fee as determined by the secretary of administration pursuant to chapter seven shall be examined by the board and, if found qualified, shall be licensed, with a right to use the title licensed practical nurse and to practice as such, and shall receive a certificate thereof from the board. An applicant failing to pass an examination satisfactory to the board shall be entitled to additional examinations under the rules of the board but shall file a new application and pay a fee as determined under the aforementioned provision for each such

examination. Every person licensed hereunder who continues to hold himself out as a licensed practical nurse shall, on or before his birthday in each odd numbered year, renew his license for the ensuing two-year period by payment of a fee as determined under the aforementioned provision to the board, and thereupon the board shall issue a certificate showing that the holder is entitled to practice as a licensed practical nurse for the period covered by said payment; provided, however, that if a birthday of any person who shall be licensed hereunder shall occur within three months after such original licensing, such person need not renew his license until the birthday in the odd-numbered year next following the birthday aforesaid; provided, further, that every person seeking renewal or licensing hereunder shall provide evidence of such continuing education as the board shall require by regulation, unless the board accepts the training and experience of any such person in lieu of said continuing education requirements. The board shall promulgate rules and regulations as to the type and amount of continuing education required for such nurse as a qualification for licensing or relicensing; criteria for approved programs, which shall not exclude programs offered by health care facilities licensed by the department of public health or educational institutions chartered by the commonwealth; procedure for the approval of programs; mechanism for the verification of compliance by each person seeking renewal or registration and provision for inactive status. The board shall have the authority from time to time to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of continuing education requirements. Said regulations shall provide that the minimum number of hours required shall not be less than fifteen hours in the registration periods. In default of such renewal, a person licensed hereunder shall forfeit the right to practice as a licensed practical nurse or to hold himself out as such until such fee shall have been paid. The board, after a hearing, by vote of a majority of its members, may annul the license and cancel the certificate of any practical nurse who has been found guilty of a felony.

SECTION 6. Said chapter 112 is hereby further amended by striking out section 77, as so appearing, and inserting in place thereof the following section:-

Section 77. The board shall investigate all complaints of violation of sections seventy-four to eighty-one C, inclusive, and report same to the proper prosecuting officers. The board shall participate in national data reporting systems which provide information on individual nurses.

SECTION 7. Said chapter 112 is hereby further amended by striking out section 80B, as so appearing, and inserting in place thereof the following section:-

Section 80B. The practice of nursing shall mean the performance for compensation of those services which assist individuals or groups to maintain or attain optimal health. Nursing practice requires substantial specialized knowledge of nursing theory and related scientific, behavioral and humanistic disciplines such as are taught and acquired under the established curriculum in a school for nurses duly approved in accordance with this chapter.

Nursing practice involves clinical decision making leading to the development and implementation of a strategy of care to accomplish defined goals, the administration of medication, therapeutics and treatment prescribed by duly authorized nurses in advanced roles, including certified nurse midwives, nurse practitioners and psychiatric nurse mental health clinical specialists; dentists; physicians; and physician assistants' and the evaluation of responses to care and treatment. It shall include, but not be limited to the performance of services which promote and support optimal functioning across the life span; the collaboration with other members of the health team. to achieve defined goals; health counseling and teaching; the provision of comfort measures; teaching and supervising others; and participation in research which contributes to the expansion of nursing knowledge.

Each individual licensed to practice nursing in the commonwealth shall be directly accountable for safety of nursing care he delivers.

The practice of registered nurses shall include, but not be limited to:

(1) the application of nursing theory to the development, implementation, evaluation and modification of plans of nursing care for individuals, families and communities;

(2) coordination and management of resources for care delivery;

(3) management, direction and supervision of the practice of nursing, including the delegation of selected activities to unlicensed assistive personnel.

Registered nurses who apply for initial authorization in advanced nursing practice shall furnish to the board documentation that they have received either a degree for preparation in advanced nursing practice from a graduate school approved by a national accrediting body acceptable to the board, or have received a certificate of completion of an educational program in advanced nursing practice approved by a national accrediting body acceptable to the board. The applicant shall also submit to the board documentation of current certification in advanced nursing practice from a national professional or specialty certifying organization acceptable to the board.

Those registered nurses whose applications include the above-described documentation may be authorized by the board to practice in advanced practice nursing roles as defined in regulations promulgated by the board.

Advanced practice nursing regulations which govern the ordering of tests, therapeutics and prescribing of medications shall be promulgated by the board in conjunction with the board of registration in medicine. Said promulgation shall occur only after the two boards have met, consulted and concurred on the content of such regulations.

The standards of care in the ordering of tests, therapeutics and the prescribing of medications, to which nurses in advanced practice shall be held, shall be those standards which protect consumers, and provide them with safe and comprehensive care, and shall be standards comparable to other professionals, including physicians, providing the same services.

The board is authorized to promulgate regulations requiring advanced practice nurses to have professional malpractice liability insurance or a suitable bond or other indemnity against liability for professional malpractice in such amounts as may be determined by the board.

The practice of licensed practical nurses shall include, but not be limited to:

(1) participation in the development, implementation, evaluation and modification of the plans of nursing care for individuals, families and communities through the application of nursing theory;

(2) participation in the coordination and management of resources for the delivery of patient care;

(3) managing, directing and supervising safe and effective nursing care, including the delegation of selected activities to unlicensed assistive personnel.

Neither "professional nursing" nor "practical nursing" shall mean or be construed to prevent: (1) the gratuitous care of any ill, injured or infirm person by any member of his family or any friend, or his care by any person employed primarily as a companion, housekeeper, domestic servant or nursemaid; (2) the performance of any nursing service in an emergency; (3) the performance, of any student enrolled in a school for nurses or practical nurses duly approved in accordance with this chapter, of any nursing service incidental to any prescribed course in such school; (4) the performance of services incidental to the practice of the religious tenets of any church by any member thereof; (5) the performance of nursing service by a person authorized to practice nursing under section seventy-six A, subject to the provisions of said section; or (6) the performance of services by physicians, dentists, pharmacists, teachers, health educators, social workers, dieticians, therapists, technicians, and medical students which are commonly recognized to be functions of their respective callings; or (7) the performance of any nursing service for any patient in a convalescent or nursing home or rest home, by any person employed in such home, provided that such nursing service is performed under the supervision of a registered nurse or licensed practical nurse.

Approved January 13, 1994.

Chapter 460. AN ACT TO IMPROVE THE ECONOMIC SECURITY OF THE CHILDREN OF THE COMMONWEALTH.

Be it enacted, etc., as follows:

SECTION 1. Section 28 of chapter 10 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "winner", in line 3, the following words:- or to the IV-D agency as set forth in chapter one hundred and nineteen A.

SECTION 2. Said chapter 10, as so appearing, is hereby further amended by inserting after section 28 the following section:-

Section 28A. Prior to disbursement of a prize in excess of six hundred dollars, the commission shall review information furnished by the IV-D agency, as set forth in chapter one hundred and nineteen A, to ascertain whether the holder of a winning ticket owes past-due child support to the commonwealth or to an individual to whom the IV-D agency is providing services. If the holder owes past-due child support, the commission shall notify

the IV-D agency of the holder's name, address and social security number. Subsequent to statutory state and federal tax withholding, the commission shall disburse to the IV-D agency the full amount of the prize or such portion of the prize that satisfies the holder's past-due child support obligation. The commission shall disburse to the holder only that portion of the prize, if any, remaining after the holder's past-due child support obligation has been satisfied.

SECTION 3. The first paragraph of section 1A of chapter 14 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following sentence:- The commissioner of revenue shall have authority to delegate any child support enforcement powers or duties assigned to him under any provision of law to the IV-D agency.

SECTION 4. Section sixteen A of chapter eighteen of the General Laws is hereby repealed.

SECTION 5. Section 1 of chapter 46 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 9, the words "on the written request of both the father and mother" and inserting in place thereof the following words:- where the mother and father have signed a voluntary acknowledgment of parentage pursuant to section eleven of chapter two hundred and nine C.

SECTION 6. Said chapter 46, as so appearing, is hereby further amended by inserting after section 3B the following section:-

Section 3C. Prior to obtaining the report required by section three, if a birth is of a child whose mother was unmarried at the time of birth or conception, the administrator or person in charge of a hospital or similar institution in which such birth occurs, or his agent, shall: (a) provide written information, furnished by the IV-D agency as set forth in chapter one hundred and nineteen A, to the mother, and to the putative father if he is known to the administrator or person in charge of the hospital, regarding the benefits and responsibilities of parentage, including the availability of services to establish paternity, and shall provide an application for child support enforcement services; and (b) provide an opportunity for the child's mother and putative father to complete a voluntary acknowledgment of parentage pursuant to section eleven of chapter two hundred and nine C.

SECTION 7. Subsection (b) of section 21 of chapter 62C of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out clause (13) and inserting in place thereof the following clause:- (13) the disclosure of information or provision of copies of returns or documents to the IV-D agency, as set forth in chapter one hundred and nineteen A, for the purpose of locating or identifying obligors, as defined in said chapter one hundred and nineteen A, evaluating their ability to pay support and ascertaining their sources of income and types of assets pursuant to subsection (b) of section fourteen of chapter one hundred and nineteen A.

SECTION 8. Chapter 62D of the General Laws is hereby amended by striking out section 13, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 13. In the event that a debtor owes liabilities to several claimant agencies, priority of set-off against any refund shall be as follows: (i) unpaid state tax liabilities; (ii) unpaid spousal or child support obligations certified by the IV-D agency as set forth in chapter one hundred and nineteen A; (iii) unreimbursed costs of health services to a child eligible for medical assistance under Title XIX of the Social Security Act; (iv) unpaid department of employment and training liabilities; and (v) the board of regents of higher education.

SECTION 9. Section 1 of chapter 62E of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the definition of "Internal Revenue Code or Code" and inserting in place thereof the following definition:- "Internal Revenue Code" or "Code", the Internal Revenue Code of the United States, as amended and in effect at the time wages are required to be reported under this chapter.

SECTION 10. Section 2 of said chapter 62E, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The commissioner may require an employer that is otherwise subject to reporting on magnetic media or in other machine readable form under the provisions of section 6011(e) of the Internal Revenue Code to submit such information on magnetic media or in other machine readable form in accordance with specifications provided by said commissioner.

SECTION 11. Section 3 of said chapter 62E, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The commissioner is hereby authorized and directed to design, develop, implement and operate a wage reporting and bank match system (1) for the purpose of verifying financial eligibility of participants in entitlement programs of the commonwealth or any political subdivision thereof or their respective agencies, including local administering agencies and local housing authorities; (2) for purposes of verifying the eligibility of employees of the commonwealth or any political subdivision thereof or their respective agencies for workers' compensation benefits; and (3) for purposes of administering the tax laws and the child support enforcement program of the commonwealth. The commissioner may, with the approval of the secretary of the executive office of administration and finance, adopt regulations which shall include other programs in said system; provided, however, that the commissioner shall submit such proposed regulations to the house and senate committees on ways and means not less than sixty days before filing the final regulations with the state secretary.

SECTION 12. Said chapter 62E is hereby further amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. (a) The commissioner shall request, not more than quarterly, from each institution as defined in subsection (e), the name, record address, social security number and other identifying data for each person listed in such request who maintains an account at such institution. The commissioner shall update such listing every calendar quarter by removing the names of all persons who have had no prior matches in the two immediately preceding quarters.

(b) The commissioner may continue to request account matches on such removed names once a year for the two calendar years immediately following the year in which the names are removed or for cause as defined in subsection (e).

(c) All requests made by the commissioner pursuant to subsection (a) or (b) shall be in machine readable form unless such institution expressly requests the commissioner to submit a request in writing. The institution shall furnish all such information in machine readable form satisfactory to the commissioner, within thirty days of such request. Such financial institution may furnish all such information on those persons whose accounts on the books of such institution have a residential address within the commonwealth at the time such request is processed by such institution.

(d) At its option, an institution may, within thirty days of the end of the first quarter of every calendar year, submit to the commissioner a report of the name, record address, social security number and other identifying data of each person maintaining an account at such institution. Within thirty days of the end of each subsequent quarter of every calendar year, every institution electing this option shall submit to the commissioner a supplemental report regarding each new account opened by a person during such quarter and each account reported in a prior quarter that has been closed during the most recent quarter. Such information shall be submitted in machine readable form satisfactory to the commissioner. An institution filing reports under this subsection shall not be required to comply with subsections (a) or (b).

(e) For the purposes of this section, the word "institution" shall mean every federal or state commercial or savings bank, including savings and loan associations and cooperative banks, federal or state chartered credit unions; benefit associations; insurance companies, safe deposit companies, any money-market mutual fund, and any entity similar to the foregoing authorized to do business in the commonwealth. For the purposes of this section, the term "money-market mutual fund" shall mean every regulated investment company within the meaning of section 851(a) of the Internal Revenue Code which seeks to maintain a constant net asset value of one dollar in accordance with 17 CFR 270.2a-7. For the purposes of this section, the word "account" shall mean a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or a money-market mutual fund account. For the purposes of this section, the term "for cause" shall mean that the commissioner has reason to believe that an individual has opened an account at such institution.

SECTION 13. Said chapter 62E is hereby further amended by striking out section 10, as so appearing, and inserting in place thereof the following section:-

Section 10. An advisory committee is hereby established to oversee the implementation of the bank match system established pursuant to section three. Said advisory committee shall consist of one member of the state senate, one member of the house of representatives, the commissioner or his designee, and six persons to be appointed by the governor, four of whom shall represent commercial banks, savings banks, savings and loans associations, cooperative banks, credit unions, and money-market mutual funds; provided,

however, that at least one member of such committee shall represent financial institutions with assets of less than one hundred million dollars. Said members shall, annually, elect a chairperson. Said committee shall meet from time to time and at a place convenient to its purpose. Said committee may recommend to the commissioner changes to the report specifications, as provided in section three, and improvements to ensure compatibility among data processing systems or other measures to reduce costs or improve efficiencies.

SECTION 14. Section 11 of said chapter 62E, as so appearing, is hereby amended by inserting after the word "wage", in line 2, and in line 7 the second time it appears, the following words:- and bank.

SECTION 15. The first paragraph of section 12 of said chapter 62E, as so appearing, is hereby amended by inserting, in line 4, after the word "wage", the following words:- and bank.

SECTION 16. Section 13 of said chapter 62E, as so appearing, is hereby amended by striking out, in line 1, the word "quarterly", and inserting in place thereof the following word:- semi-annual.

SECTION 17. Said chapter 62E, as so appearing, is hereby further amended by inserting after section 13 the following section:-

Section 14. Unless otherwise required by applicable law, an institution furnishing a report or providing information to the commissioner under either subsection (a) or subsection (b) of section four shall not disclose to a depositor or an account holder that the name of such person has been received from or furnished to the commissioner; provided, however, that an institution may disclose to its depositors or account holders that under the bank match system the commissioner has the authority to request certain identifying information on certain depositors or account holders. If an institution willfully violates the provisions of this section, such institution shall pay to the commissioner the lesser of one thousand dollars or the amount on deposit or in the account of the person to whom such disclosure was made. An institution shall incur no obligation or liability to a depositor or account holder or any other person arising from the furnishing of a report or information to the commissioner under section four, or from the failure to disclose to a depositor or account holder that the name of such person was included in a list furnished by the commissioner or in a report furnished by the institution to the commissioner. An institution may charge an account levied on by the commissioner a fee, as determined by the commissioner, of not less than twenty nor more than fifty dollars which shall be deducted from such account prior to remitting any funds to the commissioner.

SECTION 18. Section 17A of chapter 66 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in lines 12 and 13, the words ", including the use of said records by the department of public welfare in set-off debt collections under chapter sixty-two D" and inserting in place thereof the following words:- or with the administration of child support enforcement under chapter one hundred and nineteen A, including the use of said records in set-off debt collections under chapter sixty-two D.

SECTION 19. Section 22 of chapter 90 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following paragraph:-

(g) If the registrar receives notice from the department of revenue that, after a hearing or an opportunity therefor, a finding of child support delinquency sufficient to revoke or suspend a license or right to operate a motor vehicle and certificate of registration has been made pursuant to section sixteen of chapter one hundred and nineteen A, against a resident of the commonwealth or any person licensed to operate a motor vehicle under the provisions of this chapter, said registrar shall suspend or revoke such license or right to operate and the registration of any motor vehicle owned by such person and forward any notice required by paragraph (d) to the person whose license or right to operate and certificate of registration is suspended or revoked. Said registrar shall reinstate such license or right to operate and permit the registration of a motor vehicle if the department of revenue provides to the registrar a written notice stating that the resident or other person is in compliance with a judgment or order for child support. Notices between the department of revenue and the registrar under this subsection may be made in any form, including electronic transmission. Any individual aggrieved by a decision of the registrar may appeal therefrom pursuant to section sixteen of chapter one hundred and nineteen A.

SECTION 20. The first paragraph of section 2 of chapter 118 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the last sentence.

SECTION 21. Section 1 of chapter 119A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- It is hereby declared to be against the public policy of the commonwealth for a court of competent jurisdiction to enforce an agreement between parents if enforcement of the agreement prevents an adjustment or modification of a child support obligation when such adjustment or modification is required to ensure that the allocation of parental resources continues to be fair and reasonable and in the best interests of the child.

SECTION 22. Said section 1 of said chapter 119A, as so appearing, is hereby further amended by adding the following sentences:- Nothing in this chapter shall be construed to limit the authority of the commissioner to delegate to the IV-D agency any child support enforcement powers or duties assigned to him under any provision of law. Said commissioner may promulgate regulations for the effective administration of the child support enforcement program.

SECTION 23. Section 2 of said chapter 119A, as so appearing, is hereby amended by inserting after the word "eighteen", in line 15, the following words:- and the subrogation rights of the department of social services under section twenty-three of chapter one hundred and nineteen.

SECTION 24. Said section 2 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "penalty", in line 34, the following words:- , fee or interest.

SECTION 25. The second paragraph of section 2 of said chapter 119A, as so appearing, is hereby amended by adding the following three sentences:- Upon collection, a penalty or fee shall be retained by the IV-D agency; provided that such penalties or fees shall be placed in a separate fund established upon the books of the commonwealth by the comptroller; and, provided further, that such penalties or fees may only be expended subject to appropriation. Upon collection, interest shall be distributed to the obligee. For purposes of administering the child support enforcement program pursuant to this chapter, "obligee" shall mean an individual to whom support is or may be owed or in whose favor a support order has been issued or a judgment of paternity has been, or may be, rendered or a state or political subdivision to which rights under a child support obligation have been assigned or which has independent claims based on financial assistance provided to an individual obligee; and "obligor" shall mean an individual, or the estate of a decedent, who owes or may owe a duty of support, or who is liable under a child support obligation, or who is alleged, by sworn statement, to be the parent of a child to whom a duty of support is owed.

SECTION 26. Said chapter 119A, as so appearing, is hereby further amended by inserting after section 2 the following section:-

Section 2A. Whoever willfully corrupts or by force or threats of force, including any threatening letter or communication, attempts to intimidate or impede an officer or employee of the commonwealth acting in an official capacity under this chapter, or in any other way corrupts or by force or threats of force, including any threatening letter or communication, obstructs or impedes, or attempts to obstruct or impede, the due administration of this chapter, shall, upon conviction thereof, be punished by a fine of not more than five thousand dollars, or by imprisonment for not more than three years, or both; provided, however, if the offense is committed only by threats of force, the person convicted thereof shall be punished by a fine of not more than three thousand dollars or by imprisonment for not more than one year, or both. The term "threats of force", as used in this subsection, shall mean threats of bodily harm to the officer or employee of the commonwealth or to a member of his family.

SECTION 27. The first paragraph of section 3 of said chapter 119A, as so appearing, is hereby amended by adding the following sentence:- The provision of services under this chapter, which shall include services by an attorney employed by, under contract to, or representing the IV-D agency, shall create an attorney-client relationship with the IV-D agency and not the individual who may benefit from the service; provided, however, that the confidentiality of information furnished by any such individual shall be protected from disclosure to the extent provided by federal and state law.

SECTION 28. Section 5 of said chapter 119A, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

Whenever the IV-D agency closes a child support case in accordance with Part D of Title IV of the Social Security Act and the regulations promulgated thereunder because the whereabouts of the obligee are unknown, the IV-D agency shall direct the obligor, and any employer or other person remitting child support payments on behalf of the obligor, to cease remitting such payments to the IV-D agency. Thereafter the IV-D agency may, in accordance with regulations promulgated under this chapter, may transfer the undisbursed

payments to the department of public welfare to reimburse the commonwealth for arrears due for any period that public assistance was provided to the obligee or may return to the obligor any payments received by it that cannot be disbursed to the obligee because such obligee's whereabouts are unknown. The return of a child support payment to an obligor hereunder shall not affect the underlying child support obligation. The IV-D agency shall maintain any undisbursed payments, along with any payments that are unidentifiable as to either the obligee or the obligor, in the child support trust fund payments account for three years. If, at the expiration of such time the IV-D agency has been unable to locate the obligee on whose behalf the payments were remitted or has not transferred the payments to the department of public welfare or has not returned the payments to the obligor or has not identified the obligor or obligee of the payments and the payments remain undisbursed or unidentified, the IV-D agency shall remit such funds to the state treasurer pursuant to the provisions of chapter two hundred A of the General Laws, notwithstanding the provisions of subsection (g) of section twelve.

SECTION 29. Subsection (a) of section 6 of said chapter 119A, as so appearing, is hereby amended by striking out, in line 12, the words "for the collection of state taxes".

SECTION 30. Said subsection (a) of said section 6 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 20 and 21, the words "against delinquent obligations under the provisions of paragraph (1) of subsection (b)".

SECTION 31. Said section 6 of said chapter 119A, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b)(1) A child support obligation which is unpaid in whole or in part shall, as of the date on which it was due, be a lien in favor of the obligee in an amount sufficient to satisfy unpaid child support, whether the amount due is a fixed sum or is accruing periodically. An amount of restitution established by a court or an administrative agency of competent jurisdiction shall be due and payable as of the date such amount is established. Such lien shall incorporate any unpaid child support which may accrue in the future and shall not terminate except as provided in subparagraph (5). Upon recordation or registration in accordance with subparagraph (3), such lien shall encumber all tangible and intangible property, whether real or personal, and any interest in property, whether legal or equitable, belonging to the obligor. An interest in property acquired by the obligor after the child support lien arises shall be subject to such lien, subject to the limitations provided in subparagraphs (3) and (5).

(2) When the IV-D agency determines that child support is unpaid, it shall send written notice to the obligor by first class mail, if his address is known to the IV-D agency no less frequently than once a year. The notice shall specify the amount unpaid as of the date of the notice or other date certain and the right of the obligor to request an administrative review by filing a written request with the IV-D agency within thirty days of the date of the notice. If the obligor files a timely written request for an administrative review, the IV-D agency shall conduct the review within twenty-one days of said request and

shall not conduct further administrative enforcement action hereunder until the review is completed. If the obligor has failed to keep the IV-D agency informed of his address as required by section twelve and the agency cannot otherwise determine the current address of the obligor from other information available to the agency, the agency may proceed under the provisions of subparagraph (4).

(3) The IV-D agency shall file notice of a lien with respect to real property in the registry of deeds or registry district for any county or registry district in the commonwealth where the obligor owns property, or in any other registry of deeds or registry district in the county where the obligor resides and may file such notice in any other registry of deeds or registry district in the commonwealth. The social security number of the obligor shall be noted on the notice of the lien. The filing shall operate to perfect a lien when duly recorded and indexed in the grantor index or when registered, as the case may be, as to any interest in real property owned by the obligor that is located in the county or registry district where the lien is recorded or registered. A special index for liens created under this chapter shall be maintained in each registry of deeds or registry district. If the obligor subsequently acquires an interest in real property, the lien shall be perfected upon the recording or registering of the instrument by which such interest is obtained in the registry of deeds or registry district in the county or registry district where the notice of the lien was filed within six years prior thereto. A child support lien shall be perfected as to real property when both the notice thereof and a deed or other instrument in the name of the obligor are on file in the registry of deeds or registry district for the county or registry district where the obligor owns property without respect to whether the lien or the deed or other instrument was recorded or registered first. The IV-D agency shall also file notice of a child support lien, with the social security number of the obligor noted thereon, with respect to personal property with the state secretary, the registrar of motor vehicles, a municipality, or other office or agency responsible for the filing or recording of liens. The filing of a notice of a lien or of a waiver or release of a lien shall be received and registered or recorded without payment of a fee. The IV-D agency may file notice of a lien or waiver or release of a lien or may transmit information to or receive information from any registry of deeds or other office or agency responsible for the filing or recording of liens by any means, including electronic means. The perfected lien shall not be subordinate to any recorded lien except a lien that has been perfected before the date on which the child support lien was perfected; provided, however, that the IV-D agency may, upon request of the obligor, subordinate the child support lien to a subsequently perfected mortgage. To assist in the collection of a debt by the IV-D agency, the IV-D agency may disclose the name of an obligor against whom a lien has arisen and other identifying information including the existence of the lien and the amount of the outstanding obligation.

(4) If the collection of an unpaid child support will be jeopardized by delay as determined by the commissioner, the IV-D agency shall proceed forthwith to collect such unpaid child support by perfecting a lien under subparagraph (3) or by executing a levy or seizure of property under subparagraph (6) or by any other available remedy without respect to the thirty-day notice period provided in subparagraph (2).

(5) The lien shall expire upon either termination of a current child support obligation and payment in full of unpaid child support, or upon release of the lien by the IV-D agency. In any event, a lien under this chapter shall expire six years from the date on which such lien was first perfected; provided, however, that such lien may be extended for additional periods of six years each by recording or registering, within the one year next before the expiration of the unexpired lien, a further notice of the lien, as provided in subparagraph (3), without affecting the priority of such lien. Expiration of the lien shall not terminate the underlying order or judgment of child support. The IV-D agency may issue a full or partial waiver of any lien imposed under this section. Such waiver or release shall be conclusive evidence that the lien upon the property covered by the waiver or release is extinguished.

(6) If any obligor against whom a lien has arisen and has been perfected under subparagraph (3) neglects or refuses to pay the sum due after the expiration of the thirty-day notice period specified in subparagraph (2), the IV-D agency may collect such unpaid child support and levy upon all property as provided herein. For the purposes of this section, the word "levy" shall include the power of distraint and seizure by any means. A person in possession of property upon which a lien having priority under subparagraph (3) has been perfected shall, upon demand, surrender the property to the IV-D agency as provided herein. A levy on property held by an organization with respect to a life insurance or endowment contract shall, without necessity for the surrender of the contract document, constitute a demand by the IV-D agency for payment of the amount of the lien and the exercise of the right of the obligor to the advance of such amount. Such organization shall pay the amount ninety days after service of notice of levy. The levy shall be deemed to be satisfied if the organization pays over to the IV-D agency the full amount which the obligor could have had advanced to him, provided that the amount does not exceed the amount of the lien. Whenever any property upon which levy has been made is not sufficient to satisfy the claim of the commonwealth for which levy is made, the IV-D agency may thereafter, as often as may be necessary, proceed to levy, without further notice, upon any other property of the obligor liable to levy upon first perfecting its lien as provided in subparagraph (3), until the amount due from him, together with expenses, is fully paid. With respect to a seizure or levy of real property or tangible personal property, the IV-D agency shall proceed in the manner prescribed by sections fifty-six, fifty-eight, fifty-nine and sixty of chapter sixty-two C, insofar as said sections are not inconsistent with the provisions of this section. The IV-D agency shall have any rights to property remaining after satisfying superior perfected liens, as provided in subparagraph (3) of this section.

(7) Upon demand by the IV-D agency, a person who fails or refuses to surrender property subject to levy pursuant to this section shall be liable in his own person and estate to the commonwealth in a sum equal to the value of the property not so surrendered but not exceeding the amount of the lien, together with costs and interest at the rate established by section thirty-two of chapter sixty-two C from the date of the levy. In addition, any person required to surrender property who fails or refuses to surrender such property without reasonable cause shall be liable for a penalty equal to twenty-five percent of the amount recoverable. The interest or penalty incurred under this subparagraph shall be paid to the

commonwealth and shall not be credited against the child support liability.

(8) Any person in possession of, or obligated with respect to, property who, upon demand by the IV-D agency, surrenders the property or discharges the obligation to the IV-D agency, or who pays a liability under this section, shall be discharged from any obligation or liability to the obligor arising from the surrender or payment. In the case of a levy on an organization with respect to a life insurance or endowment contract which is satisfied pursuant to this section, the organization shall be discharged from any obligation or liability to any beneficiary arising from the surrender or payment.

(9) In any case where there has been a refusal or neglect to pay child support or to discharge any liability in respect thereto, whether or not a levy has been made, the IV-D agency, in addition to other forms of relief, may file a civil action in the department of the trial court which originally entered the order for child support to enforce the lien under this section. The filing of a civil action shall not preclude the IV-D agency from enforcing the child support order through the use of any administrative means permitted by federal or state law.

(10) The IV-D agency shall send timely written notice to the obligor by first-class mail of any action taken to perfect a lien, execute a levy or seize any property. The notice shall specify the amount due, the steps to be followed to release the property so placed under lien, levied or seized and the time period within which to respond to such notice and shall include the name of the court or administrative agency of competent jurisdiction which entered the child support order.

(11) Any person aggrieved by a determination of the IV-D agency pursuant to subparagraph (2) or subparagraph (4) may, upon exhaustion of the procedures for administrative review provided herein, seek judicial review in the court where the order or judgment was issued or registered. Commencement of the review shall not stay enforcement of child support hereunder. The court may review the proceedings taken by the agency under the provisions of this section and may correct any mistakes of fact but, in accordance with section thirteen of this chapter, the court shall not reduce or retroactively modify child support arrears.

SECTION 32. Subsection (a) of section 12 of said chapter 119A, as so appearing, is hereby amended by inserting after the word "nine,", in line 3, the first time it appears, the following words:- chapter two hundred and nine A,.

SECTION 33. Subsection (b) of section 12 of said chapter 119A, as so appearing, is hereby amended by inserting after the first sentence the following sentences:- If the obligee is not a recipient of public assistance or has not signed an application for IV-D services, the judgment or order shall be made payable on behalf of the obligee to an entity designated by the commissioner of revenue or the court unless the obligor and obligee agree that payment shall be made either directly to the obligee or in some other manner. Such entity shall deduct a fee as determined by the commissioner prior to forwarding payments to the obligee.

SECTION 34. Said subsection (b) of said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- Each such judgment or order shall also include a provision requiring the obligor to obtain health care coverage for his child or children, if such coverage is available to the obligor through his employer or is otherwise available to the obligor at reasonable cost; provided that the cost of such coverage does not create an undue hardship upon the obligor; and to notify the IV-D agency of any changes in the availability and terms of such coverage.

SECTION 35. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 30, the words ", whether payable to said agency or to an obligee,".

SECTION 36. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 33, the words "to said agency".

SECTION 37. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "order", in line 36, the following words:- or accrued prior to entry of the order.

SECTION 38. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 38 to 40, the words ", unless, upon request of an obligor pursuant to paragraph (2) of subsection (e), the court makes a determination that the additional payment would work an undue hardship on the obligor".

SECTION 39. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 50, the words "chief administrative justice of the trial court" and inserting in place thereof the following words:- chief justice for administration and management.

SECTION 40. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "oblige.", in line 62, the following sentence:- Such written findings shall include a determination by the court that an immediate wage assignment would not be in the best interests of the child and the reasons therefor and, in the case of a modification of a support order, shall include proof of timely payments made in compliance with the existing order.

SECTION 41. Said subsection (c) of said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out paragraph (3) and inserting in place thereof the following two paragraphs:-

(3) at the request of the obligor or the obligee.

Assignments pursuant to this section shall terminate when the underlying support obligation terminates and all arrears are paid. When an employee changes employers, the obligor shall promptly notify his subsequent employer of his child support order and the IV-D agency of his subsequent employment and the IV-D agency shall transfer the assignment or the order for health care coverage or both to the subsequent employer. If an

assignment or order for health care coverage is in effect under this section but cannot be executed because the obligor has no employer, said agency shall send the assignment or order for health care coverage or both, together with notice of the provisions of subsection (f), to an employer who later employs the obligor as soon as the new such employment is ascertained. If an order for health care coverage is in effect but cannot be executed because health care coverage is not available to the obligor at reasonable cost, said agency shall send the order for health care coverage to a provider of health care coverage together with notice of the provisions of subsection (f) as soon as the availability of such health care coverage is ascertained.

NO SECTION 42.

SECTION 43. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "assignment", in line 91, the following words:- increased by twenty-five percent.

SECTION 44. Subsection (d) of said section 12 of said chapter 119A, as so appearing, is hereby amended by adding the following two sentences:- When said agency determines on its own information or on account of a claim by an obligee or the division of medical assistance that an obligor has failed to comply with a judgment or order for health care coverage and health care coverage is available to the obligor through his employer or at reasonable cost, the IV-D agency shall send notice of the judgment or order for health care coverage to the employer or to a provider of health care coverage together with notice of the provisions of subsection (f). The judgment or order shall operate to enroll the child as fully and completely as if the obligor had executed a document authorizing the enrollment and, upon receipt of notice of the judgment or order from the IV-D agency, the employer or provider of health care coverage shall enroll such child.

SECTION 45. Paragraph (2) of subsection (e) of section 12 of said chapter 119A, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- If it is determined that payment of the arrearage at the rate of twenty-five percent of the support order creates an undue hardship upon the obligor or that the withholding would exceed the maximum amount permitted by 15 U.S.C.A. 1673(b), the rate at which such arrearage must be paid shall be reduced to a rate that is fair and reasonable considering the circumstances of the parties and the best interests of the child.

SECTION 46. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "assignment", in line 129, the following words:- and notice of the order for health care coverage.

SECTION 47. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "assignment", in lines 130 and 131, the following words:- and health care order.

SECTION 48. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 131 and 132, the words "of paragraphs (1) to (7) inclusive".

SECTION 49. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "may", in line 148, the following words:- , on its own motion or upon report of the IV-D agency or other administrative agency of competent jurisdiction,.

SECTION 50. Paragraph 3 of subsection (f) of section 12 of said chapter 119A, as so appearing, is hereby amended by adding the following sentence:- A finding by the court, by an administrative agency of competent jurisdiction, or by the IV-D agency that the employer has failed or neglected to comply with an order of income assignment executed pursuant to this section shall be prima facie evidence of the liability of such employer in such proceeding.

SECTION 51. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 179 and 180, the words "address or employment under subsection (d)" and inserting in place thereof the following words:- employment under subsection (d) and changes in address under subsection (n).

SECTION 52. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by adding the following four subsections:-

(k) Upon receipt of the notice of the order for health care coverage or upon application of the employee pursuant to the order, the employer shall enroll the child in the health care plan. The notice from the IV-D agency shall have the same effect as an enrollment application signed by the employee. The employer or provider of health care coverage shall enroll a child notwithstanding the employee's failure to sign an enrollment application. The provider of health care coverage shall furnish the obligee with such information as may be necessary for the child to obtain benefits through the plan and shall permit the obligee or, with the approval of the obligee, the provider of medical services to submit claims for covered services without the approval of the obligor. A claim submitted in accordance with this subsection shall be payable, as appropriate, directly to the obligee, to the provider of medical services or, if the individual has assigned his rights to medical support pursuant to Title XIX of the Social Security Act, to the division of medical assistance. In any case where the division of medical assistance has been assigned the rights of an individual covered for health benefits from the provider of health care coverage and eligible for medical assistance under Title XIX of the Social Security Act, the provider of health care coverage shall apply to the division the same requirements applicable to an agent or assignee of any other individual so covered.

(l) If the employee is eligible for family coverage, the employer and the provider of health care coverage shall permit the employee to enroll, under the coverage, any child who is eligible for such coverage without regard to any enrollment season restrictions. If the employee is enrolled in a family health care plan but fails to make application to obtain coverage of a child, the employer and the provider of health care coverage shall enroll such child under the coverage upon application by such child's other parent or by the IV-D agency. An employer or a provider of health care coverage shall not eliminate family coverage for a child enrolled pursuant to this section unless the employer or provider of health care coverage is provided satisfactory written evidence that the health care order is

no longer in effect or that the child is or will be enrolled in a comparable plan, effective no later than the effective date that such coverage is eliminated, through another provider of health care coverage or, in the case of an employer, the employer has eliminated family health care coverage for all of its employees. An employer shall withhold from an obligor's compensation the obligor's share, if any, of premiums for health care coverage and shall pay such share of premiums to the provider of health care coverage unless federal regulations promulgated pursuant to Title XIX of the Social Security Act permit the employer to withhold less than the obligor's share of such premiums; provided, however, that the amount so withheld may not exceed the maximum amount permitted to be withheld under 15 U.S.C.A. 1673(b).

(m) A provider of health care coverage shall not deny enrollment to a child under the health coverage of the child's parent on the ground that such child was born out of wedlock, that such child is not claimed as a dependent on the parent's federal income tax return or that such child does not reside with the parent or within the area served by the provider of health care coverage. An employer or provider of health care coverage who, upon notice of a health care order, fails without reasonable cause to enroll a child in a health care plan shall be liable in a civil action, action for contempt, or other appropriate proceeding for the full amount of the medical costs incurred. A finding by the IV-D agency or by a court or administrative agency of competent jurisdiction that an employer or provider of health care coverage has failed without reasonable cause to enroll a child in a health care plan shall be prima facie evidence of such liability. As used in this chapter, the term "provider of health care coverage" shall include, but not be limited to, any entity authorized to do business under 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 E, one hundred and seventy-six F, one hundred and seventy-six G, and one hundred and seventy-six I.

(n) Each obligor making payments to the IV-D agency under this section shall be bound to notify the IV-D agency immediately when his address changes or be subject to punishment for civil contempt.

SECTION 53. Section 13 of said chapter 119A, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following three subsections:-

(b) After a judgment pursuant to chapters two hundred and eight or two hundred and nine C, an agreement between parents that provides for the support of a minor child shall not be enforceable to bar a modification of the amount of support due on behalf of the minor child unless the court finds all of the following: 1) that the agreement survives the original judgment and has independent legal significance; 2) that the agreement was fair and reasonable and free from fraud and coercion at the time of the judgment; 3) that the provisions for support of the minor child continue to be fair and reasonable considering the child support guidelines and the circumstances of the parties and the child; and 4) that enforcement of the agreement is in the best interests of the child.

(c) In any proceeding to establish or modify an amount of child support, the child support guidelines promulgated by the chief justice for administration and management shall apply. There shall be a rebuttable presumption that the amount of the order which would result from the application of the guidelines is the appropriate amount of child support to be ordered. If, after taking into consideration the best interests of the child, the court determines that a party has overcome such presumption, the court shall make specific written findings indicating the amount of the order that would result from application of the guidelines, that the guidelines amount would be unjust or inappropriate under the circumstances; the specific facts of the case which justify departure from the guidelines and that such departure is consistent with the best interests of the child.

(d) The provisions of this section shall apply to all actions for establishment, modification or enforcement of a judgment or order for child support pursuant to or adjudicated under the provisions of chapters one hundred and nineteen, two hundred and seven, two hundred and eight, two hundred and nine, two hundred and nine A, two hundred and nine C and two hundred and seventy-three A.

SECTION 54. Said chapter 119A, as so appearing, is hereby further amended by striking out section 14 and inserting in place thereof the following four sections:-

Section 14. (a) The IV-D agency shall have access to and may request information from the individuals and the entities named in this section if said agency has reason to believe that such information will assist in the administration of the child support enforcement program. Such information shall be available to the IV-D agency only for the purpose of and to the extent necessary for the administration of the child support enforcement program. No entity or individual who complies with the provisions of this section shall be liable in any civil or criminal action or proceeding brought by an obligor or an obligee on account of such compliance. Holders maintaining personal data, as such are defined in section one of chapter sixty-six A, are authorized to disclose to the IV-D agency all personal data requested hereunder. Such disclosures shall not violate said chapter sixty-six A. An entity or individual who willfully provides false information in reply to a request pursuant to this paragraph or who, without reasonable cause, fails to respond to a request within fourteen days, shall be liable for a penalty of one hundred dollars for each such violation to be assessed by the IV-D agency or a court of competent jurisdiction. Such response may be made by any method including, but not limited to, paper, facsimile, telephone, magnetic tape or other electronic means.

(b) Information to which the IV-D agency shall be entitled shall include state income tax returns and all state income tax information including address, filing status, amounts, nature and sources of income, names and addresses of all employers and other sources of income, and the number of dependents reported on any return filed by any obligor or obligee and any data, documents or records of an obligor or obligee provided to the department of revenue by an employer, bank or other source of income pursuant to chapter sixty-two E. The IV-D agency shall use such tax information only for purposes of administering the child support enforcement program and shall not disclose such information, other than the name

and address of the obligor, except in proceedings or other activities to locate or identify obligors, to evaluate the ability of obligors to pay child support, to establish, modify or enforce child support orders, to collect child support or in criminal prosecutions for failure to pay child support. An employee of the IV-D agency that requests, uses or discloses such information in any other manner or for any other purpose shall be punished by a fine of not less than two thousand dollars or by imprisonment for not more than twelve months or both, and by dismissal and disqualification from employment by the commonwealth. The information included in this provision shall be data or tax returns in any form or format, including data available by electronic means. Pursuant to section one hundred and seventy-two of chapter six, the IV-D agency shall be entitled to all criminal offender record information including, but not limited to arrest, conviction, incarceration and rehabilitation information, and evaluative information as defined in section one hundred and sixty-seven of said chapter six.

(c) Except as may be prohibited under the federal Fair Credit Reporting Act 15 U.S.C.A. 1681 et seq. or under sections fifty to sixty-eight E, inclusive, of chapter ninety-three, the IV-D agency may require disclosure of information, including the location, employment, title to property, credit status or professional affiliation to assist the IV-D agency to determine the current location of an obligor or an obligee, from any state agency, state, county or municipal registry of deeds or titles, registry of vital records and statistics, city or town registrar responsible for the preparation of street lists pursuant to chapter fifty-one, utility company, including telephone, assessor's office and housing authorities, employers, professional or trade associations and labor unions, professional or trade licensing boards, credit bureaus or agencies; provided, however, that information furnished by a telephone company shall be limited to the address and telephone number of an obligor or an obligee. The failure of any such individual or entity, without reasonable cause, to provide the IV-D agency with information relating to, or that may assist in locating, an obligor or obligee or to respond that such information does not exist, within fourteen days after such information is requested, shall be punishable by a penalty to be assessed by the IV-D agency or by a court of competent jurisdiction in the amount of one hundred dollars for each such failure.

(d) The IV-D agency may request from any employer or other source of income whom the IV-D agency has reason to believe employs an obligor or obligee or otherwise provides the obligor or obligee with regular periodic income, information concerning the dates and amounts of income paid, the last known address, social security number, and available health care benefits. The IV-D agency shall not inquire of an employer or other source of income concerning the same obligor or obligee more than once every three months. Employers or other sources of income shall respond to such requests fully and in writing within fourteen days. No employer or other source of income who complies with this section shall be liable in any civil action or proceeding brought by the obligor or obligee on account of such compliance. An employer or other source of income who, without reasonable cause, fails to comply with requests made pursuant to this section, shall be liable for a penalty to

be assessed by the IV-D agency or by a court of competent jurisdiction of one hundred dollars for each such violation. The information in this subsection shall be in addition to, and not in substitution for, information required to be provided to the commissioner of revenue under chapter sixty-two E.

(e) The commissioner shall promulgate regulations to define what shall constitute "reasonable cause" for purposes of this chapter.

Section 15. A justice of a court that has jurisdiction of child support and paternity matters may, upon the application of the IV-D agency, compel the attendance of witnesses, the production of books, papers, records, data and other evidence and the giving of testimony before the IV-D agency in the same manner and to the same extent as before such court and in accordance with the applicable rules of procedure.

Section 16. (a) On the basis of information provided by the IV-D agency, an entity of the commonwealth, political subdivision or agency thereof, that issues a license, as defined in section thirteen of chapter thirty A, certificate, permit or other authorization to engage in a profession, trade, business or recreational activity shall ensure that no such authorization is issued or renewed to an obligor who owes past-due child support that is the subject of a child support lien pursuant to section six. The licensing authority shall notify the IV-D agency of the name, date of birth, address, social security number or federal identification number of any obligor whose obligation the IV-D agency seeks to enforce and any other information about the obligor required by the IV-D agency.

(1) After notice to the obligor by the IV-D agency and notwithstanding the provisions of chapter thirty A, the department of revenue shall conduct a hearing with respect to establishing a child support delinquency which may warrant the suspension or revocation of a license. Such hearing shall constitute the exclusive administrative remedy for contesting the establishment of a child support delinquency which may warrant the suspension or revocation of a license. The department of revenue shall issue a finding of child support delinquency unless the obligor establishes that no arrearage exists or that he is not the person owing such arrearage or that he is making regular child support payments by a wage assignment that has been increased by twenty-five percent in accordance with section twelve of this chapter or that he is complying with a payment plan that has been approved by the IV-D agency. Any such finding shall be forwarded to the licensing authority and shall constitute prima facie evidence of child support delinquency sufficient to warrant the suspension or revocation of the license of the obligor.

(2) An individual aggrieved by a finding of the department of revenue as adopted by the licensing authority may seek judicial review in the court where the child support order was issued or registered. If the obligor demonstrates to such court that no child support arrearage exists or that he is not the person owing such arrearage or that he is making regular child support payments by a wage assignment that has been increased by twenty-five percent in accordance with section twelve or that he is complying with a payment plan that has been approved by the IV-D agency, such court shall order the IV-D agency to provide written notice to the licensing authority to issue or reinstate the license of the obligor. The court may

order reinstatement or issuance of a license of an obligor who is not intentionally unemployed and who is complying with an employment search supervised by the court. Such review shall constitute the exclusive remedy for persons aggrieved hereunder; provided, however, that such review shall not limit a person's appellate remedies.

(3) If the obligor pays his child support obligation in full or makes regular child support payments by a wage assignment that has been increased at the rate of twenty-five percent pursuant to section twelve of this chapter or complies with a payment plan that has been approved by the IV-D agency or obtains a court order that he is not intentionally unemployed and that he is complying with an employment search supervised by the court, the IV-D agency shall provide written notice to the licensing authority to issue or reinstate the license of the obligor. The licensing authority shall issue or reinstate such license if the IV-D agency provides to the licensing authority such written notice.

(b) On the basis of information provided by the IV-D agency, the registrar of motor vehicles, as set forth in chapter ninety, shall ensure that no license or right to operate a motor vehicle or certificate of registration under said chapter ninety is renewed or issued to an obligor who owes past-due child support that is the subject of a child support lien pursuant to section six of this chapter; provided however that the IV-D agency shall not seek to revoke or suspend the license of an obligor unless he is also the subject of an outstanding capias or, having had his license or right to operate a motor vehicle or certificate of registration suspended or revoked pursuant to this section, was subject to an outstanding capias within the previous three years. The registrar shall notify the IV-D agency of the name, address, and social security number of the obligor and any other information required by the IV-D agency.

(1) After notice to the obligor by the IV-D agency and notwithstanding the provisions of chapter thirty A or chapter ninety, the department of revenue shall conduct a hearing with respect to establishing a child support delinquency which may warrant the suspension or revocation of a license or right to operate a motor vehicle and certificate of registration. Such hearing shall constitute the exclusive administrative remedy for contesting the establishment of a child support delinquency sufficient to warrant the suspension or revocation of a license or right to operate a motor vehicle and certificate of registration. The department of revenue shall enter the child support lien and the outstanding capias or, as the case may be, the capias that was issued no more than three years prior to commencement of the proceedings hereunder, into the record. The IV-D agency shall issue a finding of child support delinquency unless the obligor establishes that no arrearage exists or that he is not the person owing such arrearage or that he is making regular child support payments by a wage assignment that has been increased by twenty-five percent in accordance with section twelve of this chapter or that he is complying with a payment plan that has been approved by the IV-D agency. Any such finding shall be forwarded to the registrar and shall constitute prima facie evidence of child support delinquency sufficient to warrant the suspension or revocation of the license or right to operate a motor vehicle and certificate of registration of the obligor. If the department finds after such hearing that a license to operate a motor vehicle is necessary to the obligor's livelihood, said department shall notify the registrar to

issue a limited license on grounds of hardship, upon such terms and conditions as the department shall prescribe.

(2) If the obligor pays his child support obligation in full or makes regular child support payments by a wage assignment that has been increased at the rate of twenty-five percent pursuant to section twelve of this chapter or complies with a payment plan that has been approved by the IV-D agency, the IV-D agency shall provide written notice to the registrar to issue or reinstate the license or right to operate a motor vehicle and certificate of registration of the obligor. The registrar shall issue or reinstate such license or right to operate and authorize registration of a motor vehicle if the IV-D agency provides to the registrar such written notice.

(3) If, after the license or right to operate and certificate of registration of the obligor is issued or reinstated, the obligor refuses or neglects to pay child support, the IV-D agency may, so long as a capias was issued no longer than three years prior to commencement of such proceedings, proceed pursuant to this subsection to establish a finding of child support delinquency sufficient to warrant suspension or revocation of a license or right to operate a motor vehicle and certificate of registration.

(4) An individual aggrieved by a finding of the department of revenue as adopted by the registrar may seek judicial review in the court where the child support order was issued or registered. If the obligor demonstrates to such court that no child support arrearage exists or that he is not the person owing such arrearage or that he is not subject to a child support lien under section six or that he is making regular child support payments by a wage assignment that has been increased by twenty-five percent in accordance with section twelve or that he is complying with a payment plan that has been approved by the IV-D agency or that the obligor is not subject to an outstanding capias or, as the case may be, was not subject to an outstanding capias within three years prior to commencement of the suspension or revocation proceedings hereunder, the court shall order the IV-D agency to provide written notice to the registrar to issue or reinstate the license or right to operate and certificate of registration of the obligor.

Section 17. The department shall establish procedures for the prompt resolution of disputes concerning the collection and disbursement of child support and shall prepare informational materials for distribution to obligors and obligees describing such procedures and, where applicable, such procedures shall be consistent with section six of chapter one hundred and nineteen A. Such procedures shall include maintenance of an adequately staffed unit the principal duties of which shall be to respond to inquiries, with a widely publicized telephone line, to receive written requests from obligors and obligees for administrative review of the IV-D agency's actions in collecting and disbursing child support and to refer such requests to the appropriate unit within the department for resolution. Upon receipt of the necessary information and documentation from the obligor and obligee requesting administrative review, the department shall conduct the review and render a written decision of its determination to the person requesting the review. Such determination shall also notify such person that he may, upon exhaustion of the procedures for administrative review provided herein, seek judicial review in the court where the order or

judgment was issued or registered or, if there is no such order or judgment, by filing a request for judicial review in the probate court in the county wherein the appellant resides; provided, however, that a request for judicial review shall be accompanied by a copy of the agency's determination. Upon receipt of the request for judicial review, the court shall notify the IV-D agency at least fourteen days prior to any hearing. Pursuant to relevant provisions of state and federal law, the court may review the determination made by the agency and may correct any mistakes of fact.

SECTION 55. Section 47 of chapter 152 of the General Laws, as most recently amended by section 24 of chapter 161 of the acts of 1993, is hereby further amended by striking out, in lines 9 and 10, the words "or two hundred and seventy-three" and inserting in place thereof the following words:- two hundred and nine C, two hundred and seventy-three or two hundred and seventy-three A.

SECTION 56. Chapter 175 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after section 24C the following section:-

Section 24D. Prior to making any non-recurring payment of a lump sum amount equal to or in excess of three thousand dollars to a claimant under a contract of insurance, every company authorized to issue policies of insurance pursuant to chapter one hundred and seventy-five shall review information furnished by the IV-D agency, as set forth in chapter one hundred and nineteen A, to ascertain whether such claimant owes past-due child support the commonwealth or to an individual to whom the IV-D agency is providing services, and is subject to a child support lien pursuant to section six of said chapter one hundred and nineteen A. If such claimant owes past-due child support that is subject to a child support lien pursuant to section six of said chapter one hundred and nineteen A, the company shall notify the IV-D agency of the name, address and social security number of such claimant. The company shall withhold from the payment the amount of past-due support and shall provide such amount to the IV-D agency for disbursement to the obligee. The child support lien shall encumber the right of the claimant to payment under the policy and the company shall disburse to the claimant only that portion of the payment, if any, remaining after the child support lien has been satisfied. This section shall not apply to that portion of a claim resulting in payments on behalf of the claimant issued to a third party who has provided the claimant with a benefit or service related to the claim. A claimant who asserts that the proceeds of the payment to be made by the company are necessary to remunerate a third party who provided the claimant a benefit or service related to the claim may request that the department of revenue release to the claimant that portion of the payment necessary to remunerate the third party. The provisions of the Employer Retirement Income Security Act limiting, for contracts of insurance, the amounts which may be assigned or attached in order to satisfy child support obligations shall apply to the provisions of this section. A company that fails or refuses to surrender property subject to a child support lien to the IV-D agency shall be liable as provided in paragraph seven of subsection (b) of section six of said chapter one hundred and nineteen A.

SECTION 57. Section 78 of chapter 185 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "of", in line 5, the second time it appears, the following words:- child support liens pursuant to chapter one hundred and nineteen A,.

SECTION 58. Section 80 of said chapter 185, as so appearing, is hereby amended by inserting after the word "for", in line 10, the following words:- child support liens pursuant to chapter one hundred and nineteen A and.

SECTION 59. Section 7 of chapter 190 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the words "two hundred and seventy-three", in lines 3 and 4, the following words:- , chapter two hundred and nine C or under similar law of another jurisdiction.

SECTION 60. Section 28 of chapter 208 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 9, the words ", custody and maintenance" and inserting in place thereof the following words:- and custody.

SECTION 61. Said section 28 of said chapter 208, as so appearing, is hereby further amended by inserting after the second sentence the following six sentences:- In furtherance of the public policy that dependent children shall be maintained as completely as possible from the resources of their parents and upon a complaint filed after a judgment of divorce, orders of maintenance and for support of minor children shall be modified if there is an inconsistency between the amount of the existing order and the amount that would result from application of the child support guidelines promulgated by the chief justice for administration and management or if there is a need to provide for the health care coverage of the child. A modification to provide for the health care coverage of the child shall be entered whether or not a modification in the amount of child support is necessary. There shall be a rebuttable presumption that the amount of the order which would result from the application of the guidelines is the appropriate amount of child support to be ordered. If, after taking into consideration the best interests of the child, the court determines that a party has overcome such presumption, the court shall make specific written findings indicating the amount of the order that would result from application of the guidelines; that the guidelines amount would be unjust or inappropriate under the circumstances; the specific facts of the case which justify departure from the guidelines; and that such departure is consistent with the best interests of the child. The order shall be modified accordingly unless the inconsistency between the amount of the existing order and the amount of the order that would result from application of the guidelines is due to the fact that the amount of the existing order resulted from a rebuttal of the guidelines and that there has been no change in the circumstances which resulted in such rebuttal; provided, however, that even if the specific facts that justified departure from the guidelines upon entry of the existing order remain in effect, the order shall be modified in accordance with the guidelines unless the court finds that the guidelines amount would be unjust or inappropriate under the circumstances and that the existing order is consistent with the best interests of the child. A modification of child support may enter notwithstanding an agreement of the parents that has independent legal significance.

SECTION 62. Said section 28 of said chapter 208, as so appearing, is hereby further amended by adding the following paragraph:-

When a court makes an order for maintenance or support, the court shall determine whether the obligor under such order is responsible for the maintenance or support of any other children of the obligor, even if a court order for such maintenance or support does not exist, or whether the obligor under such order is under a preexisting order for the maintenance or support of any other children from a previous marriage, or whether the obligor under such order is under a preexisting order for the maintenance or support of any other children born out of wedlock. If the court determines that such responsibility does, in fact, exist and that such obligor is fulfilling such responsibility such court shall take into consideration such responsibility in setting the amount to paid under the current order for maintenance or support.

SECTION 63. Section 28A of said chapter 208, as so appearing, is hereby amended by inserting after the word "entered", in line 6 and 9, each time it appears, the following words:- relative to care and custody.

SECTION 64. Section 32 of chapter 209 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 63, the words "and (f)" and inserting in place thereof the following words:- (f) the responsibilities of the obligor for the maintenance or support of any other children of the obligor, even if a court order for such maintenance or support does not exist, or for any preexisting order for the maintenance or support of any other children from a previous marriage, or for any preexisting order for the maintenance or support of any other children born out of wedlock and that said obligor is fulfilling such responsibility; and (g).

SECTION 65. Section 32F of said chapter 209, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) If no order for support pursuant to an action filed under chapters two hundred and seven, two hundred and eight or section thirty-two of this chapter has been entered, the district court, the Boston municipal court or the probate and family court shall have concurrent jurisdiction under this section to order a spouse to support the other spouse or to order a parent to support his dependent child; provided however, that nothing herein shall be construed to grant jurisdiction to the district court or Boston municipal court to determine the parentage of a child. A complaint may be filed by the IV-D agency against a spouse seeking an order for support of his dependent child. A complaint may also be filed by a married person for the support of the dependent child in his care or, if living apart from his spouse, for his own support. The court shall have jurisdiction to order a sum to be paid periodically for the current support of a child or of a spouse and child or of a spouse and shall have jurisdiction to order a spouse or parent to reimburse the other spouse or the IV-D agency on behalf of the department of public welfare or department of social services for past support, including medical expenses, provided to his spouse or child, notwithstanding the fact that at the time of the hearing the parties are no longer receiving public assistance. When an action is commenced by the spouse or, on behalf of the child entitled to receive support, by the guardian, next of kin or person having care and physical custody of the child,

and the spouse or child is or was a recipient of benefits under chapters one hundred and seventeen, one hundred and seventeen A or one hundred and eighteen, the court shall require notice to the IV-D agency of the pendency of the action and the agency shall be permitted to intervene in such action. When the action is commenced on behalf of such department of public welfare or said department of social services or anyone other than the spouse or parent of a child entitled to receive support, the court shall ensure that such spouse and all parties are notified of the action and of any motions for temporary orders for support. A spouse or parent or custodian shall be permitted to intervene in the action as of right.

SECTION 66. Section 37 of said chapter 209, as so appearing, is hereby amended by inserting after the first sentence the following six sentences:- In furtherance of the public policy that dependent children shall be maintained as completely as possible from the resources of their parents and upon a complaint filed after a judgment of support, orders of maintenance and for support of minor children shall be modified if there is an inconsistency between the amount of the existing order and the amount that would result from application of the child support guidelines promulgated by the chief justice for administration and management or if there is a need to provide for the health care coverage of the child. A modification to provide for the health care coverage of the child shall be entered whether or not a modification in the amount of child support is necessary. There shall be a rebuttable presumption that the amount of the order which would result from the application of the guidelines is the appropriate amount of child support to be ordered. If, after taking into consideration the best interests of the child, the court determines that a party has overcome the presumption, the court shall make specific written findings indicating the amount of the order that would result from application of the guidelines; that the guidelines amount would be unjust or inappropriate under the circumstances; the specific facts of the case which justify departure from the guidelines; and that such departure is consistent with the best interests of the child. The order shall be modified accordingly unless the inconsistency between the amount of the existing order and the amount of the order that would result from application of the guidelines is due to the fact that the amount of the existing order resulted from a rebuttal of the guidelines and that there has been no change in the circumstances which resulted in such rebuttal; provided, however, that even if the specific facts that justified departure from the guidelines upon entry of the original order remain in effect, the order shall be modified in accordance with the guidelines unless the court finds that the guidelines amount would be unjust or inappropriate under the circumstances and that the existing order is consistent with the best interests of the child. A modification of child support may enter notwithstanding an agreement of the parents that has independent legal significance.

SECTION 67. Said section 37 of said chapter 209, as so appearing, is hereby further amended by adding the following paragraph:-

When a court makes an order for maintenance or support, the court shall determine whether the obligor under such order is responsible for the maintenance or support for any other children of the obligor, even if a court order for such maintenance or support does not exist, or for any preexisting order for the maintenance or support of any other children from

a previous marriage, or for any preexisting order for the maintenance or support of any other children born out of wedlock. If the court determines that such responsibility does, in fact, exist and that such obligor is fulfilling such responsibility such court shall take into consideration such responsibility in setting the amount to paid under the current order for maintenance or support.

SECTION 68. Section 2 of chapter 209C of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "chapter", in line 4, the following words:- ; provided, however, that if a judgment or finding of paternity has been issued by a court or administrative agency of competent jurisdiction under any other law, such judgment or finding shall be accorded full faith and credit and paternity shall not be relitigated.

SECTION 69. Subsection (b) of section 3 of said chapter 209C, as so appearing, is hereby amended by striking out the second and third sentences and inserting in place thereof the following four sentences:- The filing of the action in the probate and family court shall act to transfer the case from the district court or the Boston municipal court department to the probate and family court department. The register of probate shall make entry in the docket that the case shall thereafter be heard only in the probate and family court department. The party seeking transfer shall notify the parties, the district court or the Boston municipal court and, if applicable, the IV-D agency that the action has been transferred to the probate and family court department. The clerk magistrate of the district court or the Boston municipal court shall make entry in the docket of such transfer.

SECTION 70. Said section 3 of said chapter 209C, as so appearing, is hereby further amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) Any action pursuant to this chapter that is pending or was previously adjudicated in the district court or Boston municipal court departments may be transferred to the probate and family court department by any party or by the IV-D agency as set forth in chapter one hundred and nineteen A. An action shall be transferred upon the filing of the following documents with the probate and family court:- (1) a copy of the complaint; (2) a copy of the order of the district court or Boston municipal court, if any; (3) a copy of the findings of the court, if any; (4) a copy of the financial statements submitted by the parties, if any; (5) a copy of the worksheet used to calculate the amount of the child support order pursuant to the child support guidelines, if any; and (6) a copy of the docket maintained by the district court or the Boston municipal court. Once transferred, the order of the district court or the Boston municipal court shall have the same force and effect, and shall be subject to the same procedures and defenses as an order of the probate and family court and may be enforced or modified in the same manner available to enforce or modify any judgment or order of the probate and family court. Transfer of an order pursuant to this section shall not limit the use of any enforcement remedy, whether judicial or administrative, that may be available and the probate and family court shall preserve all arrears that have accrued pursuant to the order of the district or Boston municipal court departments.

SECTION 71. Section 6 of said chapter 209C, as so appearing, is hereby amended by adding the following two subsections:-

(b) Notwithstanding the provisions of subsection (a), a husband or former husband shall not be required to be joined as a party if non-paternity of the child has previously been adjudicated in a proceeding between the husband and the mother of such child in a court or administrative agency of competent jurisdiction.

(c) Notice to a party joined as herein provided shall be sufficient if the summons is mailed to the last known address by a form of mail requiring a receipt and, if actual notice shall not be made as aforesaid, by publishing a copy of the notice once in each of three successive weeks in a newspaper designated by the court.

SECTION 72. Section 8 of said chapter 209C, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Upon default of the defendant or his failure to personally appear, the court shall make a judgment establishing paternity if a showing is made that the complaint was served in accordance with the applicable rules of court and that the mother or putative father submits that sexual intercourse between the parties occurred during the probable period of conception.

SECTION 73. Subsection (a) of section 9 of said chapter 209C, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- An order may be entered requiring a parent chargeable with support to reimburse the mother or the department of public welfare for medical expenses attributable to the child or associated with childbirth or resulting from the pregnancy.

SECTION 74. Said section 9 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 45, the word "and"; and by striking out, in line 48, the word "employment." and inserting in place thereof the following words:- Employment; and

(8) responsibilities of the obligor for the maintenance or support of any other children of the obligor, even if a court order for such maintenance or support does not exist, or for any preexisting order for the maintenance or support of any other children from a previous marriage, or for any preexisting order for the maintenance and support of any other children born out of wedlock and that such obligor is fulfilling such responsibility.

SECTION 75. Said section 9 of said chapter 209C, as so appearing, is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) In determining the amount of the child support obligation or in approving the agreement of the parties, the court shall apply the child support guidelines promulgated by the chief justice for administration and management. There shall be a rebuttable presumption that the amount resulting from application of the guidelines is the appropriate amount of child support to be ordered. If, after taking into consideration the best interests of the child, the court determines that a party has overcome such presumption, the court shall make specific written findings indicating the amount of the order that would result from application of the guidelines; that the guidelines amount would be unjust or inappropriate

under the circumstances; the specific facts of the case which justify departure from the guidelines; and that such departure is consistent with the best interests of the child. In the event that no child support guidelines are in effect, the court shall make such order as is in the best interests of the child, taking into consideration the financial ability and earning capacity of the parents of the child.

SECTION 75A. Said section 9 of said chapter 209C, as so appearing, is hereby further amended by adding the following subsection:-

(f) In determining the amount to be paid, the court, in addition to applying the standards established by the chief administrative justice of the trial court, shall determine whether the obligor is responsible for the maintenance or support of any other children of the obligor even if a court order for such maintenance or support does not exist. If the court determines that such responsibility does, in fact, exist and that such obligor is fulfilling such responsibility, such court shall take into consideration such responsibility in setting the amount to be paid under the current order for maintenance or support.

SECTION 76. Subsection (b) of section 10 of said chapter 209C, as so appearing, is hereby amended by adding the following sentence:- In the absence of an order or judgment of a probate and family court relative to custody, the mother shall continue to have custody of a child after an adjudication of paternity or voluntary acknowledgment of parentage.

SECTION 77. Section 11 of said chapter 209C, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) A written voluntary acknowledgment of parentage executed jointly by the putative father, whether a minor or not, and the mother of the child, whether a minor or not, may be filed with a court in lieu of a complaint or in pending proceedings to establish paternity. Execution of a voluntary acknowledgment of parentage shall be carried out in a manner which shall preserve privacy and confidentiality. The voluntary acknowledgment of parentage shall be attested to before a notary public. The voluntary acknowledgment of parentage shall have the legal effect as provided herein. If parentage is acknowledged when the child is six months of age or older, the acknowledgment shall have the same force and effect as a judgment adjudicating paternity. If parentage is acknowledged when the child is less than six months of age, the acknowledgment shall create a presumption of paternity and either parent may request blood and genetic marker tests within one year of the signing of the acknowledgment. If either parent requests blood and genetic marker tests as provided herein, the court shall determine paternity under this chapter in accordance with all the evidence and the acknowledgment shall be admissible as evidence of the putative father's paternity. If, within one year after signing an acknowledgment of parentage of a child less than six months of age, neither parent requests blood and genetic marker tests, such acknowledgment shall thereafter have the same force and effect as a judgment adjudicating paternity and shall be recognized as a sufficient basis for seeking an order for support without further proceedings to establish paternity.

SECTION 78. Said section 11 of said chapter 209C, as so appearing, is hereby further amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) A voluntary acknowledgment of parentage taken outside of the commonwealth shall be valid for the purposes of this section if it was taken in accordance with the laws of the state or the country where it was executed.

SECTION 79. Section 12 of said chapter 209C, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- In an action to establish paternity, the court shall, upon request of any party, exclude the general public from the room where the trial is held and may admit only persons directly interested in the case, including officers of the court and witnesses.

SECTION 80. Section 17 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 10, the word "The" and inserting in place thereof the following words:- Unless a party objects in writing to the test results upon notice of the hearing date or within thirty days prior to the hearing, whichever is shorter, the.

SECTION 81. Said section 17 of said chapter 209C, as so appearing, is hereby further amended by striking out, in lines 13 and 14, the words "and shall be weighed along with other evidence of the putative father's paternity" and inserting in place thereof the following words:- without the need for laying a foundation or other proof of authenticity or accuracy.

SECTION 82. Said section 17 of said chapter 209C, as so appearing, is hereby further amended by inserting after the fourth sentence the following sentence:- If such report indicates a statistical probability of paternity of ninety-seven percent or greater, there shall be a rebuttable presumption that the putative father is the father of such child.

SECTION 83. Section 20 of said chapter 209C, as so appearing, is hereby amended by adding the following sentences:- In furtherance of the public policy that dependent children be maintained as completely as possible from the resources of their parents and upon a complaint filed after a judgment of support, orders of maintenance and for support of minor children shall be modified if there is an inconsistency between the amount of the existing order and the amount that would result from application of the child support guidelines promulgated by the chief justice for administration and management or if there is a need to provide for the health care coverage of the child. A modification to provide for the health care coverage of the child shall be entered whether or not a modification in the amount of child support is necessary. There shall be a rebuttable presumption that the amount of the order which would result from the application of the guidelines is the appropriate amount of child support to be ordered. If, after taking into consideration the best interests of the child, the court determines that a party has overcome the presumption, the court shall make specific written findings indicating the amount of the order that would result from application of the guidelines; that the guidelines amount would be unjust or inappropriate under the circumstances; the specific facts of the case which justify departure from the guidelines; and that such departure is consistent with the best interests of the child.

The order shall be modified accordingly unless the inconsistency between the amount of the existing order and the amount of the order that would result from application of the guidelines is due to the fact that the amount of the existing order resulted from a rebuttal of the guidelines and that there has been no change in the circumstances which resulted in such rebuttal; provided, however, that even if the specific facts that justified departure from the guidelines upon entry of the original order remain in effect, the order shall be modified in accordance with the guidelines unless the court finds that the guidelines amount would be unjust or inappropriate under the circumstances and that the existing order is consistent with the best interests of the child. A modification of child support may enter notwithstanding an agreement of the parents that has independent legal significance.

SECTION 84. Section 22 of said chapter 209C, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) A decree or judgment entered on a petition filed pursuant to sections three or six of chapter two hundred and ten shall be a bar to a proceeding under this chapter.

SECTION 85. Section 4 of chapter 215 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "nine", in line 11, the following words:- and actions relative to paternity or support as provided in chapter two hundred and seventy-three A.

SECTION 86. Section 3 of chapter 223A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 16, the word "or",- and by striking out clauses (g) and (h) and inserting in place thereof the following two clauses:-

(g) maintaining a domicile in this commonwealth while a party to a personal or marital relationship out of which arises a claim for divorce, alimony, property settlement, parentage of a child, child support or child custody; or the commission of any act giving rise to such a claim; or

(h) having been subject to the exercise of personal jurisdiction of a court of the commonwealth which has resulted in an order of alimony, custody, child support or property settlement, notwithstanding the subsequent departure of one of the original parties from the commonwealth, if the action involves modification of such order or orders and the moving party resides in the commonwealth, or if the action involves enforcement of such order notwithstanding the domicile of the moving party.

SECTION 87. Section 43 of chapter 271 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the last sentence, and inserting in place thereof the following sentence:- Nothing herein shall be construed to prevent the disclosure by the commissioner of revenue to the commissioner of public welfare or to the IV-D agency as set forth in chapter one hundred and nineteen A, in concert with a wage reporting system, of such information as may be necessary to ascertain or confirm the existence of fraud, abuse or improper payments to an applicant, for or recipient of, public assistance; and nothing herein shall be construed to prevent the disclosure to said IV-D agency of information necessary for setoff debt collection pursuant to chapter sixty-two D or any other child support enforcement purpose.

SECTION 88. Section 1 of chapter 273 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 1, the word "misdemeanor" and inserting in place thereof the following word:- felony.

SECTION 89. Section 3 of said chapter 273, as so appearing, is hereby amended by striking out, in line 1, the word "one" and inserting in place thereof the following word:- fifteen A.

SECTION 90. Section 8 of said chapter 273, as so appearing, is hereby amended by striking out, in line 1, the words "section one" and inserting in place thereof the following words:- sections one or fifteen.

SECTION 91. Section 15 of said chapter 273, as so appearing, is hereby amended by striking out, in line 13, the word "misdemeanor" and inserting in place thereof the following word:- felony.

SECTION 92. Section 15A of said chapter 273, as so appearing, is hereby amended by striking out, in line 13, the word "two" and inserting in place thereof the following word:- five.

SECTION 93. Said section 15A of said chapter 273, as so appearing, is hereby further amended by inserting after the word "imprisonment", in line 13, the following words:- in a state prison.

SECTION 94. Said section 15A of said chapter 273, as so appearing, is hereby further amended by striking out, in line 20, the word "five" and inserting in place thereof the following word:- ten.

SECTION 95. Said section 15A of said chapter 273, as so appearing, is hereby further amended by inserting after the word "imprisonment", in line 20, the following words:- in a state prison.

SECTION 96. Said chapter 273, as so appearing, is hereby further amended by striking out section 16 and inserting in place thereof the following section:-

Section 16. The provisions of sections two, six, seven and ten shall apply in proceedings under sections one and fifteen.

SECTION 97. Section 1 of chapter 273A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 4, the words "district court" and inserting in place thereof the following words:- a probate and family court, district court or municipal court.

SECTION 98. Said section 1 of said chapter 273A, as so appearing, is hereby further amended by inserting after the word "jurisdiction", in line 20, the following words:- or country.

SECTION 99. Said section 1 of said chapter 273A, as so appearing, is hereby further amended by striking out, in lines 21 and 22, the words "and with which the commonwealth is authorized to enter into such a reciprocal agreement".

SECTION 100. Said chapter 273A, as so appearing, is hereby further amended by inserting after section 3 the following section:-

Section 3A. In furtherance of the public policy that dependent children be maintained as completely as possible from the resources of their parents and upon a complaint filed after a judgment of support, orders of maintenance and for support of minor children shall be modified if there is an inconsistency between the amount of the existing order and the amount that would result from application of the child support guidelines promulgated by the chief justice for administration and management or if there is a need to provide for the health care coverage of the child. A modification to provide for the health care coverage of the child shall be entered whether or not a modification in the amount of child support is necessary. There shall be a rebuttable presumption that the amount of the order which would result from the application of the guidelines is the appropriate amount of child support to be ordered. If, after taking into consideration the best interests of the child, the court determines that a party has overcome such presumption, the court shall make specific written findings indicating the amount of the order that would result from application of the guidelines; that the guidelines amount would be unjust or inappropriate under the circumstances; the specific facts of the case which justify departure from the guidelines; and that such departure is consistent with the best interests of the child. The order shall be modified accordingly unless the inconsistency between the amount of the existing order and the amount of the order that would result from application of the guidelines is due to the fact that the amount of the existing order resulted from a rebuttal of the guidelines and there has been no change in the circumstances which resulted in such rebuttal; provided, however, that even if the specific facts that justified departure from the guidelines upon entry of the original order remain in effect, the order shall be modified in accordance with the guidelines unless the court finds that the guidelines amount would be unjust or inappropriate under the circumstances and that the existing order is consistent with the best interests of the child. A modification of child support may enter notwithstanding an agreement of the parents that has independent legal significance.

SECTION 101. Section 10 of said chapter 273A, as so appearing, is hereby amended by striking out the fourth paragraph.

SECTION 102. Said chapter 273A, as so appearing, is hereby amended by inserting after section 10 the following section:-

Section 10A. A judgment or order for support issued by a court or an administrative agency of competent jurisdiction of another state shall have the same force and effect as if the judgment or order originated from a court of the commonwealth. If the obligor resides, derives income or has property in the commonwealth, the judgment or order shall be enforceable as set forth herein. When such a judgment or order is transmitted to the IV-D agency, as set forth in chapter one hundred and nineteen A, by the corresponding agency of another state or jurisdiction, the IV-D agency shall execute an income assignment as provided in said chapter one hundred and nineteen A without otherwise altering the judgment or order of the foreign jurisdiction. The IV-D agency shall send notice of the income assignment to the employer or other source of periodic income and a copy to the obligor by first class mail. The IV-D agency shall provide the obligor with a copy of the income assignment, a copy of the order or judgment of the foreign jurisdiction and notice

that, upon written request to the IV-D agency within fifteen days of the first withholding of income, a hearing to contest the validity of the order or judgment issued by the foreign jurisdiction be scheduled. If the obligor requests a hearing, the IV-D agency shall file copies of the judgment or order of the foreign jurisdiction and the Massachusetts income assignment with a court of competent jurisdiction. The court shall schedule a hearing and send notice by first class mail to the obligor and to the foreign jurisdiction of the obligee of the date, time and place of the hearing. Venue for a hearing shall be in the probate and family court of the county or the district or Boston municipal court of the judicial district where the obligor resides, derives income or has property. The filing of the order or judgment of a foreign jurisdiction shall confer jurisdiction on the court for the limited purpose of determining that the order or judgment was entered by a court or administrative agency of competent jurisdiction in the other jurisdiction, that the order or judgment was not obtained by fraud and that the conditions enumerated in paragraphs (1), (2) and (3) of subsection (c) of section twelve of chapter one hundred and nineteen A exist or existed at the time notice was given or at any time thereafter. The provisions of said section twelve of said chapter one hundred and nineteen A shall apply to such orders or judgments.

SECTION 103. Said chapter 273A, as so appearing, is hereby further amended by inserting after section 15A the following section:-

Section 15B. Appeals of judgments and orders pursuant to this chapter shall be brought to the appeals court and shall be governed by the provisions of the Massachusetts Rules of Appellate Procedure. Appeals from actions brought in the district or Boston municipal court departments under this chapter shall not be governed by sections ninety-seven or one hundred and eight of chapter two hundred and thirty-one.

SECTION 104. Section fifty-three of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four is hereby repealed.

SECTION 105. Section seventy-eight of chapter one hundred and ninety-nine of the acts of nineteen hundred and eighty-seven is hereby repealed.

SECTION 106. Section fifty-six of this act shall take effect as of January first, nineteen hundred and ninety-five.

SECTION 107. The chief justice of the probate and family court is authorized to inaugurate pilot parenting education programs in divisions of the court and to establish the fees payable by the parties therefor. Such approved fees may be payable to the commonwealth or to a vendor approved by the court to administer such program. The chief justice may, subject to appropriation, appoint such staff and make such expenditures as have been authorized and which shall be necessary to coordinate the implementation of this section. The court is further authorized to make participation in such programs mandatory for any case involving visitation, custody or support of minor children in such divisions. Such programs shall educate parents on the needs of minor children and the roles and responsibilities of parents who do not live together, including the legal responsibility to provide child support. Said chief justice of the probate and family court shall file a report with the clerks of the senate and house of representatives on the progress of such programs

and an evaluation of the programs instituted not later than December thirty-first, nineteen hundred and ninety-four.

Approved January 13, 1994.

Chapter 461. AN ACT RELATIVE TO THE ZONING COMMISSION OF THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 665 of the acts of 1956, as most recently amended by section 2 of chapter 137 of the acts of 1989, is hereby further amended by striking out the first three paragraphs and inserting in place thereof the following three paragraphs:-

There shall be in the city planning department of the city of Boston, or in such other department of said city as the city council of said city with the approval of the mayor of said city shall from time to time determine, a board, known as the zoning commission, consisting of eleven zoning commissioners appointed by the mayor, subject to confirmation by the city council, as follows: one commissioner from two candidates nominated by the Greater Boston Labor Council AFL-CIO; one commissioner from two candidates nominated by the Greater Boston Real Estate Board; one commissioner from two candidates nominated one by the Boston Society of Architects and one by the Boston Society of Landscape Architects; one commissioner from two candidates nominated by the Greater Boston Chamber of Commerce; one commissioner from two candidates nominated by the Building Trades Employers' Association and two candidates nominated by The Contractor's Association of Boston, Inc.; three commissioners selected at large by the mayor, of whom one shall own alone or with one or more other persons, and shall occupy in whole or in part as her or his place of residence, a dwelling house having not more than three dwelling units, and one of whom has operational control of a retail store or manufacturing company with between five and fifty employees; and three commissioners selected by the mayor, each of whom has served for at least one year (1) as an officer or member of the board of directors or similar governing body of a residential neighborhood organization which (*a*) is a non-profit organization consisting primarily of residents of a specific neighborhood; (*b*) has at least twenty-five members; (*c*) allows any resident of the neighborhood to join as a member; (*d*) has as a principal purpose the preservation of the quality of residential life in the neighborhood; and (*e*) has been in existence for at least two years; or (2) as a member of a residential neighborhood organization which (*a*) has been established by the mayor; (*b*) consists primarily of residents of a specific neighborhood; and (*c*) has as a principal purpose the preservation of the quality of residential life in the neighborhood; provided, however, that any person appointed from a residential neighborhood organization under this section is a resident of the neighborhood represented by the residential neighborhood organ-

ization in which he or she has served. The three commissioners from residential neighborhood organizations shall reside at the time of their respective appointments in different city council districts. All zoning commissioners shall be residents of the city of Boston.

Appointments of zoning commissioners shall be for terms of three years. Any vacancy in the office of a zoning commissioner shall be filled for the unexpired term in the same manner in which the original appointment to such term was made. Any zoning commissioner absent from more than one-third of the public hearings of the commission held within a twelve-month period during her or his term may be removed from the commission by the mayor at his discretion by notice to the city council; provided, however, that there were at least three public hearings of the commission during the twelve-month period. Any zoning commissioner so removed shall not be reappointed to the commission. Any vacancy caused by the removal of a zoning commissioner for absence shall be filled for the unexpired term in the same manner in which the original appointment to such term was made.

The zoning commission shall elect one of its members as chairperson and another as vice chairperson. The zoning commission shall also elect a secretary, who need not be a member of the commission. Each zoning commissioner shall receive for every day or part thereof of actual service one hundred and fifty dollars or such other sum as may from time to time be fixed by the city council with the approval of the mayor; but no zoning commissioner shall so receive in any one year more than two thousand two hundred and fifty dollars or such other sum as may from time to time be fixed by the city council with the approval of the mayor.

SECTION 2. Said chapter 665 is hereby further amended by striking out section 3, as most recently amended by section 1 of chapter 193 of the acts of 1966, and inserting in place thereof the following section:-

Section 3. A zoning regulation may be adopted and from time to time be amended by alteration, addition or repeal, but only in the manner hereinafter provided. No zoning regulation originally establishing the boundaries of a district or the regulations and restrictions to be enforced therein, and no such regulation amending the same as aforesaid, shall be adopted until the Boston Redevelopment Authority shall have submitted a report with recommendations concerning such regulation or amendment or allowed twenty days to elapse after receipt from the zoning commission of a request for such a report without making such a report, nor until after the zoning commission shall have given notice and held public hearing with respect to such regulation or amendment. Such notice shall be published at least twenty days prior to such hearing in one or more newspapers of general circulation in the city of Boston and, where the regulation or amendment affects a specific zoning district, in a newspaper of circulation in the neighborhood in which the zoning district is located. Such notice shall (*a*) refer to this act, (*b*) give the time and place of the public hearing, and (*c*) either state the express terms of the proposed regulation or amendment, or state the general subject thereof and the times when and the place where a copy of the express terms thereof may be obtained. Such notice shall also be sent by mail, postage prepaid, at least twenty days prior to the hearing, to any person filing written request for no-

tice of hearings, such request to be renewed yearly in December. Such public hearing shall be attended by not less than six members of the zoning commission; and if less than six members are present at any public hearing, the members actually present may adjourn the same by proclamation to such time and place as they deem advisable, and further notice thereof shall not be necessary. After such notice and hearing the zoning commission, by the concurrent vote of not less than seven of its members, may adopt or reject the proposed regulation or amendment, or may adopt a regulation or amendment in substantial accord with the proposed regulation or amendment. Votes of the zoning commission adopting a zoning regulation or amendment thereof shall be subject to the same provisions of law in respect to approval by the mayor as orders or votes of the city council of the city, except that the concurrent vote of not less than nine members of the zoning commission shall be necessary to pass such a regulation or amendment over the veto of the mayor.

Any resident of the city of Boston or any owner of property therein may petition the zoning commission to adopt an amendment of a zoning regulation, but shall not be entitled to have her or his proposed amendment considered by the commission unless he or she pays the city such reasonable sum, if any, as may from time to time be established by zoning regulation as the estimated average cost to the city of giving notice of a hearing on a proposed amendment of a zoning regulation in accordance with the provisions of this section.

SECTION 3. Section 8 of said chapter 665, as amended by section 66 of chapter 802 of the acts of 1972, is hereby further amended by striking out the first paragraph and inserting in place thereof the following six paragraphs:-

There is hereby established in the city of Boston a board to be called the board of appeal, to consist of seven members and seven alternate members appointed by the mayor and confirmed by the city council in the following manner: one member and one alternate member from four candidates nominated by the greater Boston real estate board; one member and one alternate member from four candidates nominated by the Boston Society of Architects; one member and one alternate member from eight candidates, two nominated by the Master Builders Association, two by the Building Trades Employers' Association, two by the Associated General Contractors of Massachusetts, and two by The Contractor's Association of Boston, Inc.; one member and one alternate member from four candidates nominated by the Building Trades Council of Greater Boston; one member and one alternate member selected at large by the mayor; and two members and two alternate members selected by the mayor each of whom has served for at least one year (1) as an officer or member of the board of directors or similar governing body of a residential neighborhood organization which (*a*) is a non-profit organization consisting primarily of residents of a specific neighborhood; (*b*) has at least twenty-five members; (*c*) allows any resident of the neighborhood to join as a member; (*d*) has as a principal purpose the preservation of the quality of residential life in the neighborhood; and (*e*) has been in existence for at least two years; or (2) as a member of a residential neighborhood organization which (*a*) has been established by the mayor; (*b*) consists primarily of residents of a specific neighborhood; and

(*c*) has as a principal purpose the preservation of the quality of residential life in the neighborhood; provided that any person appointed from a residential neighborhood organization under this section is a resident of the neighborhood represented by the residential neighborhood organization in which she or he has served. The two members from residential neighborhood organizations shall reside at the time of their respective appointments in different city council districts. The two alternate members from residential neighborhood organizations shall reside at the time of their respective appointments in different city council districts.

All members and all alternate members of said board shall be residents of the city of Boston. Appointments of members and alternate members of said board shall be for terms of three years. Any vacancy in the office of a member or alternate member shall be filled for the unexpired term in the same manner in which the original appointment to such term was made.

Each member and each alternate member of said board shall be subject to the provisions of chapter two hundred and sixty-eight A of the General Laws. In addition, notwithstanding the provisions of any general or special law to the contrary, no member or alternate member shall participate in hearing or deciding (*a*) any appeal involving property in which he has held an ownership interest, or received compensation for services rendered, within two years of the date the appeal was filed with the board; and (*b*) any appeal involving property in the same geographic zoning district and seeking relief from the same provisions of the zoning regulations as any other appeal pending before the board in which the member or alternate member has a financial or legal interest. A violation of the provisions of the preceding sentence shall be punishable in the same manner as a violation of the provisions of section nineteen of said chapter two hundred and sixty-eight A and shall be subject to the provisions of section twenty-one of said chapter two hundred and sixty-eight A.

Upon the absence or disqualification from the hearing of any appeal of a member appointed upon nomination or at large under this section, the alternate member appointed in the same manner as such member shall substitute for such member; provided, however, that upon the absence or disqualification from such hearing of such alternate member, the chairperson shall designate one of the remaining alternate members to substitute for such member.

Upon the absence or disqualification from the hearing of any appeal of a member appointed from a residential neighborhood organization under this section, the alternate member appointed from a residential neighborhood organization whose term is concurrent with such member shall substitute for such member; provided, however, that upon the absence or disqualification from such hearing of such alternate member, the other alternate member appointed from a residential neighborhood organization shall substitute for such member; and provided, further, that upon the absence or disqualification from such hearing of such other alternate member, the chairperson shall designate one of the remaining alternate members to substitute for such member.

Each member and each alternate member of the board of appeal shall receive for every day or part thereof of actual service two hundred dollars or such sum as may from time to time be fixed by the city council with the approval of the mayor; but no member or alternate member shall so receive in any one year more than twenty-four thousand dollars or such other sum as may from time to time be fixed by the city council with the approval of the mayor. The board shall establish rules and regulations for its own procedures not inconsistent with this act.

SECTION 4. Said section 8 of said chapter 665, as most recently amended by section 4 of chapter 296 of the acts of 1973, is hereby further amended by striking out the last three paragraphs and inserting in place thereof the following three paragraphs:-

Said board of appeal shall fix a reasonable time for the hearing of any appeal and give at least twenty days public notice thereof in a newspaper of general circulation in the city. Said board of appeal shall also send notice, by mail, postage prepaid, at least twenty days prior to the hearing, to the appellant and to the owners of all property deemed by said board of appeal to be affected thereby, as they appear on the then most recent local tax list, and to any person filing written request for notice of hearings, such request to be renewed yearly in December, and to the Boston Redevelopment Authority. The board shall schedule the hearing in the evening, if the board receives from the mayor or any city councillor and from fifty residents of the neighborhood in which the project is located, prior to the submission of the notice for publication and the mailing of the notice, a written request that the hearing be scheduled in the evening. The notice sent by mail shall identify the specific variance, exception, or other zoning relief which the appellant is seeking. At the hearing any party whether or not entitled to notice thereof may appear in person or by agent or attorney. The board of appeal may in its discretion administer oaths to all persons testifying at said hearing. No such hearing shall be held any day on which a state or municipal election, preliminary election or primary is held in said city.

In acting upon such appeal, said board of appeal may, in conformity with the provisions of this act, reverse or affirm in whole or in part, or may modify, any order or decision, and may make such order or decision as ought to be made, and to that end shall have all the powers of the board or officers from who the appeal is taken and may direct the issue of a permit. The board may in its discretion continue the hearing in order that the appellant may meet with any residential neighborhood organization specified by the board to discuss the appeal, and the board may in its discretion deny the appeal without prejudice in the event the appellant fails to do so. The concurring vote of five members of said board of appeal shall be necessary to reverse any order or decision of any administrative official under this act, or to decide in favor of the appellant on any matter upon which it is required to pass under any zoning regulation or amendment thereof, or to grant any variance in, or exception to, the application of any such regulation or amendment.

Said board of appeal shall cause to be made a detailed record of all its proceedings, which record shall set forth: the reasons for its decision; the vote of each member participating therein; the absence of a member or her or his failure to vote; and any conditions or provisos to which the granting of any variance or exception was made subject

by vote of said board of appeal at the hearing. Such record shall be filed in the office of the building commissioner of the city within ninety days of the hearing and shall be open to public inspection; provided, however, that the board may for good cause extend the time for such filing. Notice of such decision shall be mailed forthwith to each party in interest as aforesaid, to the Boston Redevelopment Authority, to every person receiving notice of the hearing, and to every person present at the hearing who requests that notice be sent to her or him and states the address to which such notice is to be sent.

SECTION 5. Section 11 of said chapter 665, as amended by section 1 of chapter 669 of the acts of 1974, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Any person aggrieved by a decision of said board of appeal, whether or not previously a party to the proceeding, or any municipal board or officer, may appeal to the superior court department of the trial court sitting in equity for the county of Suffolk or, in the event that such decision is concerned with any building or place used, or intended or permitted for use, as a place of human habitation, to the housing court of the city of Boston; provided, however, that such appeal is filed in either of said courts within twenty days after such decision is filed with the building commissioner. The court may in its discretion require the person or persons so appealing to file a bond with sufficient surety, for such a sum as shall be fixed by the court, to indemnify and save harmless the person or persons in whose favor the decision was rendered from damages and costs which he or they may sustain in case the decision of said board is affirmed; provided, however, that the court shall not require the filing of such bond in an amount exceeding twenty-five thousand dollars in any appeal of a decision of said board granting a variance, exception, or other zoning relief with respect to any zoning regulation or amendment thereof, if the project for which such variance, exception, or other zoning relief was granted involves the construction, renovation, rehabilitation, or change in use of less than fifty thousand square feet of space. Upon an appeal under this section, the court shall hear all pertinent evidence and determine the facts, and upon the facts as so determined, annul such decision if found to exceed the authority of such board or make such other decree as justice and equity may require. The foregoing remedy shall be exclusive; but the parties shall have all rights of appeal as in other civil actions.

SECTION 6. Said chapter 665 is hereby further amended by striking out section 12, as amended by section 2 of said chapter 669, and inserting in place thereof the following section:-

Section 12. The superior court department of the trial court or, in the event that the premises involved are used or intended or permitted for use as a place of human habitation, the housing court of the city of Boston sitting as aforesaid, shall have jurisdiction to enforce the provisions of this act, the provisions of the state building code, any zoning regulation or amendment adopted under this act, and any decision of the board of appeal under any zoning regulation or amendment adopted under this act, including any condition or proviso in such decision, and may restrain by injunction violation thereof.

SECTION 7. Notwithstanding any provisions to the contrary of section one of chapter six hundred and sixty-five of the acts of nineteen hundred and fifty-six, as amended by the provisions of this act, the zoning commissioners initially appointed upon nomination under said section one, as amended by the provisions of this act, shall serve, in the case of the commissioners appointed upon nomination of the Greater Boston Labor Council AFL-CIO and the Greater Boston Real Estate Board, for a term expiring three years, in the case of the commissioners appointed upon nomination of the Boston Society of Architects and the Greater Boston Chamber of Commerce, for a term expiring two years, and in the case of the commissioner appointed upon nomination of the Building Trades Employers' Association or The Contractor's Association of Boston, Inc., for a term expiring one year, from May first, nineteen hundred and ninety-four. The zoning commissioners initially appointed at large under said section one, as amended by the provisions of this act, shall serve, according to the provisions of their respective appointments, for terms expiring, in the case of one commissioner, three years, in the case of another commissioner, two years, and in the case of the other commissioner, one year, from said May first. The zoning commissioners initially appointed from residential neighborhood organizations under section one, as amended by the provisions of this act, shall serve, according to the provisions of their respective appointments, for terms expiring, in the case of one commissioner, three years, in the case of another commissioner, two years, and in the case of the other commissioner, one year, from said May first. As the term of any zoning commissioner initially appointed under said section one, as amended by the provisions of this act, or of any subsequent zoning commissioner, expires, her or his successor shall be appointed in the same manner as such commissioner for a term of three years in accordance with the provisions of said section one.

SECTION 8. Notwithstanding any provisions to the contrary of section eight of chapter six hundred and sixty-five of the acts of nineteen hundred and fifty-six, as amended by the provisions of this act, the members and alternate members initially appointed upon nomination under said section eight, as amended by the provisions of this act, shall serve, in the case of the members and alternate members appointed upon nomination of the Greater Boston Real Estate Board and the Boston Society of Architects, for a term expiring three years, in the case of the member and alternate member appointed upon nomination of the Master Builders Association, the Building Trades Employers' Association, the Associated General Contractors of Massachusetts, or The Contractor's Association of Boston, Inc. for a term expiring two years, and in the case of the Building Trades Council of Greater Boston, for a term expiring one year, from May first nineteen hundred and ninety-four. The member and alternate member initially appointed at large under said section eight, as amended by the provisions of this act, shall serve for a term expiring three years from said May first. The members and alternate members initially appointed from residential neighborhood organizations under said section eight, as amended by the provisions of this act, shall serve, according to the provisions of their respective appointments, for terms expiring, in the case of one member and one alternate member, two years, and in the case of the other member and other alternate member, one year, from said May first. As the term of any member or alternate member initially appointed under said section eight, as amended by the provisions

of this act, or of any subsequent member or alternate member, expires, her or his successor shall be appointed in the same manner as such member or alternate member for a term of three years in accordance with provisions of said section eight.

Notwithstanding any provision to the contrary of said section eight, any member of the board of appeal as of May first, nineteen hundred and ninety-three, who was not a resident of the city of Boston as of that date, may be initially appointed to said board under the provisions of said section eight, as amended by the provisions of this act, and be reappointed to additional consecutive terms without changing her or his residency.

SECTION 9. This act shall take effect on March thirty-first, nineteen hundred and ninety-four.

Approved January 13, 1994.

Chapter 462. AN ACT ESTABLISHING A SEPTIC BETTERMENT PROGRAM FOR THE TOWN OF BREWSTER.

Be it enacted, etc., as follows:

SECTION 1. The town of Brewster is hereby authorized to provide financial assistance to its property owners through a program promoting compliance with the town's requirements to repair and/or upgrade private septic systems. When an existing septic disposal system constitutes a present or potential threat to human health, safety, welfare or the environment, said town is authorized to use public monies to assist property owners to fund improvements or upgrades of their existing system.

SECTION 2. Said town is hereby authorized to borrow and incur debt for the purposes of cleanup, abatement, repair, and septic system upgrade pursuant to this section. Said town may enter into an agreement with a property owner to furnish financial assistance under the provisions of this act and such agreement shall be recorded as a betterment pursuant to section two of chapter eighty of the General Laws, and the amount assessed shall be a lien on the property pursuant to section five of said chapter eighty and may be apportioned and reapportioned pursuant to section thirteen of said chapter eighty; provided, however, that such assessment shall bear interest at a rate determined by the board of health by agreement with the property owner, but, in no event, shall such interest be less than the rate of interest chargeable to the town for the financing of such cleanup, abatement, repair, and upgrade. Any such borrowing shall not be included for the purpose of computation of the levy or borrowing limits otherwise imposed upon the town by chapter forty of the General Laws.

The board of health is hereby authorized to establish regulations governing the operation of this program after an advertised public hearing. Said board of health shall establish guidelines on eligibility and evaluate all applications with reference to said guidelines.

The applicant who must be the property owner or owners for funding must submit a signed petition and a deed or a certificate of title to the board of health by October fifteenth of each year. The petition shall include the septic system plans and specifications, designed by a licensed civil or sanitary engineer or a registered sanitarian. Said plans shall meet the minimum requirements for subsurface disposal of household wastewater as established by the State Environmental Code, 310 CMR 15.00, commonly known as Title 5, or where stricter, the regulations adopted by the Brewster board of health. In addition, the application shall include a disposal works construction permit, issued by the Brewster board of health.

An agreement between an owner and the board of health pursuant to this section shall not be considered a breach of a limitation or prohibition contained in a note, mortgage or contract on the transfer of an interest in property.

The board of health shall obtain construction estimates according to the scope of work outlined in the plans and specifications submitted by the petitioner. The board of health shall hold a public hearing on the application after due notice to the petitioner. The board of health shall provide an estimate of all costs to be levied against said petitioner, including engineering, legal, construction, administrative, interest plus two percent and other related expenses. Upon receipt of the approval of the estimated costs by the property owner, the board of health will seek funding by an annual town meeting. Upon funding approval, the board of health shall obtain bids in accordance with the provisions of chapter thirty B of the General Laws. Within six months after the construction has been completed, the total costs for installation and maintenance shall be assigned to the petitioner, and the time for payment, not to exceed fifteen years, shall be specified. Monies repaid to the town for septic betterments shall be deposited into a separate receipts reserved account.

The total cost of the project shall not exceed the estimate, and the town shall not be responsible for any additional costs related to upkeep or maintenance; if, through any eventuality, the cost of the project should exceed the estimate, the excess shall be the responsibility of the property owner. Upon the approval of the betterment application and following notice thereof, the property owner may, within thirty days, pay the total cost of the project. Should the property owner not elect such a payment, the tax collector shall bill the property owner for ten percent of the total cost. With the next real estate tax bill, the tax collector shall bill the property owner the apportioned amount of the balance of the total cost, and this balance may be apportioned over a period not exceeding fifteen years. At any time during the remainder of the payment period, the property owner may elect to pay in full the balance still remaining. The town shall have a lien to secure payment in the same manner as it acquires a lien for a betterment assessment under chapter eighty of the General Laws.

Approved January 13, 1994.

Chapter 463. AN ACT AUTHORIZING THE TOWN OF METHUEN TO MAKE PAYMENT TO JOHN JENNINGS, INC.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section twenty of chapter two hundred and sixty-eight A of the General Laws, or any other general or special law to the contrary, the city known as the town of Methuen is hereby authorized to make payment to John Jennings, Inc. for repairs made to the East End fire station under a contract dated August twenty-sixth, nineteen hundred and ninety-two in an amount not to exceed four thousand two hundred and twelve dollars.

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

Approved January 13, 1994.

Chapter 464. AN ACT RELATIVE TO MORTGAGE OR LENDER LICENSE REQUIREMENTS.

Be it enacted, etc., as follows:

Section 2 of chapter 255E of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "staff", in line 38, the following words:- , or to any nonprofit agency or corporation incorporated under the laws of the commonwealth for the purpose of assisting low to moderate income households in the purchase or rehabilitation of family residences of four units or less and which holds tax-exempt status granted under the provisions of Section 501 (c) (3) or 501 (c) 4 of the Internal Revenue Code.

Approved January 13, 1994.

Chapter 465. AN ACT PROVIDING FOR THE APPOINTMENT OF THE TAX COLLECTOR AND TREASURER OF THE TOWN OF WINDSOR.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the tax collector and treasurer of the town of Windsor shall be appointed by the board of selectmen of said town and the persons so appointed shall have all of the powers and duties by law vested in the offices of tax collector and treasurer; upon the expiration of the current terms of office of tax collector and treasurer of said town.

Approved January 13, 1994.

Chapter 466. AN ACT RELATIVE TO THE EXEMPTION OF BENEFITS FROM ATTACHMENT AND EXECUTION.

Be it enacted, etc., as follows:

Chapter 175 of the General Laws is hereby amended by striking out section 110A, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 110A. So much of any benefit under a policy of insurance insuring against disability from injury or disease as does not exceed four hundred dollars for each week during any period of disability covered thereby shall not be liable to attachment, trustee process or other process, or to be seized, taken, appropriated or applied by any legal or equitable process or by operation of law, either before or after payment of such benefit, to pay any debt or liabilities of the person insured under such policy, but this exemption shall not apply where an action or suit is brought to recover for necessaries contracted for during said period and the writ or bill of complaint contains a statement to that effect.

Approved January 13, 1994.

Chapter 467. AN ACT FURTHER REGULATING CERTAIN CLAIMS AGAINST FOSTER CAREGIVERS.

Be it enacted, etc., as follows:

The definition of "Public employee" of section 1 of chapter 258 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following sentence:- For purposes of this chapter, the term "public employee" shall include an approved or licensed foster caregiver but solely with respect to claims against such caregiver by a child in the temporary custody and care of such caregiver for injury caused by the conduct of such caregiver; provided, however, that such conduct was not intentional, or wanton and willful, or grossly negligent.

Approved January 13, 1994.

Chapter 468. AN ACT AUTHORIZING THE SOUTH MIDDLESEX REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT TO PAY ONE HUNDRED PERCENT OF THE PREMIUM FOR GROUP DISABILITY INCOME INSURANCE FOR ALL EMPLOYEES OF THE DISTRICT.

Be it enacted, etc., as follows:

The South Middlesex Regional Vocational Technical School District, acting by and

through its school committee, is hereby authorized to enter into an agreement with the representatives of each of the employee bargaining units in the district, as well as with all other employees of the district, which agreement may become a part of the collective bargaining agreements between said committee and said bargaining units and may be effective for all other employees of the district, to pay one hundred percent of the premium actually paid for group disability income insurance covering nonoccupational injury or disease for all employees of the South Middlesex Regional Vocational Technical School District.

Approved January 13, 1994.

Chapter 469. AN ACT RELATIVE TO BERKSHIRE HILLS MOTEL SWIMMING POOL.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section two hundred and six of chapter one hundred and forty of the General Laws or any other general or special law to the contrary, Berkshire Hills Motel, in the city of Pittsfield, shall not be required to enclose its inground swimming pool.

SECTION 2. The provisions of this act shall affect the swimming pool presently located at the Berkshire Hills Motel as of January first, nineteen hundred and ninety-three and shall not apply to any new pool constructed thereafter.

Approved January 13, 1994.

Chapter 470. AN ACT RELATIVE TO THE ERNESTINA COMMISSION.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by striking out sections 182A and 182B, as appearing in the 1992 Official Edition, and inserting in place thereof the following three sections:-

Section 182A. There shall be a commission to be known as the Schooner Ernestina commission, to consist of nine persons to be appointed by the governor, one of whom shall be the commissioner of environmental management or his designee, one of whom shall be the director of the office of travel and tourism or his designee, one of whom shall be the commissioner of the department of education or his designee, one of whom shall be a resident of New Bedford, one of whom shall be a member of the Ernestina/Morrissey Historical Association, the four remaining persons shall be any person whose expertise would be an asset to the commission and the Schooner Ernestina or have particular expertise

in the Cape Verdean history as it relates to said schooner, or history of said ship as the Effie M. Morrissey. Of the initial appointment, three shall be for a term of one year, three shall be for a term of two years and three shall be for a term of three years. Thereafter, all appointments shall be for terms of three years. Said commission shall annually thereafter elect from among their members a chairman and a vice-chairman. The members of said commission shall serve without compensation. Said commission shall meet a minimum of four times annually and shall additionally meet as often as necessary to transact the business of the vessel. It is the responsibility of the commission to establish all policies relative to the operation of the vessel.

Section 182B. The Schooner Ernestina commission is hereby authorized and empowered:-

(a) to hold, administer, operate, preserve and maintain said vessel for educational or training purposes. Said vessel shall serve as the official vessel of the commonwealth and it may participate in tourism activities in cooperation with the advisory commission on vacation travel;

(b) to authorize the vessel to ply the oceans, seas, and all navigable waters and to fly the flag of the commonwealth; provided, however, that said vessel shall not be used for commercial fishing;

(c) to charge fees or tuition to students, trainees, sailing cadets or others who are carried on voyages or trips for educational or training purposes;

(d) to charge fees to passengers for excursions and tours;

(e) to develop educational programs, including exhibitions and dockside tours of the vessel and to charge and receive admission fees from the public for the provisions of such services;

(f) to retain and expend any fees, tuitions and revenues received under the provisions of clauses (c), (d) and (e). All monies retained and expended shall be reported to the secretary of administration and finance, the department of environmental management and the house and senate committees on ways and means;

(g) to receive and expend from both municipal and federal agencies, as well as private foundations, grants to support the operations, preservation and maintenance of said vessel and to receive and accept contributions from any source of either money, property, labor or other things of value, to be used for the purposes for which said grants and contributions may be made;

(h) to hire, as needed, professional staff to assist with the operation of the vessel;

(i) to contract out, with private and not for profit organizations, the operations and maintenance of the vessel;

(j) and directed to establish fees and tuitions pursuant to clauses (c), (d), (e) and (f) at a level sufficient to ensure the continued operation, preservation and maintenance of the Schooner Ernestina. The commission is hereby further authorized and directed to establish a business and spending plan detailing revenues of and expenditures by said commission which plan shall ensure the continued operation, preservation and maintenance of the Schooner Ernestina. Said plan shall be filed annually on or before March first, to the state

auditor, the secretary of administration and finance, the department of environmental management and the house and senate committees on ways and means.

Section 182C. The Schooner Ernestina commission shall be placed in the department of environmental management and will work jointly with said agency so that operational and managerial responsibilities authorized and empowered to the commission herein follow state policies. The state auditor is hereby authorized and directed to conduct an annual audit of the commission's books and accounts which audit shall be sent to the governor, the department of environmental management, the commissioner of the department of revenue and the house and senate committees on ways and means. Said audit shall be a public record. The home berth of said vessel shall be in the port of the city of New Bedford.

Approved January 13, 1994.

Chapter 471. AN ACT TO PROTECT CONSCIENTIOUS EMPLOYEES.

Be it enacted, etc., as follows:

Chapter 149 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after section 184 the following:-

Section 185. (a) As used in this section, the following words shall have the following meanings:-

(1) "Employee", any individual who performs services for and under the control and direction of an employer for wages or other remuneration.

(2) "Employer", the commonwealth, and its agencies or political subdivisions, including, but not limited to, cities, towns, counties and regional school districts, or any authority, commission, board or instrumentality thereof.

(3) "Public body", (A) the United States Congress, any state legislature, including the general court, or any popularly elected local government body, or any member or employee thereof; (B) any federal, state or local judiciary, or any member or employee thereof, or any grand or petit jury; (C) any federal, state or local regulatory, administrative or public agency or authority, or instrumentality thereof; (D) any federal, state or local law enforcement agency, prosecutorial office, or police or peace officer; or (E) any division, board, bureau, office, committee or commission of any of the public bodies described in the above paragraphs of this subsection.

(4) "Supervisor", any individual to whom an employer has given the authority to direct and control the work performance of the affected employee, who has authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains, or who has been designated by the employer on the notice required under subsection (g).

(5) "Retaliatory action", the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

(b) An employer shall not take any retaliatory action against an employee because the employee does any of the following:

(1) Discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer, or of another employer with whom the employee's employer has a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation promulgated pursuant to law, or which the employee reasonably believes poses a risk to public health, safety or the environment;

(2) Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law, or activity, policy or practice which the employee reasonably believes poses a risk to public health, safety or the environment by the employer, or by another employer with whom the employee's employer has a business relationship; or

(3) Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of a law, or a rule or regulation promulgated pursuant to law, or which the employee reasonably believes poses a risk to public health, safety or the environment.

(c) (1) Except as provided in paragraph (2), the protection against retaliatory action provided by subsection (b) (1) shall not apply to an employee who makes a disclosure to a public body unless the employee has brought the activity, policy or practice in violation of a law, or a rule or regulation promulgated pursuant to law, or which the employee reasonably believes poses a risk to public health, safety or the environment, to the attention of a supervisor of the employee by written notice and has afforded the employer a reasonable opportunity to correct the activity, policy or practice.

(2) An employee is not required to comply with paragraph (1) if he: (A) is reasonably certain that the activity, policy or practice is known to one or more supervisors of the employer and the situation is emergency in nature; (B) reasonably fears physical harm as a result of the disclosure provided; or (C) makes the disclosure to a public body as defined in clause (B) or (D) of the definition for "public body" in subsection (a) for the purpose of providing evidence of what the employee reasonably believes to be a crime.

(d) Any employee or former employee aggrieved of a violation of this section may, within two years, institute a civil action in the superior court. Any party to said action shall be entitled to claim a jury trial. All remedies available in common law tort actions shall be available to prevailing plaintiffs. These remedies are in addition to any legal or equitable relief provided herein. The court may: (1) issue temporary restraining orders or preliminary or permanent injunctions to restrain continued violation of this section; (2) reinstate the employee to the same position held before the retaliatory action, or to an equivalent position; (3) reinstate full fringe benefits and seniority rights to the employee; (4) compensate the employee for three times the lost wages, benefits and other remuneration, and interest thereon; and (5) order payment by the employer of reasonable costs, and attorneys' fees.

(e) (1) Except as provided in paragraph (2), in any action brought by an employee under subsection (d), if the court finds said action was without basis in law or in fact, the court may award reasonable attorneys' fees and court costs to the employer.

(2) An employee shall not be assessed attorneys' fees under paragraph (1) if, after exercising reasonable and diligent efforts after filing a suit, the employee moves to dismiss the action against the employer, or files a notice agreeing to a voluntary dismissal, within a reasonable time after determining that the employer would not be found liable for damages.

(f) Nothing in this section shall be deemed to diminish the rights, privileges or remedies of any employee under any other federal or state law or regulation, or under any collective bargaining agreement or employment contract; except that the institution of a private action in accordance with subsection (d) shall be deemed a waiver by the plaintiff of the rights and remedies available to him, for the actions of the employer, under any other contract, collective bargaining agreement, state law, rule or regulation, or under the common law.

(g) An employer shall conspicuously display notices reasonably designed to inform its employees of their protection and obligations under this section, and use other appropriate means to keep its employees so informed. Each notice posted pursuant to this subsection shall include the name of the person or person the employer has designated to receive written notifications pursuant to subsection (c).

Approved January 13, 1994.

Chapter 472. AN ACT PROVIDING FOR WETLANDS PROTECTION BY REQUIRING CERTAIN NOTICES.

Be it enacted, etc., as follows:

SECTION 1. Section 40 of chapter 131 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

Any person filing a notice of intention with a conservation commission shall at the same time give written notification thereof, by delivery in hand or certified mail, return receipt requested, to all abutters within one-hundred feet of the property line of the land where the activity is proposed, at the mailing addresses shown on the most recent applicable tax list of the assessors, including, but not limited to, owners of land directly opposite said proposed activity on any public or private street or way, and in another municipality or across a body of water. Said notification shall be at the applicant's expense, and shall state where copies of the notice of intention may be examined and obtained and where information regarding the date, time and place of the public hearing may be obtained. Proof of such notification, with a copy of the notice mailed or delivered, shall be filed with the conservation commission.

SECTION 2. The notification required by section one of this act shall not apply to projects of the department of highways.

Approved January 13, 1994.

Chapter 473. AN ACT FURTHER REGULATING GREYHOUND DOG RACING.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 128C of the General Laws, as appearing in section 5 of chapter 101 of the acts of 1992, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

All licensees licensed to conduct greyhound dog racing meetings, not including greyhound dog racing meetings held in connection with a state or county fair, may simulcast greyhound dog racing with the permission of the state racing commission. With respect to horse racing, such greyhound licensees may simulcast up to fifty racing cards and up to fifteen special events of national significance with purses of one hundred thousand dollars or more, during a racing season only; provided, however, that each of these horse racing cards or special events shall be subject to application to and approval of the commission; provided, further, that where two or more greyhound dog racing meeting licensees in Bristol county use the same track during a calender year, the total number of horse simulcasting days permitted at such facility shall be limited to fifty racing cards and fifteen special events; provided, further, that the greyhound racing meeting licensee in Bristol county shall not be permitted to simulcast any thoroughbred or harness horse racing cards from a host track, whether within or without the commonwealth, in any calendar year, during the running horse racing meeting held in Norfolk county; provided, further, that the greyhound racing meeting licensee in Suffolk county shall not be permitted to simulcast any thoroughbred or harness horse racing cards from a host track, whether within or without the commonwealth, in any calendar year, during the running horse racing meetings held in Suffolk county.

SECTION 2. The sixth paragraph of section 9 of chapter 277 of the acts of 1986, as appearing in section 7 of chapter 101 of the acts of 1992, is hereby amended by inserting after the word "a", in line 2, the following word:- live.

SECTION 3. Said sixth paragraph of said section 9 of said chapter 277, as so appearing, is hereby further amended by adding the following sentence:- In no case shall the total amount wagered on simulcasting at the licensee's facility be used to compute the live handle of the amounts wagered for that calender year at the licensees' facility.

SECTION 4. The provisions of this act shall expire on December thirty-first, nineteen hundred and ninety-five.

Approved January 14, 1994.

Chapter 474. AN ACT RELATIVE TO THE INVESTMENT OF CERTAIN PUBLIC FUNDS IN SOUTH AFRICA.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the investment of certain funds in the Republic of South Africa, 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 35 of chapter 23A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "Africa", in line 101, the following words:- absent compliance with the platform of guiding principles as defined in subdivision (5) of section twenty-three of chapter thirty-two.

SECTION 2. Paragraph (d) of subdivision (1) of said section 23 of said chapter 32, as so appearing, is hereby amended by striking out clause (ii) and inserting in place thereof the following clause:-

(ii) no investment of funds shall be made in any bank or financial institution which directly or through any subsidiary has outstanding loans to any individual corporation engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles, or military aircraft for use or development in any activity in South Africa, and no new investment of funds shall be made in the stocks, securities or other obligations of any company so engaged; provided, however, that if the investment committee elects to invest in banks, financial institutions or any companies doing business in South Africa, excluding the aforementioned, the investment committee shall review the platform of guiding principles defined in subdivision (5) and monies shall be invested as much as reasonably possible in such banks, financial institutions or companies which have adopted said platform of guiding principles so long as such use is consistent with sound investment policy.

SECTION 3. Paragraph (g) of subdivision (2) of said section 23 of said chapter 32, as so appearing, is hereby amended by striking out clause (ii) and inserting in place thereof the following clause:-

(ii) subsequent to the date of such determination no new investment of funds shall be made in any bank or financial institution which directly or through any subsidiary has outstanding loans to any individual corporation engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles, or military aircraft for use or development in any activity in South Africa, and no new investment of funds shall be made in the stocks, securities or other obligations of any company so engaged; provided, however, that if the board elects to invest in banks, financial institutions or any companies doing business in South Africa, excluding the aforementioned, the board shall review the platform of guiding principles defined in subdivision (5) and monies shall be invested as much as reasonably possible in such banks, financial institutions or companies which have adopted said platform of guiding principles so long as such use is consistent with sound investment policy;.

SECTION 4. Paragraph (h) of subdivision (2A) of said section 23 of said chapter 32, as so appearing, is hereby amended by striking out, in line 449 to line 454, inclusive, the words "funds are to be invested in any bank or financial institution which directly or through its subsidiaries has outstanding loans to the Republic of South Africa or its instrumentalities and no assets shall be invested in stocks, securities, or other obligations

of any company doing business in or with the Republic of South Africa" and inserting in place thereof the following words:- no investment of funds shall be made in any bank or financial institution which directly or through any subsidiary has outstanding loans to any individual corporation engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles, or military aircraft for use or development in any activity in South Africa, and no new investment of funds shall be made in the stocks, securities or other obligations of any company so engaged; provided, further, that if the board elects to invest in banks, financial institutions or any companies doing business in South Africa, excluding the aforementioned, the board shall review the platform of guiding principles defined in subdivision (5) and monies shall be invested as much as reasonably possible in such banks, financial institutions or companies which have adopted said platform of guiding principles so long as such use is consistent with sound investment policy.

SECTION 5. Said section 23 of said chapter 32, as so appearing, is hereby further amended by adding the following subdivision:-

(5) The platform of guiding principles for investment in South Africa shall mean, without limitation, the following standards of corporate activity:

(a) Worker's rights: companies should uphold worker's rights including the recognition of representative unions and their rights to bargain collectively, to strike, to picket peacefully, the establishment of a policy that strike breakers will not be hired and that investment should enhance employment creation;

(b) Equality of opportunity: companies should eliminate all discrimination on the basis of race, religion, sex, political opinion or physical handicap and implement affirmative action programs;

(c) Environmental protection: investment should incorporate environmentally sound and clean practices and technology;

(d) Training and education: investment should enhance the productive capacities of South Africans, and in particular, institute training and adult education programs for workers in consultation with the trade union movement;

(e) Conditions of work and life: conditions of work and life offered by companies should compare favorably with the best conditions in the relevant sector domestically;

(f) Security of employment: investment should contribute to the security of employment of South Africans;

(g) Empower black business: companies should, where possible, adopt business practices which enhance the development of black business in South Africa.

SECTION 6. Section 12 of chapter 40D of the General Laws, as so appearing, is hereby amended by inserting after the word "Africa", in line 90, the following words:- absent compliance with the platform of guiding principles as defined in subdivision (5) of section twenty-three of chapter thirty-two.

SECTION 7. Section 6 of chapter 64H of the General Laws is hereby amended by striking out, in line 441, as so appearing, the words "except the Republic of South Africa".

SECTION 8. The cities of Boston, Newton, and Watertown may invest their public pension funds in any financial institution or corporation doing business in or with the Republic of South Africa in accordance with the provisions of clause (ii) of paragraph (g) of subdivision (2) of section twenty-three of chapter thirty-two of the General Laws.

SECTION 9. Chapter four hundred and ninety of the acts of nineteen hundred and eighty-four, chapter six hundred and ninety-eight of the acts of nineteen hundred and eighty-five and chapter two hundred and fifty-two of the acts of nineteen hundred and eighty-six are hereby repealed.

Approved January 14, 1994.

Chapter 475. AN ACT INCREASING ELECTORAL PARTICIPATION IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is, in part, to begin immediate preparations to comply with federal law and to increase electoral participation in 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. Section 1 of chapter 50 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the definition of "Election officer" the following two definitions:-

"Family member", a spouse or person residing in the same household, in-laws, father, mother, sister or brother of the whole or half blood, son, daughter, adopting parent or adopted child, stepparent or stepchild, uncle, aunt, niece, nephew, grandparent or grandchild.

"Federal act", the National Voter Registration Act of 1993, 42 USC 1973 gg to 1973 gg-10, inclusive, as may be amended from time to time.

SECTION 2. Said section 1 of said chapter 50, as so appearing, is hereby further amended by inserting after the definition of "Registrars" the following two definitions:-

"Registration agency", a location where eligible citizens may register as voters, including city or town clerk's offices, military recruitment offices, offices of the registry of motor vehicles and of all state agencies that provide public assistance or assistance to people with disabilities, offices that provide state-funded programs primarily engaged in providing services to people with disabilities, and any other offices which the state secretary shall designate by regulation.

"Specially qualified voter", a person (a) who is otherwise eligible to register as a voter; and (b) (1) whose present domicile is outside the United States and whose last domicile in the United States was Massachusetts; or (2) whose present domicile is Massachusetts and who is:

(i) absent from the city or town of residence and in the active service of the armed forces or in the merchant marine of the United States, or a spouse or dependent of such person;

(ii) absent from the commonwealth; or

(iii) confined in a correctional facility or a jail.

SECTION 2A. Section 4 of chapter 51 of the General Laws, as so appearing, is hereby amended by striking out, in lines 3, 5, 11, 24 and 26, the word "shall" and inserting in place thereof, in each instance, the following word:- may.

SECTION 3. Said section 4 of said chapter 51, as so appearing, is hereby further amended by striking out, in lines 35 and 36, the words "may result in removal from the voting list" and inserting in place thereof the following words:- shall result in removal from the active voting list and may result in removal from the voter registration rolls.

SECTION 4. Said chapter 51 is hereby further amended by inserting after section 4 the following section:-

Section 4A. During the course of the annual listing of residents, the registrars shall notify residents of the opportunity to register as voters and shall provide residents with assistance in registering to vote. Said registrars may, for this purpose provide to such residents in the course of such listing, forms for affidavits of voter registration prescribed by the state secretary pursuant to section thirty-six, which registrants shall complete during the listing or by return mail. Said registrars shall in any event make such forms available upon request for all eligible residents who are not registered voters.

SECTION 5. Section 12 of said chapter 51, as appearing in the 1992 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- In all registration agencies and other government offices where voter registration is conducted, there shall be posted in a conspicuous place a legible copy of sections seven, eight and nine of chapter fifty-six.

SECTION 6. Section 26 of said chapter 51, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following four sentences:- As used in this section and section forty-two H, "election" shall include every state, city or town primary, preliminary election, election, or town meeting. The registrars, for the purpose of registering voters, shall hold such day and evening sessions as the town, by by-law, or the city, by ordinance, shall prescribe and such other sessions at locations as they deem necessary to allow voters to register and they may for such purposes, use mobile registration units; provided, however, that except as provided in sections thirty-four and fifty, registration for the next election shall take place no later than eight o'clock in the evening on the twentieth day preceding such election and no later than eight o'clock in the evening on the tenth day preceding a special town meeting. Mailed affidavits of registration postmarked before midnight on the final day to register for an election shall be effective for such election, as provided in section forty-two G. If a postmark is unclear or illegible, a mailed affidavit shall be accepted until the fifth day after the final day to register.

SECTION 7. Section twenty-seven of said chapter fifty-one is hereby repealed.

SECTION 8. Said chapter 51 is hereby further amended by striking out section 28, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 28. They shall hold a continuous session from nine o'clock ante meridian until eight o'clock in the evening on the last day for registration prescribed under section twenty-six; provided, however, that in towns having less than fifteen hundred voters, such session shall be sufficient if it includes the time from two to four o'clock in the afternoon and from seven to eight o'clock in the evening.

SECTION 9. Sections twenty-nine, twenty-nine A, twenty-nine B and thirty of said chapter fifty-one are hereby repealed.

SECTION 10. Section 31 of said chapter 51, as appearing in the 1992 Official Edition, is hereby amended by striking out the last sentence.

SECTION 11. Section 34 of said chapter 51, as so appearing, is hereby amended by striking out, in lines 1 and 5, the word "ten" and inserting in place thereof, in each instance, the following word:- eight.

SECTION 12. Said chapter 51 is hereby further amended by striking out section thirty-six, as so appearing, and inserting in place thereof the following section:-

Section 36. The state secretary shall prepare in sufficient quantity blank forms for affidavits of voter registration in accordance with regulations prescribed by the Federal Election Commission and shall be responsible for supplying such forms to all registration agencies. Such form shall be designed to provide the registrant with a copy thereof at the time of registration at a registration agency.

The state secretary shall provide English and Spanish affidavits of voter registration to all registration agencies. Said secretary shall provide forms in such additional languages as he deems necessary or as required by law.

The state secretary shall provide nongovernmental and private entities with sufficient quantities of such affidavit forms free of charge. Said secretary shall make such forms widely available for distribution through governmental, nongovernmental and private entities, with particular emphasis on making them available for organized voter registration programs.

A completed affidavit of voter registration shall be mailed, transmitted or otherwise delivered forthwith, within five calendar days, to the board of registrars of the city or town wherein which registrant resides.

All expenses incurred in the mailing of affidavits by registration agencies, except by the offices of city or town clerks or by individual registrants, shall be paid by the state secretary, subject to appropriation.

SECTION 13. Section 37 of said chapter 51, as so appearing, is hereby amended by striking out, in lines 24 to 27, inclusive, the words "has not been so entered, such notice to be sent by first class mail bearing the proper address to which the same may be returned in case of nondelivery, and the", and inserting in place thereof the following words:- may be removed from the voting list if the voter fails to respond to the notice and does not vote

in the next two biennial state elections following the mailing of such notice. Such notice shall (1) be postage prepaid; (2) contain a preaddressed return card; (3) be sent by forwardable mail; (4) instruct the voter to return the card before the last day to register if the voter did not change residence from the city or town; and (5) contain additional information about remaining eligible to vote, as prescribed by the state secretary. The.

SECTION 14. Said chapter 51 is hereby further amended by inserting after section 37 the following section:-

Section 37A. The name and address of a voter that is not entered in the annual register pursuant to section thirty-seven shall be maintained on an inactive voters list until such voter has failed to vote in two consecutive biennial state elections and has thereafter been notified, by mail, of such removal from the inactive voters list.

SECTION 15. Section 42 of said chapter 51, as appearing in the 1992 Official Edition, is hereby amended by striking out, in lines 7 to 8, inclusive, the words "appear in person and make an affidavit of registration before a registrar or assistant registrar" and inserting in place thereof the words:- make an affidavit of registration as provided in this chapter and in the National Voter Registration Act of 1993.

SECTION 16. Section forty-two B of said chapter fifty-one is hereby repealed.

SECTION 17. Said chapter 51 is hereby further amended by striking out section 42E, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 42E. All public and independent colleges, universities, high schools and vocational schools shall make available affidavit of voter registration forms at all locations where students may register for classes. Such locations shall be published along with the annual course listing for students or in some other schoolwide publication. Every such school shall publicize the availability of such voter registration affidavit forms within the school.

SECTION 18. Said chapter 51 is hereby further amended by striking out section 42F, as so appearing, and inserting in place thereof the following section:-

Section 42F. At every registration session held pursuant to this chapter, a registrar or assistant registrar shall receive affidavits of registration from registrants who reside in any other city or town of the commonwealth. The registrars shall forthwith transmit any such completed affidavits of registration to the registrars of the city or town where such registrant claims to reside, and said registrars shall receive such affidavits as provided in sections forty-six to forty-seven B, inclusive. All registration agencies shall use the registration affidavit form prescribed by the state secretary under section thirty-six.

SECTION 19. Said chapter 51 is hereby further amended by inserting after section 42F the following two sections:-

Section 42G. All registration agencies shall provide assistance with voter registration as required by 42 USC 1973 gg-5. Registration agencies shall transmit forthwith, within five calendar days, each completed affidavit of voter registration to the board of registrars of the city or town wherein the registrant resides and shall maintain a record thereof. The state secretary shall adopt regulations governing such transmission, which shall include, but not

be limited to, provisions requiring registration agencies to employ the most cost-effective forms of transmission; provided, however, that the department of correction shall provide prison industries assistance in such transmission as the state secretary may require. A registrant shall be deemed to be a registered voter at the time of completion of a signed affidavit at a registration agency or on the date that the affidavit of voter registration is postmarked or on the day that it is delivered by hand to the registrars.

The state secretary shall enter into cooperative agreements with additional agencies of state government that agree to function as registration agencies. Such agreements shall provide that the state secretary shall conduct appropriate training of agency staff, shall provide all forms, material and equipment necessary to carry out voter registration activities, and shall have oversight responsibility to insure proper compliance with applicable provisions of federal and state law.

Section 42H. Registrars of voters in cities and towns shall receive completed affidavits of voter registration from registration agencies, from individuals and organizations conducting voter registration, through the United States mail and by hand delivery. Upon receipt of each completed affidavit, the registrars shall certify the receipt thereof and shall notify the registrant of the disposition of the affidavit. Said registrars shall add the registrant's name, address and effective date of registration to the annual register of voters in accordance with section forty-six, effective at the time set forth in section forty-two G; provided, however, that the state secretary may, by regulation adopted pursuant to section forty-seven C, provide that electronic transmission alone of the information contained in the affidavit to the registrars shall be sufficient for this purpose, if the affidavit is maintained on file at the registration agency. The registrars may correct information supplied by the registrant to the extent necessary to maintain the integrity of their records. If an affidavit is incomplete or if it appears from the facts set forth in the affidavit that the registrant is not qualified to register as a voter, the registrars shall proceed in accordance with the provisions of section forty-seven. If an affidavit is dated by the registration agency or postmarked during the period when registration to qualify as a voter in a particular election is prohibited by section twenty-six, the registrant's name shall be added to the annual register for all subsequent elections and the registrars shall so notify such registrant. All records of voter registration held by registration agencies shall be available for inspection and copying by the registrars of the registrant's city or town or by summons in a legal proceeding.

SECTION 20. Said chapter 51 is hereby further amended by striking out section 44, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 44. A person seeking to register shall complete an affidavit of voter registration form as prescribed in section thirty-six, and shall sign the affidavit under the penalty of perjury. A person registering as a voter may, at the same time, establish his enrollment in a political party or political designation, as provided in section thirty-eight of chapter fifty-three, by indicating his desire to be so enrolled on the affidavit of voter registration.

SECTION 21. Section 46A of said chapter 51, as so appearing, is hereby amended by striking out, in lines 4 and 5, the word "resided" and inserting in place thereof, in each instance, the following words:- registered to vote.

SECTION 22. Said chapter 51 is hereby further amended by inserting after section 47B the following section:-

Section 47C. Subject to appropriation, the state secretary shall maintain a central registry of voters, which shall contain the names, addresses, and effective dates of registration of all registered voters in the commonwealth, and shall adopt regulations governing the operation of said central registry. Said secretary may by agreement with another state agency, designate such other state agency to manage said central registry, subject to the control and supervision of said secretary. The names and addresses contained in said central registry shall not be deemed to be a matter of public record; provided, however, that they shall be available to state party committees, candidate committees, and state ballot question committees at a fair and reasonable cost not to exceed the cost of printing or preparing computer readable documents.

SECTION 23. Section 50 of said chapter 51, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 3, the words "hundred and three B of chapter fifty-four" and inserting in place thereof the following words:- of chapter fifty.

SECTION 24. Section 59 of said chapter 51, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words "list of the names of voters in the precinct not entered in at least the current annual register under section thirty-seven" and inserting in place thereof the following words:- inactive voters list.

SECTION 25. Section 60 of said chapter 51, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Such registrars shall also make available at such locations the inactive voters list.

SECTION 26. The first paragraph of section 37 of chapter 53 of the General Laws, as so appearing, is hereby amended by striking out the third and fourth sentences and inserting in place thereof the following three sentences:- If the party enrollment of the voter is not shown on the voting list the ballot clerk shall ask such voter in which political party's primary he desires to vote, and the ballot clerk, upon reply, shall distinctly announce the name of such political party, and shall record the voter's selection upon the voting list. The ballot clerk shall then give the voter the ballot of the political party so requested. If the voter was unenrolled prior to the selection of a party ballot he shall continue to be unenrolled and shall be recorded as unenrolled in the current annual register of voters; provided, however, that in a presidential primary, the voter shall become enrolled in and shall remain a member of the political party whose ballot he received until he files a certificate, signed under the pains and penalties of perjury, with the board of registrars of voters, requesting to have his enrollment changed to another party or political designation or cancelled or by appearing in person before a member of said board and requesting, in writing, that such enrollment be changed or cancelled.

SECTION 27. The first paragraph of section 37A of said chapter 53, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A voter desiring to vote by absentee ballot in a primary shall specify on his application for the ballot the party with which he is enrolled or, if he is unenrolled, the party in whose primary he desires to vote.

SECTION 28. Said section 37A of said chapter 53, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following two paragraphs:-

The officers processing absentee ballots shall cause to be recorded upon the voting lists to be used at the polling place the political party in whose primary the absentee voter has cast his ballot if he is unenrolled, or the officers charged with the casting of such absentee ballot at the polling place shall so record on the voting list the political party in whose primary the absentee voter has cast his ballot if he is unenrolled.

If the voter was unenrolled prior to the selection of a party ballot he shall continue to be unenrolled and shall be recorded as unenrolled in the current annual register of voters; provided, however, that, in a presidential primary, the voter shall become enrolled in and shall remain a member of the political party whose ballot he received until he files a certificate, signed under the pains and penalties of perjury with the board of registrars of voters, requesting to have his enrollment changed to another party or political designation or cancelled or by appearing in person before a member of said board and requesting, in writing, that such enrollment be changed or cancelled.

SECTION 29. The first paragraph of section 38 of said chapter 53, as so appearing, is hereby amended by striking out the first three sentences and inserting in place thereof the following three sentences:- No voter enrolled under this section or section thirty-seven shall be allowed to receive the ballot of any political party except that in which he is so enrolled; provided, however, that, except as otherwise provided in said section thirty-seven, a voter may, except within a period beginning at eight o'clock in the evening of the twentieth day prior to any primary and ending with the day of such primary, establish, change or cancel his enrollment by forwarding to the board of registrars of voters a certificate signed by such voter under the pains and penalties of perjury, requesting to have his enrollment established with a party or political designation, changed to another party or political designation, or cancelled, or by appearing in person before a member of said board and requesting, in writing, that such enrollment be so established, changed or cancelled. The processing of an absentee ballot to be used at a presidential primary shall also be deemed to established the enrollment of a voter in a political party, effective as of the date of said processing. Except as otherwise provided in section twelve of chapter four, sections one and two of chapter fifty-two, and sections forty A and forty-eight of this chapter, such enrollment, change or cancellation shall take effect upon the receipt by said board of such certificate or appearance, as the case may be; provided, however, that no such enrollment, change or cancellation shall take effect for a primary during the twenty days prior to such primary.

SECTION 30. Said section 38 of said chapter 53, as so appearing, is hereby further amended by inserting after the word "At", in line 36, the following word:- presidential.

SECTION 31. Said section 38 of said chapter 53, as so appearing, is hereby further amended by inserting after the word "ballot", in line 53, the following words:- in such presidential primary.

SECTION 32. Section 86 of chapter 54 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "hundred and three B of chapter fifty-four" and inserting in place thereof the following words:- of chapter fifty.

SECTION 33. Said section 86 of said chapter 54, as so appearing, is hereby further amended by striking out, in line 13, the words "or eighty-nine A".

SECTION 34. The first paragraph of section 87 of said chapter 54, as so appearing, is hereby amended by striking out clause (b).

SECTION 35. Said section 87 of said chapter 54, as so appearing, is hereby further amended by striking out, in lines 15 and 16 the words "affidavits of the voter and of the witness to his oath that they have complied" and inserting in place thereof the following words:- voter's affidavit of compliance.

SECTION 36. Said chapter 54 is hereby further amended by striking out section 89, as so appearing, and inserting in place thereof the following section:-

Section 89. Any form of written communication evidencing a desire to have an absent voting ballot be sent for use for voting at an election shall be given the same effect as an application made in the form prescribed by the state secretary. No application shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or registrars of voters before noon on the day preceding the election for which such absent voting ballot is requested; provided, however, that if the day preceding such election is a Sunday or legal holiday, then it shall be received by such clerk or registrars before five o'clock post meridian on the last previous day on which such office is open. An application by a voter admitted to a health care facility after noon of the fifth day before the relevant election, as provided in subsection (c) of section ninety-one B, may be received up until the time the polls close.

The provisions of section eighty-one relative to spoiled ballots shall apply to absent voting ballots; provided, however, that no request for a substitute ballot from a voter who has received his ballot by mail shall be valid unless it is accompanied by the spoiled ballot and received in the office of the city or town clerk or the registrars of voters before noon on the day preceding the election for which such substitute absent voting ballot is requested.

No ballot shall be mailed or delivered, as provided in section ninety-one B, until an application has first been filed and certified by the registrars and returned to the clerk, as provided in section ninety-one. Said application may request an absent voting ballot for each regular or special primary and regular or special election which occurs within the calendar year in which the application is received by the city or town clerk or registrars.

A family member of a person qualified to vote by absent voting ballot may apply in the same manner on behalf of such person. Such applicant shall state his relationship to the

absent voter, shall sign the application under the pains and penalties of perjury, and shall transmit the application to the clerk of the city or town of the absent voter's residence.

SECTION 37. Section eighty-nine A of said chapter fifty-four is hereby repealed.

SECTION 38. Section 91 of said chapter 54, as appearing in the 1992 Official Edition, is hereby amended by striking out, in lines 5 and 6, the words "the parent of a duly registered voter as set forth in sections eighty-six and eighty-nine A" and inserting in place thereof the following words:- a family member of a duly registered voter.

SECTION 39. Said section 91 of said chapter 54, as so appearing, is hereby further amended by striking out the third sentence.

SECTION 40. Said chapter 54 is hereby further amended by inserting after section 91 the following two sections:-

Section 91A. A specially qualified voter, as defined in section one of chapter fifty, who qualifies for an absent voting ballot pursuant to section eighty-six, or a family member of such specially qualified voter, may apply for an absent voting ballot in the manner prescribed in section eighty-nine. The registrars may cause an investigation of such resident's qualifications to be made by a police officer who shall forthwith, after such investigation, report to them his findings with respect thereto, and for such purpose, the board or officer in charge of the police force of the city or town shall give the registrars such assistance as they may require.

If the registrars certify that such resident has the qualifications for voting, the clerk shall deliver an official absent voting ballot to such resident in the manner prescribed in section ninety-one B. If not so certified, such registrars shall give written notice thereof to the applicant and give him an opportunity to be heard. Such registrars shall, seasonably, before every election prepare a list of the names and addresses of specially qualified voters so certified and shall promptly post such lists in their principal office and transmit a copy thereof for each precinct, to the election officers of each such precinct.

Applications under this section shall be subject to challenge under sections forty-seven A to forty-nine, inclusive, of chapter fifty-one, and shall be subject to the penalties for offenses concerning the listing or registration of voters as provided by sections one, two, three, five, six, seven, eight and nine of chapter fifty-six.

Section 91B. The official absent voting ballot and accompanying papers described in section eighty-seven shall be delivered as hereinafter provided.

(a) Except as required by subsections (b) and (c), the ballot and accompanying papers shall be mailed postage prepaid or, if the voter so requests, delivered when called for at the office of the clerk. No ballot shall be mailed to a designated health care facility within the city or town where the voter is registered.

(b) To a voter who is a patient or resident at a designated health care facility, the ballot and accompanying papers shall be delivered, in person, by a registrar, assistant registrar or absent registration officer, at the designated address. For the purposes of this section, a "designated health care facility" shall mean a health care facility as defined in section twenty-five B of chapter one hundred and eleven, within the city or town, which has been designated for the purpose of supervised absentee voting, in writing, and filed with the

city or town clerk, not later than twenty-eight days before a primary or election, by any two registrars or election commissioners.

(c) To a voter who states, under penalty of perjury, that he has been admitted to a health care facility, as defined in section twenty-five B of chapter one hundred and eleven after noon of the fifth day before the relevant election, the ballot and accompanying papers shall, unless the clerk determines that there is insufficient time, be delivered in the same manner as provided in subsection (b); provided, however, that if permitted in the sole discretion of the city or town clerk, a person designated in writing by the voter and who is not a candidate for an office at the election, may instead perform the functions of an election official. If the health care facility is outside the city or town and no such family member is available for such purpose, the ballot need not be delivered in person, but may be mailed.

SECTION 41. Said chapter 54 is hereby further amended by striking out section 92, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 92. A voter who has received an official absent voting ballot shall mark it in the presence of no other person, except as provided in section ninety-eight. The voter shall then enclose and seal the ballot in the envelope provided pursuant to clause (c) of the first paragraph of section eighty-seven, and execute the affidavit on such envelope. The voter shall return the ballot, sealed in such envelope, as hereinafter provided.

(a) A voter who receives the ballot by mail, as provided in subsection (a) of section ninety-one B, may return it by mail to the city or town clerk in the envelope provided pursuant to subsection (d) of section eighty-seven, or such voter or a family member may deliver it in person to the office of the city or town clerk. A voter to whom a ballot was delivered in person at the office of the clerk as provided in said subsection (a) of said section ninety-one B shall return it without removing the ballot from such office.

(b) A voter to whom an election official delivered the ballot in person at a designated health care facility, as provided in subsection (b) of section ninety-one B, shall return it to such election official, who shall return it in his custody to the office of the city or town clerk.

(c) A voter to whom a ballot was delivered in person as provided in subsection (c) of section ninety-one B shall return it to the person who delivered it, and such person shall immediately return it in his custody to the office of the city or town clerk.

SECTION 42. The first paragraph of section 94 of said chapter 54, as so appearing, is hereby amended by striking out the second and third sentences and inserting in place thereof the following two sentences:- He shall remove therefrom the inner envelope provided for in clause (c) of the first paragraph of section eighty-seven and, without opening such inner envelope, compare the signature thereon with the signature on the application therefor, except if a family member signed the application or if the voter received assistance in signing the application or the envelope, and examine the affidavit on each such envelope. If he finds that such affidavit has been improperly executed, or does not sufficiently indicate that the ballot was marked and mailed or delivered as required by sections ninety-two and ninety-three, or except as provided in the preceding sentence was not signed by the person

who signed the application therefor, he shall mark across the face thereof "Rejected as defective", and shall place on the absent voting disposition list required by section ninety-one or section ninety-one A, as the case may be, opposite the name of the voter the capital letter R.

SECTION 43. Said first paragraph of said section 94 of said chapter 54, as so appearing, is hereby further amended by striking out the fifth sentence and inserting in place thereof the following sentence:- If he does not mark the envelope "Rejected as defective", he shall mark a check against the name of the voter on the absent voting disposition list required by section ninety-one or section ninety-one A, as the case may be.

SECTION 44. Section 95 of said chapter 54, as so appearing, is hereby amended by striking out, in lines 15 to 20, inclusive, the words "list referred to in section one hundred and three M of chapter fifty-four, as the case may be, if it has not already been so checked. He shall then remove from such envelope the envelope referred to in subsection (c) of section eighty-seven or subsection (b) of section one hundred and three O, as the case may be," and inserting in place thereof the following words:- lists of specially qualified voters, disposition list required by section ninety-one A, as the case may be, if it has not already been so checked. He.

SECTION 45. Section 100 of said chapter 54, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "or SAV have been placed, as provided in section ninety-one or in section one hundred and three G, as the case may be" and inserting in place thereof the following words:- have been placed as provided in section ninety-one.

SECTION 46. Sections one hundred and three B to one hundred and three O, inclusive, of said chapter fifty-four are hereby repealed.

SECTION 47. The first paragraph of section 103P of said chapter 54, as appearing in the 1992 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The provisions of this section shall apply to any regular annual or biennial city or town election, notwithstanding any general or special law to the contrary.

SECTION 48. Section 103Q of said chapter 54, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "by specially qualified voters".

SECTION 49. Chapter 56 of the General Laws is hereby amended by striking out section 5, as so appearing, and inserting in place thereof the following section:-

Section 5. Whoever knowingly gives to a registrar, assistant registrar, member of a listing board or police officer, for the purpose of making a list of residents seventeen years of age or older or a report under the laws relating to the listing and registration of voters, the name of any person as a resident of a building, who is not a resident thereof, shall be punished by a fine of not more than ten thousand dollars or by imprisonment for not more than five years, or both.

SECTION 50. Said chapter 56 is hereby further amended by striking out section 8, as so appearing, and inserting in place thereof the following section:-

Section 8. Whoever causes or attempts to cause his name to be registered, knowing that he is not a qualified voter in the place of such registration or attempted registration; whoever registers or attempts to register under a name other than his own; whoever represents or attempts to represent himself as some other person to an election commissioner, registrar or assistant registrar; whoever gives a false answer to an election commissioner, registrar, or assistant registrar respecting any matter relating to his registration or his right to vote; whoever otherwise illegally registers or attempts to register; or whoever aids or abets any other person in doing any of the acts above mentioned, shall be punished by a fine of not more than ten thousand dollars or by imprisonment for not more than five years, or both.

SECTION 51. Said chapter 56 is hereby further amended by striking out section 26, as so appearing, and inserting in place thereof the following section:-

Section 26. Whoever, knowing that he is not a qualified voter in any place, wilfully votes or attempts to vote therein; whoever votes or attempts to vote more than once on his own name, his name having been registered more than once; whoever votes or attempts to vote in more than one voting precinct or town, his name having been registered in more than one voting precinct or town; whoever votes or attempts to vote in any name other than his own, or knowingly casts or attempts to cast more than one ballot at one time of balloting; or whoever votes or attempts to vote otherwise illegally, shall be punished by a fine of not more than ten thousand dollars or by imprisonment for not more than five years, or both.

SECTION 52. Said chapter 56 is hereby further amended by striking out section 28, as so appearing, and inserting in place thereof the following section:-

Section 28. Whoever, at a primary, caucus or election, aids or abets a person who is not entitled to vote, in voting or attempting to vote, or in voting or attempting to vote under a name other than his own, or in casting or attempting to cast more than one ballot, shall be punished by a fine of not more than ten thousand dollars or by imprisonment for not more than five years, or both.

SECTION 53. Chapter 90 of the General Laws is hereby amended by inserting after section 8K the following section:-

Section 8L. The registry of motor vehicles shall act as a "registration agency" as defined in section one of chapter fifty and shall perform all duties established under state and federal law therefor. Application forms and procedures used by the registry shall comply with the provisions of 42 USC 1973 gg-3 and 1973 gg-5 of the National Voter Registration Act of 1993, as may be amended from time to time.

SECTION 54. There is hereby established a voter registration reform advisory commission to consist of nineteen members, as follows: the house chairman and the senate chairman of the joint committee on election laws, one member of the senate, one member of the house of representatives, the state auditor or his designee, the chairpersons or their designees of the major political parties, and twelve members appointed by the state secretary, two of whom shall be town clerks approved by the Massachusetts Town Clerks Association,

and two of whom shall be city clerks or election commissioners approved by the Massachusetts City Clerk's Association, and representatives of nongovernmental voter registration, voter education, community and labor organizations. Said commission shall, annually, elect a chairperson, who shall serve not more than two consecutive terms.

Said commission shall make an investigation and study of implementation of the voter registration process, shall meet at such time and place as deemed necessary by said committee, and shall prepare a report on the appropriateness of the deadline date for registration. The commission shall file its report with the joint committee on election laws on or before December thirty-first, nineteen hundred and ninety-six.

SECTION 55. The state secretary shall prepare a report on the costs and implementation of the central registry of voters and shall file such report with the joint committee on election laws and the house and senate committees on ways and means on or before the first Wednesday in March, nineteen hundred and ninety-four. Said report by the state secretary shall include a detailed description of the composition, function and uses of the central registry of voters. Said report shall determine the cost benefit of pursuing software and hardware integration with existing computer systems at the registry of motor vehicles and other government agencies. Said report shall present the options, and related costs and benefits, for implementing a central registry of voters. Such options shall include, but not be limited to, a computer system with central data entry and a system with real-time linkage to all registration agencies. In preparing said report, the state secretary shall consult with the department of public health, the executive office for administration and finance, and the Massachusetts Municipal Association, concerning additional uses of said central registry, including assisting in the collection of vital statistics and of comparative information about municipal purchasing and procurement.

SECTION 56. There is hereby established a special commission to consist of fifteen members as follows: the house chairman and the senate chairman of the joint committee on election laws, two members of the senate, two members of the house of representatives, the jury commissioner or his designee, the commissioner of education or his designee, the commissioner of public health or his designee, the attorney general or his designee, the state secretary or his designee, two town clerks approved by the Massachusetts Town Clerk's Association, and two city clerks or election commissioners approved by the Massachusetts City Clerk's Association.

Said commission shall prepare an investigation and study to recommend legislation implementing alternatives to the information provided by the annual listing of residents and shall file such report with the joint committee on election laws on or before the first Wednesday in December, nineteen hundred and ninety-four. Any such legislation shall meet the constitutional and statutory requirements regarding jury selection and guarantee a random selection process under which no person shall be exempted or excluded from serving as a juror because of race, color, religion, sex, sexual orientation, national origin, handicap, economic status or occupation. Such legislation shall ensure that the central registry shall provide the jury commissioner with a list of the inhabitants of the commonwealth compiled from the statewide voter registration list, the registry of motor vehicles list of drivers and

identification card holders and lists from any other state agency; provided, however, that said agencies only compile lists with the names, addresses and dates of birth; provided, further, that the central registry shall update and maintain the statewide list of residents and provide it to the jury commissioner by June first, nineteen hundred and ninety-seven at such intervals as are agreed to by the state secretary and the jury commissioner; that the state secretary shall not reveal the source of any name in its master lists in lists made available to any entity outside his office; and, provided further, that all state agencies shall assist the state secretary by providing lists of names, addresses and dates of birth. The state secretary shall make available a list of residents to cities and towns on an annual basis by June first, nineteen hundred and ninety-eight.

SECTION 57. The state secretary is hereby designated as the chief state election official for the purposes of 42 USC 1973 gg-9 of the National Voter Registration Act of 1993.

SECTION 58. Sections fifty-four to fifty-seven, inclusive, shall take effect upon the passage of this act. All provisions of this act regarding the availability, distribution, and acceptance of affidavits of voter registration by mail or by hand delivery shall take effect on July first, nineteen hundred and ninety-four. Section two A shall take effect on January first, nineteen hundred and ninety-eight. The remainder of this act shall take effect on January first, nineteen hundred and ninety-five.

Approved January 14, 1994.

Chapter 476. AN ACT ESTABLISHING A WATER DISTRICT IN THE TOWN OF WEST STOCKBRIDGE.

Be it enacted, etc., as follows:

SECTION 1. The inhabitants of the town of West Stockbridge, liable to taxation in said town and residing within the territory bounded and described as follows:-

Beginning at a point located at the northwest corner of the town of West Stockbridge and the Southwest corner of the Town of Richmond; said point being on the westerly line of the State of Massachusetts and the easterly line of the State of New York; thence south 16 - 33' - 09.5" west along said line of Massachusetts and New York, 1,140 feet more or less, to a point; said point being station 0+00 of the Massachusetts turnpike main baseline; thence the following directions and distances along said main baseline of the Massachusetts Turnpike; thence south 41 - 58' - 20.5" east, 2,031 feet to station 20+31.0; thence south 75 - 53' - 50.5" east, 3,170 feet to station 52+01.785 (back) = 55+53.861 (ahead); thence south 59 - 57' - 49" east, 4,469.25 feet to station 100+23.110 (back) = station 100+22.890 (ahead); thence along a curve to the right having a radius of 6,400 feet, a distance of 2,550.66 feet to PUT. Station 115+76.03; thence south 33 - 19' - 12" east, 2,085.68 feet to P.C. Station 176+61.71; thence along a curve to the right having a radius of 3,000 feet, a distance of 1,277.21 to Station 189+38.92; said point located on the easterly town line of

West Stockbridge and the westerly line of Stockbridge; thence north 84 - 40' - 36" east along said town line of West Stockbridge and Stockbridge, 1,400 feet, more or less to another corner of said West Stockbridge and Stockbridge; thence north 5 - 17' - 33.1" east along said town line of West Stockbridge and Stockbridge, 7,065 feet, more or less, to another corner of said West Stockbridge and Stockbridge; thence north 31 - 00' - 33.1" east along said town line of West Stockbridge and Stockbridge, 5,211 feet, more or less, to the corner of the towns of West Stockbridge, Stockbridge and Richmond; thence north 88 - 47' - 26.9" west along the town line of said West Stockbridge and Richmond, 18,895 feet, more or less, to the place of beginning; shall constitute a water district and are hereby made a body politic and corporate by the name the Queeensboro Water District, for the purpose of supplying themselves with water for domestic and other purposes, with the 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 the defraying of the necessary expenses of carrying on the business of the district, with all the power 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 of, 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. For this purpose the district shall seek, obtain and accept any available capital and operating funds from the commonwealth or from the federal government or any authority or entity created by either of said governments. The district shall have the power to prosecute and defend all actions relating to its property and affairs and shall be deemed a public employer for the 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 contracts as may be necessary to effectuate the purposes of this act;

(*b*) supply water to persons outside of the district with the permission of any water department or water district existing outside of district or in the absence of any such water department or district, with permission of the board of selectmen of such town; provided, however, that a district meeting shall authorize each extension of waterworks outside the district;

(*c*) in addition to the powers granted to it by section ten, take by eminent domain under the provisions of chapter seventy-nine or 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 any ground sources of water supply by means of driven, artesian or other wells, within the territorial limits of the town of West Stockbridge and the water and flowage

rights connected with any such water sources; may take 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 said district; provided, however, that no source of water supply or lands necessary for preserving the quality of such water shall be taken or used without first obtaining the advice and approval of the department of environmental protection; and, provided further, 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 water works; and for that purpose may construct pipe lines, wells and reservoirs, may establish pumping works, and may construct, lay, acquire and maintain aqueducts, conduits, pipes and other works under or over any land, water courses, railroads, railways and public or other ways 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 the purposes of this act, dig up or raise and embank any such lands, highways, or other ways in such a 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 and any other permitting authority 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 or otherwise acquire the right to occupy temporarily any lands necessary for the construction of any work or for any 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 as hereinafter provided for, be no longer useful in the conduct of the affairs of the district; provided, however, that the district meeting shall authorize each such sale;

(*h*) employ personnel and may engage architectural, engineering, accounting, management, legal, financial and environmental consulting and other professional services;

(*i*) bill customers of the district and collect amounts owing under such bills directly;

(*j*) 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 nonexclusive taking of water, water right or water source, or 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 costs of, and expenses incurred in connection with, the taking or acquisition of the properties of the West Stockbridge Water Company as hereinafter provided, and for putting such properties in a satisfactory operating condition as may be in the district's opinion needed and as approved by the department of environmental protection, may, from time to time borrow such sums as may be necessary, and may issue bonds or notes therefor, which shall be payable in not less than thirty years from their dates and shall bear on their face the words West Stockbridge Water Loan Act of 1993. Any bonds issued pursuant to the preceding sentence shall not be included in the amount of debt which is subject to limit prescribed by sections eight, nine and ten of chapter forty-four of the General Laws. The district for the purpose of paying the necessary expenses and liabilities incurred under this act may, from time to time, borrow such additional sums as may be necessary, not exceeding in the aggregate, the amounts permitted by law to be borrowed by water districts, and may issue bonds or notes therefor which shall bear on their face the words West Stockbridge Water District Water Loan and such other distinguishing designation as may be determined by the board of water commissioners. The district may borrow from time to time such sums as may be necessary for the purposes of this act in anticipation of revenue. Indebtedness incurred under this act shall be authorized by the affirmative vote of not less than two-thirds of all the members of said board of water commissioners, and shall be upon full faith and credit of the district. All notes or bonds issued under the provisions of this act shall be obligatory upon the district and its members and the property within the district according to the tenor and purport thereof.

SECTION 5. 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 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 section fifty-five A of chapter forty-four of the General Laws. Any interest earned thereon shall be credited to and become part of such account. The books and records for the account shall be maintained in accordance with the generally accepted accounting principals and in accordance with the requirements of section thirty-eight of chapter forty.

SECTION 6. The district, acting by and through said board of water commissioners, shall, subject to the provisions of law, fix just and equitable fees, prices, and rates for the use of water and the extension or expansion of its water works 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 for 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 such fiscal year, including all current expenses; 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 the 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 at least annually and, as necessary, shall be revised. In the event that the water system operated by the district shall have been taken by eminent domain, or otherwise acquired, from the West Stockbridge Water Company, the water district acting through said board of water commissioners shall immediately after such taking or acquisition fix the rates to be paid by the customers within said portion of the town of West Stockbridge serviced by the district 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 provisions of section seven, the board of water commissioners shall fix such prices and rates for the use of water as to raise within the shortest practical period as determined by the board of water commissioners the amount of such tax. If there should be a net surplus remaining at the end of any fiscal year after the payment of all costs of operation, such net surplus may be applied to pay the costs of operation for the district for the succeeding fiscal year. 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 7. 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 six, 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 West Stockbridge in proportion to the assessor's 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 taxes are required by law to be assessed.

No estate shall be subject to any tax 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 be given, such estate is so situated that the buildings thereon are not supplied with water from said system in any manner, but all the 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 district collector, hereinafter provided for, 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, however that the board of water commissioners at the time of voting to levy the tax shall so determine and shall so fix a time when said tax shall be due.

SECTION 8. 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 provisions of this act shall be vested in and exercised by a board of water commissioners which shall be constituted as provided in section nine except where a power or duty is expressly reserved to the district voters by this act.

SECTION 9. 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 said purpose, three persons 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 a 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; provided, however, that 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 West Stockbridge within two months after the acceptance hereof by a town meeting of said town of West Stockbridge. The 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 of which shall appear not fewer than seven days before the meeting.

The district meeting shall annually appropriate funds for the district's purposes and may appropriate funds for purposes specified for the district in this act, and for any purpose permitted to water districts by the General Laws. All of 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 terms as it may determine, a clerk and a treasurer of the district. The treasurer shall give bond to the district in such an amount as may be approved by said board with a surety company authorized to do business in the commonwealth as a 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 a legal meeting

called for that purpose. No money shall be drawn from the treasury of the district on account of its water works except upon written notice of said board, or a majority of them, to the district treasurer.

SECTION 10. The district, upon acceptance of this act as hereinafter provided for, is hereby authorized and empowered to purchase all the rights, franchises, privileges, and properties, tangible and intangible, real and personal including furniture and equipment, inventories and material supplies of the West Stockbridge Water Company, at a price and upon such terms and conditions as may be agreed upon between the district and said corporation. In the event that the district shall elect to purchase such rights and properties, said district shall give said corporation written notice of such intention, addressed to such corporation at its principle place of business, mailed by registered mail, postage prepaid. If at the expiration of sixty days after the date of the mailing of such notice, the district and said corporation shall have been unable to agree upon the price for such rights and properties, the district may take the same by eminent domain or by purchase pursuant to the rights below.

In addition to the right of the district to take or otherwise acquire the rights, franchises and properties of the West Stockbridge Water Company as above provided, the district shall have the right, with the consent of said corporation and its stockholders, to purchase at a price agreed upon between the district and said corporation or its stockholders all the outstanding capital stock of said corporation for the sole purpose of dissolving and liquidating said corporation and immediately acquiring by transfer all its franchises, properties, rights, powers and privileges. Such purchase may, but need not necessarily be, conditioned upon the stockholders paying any excess of the current liabilities over the current assets, discharging its tax liability and assuming all other liabilities, fixed or contingent.

The district shall not acquire the assets or capital stock of the West Stockbridge Water Company pursuant to an agreed purchase price until said price shall have been approved by a majority vote at a district meeting.

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 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 a violation of any of the provisions of this section 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. This act shall take effect upon its acceptance by a majority of the voters of the district as established in section one and voting thereon at a district meeting called in accordance with the provisions of section nine, within four years after the effective date of this act.

SECTION 13. This act shall take effect upon its passage.

Approved January 14, 1994.

Chapter 477. AN ACT ESTABLISHING THE ADMISSIBILITY OF EVIDENCE OF ABUSE IN CRIMINAL ACTIONS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 233 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following new section:-

Section 23E. In the trial of criminal cases charging the use of force against another where the issue of (1) defense of self or another, (2) defense of duress or coersion, or (3) accidental harm is asserted a defendant shall be permitted to introduce either or both of the following in establishing the reasonableness of the defendant's apprehension that depth or serious bodily injury was imminent, the reasonableness of the defendant's belief that he or she had availed him- or herself of all available means to avoid physical combat and/or the reasonableness of a defendant's perception of the amount of force necessary to deal with the perceived threat:

(a) evidence that the defendant is or has been the victim of acts of physical, sexual or psychological harm or abuse;

(b) evidence by expert testimony regarding the common pattern in abusive relationships; the nature and effects of physical, sexual or psychological abuse and typical responses thereto, including how those effects relate to the perception of the imminent nature of the threat of death or serious bodily harm; the relevant facts and circumstances which form the basis for such opinion; and evidence whether the defendant displayed characteristics common to victims of abuse.

SECTION 2. Nothing herein shall be interpreted to preclude the introduction of evidence or expert testimony as described in subsection (a) and (b) above in any civil or criminal action where such evidence or expert testimony is otherwise now admissible.

Approved January 14, 1994.

Chapter 478. AN ACT RELATIVE TO THE COMPENSATION OF VICTIMS OF VIOLENT CRIME.

Be it enacted, etc., as follows:

SECTION 1. Chapter 12 of the General Laws is hereby amended by inserting after section 11J the following section:-

Section 11K. Subject to appropriation, there shall be established within the department of the attorney general a division of victim compensation and assistance to administer the provisions of chapter two hundred and fifty-eight C. The attorney general shall designate a program director of said division. Said program director may appoint and remove, subject to the approval of the attorney general, such investigative, legal, clerical and other assistants as the work of the division may require. The program director shall have the authority to promulgate rules and regulations pursuant to chapter thirty A as may be necessary to carry out the provisions of said chapter two hundred and fifty-eight C.

SECTION 2. Section forty-three D of chapter two hundred and eighteen of the General Laws is hereby repealed.

SECTION 3. Chapter two hundred and fifty-eight A of the General Laws is hereby repealed.

SECTION 4. Section 4 of chapter 258B of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in lines 37 to 39, inclusive, the words "and the victim compensation program as provided under chapter two hundred and fifty-eight A",- by striking out, in lines 42 to 44, inclusive, the words "and the availability of compensation to victims of crime pursuant to said chapter two hundred and fifty-eight A",- by striking out, in lines 49 and 50, the words ", as well as victim compensation available under said chapter two hundred and fifty-eight A",- and by striking out, in lines 56 and 57, the words ", as well as the compensation services provided under said chapter two hundred and fifty-eight A".

SECTION 5. Section 9 of said chapter 258B, as so appearing, is hereby amended by striking out, in lines 6 to 8, inclusive, the words ", and to the treasurer for the compensation of victims of violent crimes as provided by chapter two hundred and fifty-eight A".

SECTION 6. The General Laws are hereby amended by inserting after chapter 258B the following chapter:-

CHAPTER 258C.

COMPENSATION OF VICTIMS OF VIOLENT CRIMES.

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Claim", an application for compensation under this chapter.

"Claimant", a person who files a claim for compensation under this chapter.

"Crime", an act committed by a person which, if committed by a mentally competent, criminally responsible adult who has no legal exemption or defense, would constitute a crime.

"Department", the department of the attorney general.

"Dependent", mother, father, spouse, spouse's mother, spouse's father, child, grandchild, adopted child, child born out of wedlock, brother, sister, niece or nephew, or other person who is wholly or partially dependent for support upon the victim at the time of his injury or death due to a crime alleged in a claim made pursuant to this chapter.

"Division", the division of victim compensation and assistance division within the department of the attorney general.

"Family", the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, adopted child of parents, or spouse's parents of the victim.

"Medical care", the medical, psychological, surgical, dental, optometric, chiropractic, podiatric and hospital care provided to a victim including, but not limited to, medicines, medical, dental and surgical supplies, crutches, artificial members and appliances and training in the use of artificial members and appliances.

"Offender", an adult or juvenile person who commits a crime as defined in this section for which a claimant seeks compensation.

"Out-of-pocket loss", unreimbursed or unreimbursable expenses for services eligible for compensation pursuant to this chapter.

"State", a state of the United States, the district of Columbia, the commonwealth of Puerto Rico or any other possession or territory of the United States.

"Victim", a person who suffers personal physical or psychological injury or death:

(a) as a direct result of a crime as defined in this section;

(b) as a result of attempting to assist a person against whom a crime was attempted or committed; or

(c) as a result of efforts to prevent a crime or an attempted crime from occurring in his presence or to apprehend a person who had committed a crime in his presence.

Section 2. (a) No compensation shall be paid under this chapter unless the division finds that a crime was committed and that such crime directly resulted in personal physical or psychological injury to, or death of, the victim.

(b) No compensation shall be paid under this chapter unless the claimant demonstrates that the crime was reported to the police or other law enforcement authorities or to an agency or entity obligated by law to report complaints of criminal misconduct to law enforcement authorities. Except in the case where the division finds such report to have been delayed for good cause, such report shall have been made within five days after the occurrence of such crime.

(c) A claimant shall be eligible for compensation only if such claimant cooperates with law enforcement authorities in the investigation and prosecution of the crime in which the victim was injured or killed unless the claimant demonstrates that he possesses or possessed a reasonable excuse for failing to cooperate.

(d) A claimant shall not be eligible for compensation if such compensation would unjustly benefit the offender; provided, however, that a claimant shall not, except pursuant to regulations enacted in accordance with section four to prevent unjust enrichment, be denied compensation because of such claimant's or victim's familial relationship with the offender or because of the sharing of a residence by the victim or claimant and the offender.

(e) An offender or an accomplice of an offender shall not be eligible to receive compensation with respect to a crime committed by an offender. To the extent that the victim's acts or conduct provoked or contributed to the injuries, the division shall reduce or

deny an award to the claimant or claimants in accordance with regulations enacted pursuant to section four.

(f) No compensation shall be paid unless the claimant, or an individual for whose benefit a claim is made, has incurred actual out-of-pocket loss of at least one hundred dollars or has lost two continuous weeks of earnings or support or liability for compensable expenses as a direct result of the injury to or death of a victim. The foregoing provision shall not apply to a claimant who was over sixty years of age on the date of the alleged crime or was the victim of rape.

(g) The claimant may retain counsel under this chapter. Attorneys fees shall be deducted from, and not in addition to, the total award for compensation. No attorneys fees shall be paid unless the attorney submits an affidavit which sets forth the hours worked and the services rendered for representing the claimant in the claim for compensation. The division may include as part of its award, reasonable attorneys fees to be determined by the division in an amount not to exceed fifteen percent of the total award for compensation.

Section 3. (a) The maximum award for compensation to a claimant under this chapter shall be twenty-five thousand dollars. If there are two or more claimants eligible for compensation arising out of a crime committed against one individual for the same crime, each claimant shall be entitled to receive compensation to the extent of out-of-pocket loss, in proportion to the out-of-pocket losses of every other claimant. The cumulative total of all awards based on such crime shall not exceed twenty-five thousand dollars.

(b) Except as otherwise provided in this chapter, the following expenses are compensable in accordance with this section:

(1) The maximum award of compensation for burial expenses shall be four thousand dollars. A legal guardian, dependent or other family member of the victim or a person who actually incurs burial expenses directly related to the death of a victim shall be eligible for compensation for such burial expenses.

(2) (A) Expenses incurred for hospital services as the direct result of injury to the victim shall be compensable in accordance with this chapter; provided, however, that when claiming compensation for hospital expenses, the claimant must demonstrate an out-of-pocket loss or a legal liability for payment of said expenses. No hospital expenses shall be paid where the expense is reimbursable by medicaid or where the services are covered by chapter one hundred and eighteen F. Every claim for compensation for hospital services shall include a certification by the hospital that the services are not reimbursable by medicaid and that the services are not covered by chapter one hundred and eighteen F. In no event shall the amounts awarded for hospital services exceed the rates for services established by the rate setting commission in accordance with chapter six A, if rates have been established for such services.

(B) Expenses incurred for physician, dental, ambulance, or other medically necessary services or prosthetic devices as the direct result of injury to the victim shall be compensable in accordance with this chapter; provided however, that when claiming compensation for such expenses, the claimant must demonstrate an out-of-pocket loss or

legal liability for payment of such expenses. No physician, dental, ambulance or other necessary services or prosthetic device shall be paid where the services were reimbursable by medicaid. Every claim for compensation for physician, dental, ambulance or other medically necessary services or for prosthetic devices shall include a certification by the health care provider that the expense was not reimbursable by medicaid.

(C) A victim or, where death results from the crime, the dependents and family members of the victim, shall be eligible for compensation for reasonable mental health counseling obtained as a result of the crime.

(D) If the victim was employed or had received a bona fide employment offer at the time of the crime, he shall be eligible for compensation for loss of actual earnings due to disability from work as the result of injuries caused by the crime. In order to be eligible for lost earnings, the victim must demonstrate medical disability and causal relationship to the crime. The amount of compensation shall be based on the victim's net earnings or expected net earnings as a result of an employment offer at the time of the crime. If the victim is a minor at the time of the crime, he shall be eligible for future lost earnings due to disability from future employment as a result of injuries caused by the crime.

(E) If the sole occupation of the victim at the time of the crime and for the preceding one year was limited to performing the duties and responsibilities of a homemaker, the victim or his dependents shall be eligible for reimbursement for the reasonable costs of maintaining such services. In order to be eligible for compensation for homemaker services in nonhomicide cases, the victim must demonstrate a medical disability which is causally related to the crime.

(F) In the case of the death of the victim as a direct result of the crime, a dependent of a victim shall be eligible for compensation for loss of the victim's support. No compensation for loss of support shall be paid unless the claimant demonstrates either that the dependent was living with the victim at the time of the crime or, in the case of minor children of a deceased victim who were not residing in the victim's household at the time of the crime, that the minor children received financial support directly from the victim prior to the crime or were legally entitled to receive such support, such entitlement having been established by a court order or a judicially enforceable agreement. An award for loss of support shall be based upon the victim's actual earnings and the life expectancy of the victim.

Section 4. (a) The division of victim compensation and assistance shall administer the provisions of this chapter. Subject to appropriation, the attorney general shall designate a program director of said division. Said program director may appoint and remove, subject to the approval of the attorney general, such investigative, legal and clerical or other staff as the work of the division requires.

(b) The program director shall have the authority to promulgate rules and regulations pursuant to chapter thirty A as may be necessary to carry out the provisions of this chapter.

(c) The program director shall be authorized to apply for and receive sums which may be transmitted to the victim compensation fund maintained by the treasurer and for any other such funds as may become available to administer the requirements of this chapter.

Section 5. (a)(1) A claim for compensation under this chapter shall be filed within three years of the date of the crime.

(2) The claimant has the burden of proving by a preponderance of the evidence that he is eligible to receive compensation.

(3) A claim under this chapter shall be made on a claim form prescribed by the division. The claim shall be accompanied by copies of bills and other documentation supporting the claim, and shall be signed under the pains and penalties of perjury. Any claim for loss of support or other expenses incurred as the result of the death of a victim must be accompanied by proof of dependency of the claimant upon the victim. All claims must contain a release of information necessary to investigate the claim.

Law enforcement agencies, district attorneys, the departments of social services and public welfare, hospitals, physicians and other service providers shall cooperate with the department in the investigation of claims filed under this chapter.

(b) Upon receipt of a claim hereunder, the division shall acknowledge receipt of same, in writing, to the claimant or counsel of record. The division shall, thereafter, conduct an investigation of the claim to verify the information contained on the application.

The division shall be authorized to issue a written civil investigative demand, issue interrogatories, under oath, and requests for production of documents, and take oral testimony, under oath, in order to obtain information necessary to verify a claim. All information collected by the division shall be kept in accordance with the provisions of chapters four, sixty-six and sixty-six A.

A civil investigative demand may be served by certified mail, return receipt requested, and first class mail and shall be returned within twenty days from the date of service. Failure to comply with this provision may result in dismissal of the claim for compensation.

Whenever a person fails to comply with a civil investigative demand served upon him pursuant to this section, the attorney general may petition the district court of any county in which such person resides, is found, or transacts business, to enter such orders as may be necessary to carry into effect the provisions of this section. A failure to comply with an order entered under this section shall be punished as a contempt of court.

Section 6. The claimant shall have a continuing obligation to notify the division of a change in address. Failure to comply with this requirement may result in the dismissal of the claim for compensation or the termination of a proceeding set forth in this chapter.

Section 7. (a) Within fifteen days of completion of the investigation, the program director shall mail notice to the claimant or the attorney of record stating the amount of compensation to be paid or denied, and the reasons therefor, and the payees, if any. The program director may direct that warrant for payment by the treasurer be made jointly to the claimant and to a provider. The notice shall contain information regarding the right of the claimant to petition for judicial review of the decision of the program director.

(b) Upon receipt of the notice of assent by a claimant, the division shall present the notice to the treasurer for payment. Subject to the availability of funds appropriated for this

purpose, said treasurer shall cause payment to be made in accordance with the division's award without further authorization.

Section 8. (a) Within fifteen days of the date of mailing of the notice of award or denial, a claimant aggrieved by the program director's decision may request, in writing, a reconsideration of such decision. Said program director shall reconsider any order for which a request for reconsideration is received. Said program director may in his discretion reconsider a decision granting or denying an award or the amount of an award where there has been no request for reconsideration. After reconsideration of the award, said program director shall affirm the decision or issue an amended notice of award or denial.

(b) The program director shall notify the claimant by certified mail, return receipt required, and first class mail of the decision upon reconsideration within twenty days of the claimant's request for reconsideration. Such notice shall include information regarding the claimant's right to a petition for judicial review of the decision of the program director.

Section 9. (a) Within thirty days of the date of mailing of the notice of award or denial by the program director, the claimant may petition for judicial review in the district court within the judicial district in which the claimant resides or, in the case of a nonresident claimant, in the Boston municipal court. Where the claimant requests reconsideration of the decision of the program director, the petition for judicial review shall be filed within twenty days from the date of mailing of the decision of reconsideration. If no petition is filed within the time specified, the decision of the program director shall be final.

(b) The program director shall, in response to the aforesaid, within thirty days, file in such court a copy of his official decision.

(c) The district court shall schedule the matter for hearing and shall notify the parties of the date and time thereof.

(d) The review shall be conducted by the district court without a jury.

(e) For the purpose of determining the amount of compensation payable pursuant to this chapter, the chief justice for administration and management shall formulate standards for the uniform application of this chapter. The court shall take into consideration the provisions of this chapter, the rates and amounts of compensation payable for injuries and death under other laws of the commonwealth and of the United States, excluding pain and suffering. All decisions of the court on claims heard under this chapter shall be in writing, setting forth the name of the claimant, the amount of compensation and the reasons for the decision. The clerk of the court shall immediately notify the claimant in writing of the decision and shall forward to the state treasurer a certified copy of the decision. the state treasurer without further authorization shall, subject to appropriation, pay the claimant the amount determined by the court.

In determining the amount of compensation payable, the court shall determine whether because of his conduct the victim contributed to the infliction of his injury; and the court shall reduce the amount of the compensation or deny the claim altogether, in accordance with such determination; provided, however, that the court may disregard the responsibility of the victim for his own injury where such responsibility was attributable to

efforts by the victim to aid a victim, or to prevent a crime or an attempted crime from occurring in his presence or to apprehend a person who had committed a crime in his presence or had in fact committed a felony.

(f) Judicial review of the finding and decisions of the program director shall be a de novo hearing of the claim.

Section 10. No compensation shall be awarded or paid unless the out-of-pocket expenses or legal liability of the claimant for services rendered as the result of the crime exceeds any and all of the amounts received, applied for, or to be applied for as the result of the crime from any of the following or any combination of the following:

(a) insurance, disability;

(b) workers' compensation, unemployment compensation, social security benefits, veteran's benefits, retirement benefits;

(c) medicaid, medicare, free care, any other forms of public assistance including aid to families with dependent children and assistance to the aged and disabled or any successor thereto;

(d) restitution in the criminal action;

(e) proceeds from a civil suit; or

(f) institutional gifts.

Section 11. Acceptance of any compensation under this chapter shall subrogate the commonwealth, to the extent of such compensation paid, to any right or right of action accruing to the claimant or to the victim to recover payments on account of losses resulting from the crime with respect to which the compensation has been paid, and the claimant has a continuing obligation to so notify the attorney general of such recovery. The attorney general may enforce the subrogation, and he shall bring suit to recover from any person to whom compensation is paid, to the extent of compensation actually paid under this chapter, any amount received by the claimant from any source exceeding the actual loss to the victim.

Section 12. Any person who: (a) submits a false or fraudulent application or claim for an award; (b) intentionally makes or causes to be made any false statement or representation of a material fact in relation to any claim pending before the division; or (c) intentionally conceals or fails to disclose information affecting the amount of or the initial or continued right to any such award shall be punished by a fine of not more than one thousand dollars or by imprisonment in a house of correction for not more than six months, or both.

The commonwealth shall, in addition, have a civil cause of action for relief against any person who violates the provisions of this chapter for the amount of damages which the commonwealth sustains by reason of such violation which shall include costs of the action and attorneys fees and, in addition, for punitive damages of not more than triple the amount of damages which the commonwealth sustains, and interest. The attorney general may bring any such action necessary to enforce this section.

Any amount reimbursed or any fine or damages paid pursuant to this section shall be paid to the victim compensation fund maintained by the treasurer.

Section 13. No person who, in good faith, provides or obtains, or attempts to provide or obtain, assistance for a victim of a crime as defined in section one, shall be liable in a civil suit for damages as a result of any acts or omissions in providing or obtaining, or attempting to provide or obtain, such assistance unless such acts or omissions constitute willful, wanton or reckless conduct.

SECTION 7. The provisions of section forty-three D of chapter two hundred and eighteen and chapter two hundred and fifty-eight A of the General Laws shall apply only to claims in which a report of the attorney general or other civil pleading is awaiting disposition by a court as of the effective date of this act and shall not apply to any other claims pending or to any claims commenced on or after the effective date of this act.

SECTION 8. The provisions of chapter two hundred and fifty-eight C of the General Laws, inserted by section six of this act, shall not apply to claims in which a report of the attorney general or other civil pleading is awaiting disposition by a court as of the effective date of this act but shall apply to all other claims pending upon the effective date of this act and to all claims commenced on or after the effective date of this act.

SECTION 9. Sections two, three, four and five of this act shall take effect on January first, nineteen hundred and ninety-five.

Approved January 14, 1994.

Chapter 479. AN ACT RELATIVE TO THE FILING OF CLAIMS BY VICTIMS OF VIOLENT CRIMES.

Be it enacted, etc., as follows:

Section 4 of chapter 258A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

A claim shall be filed within the statutory period of limitation for the crime upon which it is based; provided, however, that for good cause, the court may either before or after the expiration of said period extend the time for filing such claim; and provided, further, that in no event shall a later entry be allowed after the expiration of three years following the expiration of said statutory period of expiration.

Approved January 14, 1994.

Chapter 480. AN ACT RELATIVE TO THE POWERS OF A GUARDIAN OR CONSERVATOR.

Be it enacted, etc., as follows:

SECTION 1. Section 38 of chapter 201 of the General Laws, as appearing in the

1992 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The probate court, upon petition of a conservator or guardian, other than the guardian of a minor, and after such notice to all other persons interested as it directs, may authorize such conservator or guardian to exercise any or all powers over the estate and business affairs of the ward which the ward could exercise if present and not under disability. The court may authorize the taking of such action, or the application of such funds as are not required for the ward's own maintenance and support, in such fashion as the court shall approve as being in keeping with the ward's wishes so far as they can be ascertained. In ascertaining and carrying out the ward's wishes the court may consider, but shall not be limited to, minimization of state or federal income, estate or inheritance taxes, and provisions of gifts to such charities, relatives and friends as would be likely recipients of donations from the ward. The ward's wishes as best they can be ascertained are to be carried out, whether or not tax savings are involved.

SECTION 2. Said section 38 of said chapter 201, as so appearing, is hereby further amended by inserting after the word "life", in line 29, the following words:- amendment of any such trust which is revocable or amendable.

SECTION 3. Said section 38 of said chapter 201, as so appearing, is hereby further amended by striking out, in line 39, the word "expected", the second time it appears, and inserting in place thereof the following words:- , if any, expected.

Approved January 14, 1994.

Chapter 481. AN ACT RELATIVE TO THE SALE OF LIQUEURS OR CORDIALS BY COMMON VICTUALLERS.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 138 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the definition of "Licensing authorities" the following definition:-

"Liqueur or cordial", all alcoholic beverages manufactured or produced by mixing or redistilling neutral spirits, brandy, gin, or other distilled spirits with or over fruits, flowers, plants or pure juices therefrom, or other natural flavoring materials, or with extracts derived from infusions, percolations, or maceration of such materials and containing no less than two and one-half percent sugar by weight.

SECTION 2. Section 12 of said chapter 138, as so appearing, is hereby amended by adding the following paragraph:-

In any city or town which votes to accept the provisions of this paragraph, a common victualler, who holds a license under this section to sell wines and malt beverages may, upon written approval, also sell liqueurs and cordials pursuant to said license, subject, however,

to all other licensing provisions of this chapter.

Approved January 14, 1994.

Chapter 482. AN ACT FURTHER REGULATING LEAD PAINT IN THE COMMONWEALTH.

Be it enacted, etc., as follows:

SECTION 1. Section twenty-eight of chapter twenty-three B of the General Laws is hereby repealed.

SECTION 2. Section 6 of chapter 62 of the General Laws, as amended by section 16 of chapter 19 of the acts of 1993, is hereby further amended by striking out subsection (e) and inserting in place thereof the following subsection:-

(e) Any owner of a residential premises who pays for the containment or abatement of any paint, plaster or other accessible structural materials containing dangerous levels of lead or who pays for the replacement of one or more window units in a dwelling unit constructed prior to nineteen hundred and seventy-eight for the purpose of bringing a dwelling unit into full compliance with the provisions of sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive, of chapter one hundred and eleven concerning materials containing dangerous levels of lead shall be allowed a credit in the amount of the cost of said removal, containment or replacement or one thousand five hundred dollars per dwelling unit, whichever is less. Any owner of a residential premises who pays for the containment or abatement of any paint, plaster or other accessible structural materials containing dangerous levels of lead or who pays for the replacement of one or more window units in a dwelling unit constructed prior to nineteen hundred and seventy-eight in pursuit of an emergency lead management plan and letter of interim control, as provided for in subsection (b) of section one hundred and ninety-seven of chapter one hundred and eleven concerning materials containing dangerous levels of lead shall be allowed a credit in the amount of one-half the cost of said removal, containment, or replacement or five hundred dollars per dwelling unit, whichever is less, provided that any costs claimed as part of such credit must be certified by a licensed inspector to be costs necessary to achieving ultimate full compliance; and provided, further, that any credit received for interim control shall be considered as part of the maximum credit allowable per unit for any owner pursuing full compliance. Tax credits for full compliance or interim controls shall include window replacement done for the purposes of lead abatement. Such credits shall be allowed for the containment, abatement or replacement of any paint, plaster or other accessible structural materials containing dangerous levels of lead only if (i) the presence of lead is established by an inspector licensed by the childhood lead poisoning prevention program, and (ii) following such removal, the owner obtains a letter of compliance or interim control from a licensed inspector pursuant to subsections (b), (c) and

(d) of section one hundred and ninety-seven of chapter one hundred and eleven and files with the department of revenue such letter of compliance or interim control and a certification, in recordable form, stating the number of dwelling units, as defined in the state sanitary code for which such credit is being claimed. Any taxpayer eligible for the foregoing tax credit for the then taxable year may carry forward any such unused credit or any unused portions thereof and apply it to his tax liability in any one or more of the succeeding seven taxable years. The commissioner shall, in consultation with the director of the childhood lead poisoning prevention program and the commissioner of the department of labor and industries, promulgate regulations to implement the provisions of this section.

SECTION 3. Chapter 111 of the General Laws is hereby amended by striking out section 190, as appearing in the 1992 Official Edition, and inserting in place thereof the following two sections:-

Section 189A. For the purposes of this section and sections one hundred and ninety to one hundred and ninety-nine B, inclusive, the following words shall, unless the context clearly indicates otherwise, have the following meanings:-

"Abatement", the removal and replacement of paint, plaster or other accessible structural material containing dangerous levels of lead.

"Advisory committee", the committee established in section one hundred and ninety.

"Commissioner", the commissioner of public health.

"Containment", the encapsulation, covering or enclosing by means authorized by the director, of paint, plaster or other accessible structural material containing dangerous levels of lead.

"Department", the department of public health.

"Director", the lead poisoning control director provided for in section one hundred and ninety.

"Owner", any person who alone or jointly or severally with others (i) has legal title to any premises; (ii) has charge or control of any premises as an agent who has authority to expend money for compliance with the state sanitary code, executor, administrator, trustee or guardian of the estate or the holder of legal title, (iii) is an estate or trust of which such premises is a part, or the grantor or beneficiary of such an estate or trust; or (iv) is the association of unit owners of a condominium or cooperative, which shall be considered an owner solely with respect to common areas and exterior surfaces and fixtures of such condominium or cooperative; provided, however, that the term "owner" shall not include a secured lender except to the extent provided in section one hundred and ninety-seven D.

"Premises", any residential premises, dwelling unit or residential property constructed prior to nineteen hundred and seventy-eight.

Section 190. Subject to appropriation, the department shall establish a statewide program for the prevention, screening, diagnosis and treatment of lead poisoning, including elimination of the sources of such poisoning, through such research, educational, epidemiologic and clinical activities as may be necessary.

The commissioner shall appoint a lead poisoning control director, who shall serve at the pleasure of the commissioner. The director shall be responsible, subject to the authority of the commissioner, for carrying out and administering all programs created pursuant to this section and sections one hundred and ninety-one to section one hundred and ninety-nine B, inclusive, except as otherwise indicated herein. The director may contract with any agencies, individuals or groups for the provision of necessary services, subject to appropriation; and shall issue and from time to time, amend, such rules and regulations as may be necessary; provided, however, that such rules, regulations or amendments shall be filed with the joint committee on health care and the joint committee on housing and urban development at least thirty days before the effective date of such rules, regulations and amendments.

The governor shall appoint an advisory committee for the lead poisoning prevention program, which shall consist of fourteen members who shall serve at the pleasure of the governor. At least four of said fourteen members shall be physicians or persons active in the field of public health; at least one of said members shall be a representative of the Massachusetts Association of Community Development Corporations; at least two of said members shall be parents of children under six years of age who reside in lower-income urban areas; at least one of said members shall be a representative of the Massachusetts Rental Housing Association; at least one of said members shall be a representative of the Massachusetts Bankers Association; at least one of said members shall be a representative of the Massachusetts Association of Realtors; and at least one of said members shall be a representative of the property and casualty insurance industry. The committee shall advise the director on matters of policy; shall be consulted by the director prior to the issuance of rules and regulations; and shall perform such other duties as the director may request. The members of the advisory committee shall not be paid for their services, but they may be reimbursed for travel and other expenses necessary for the performance of their duties.

SECTION 4. Said chapter 111 is hereby further amended by inserting after section 192A the following section:-

Section 192B. The department of public health's childhood lead poisoning and prevention program shall, subject to appropriation, promote the education of all persons, including parents and property owners, on lead poisoning and its prevention. The director of said program shall prepare educational materials, the content of which shall include, but not be limited to, a discussion of safety measures, which can be taken to reduce the incidence of lead poisoning in children; available community and health care resources in all geographic regions of the commonwealth useful in the matter of lead poisoning prevention and treatment; legal rights and remedies under section one hundred and ninety-seven, and any other information deemed important by the director and the advisory council with regard to said matter. The director of said program shall also work with the representatives of the banking industry, a designee from the Massachusetts Bankers Association and officials from various state quasi-public agencies involved in providing lead paint abatement financing to develop educational materials including a resource or financing guide on programs available

for lead paint abatement. Such educational materials shall be made available to, but not be limited to, hospitals, physicians' offices, community health centers, educational institutions, day care centers, and programs providing public assistance or social services. The director may contract or associate with public and private agencies and organizations for the preparation of said educational materials on lead poisoning prevention, other pertinent resource information on the matter of lead poisoning and conducting educational programs.

Publication of educational materials shall not subject any agency or organization to liability under section one hundred and ninety-nine.

SECTION 5. Said chapter 111 is hereby further amended by striking out section 194, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 194. The director shall, subject to appropriation, establish a comprehensive program for detection of sources of lead poisoning. Such program shall attempt, to the extent permitted by appropriations, to locate all premises in which the paint, plaster or other accessible structural material contains dangerous levels of lead. The means of detection and the amount of lead in the paint, plaster or other accessible structural material that produces the danger of lead poisoning shall be determined by regulation by the director in accordance with sound medical practice and current technical knowledge.

Such program of detection may, to the extent that all appropriate premises are not inspected, give priority in inspections to those premises located in areas where significant numbers of lead poisoning cases have been reported, and in which children under six years of age reside.

Upon the request of any occupant and subject to appropriation, the director shall cause to have the occupant's premises inspected, within a reasonable time, not to exceed ten days, unless systematic inspection of the area in which the person requesting the inspection resides is scheduled within thirty days, in which case said inspection may be deferred up to twenty additional days.

When the director is informed of a case of lead poisoning, he shall cause to have inspected the premises in which the victim resides, or has resided within the past twelve months, if the occupants of said premises consent, after reasonable notice, to such inspection. If the occupant refuses admittance, an agent of the director or of any local board of health or code enforcement agency may apply for a search warrant to permit entry. A court may issue a warrant upon a showing that a victim of lead poisoning resides in said premises. The findings of such inspection shall be reported to the director and to the appropriate enforcement authorities.

A dangerous level of lead found in premises inspected pursuant to this section or otherwise, shall be reported immediately to the owner of the building, all mortgagees and lien holders of record, the director, and all affected tenants as outlined below. The owner of such building shall comply with any order to correct violations issued by the director, any local board of health or any code enforcement agency within the time established by regulations promulgated by the director. Except as otherwise provided, abatement or con-

tainment of lead shall not be required unless the premises has been occupied by a poisoned child within the past twelve months or is occupied by a child under six years of age. When dangerous levels of lead are present on the exterior of the building or in common areas, notice shall be given to all occupants of the building; and when such levels are present only within particular premises, notice shall be given to the occupants of the premises involved. The director shall promulgate regulations specifying the form and content of all required notices.

When a dangerous level of lead is found in premises inspected pursuant to this section, or otherwise, the director shall cause to have screened all children under six years of age, and such other children as he may find advisable to screen, residing or who have resided within the past twelve months in said premises. The results of such screening shall be reported to the director and the affected child's parent or legal guardian. The director shall inform such other persons or agencies as he deems advisable, subject to the provisions of section one hundred and ninety-one relating to the names of affected individuals.

The director shall provide by regulation for the implementation by local boards of health, code enforcement agencies and housing inspection agencies of the provisions of this section and the periodic reporting to him of the results of all inspections of premises conducted hereunder by said boards and agencies.

The director shall maintain comprehensive records of all inspections conducted pursuant to this section. Such records shall be geographically indexed in order to determine the location of areas of relatively high incidence of dangerous lead levels. Such records shall be public records. A summary of the results of all inspections conducted pursuant to this section shall be released annually, or more frequently if the director so determines, to all interested parties.

SECTION 6. Section one hundred and ninety-four A of said chapter one hundred and eleven is hereby repealed.

SECTION 7. The second paragraph of section 195 of said chapter 111, as appearing in the 1992 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- When certified as a true copy by the custodian of such records, a copy of any report of said laboratory or any division thereof, or of any local board of health, code enforcement agency, or housing inspection agency duly trained and authorized by the director to implement the provisions of this chapter and to conduct inspections for the presence of dangerous levels of lead or lead determinations shall be admissible in any judicial proceeding without further authentication by either the laboratory or by the agency for which said report was made and shall be prima facie evidence of the facts stated therein.

SECTION 8. Said chapter 111 is hereby further amended by striking out section 197, as so appearing, and inserting in place thereof the following section:-

Section 197. (a) Whenever a child under six years of age resides in any premises in which any paint, plaster or other accessible structural material contains dangerous levels of lead, the owner shall abate or contain said paint, plaster or other accessible structural materials in accordance with the requirements of subsections (b) or (c). Except as provided

in section one hundred and ninety-seven D, whenever any such premises containing said dangerous levels of lead undergoes a change of ownership and as a result a child under six years of age will become or will continue to be a resident therein, the new owner shall have ninety days to contain or abate said paint, plaster or other accessible structural material as required by this section, so as to make the premises in compliance with the provisions of sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive.

(b) Owners shall be eligible to contain and control paint, plaster or other accessible structural materials containing dangerous levels of lead on an interim basis until achieving full compliance as set out in subsection (c), in accordance with measures defined in an emergency lead management plan, and a letter of interim control issued by a licensed inspector pursuant thereto. If, in the determination of a licensed inspector, the condition of such premises make it ineligible for interim control under an emergency lead management plan, the owner shall be required to satisfy the requirements of subsection (c) and receive a letter of full compliance, provided that secured lending institutions shall be governed by the provisions of section one hundred and ninety-seven D.

The director shall promulgate regulations to establish a program of interim control measures that are eligible to be used in emergency lead management plans to address urgent lead paint hazards that include, but are not limited to, paint containing a dangerous level of lead that is chipping, peeling or flaking, and highly lead-contaminated dust. Interim control measures shall be used to address said urgent lead hazards until a letter of full compliance has been obtained pursuant to subsection (c), and all emergency lead management plans shall include full compliance in accord with subsection (c) as their ultimate goal. Only in the instance of a waiver by the department, shall an owner be eligible for an emergency lead management plan and letter of interim control for premises in which a lead-poisoned child resides. The owner of premises containing a dangerous level of lead may obtain approval for an emergency lead management plan from an inspector licensed under section one hundred and ninety-seven B after an inspection and assessment of the premises by said inspector, and for a letter of interim control by such a licensed inspector certifying compliance with the emergency lead management plan and regulations promulgated by the director under this section. Said regulations shall, at minimum, include the following:

(1) a determination by the inspector regarding the need to correct structural defects, including roof and plumbing leaks, and deteriorating windows, which may cause damage to surfaces containing dangerous levels of lead, and a requirement that any such defects found be repaired or replaced, as needed, to prevent damage to interior surfaces containing lead;

(2) abatement or containment of all peeling paint and installing safeguards to protect intact paint, plaster or other accessible structural material on both interior and exterior surfaces and fixtures;

(3) removal of lead dust using specified methods, unless the initial inspection indicates that there is no peeling paint and that surface dust levels meet specified standards;

(4) provision of educational materials prepared by the department to tenants occupying the affected premises, as well as compliance with the tenant notification provisions of section one hundred and ninety-seven A;

(5) correction of any other lead paint condition which the director determines poses an urgent risk of lead poisoning to children under age six;

(6) requirement that all interim control work performed under this section comply with the requirements for use of licensed deleading contractors or for the abatement and containment activities by property owners contained in the regulations promulgated by the director pursuant to subsection (d); and

(7) a final inspection by a licensed inspector, including testing to ensure that surface dust levels are within specified limits for particular surfaces.

A letter of interim control shall expire at the end of one year from the date of its issuance, and may be renewed once, for an additional one-year period, upon reinspection and recertification pursuant to this section by a licensed lead inspector, in accordance with regulations promulgated by the director. The revocation and subsequent recertification of a letter of interim control shall not extend the initial letter of interim control beyond the time period allowed by this section. An emergency lead management plan and letter of interim control shall be issued for the premises, not its owner, and shall remain in effect should ownership of the premises be transferred during the existence of the emergency lead management plan and the letter of interim control. A subsequent owner of premises under a pre-existing emergency lead management plan and letter of interim control shall be responsible for complying with the terms of said plan and letter. In no case shall premises be subject to an emergency lead management plan and letter of interim control for longer than two years.

A letter of interim control shall be revocable by operation of law upon occurrence of either of the following conditions: (i) expiration by its own term; (ii) upon the failure of the owner to bring the unit into compliance, or keep the unit in compliance, as required by this paragraph. If a licensed lead inspector finds that the premises contains peeling paint or otherwise fails to meet the standards of the emergency lead management plan and the letter of interim control, said inspector shall notify the owner of the premises, the director, the local code enforcement agency or board of health of said failure. The owner shall bring the premises into compliance with the emergency lead management plan and the letter of interim control within fourteen days of being notified to do so by the director, local code enforcement agency or board of health or licensed lead inspector, or within such greater period of time as may be allowed by the director, local code enforcement agency or board of health, or by judicial order.

No claim for strict liability may be brought under section one hundred and ninety-nine against the owner by an occupant or former occupant of premises for which a letter of interim control has been issued for damages caused by exposure to dangerous levels of lead during such period that the letter of interim control is in effect or within the fourteen day period after being notified to bring the premises into compliance discussed in the previous paragraph. During the period a letter of interim control is in effect, such owner

shall take reasonable care to ensure that the premises are in compliance with the requirements of this subsection and the letter of interim control, and shall be liable for all damages caused by his breach of that duty of reasonable care.

(c) Owners may proceed either directly, or at the end of the process of interim control set out in a poisoning prevention management plan approved pursuant to subsection (b), to abate or contain paint, plaster or other accessible structural material in a particular premises in order to achieve full compliance. Prior to beginning such work, the owner or his agent shall notify the occupants of the premises, the director, the department of labor and industries and the local board of health or code enforcement agency of the date on which such containment and abatement for full compliance will occur, and the method or methods that will be used. Where containment or abatement is to occur in common areas, including the exterior, all occupants of the premises shall be notified in writing.

All containment or abatement for full compliance subject to this chapter shall, pursuant to regulations promulgated by the director to ensure the safety of occupants, be performed as follows:

(1) All peeling paint, plaster or other structural material containing dangerous levels of lead, on both interior and exterior surfaces and fixtures shall be abated or contained.

(2) Intact paint, plaster or other accessible structural material containing dangerous levels of lead shall be contained or abated on door frames below the five foot level and four inches from all edges; stair rail spindles; stair treads from the lip to the riser on the bottom and four inches back from the lip on the top of the tread; doors below the five foot level and four inches from all edges; stair rails; porch railings; and all other exterior and interior surfaces and fixtures that may be readily mouthed by, or are otherwise accessible to, children. The director may, by regulation, require that in order to maintain the stability of any encapsulants used as a containing agent as part of the process to achieve full compliance, intact paint, plaster or other accessible structural material containing dangerous levels of lead be contained beyond the height of five feet and more than four inches from all edges.

(3) Peeling and intact paint, plaster or other accessible structural material containing dangerous levels of lead shall be contained or abated, on the interior and exterior surfaces of windows having sills below the five foot level when surfaces are either movable or impact on movable surfaces. Such surfaces shall include, but not be limited to, interior and exterior window sashes, window sills, and mullions; window wells and parting beads; headers on the lower side of the window that impact on the sash; and interior and exterior inner sides of the window casings that impact on the sash.

(4) Exterior paint containing dangerous levels of lead shall be contained or abated pursuant to regulations issued by the director, after consultation with the department of environmental protection specifying acceptable methods and prescribing encapsulation, shrouding or other containment methods; provided, however, that the director may ban sandblasting of exterior paint where he determines that children under six years of age are at risk of exposure to dangerous levels of lead. The use of potassium or sodium hydroxide in removing exterior lead-based paint shall be prohibited. Such regulations shall recommend

appropriate methods of containment or abatement for properties listed on the state register of historic places. Local boards of health or code enforcement agencies shall enforce compliance with this regulation.

(5) Paint chips, dust and other debris created by the containment or abatement of interior or exterior paint shall be cleaned up by the person performing the containment or abatement in conformance with regulations promulgated by the director.

Upon the determination of a licensed inspector that the premises fully comply with the requirements of this subsection, said inspector shall issue a letter of full compliance for said premises. The director shall prepare one or more standard formats for letters of full compliance which may be revised from time to time as appropriate. All licensed inspectors shall use such standardized formats in issuing letters of full compliance.

Premises for which a letter of compliance has been issued prior to January first, nineteen hundred and ninety-four, pursuant to previous versions of this section and regulations promulgated thereunder, shall be deemed to be in full compliance with the provisions of this subsection, and shall be deemed to have been issued a letter of full compliance in accord with this subsection for all purposes of sections one hundred and eighty-nine A through one hundred and ninety-nine B, inclusive. Owners of such premises shall not be required to comply with any additional requirements of this subsection or of rules and regulations promulgated pursuant to said sections.

If a tenant believes that the premises fail to meet the standards of the letter of compliance or a licensed lead inspector finds that the premises fails to meet the standards of the letter of full compliance, said tenant or inspector shall notify the owner of the premises, the director, the local code enforcement agency or board of health of said failure. The owner shall ensure that the condition of the premises meets the standards required by the letter of full compliance within fourteen days of being notified to do so by the director, local code enforcement agency or board of health or licensed lead inspector, or within such greater period of time as may be allowed by the director, local code enforcement agency or board of health, or by judicial order.

No claim for strict liability may be brought under section one hundred and ninety-nine against an owner by an occupant or former occupant of premises for which a letter of full compliance has been issued and is in effect in accordance with this subsection.

(d) Containment or abatement, and daily and final cleanup of paint, plaster or other accessible structural material required under this section, whether undertaken for full compliance or as an interim measure under an emergency lead management plan, shall be conducted only by a contractor licensed by the department of labor and industries, except that the owner of premises or the owner's agent, acting pursuant to regulations promulgated by the director specifying the conditions under which owners or their agents may undertake such containment or abatement, need not be licensed to engage in such activities. Any person who is not licensed may undertake containment or abatement activities only after successful completion of a course of instruction approved by the commissioner in consultation with the director detailing the proper methods and health hazards of containment or abatement and final cleanup of paint, plaster or other accessible structural

material; provided further, that all containment or abatement activities by an unlicensed person shall be inspected and approved after completion by a licensed inspector. Such regulations shall include, but not be limited to, the removal of doors, windows, woodwork or other elements or fixtures containing dangerous levels of lead and shall address the presence of residents during deleading and cleanup; provided, that in no instance shall paint containing such dangerous levels of lead be stripped or scraped from the doors, windows, woodwork, elements or fixtures while residents are on the premises. The director shall make available to the public standard guidelines relative to owner deleading activities made permissible pursuant to this section.

(e) The director may waive or alter any requirements of this section concerning the required containment or abatement of paint, plaster or other accessible structural material on specified surfaces and fixtures or specified substrates upon a finding by the director that no substantial risk is posed to the health of children under six years of age by the continued presence of such paint, plaster or other accessible structural material.

(f) Under no circumstances shall repainting with a non-lead based paint, without containment or abatement of the offending paint, plaster or other accessible structural material, constitute compliance with either subsection (b) or (c).

(g) No person shall occupy the premises while containment or abatement of dangerous levels of lead paint, plaster or other accessible structural materials is taking place and until such time as the premises has been cleaned up and found to be in compliance with this section, except pursuant to regulations issued by the director. Such regulations shall provide that persons may occupy the premises pursuant to specified conditions established on a case-by-case basis by the director or local board of health or code enforcement agency upon a finding that such occupancy will not endanger or materially impair the health or the well-being of any occupant; provided, however, that pregnant women and children under the age of six are not permitted to occupy the dwelling unit during deleading activities.

(h) Any owner undertaking to abate or contain dangerous levels of lead in any dwelling unit may, at the owner's option, reasonably delay the commencement of the tenancy until a letter of compliance or interim control certificate has been issued; provided, that no duly executed lease exists between owner and tenant; and provided, further, that no such delay shall exceed thirty days. During any such period of delay of occupancy the prospective tenant shall bear any living expenses. Should the owner decide to bring any residential premises into compliance with the provisions of sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive, while a tenant is occupying a dwelling unit, the owner shall have the right to move the tenant to a substitute dwelling unit upon reasonable notice; provided, however, that the owner pays reasonable moving expenses and any use and occupancy charges for a substitute dwelling unit which exceed the rent for the vacated dwelling unit for which the tenant remains responsible. A substitute dwelling unit shall be defined as one that does not cause undue economic or personal hardship to the tenant. If the tenant fails to accept the substitute dwelling unit selected by the owner during such period of time reasonably required to bring the vacated dwelling unit into compliance

with the provisions of sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive, the owner shall have no obligation to reimburse the tenant for any expense or inconvenience other than moving expenses and any use and occupancy charges for the substitute dwelling unit selected by the owner which may exceed the rent for the vacated dwelling unit.

SECTION 9. Said chapter 111 is hereby further amended by striking out section 197A, as so appearing, and inserting in place thereof the following section:-

Section 197A. Prospective purchasers of premises shall be notified about the hazards of lead in paint, plaster or other accessible structural material in premises and the requirements for their abatement or containment as follows:-

(a) The director shall prepare a standard notification form and such other materials as may be necessary to inform prospective purchasers about the possible presence of dangerous levels of lead in such premises, the symptoms and treatment of lead poisoning, and the requirements of the lead law and regulations, including the provisions concerning liability for failure to abate or contain lead hazards and prohibitions against unlawful discrimination. The director shall prepare a separate notification form and materials for prospective purchasers of residential properties containing one or more rental units. Such rental property notification materials shall inform prospective purchasers about issues specific to rental properties, such as liability insurance and prohibitions against unlawful discrimination. Such forms and materials shall be revised from time to time as appropriate.

(b) All persons selling premises shall, prior to the signing of a purchase and sale agreement, provide a copy of the form and other materials prepared pursuant to subsection (a) to the prospective purchaser. Effective May first, nineteen hundred and ninety-four, all persons leasing premises with an option to purchase such premises shall, prior to the signing of the lease with an option to purchase, provide a copy of the form and other materials prepared pursuant to subsection (a) to the lessee-prospective purchaser. In addition to and at the time of providing said notification, the lessor-prospective seller shall provide the lessee-prospective purchaser with any letter of interim control for the premises issued pursuant to subsection (b) of section one hundred and ninety-seven, or any letter of full compliance for the premises issued pursuant to subsection (c) of said section, and such seller and any real estate agent involved in the sale shall disclose to the prospective purchaser any information known to the seller or real estate agent about the presence of paint, plaster, or other accessible structural materials containing dangerous levels of lead in the premises.

(1) The lessee-prospective purchaser shall also be informed by the lessor-prospective seller and any such real estate agent about the availability of inspections for dangerous levels of lead. If, after receiving said notice, the lessee-prospective purchaser chooses to have an inspection done, the lessor-prospective seller shall afford the lessee-prospective purchaser a period of ten days or such longer time as the parties may agree to have such inspection performed, through a lead inspection contingency provision in the purchase and sale agreement, or otherwise.

(2) If any real estate agent involved in the sale has provided the lessee-prospective purchaser with the required information and materials, he shall verbally inform the lessee-prospective purchaser of the possible presence of dangerous levels of lead and the provisions of sections one hundred and eighty-nine A through one hundred and ninety-nine B, inclusive, and regulations promulgated thereunder. At that time or at any time prior to signing of the purchase and sale agreement, any such real estate agent shall obtain the lessee-prospective purchaser's certification that he has been notified.

(c) Nothing in this section or this chapter shall be construed to require the director, local boards of health or code enforcement agencies to conduct lead inspections the sole purpose of which is to inform sellers or prospective purchasers of premises about the presence of dangerous levels of lead in said premises.

(d) Tenants of premises and those prospective tenants who are about to enter an agreement to rent premises shall be notified about the hazards of dangerous levels of lead as follows:-

(1) The director shall, by July first, nineteen hundred and ninety-four, prepare a standard notification brochure and such other materials as may be necessary to inform such tenants and property owners about the hazards associated with dangerous levels of lead; the symptoms and treatment of lead poisoning; measures which can be taken by parents and property owners to reduce the risk of lead exposure to children; and the requirements of sections one hundred and eighty-nine A through one hundred and ninety-nine B, inclusive, and regulations promulgated thereunder. Such materials shall also describe the significance of letters of interim control and letters of full compliance, and the need for tenants to promptly notify owners, the director, the local code enforcement agency or board of health in writing whenever an intact painted surface begins to peel or flake. The director shall also prepare a standard form to be distributed by owners to tenants and prospective tenants about to enter an agreement to rent the premises, which shall include the name, address and telephone number of the owner or the owner's managing agent and the address and telephone number of the state childhood lead poisoning prevention program. In addition, the owner shall disclose any information actually known by the owner concerning the location of paint, plaster or other accessible structural materials containing dangerous levels of lead, including such intact paint, plaster or other accessible structural materials containing dangerous levels of lead which have been covered or encapsulated.

(2) Effective December first, nineteen hundred and ninety-four, prior to entering into a tenancy agreement, the owner of premises or such other person to whom rent is to be regularly paid, shall provide a prospective tenant who is about to enter such an agreement to rent premises with:

(i) a copy of the materials and standard form completed pursuant to paragraph (1); (ii) a copy of the most recent lead paint inspection report, letter of interim control, letter of compliance or abatement plan applicable to the dwelling unit and to the common areas or exterior surfaces of the residential premises; and (iii) two copies of a statement certifying that the prospective tenant received all of the above materials, one copy of which is to be retained by the tenant and one by the owner. For purposes of this section, inclusion of such

certification as a provision in a written tenancy agreement shall be permitted.

(e) Any owner who fails to comply with the provisions of this section shall be liable for all damages caused by the failure to comply and, in addition, shall be subject to assessment of a penalty not to exceed one thousand dollars. A violation of this section by a person engaged in trade or commerce shall be an unfair and deceptive act or practice as defined in section two of chapter ninety-three A.

(f) The receipt by a tenant or prospective tenant of a notification brochure or other disclosure materials from an owner pursuant to this section shall not be construed to bar any claim for liability by the tenant or his minor children against the owner. The disbursement by an owner of a notification brochure to a tenant shall not operate as an admission of liability to any claim for liability by the tenant or his minor children against the owner under any provision of sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive.

SECTION 10. Subsection (a) of section 197B of said chapter 111, as so appearing, is hereby amended by striking out, in line 14, the word "ninety" and inserting in place thereof the following word:- eighty-nine A.

SECTION 11. The first paragraph of said subsection (a) of said section 197B of said chapter 111, as so appearing, is hereby amended by adding the following two sentences:- The director shall periodically assess the number of applications for licensed lead paint inspectors and may, subject to appropriation, increase the frequency of training sessions required for licensure, if necessary, in order to process said applications in an efficient and timely fashion. The director may, subject to appropriation, ensure that there are a sufficient number of training sites available throughout the commonwealth.

SECTION 11A. Said subsection (a) of said section 197B of said chapter 111, as so appearing, is hereby amended by striking out, in lines 15 and 16, the words "or grants or loans under section twenty-eight of chapter twenty-three B".

SECTION 12. Paragraph (1) of subsection (b) of said section 197B of said chapter 111, as so appearing, is hereby amended by adding the following four sentences:- Said department shall periodically assess the number of applications for licensed deleaders and may, subject to appropriation, increase the frequency of training sessions required for licensure, if necessary, in order to process said applications in an efficient and timely manner. Said department may, subject to appropriation, also ensure that there are a sufficient number of training sites available throughout the commonwealth. No person licensed as a inspector shall receive anything of value for referring any person to a licensed deleader. Violation of this subsection shall be punishable by license revocation and by civil penalty of not more than one thousand dollars.

SECTION 12A. Said subsection (b) of said section 197B of said chapter 111, as so appearing, is hereby amended by striking out, in lines 39 and 40, the words "or grants or loans under section twenty-eight of chapter twenty-three B".

SECTION 13. Said chapter 111 is hereby further amended by inserting after section 197B the following three sections:-

Section 197C. (a) If, after the issuance of a letter of full compliance pursuant to subsection (c) of section one hundred and ninety-seven, a child under the age of six exhibits a blood lead level in excess of the level considered dangerous to the child's immediate health as determined by the department, the director shall immediately review the appropriateness of the issuance and take such corrective measures as may be necessary. If after such a review, the director determines the issuance to be appropriate, the department shall conduct an environmental investigation to determine, to the extent possible, the cause of said excess blood lead level. In no event shall an owner of premises which have been issued a letter of full compliance be held strictly liable for injury or damage caused by exposure to dangerous levels of lead during such time that said letter of full compliance was in effect. Notwithstanding the provisions of this subsection, the owner shall remain subject to a standard of reasonable care relative to compliance within the provisions of sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive.

(b) If, after issuance of a letter of interim control and during compliance with provisions of a emergency lead management plan, pursuant to subsection (b) of section one hundred and ninety-seven, a child under the age of six exhibits a blood level in excess of the level considered dangerous to the child's immediate health as determined by the department, the department shall immediately review said interim controls and may alter any emergency lead management plan and letter of interim control previously issued so as to require the immediate abatement or containment of dangerous levels of lead in the premises wherein said child resides. In no event shall an owner in possession of a letter of interim control be held strictly liable for injury or damage caused by exposure to dangerous levels of lead during such time the letter of interim control is in effect.

Section 197D. (a) No secured lender shall be considered an owner for purposes of sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive, unless and until such secured lender has acquired legal title pursuant to applicable law, and takes actual physical possession, at which point he shall be considered an owner; provided, however, that a secured lender who has acquired legal title pursuant to applicable law shall be liable in any action brought pursuant to section one hundred and ninety-nine only to the following extent:-

Within ninety days after acquiring legal title to a premises in which a child under the age of six resides, such secured lender shall either (i) obtain a letter of interim control pursuant to subsection (b) of section one hundred and ninety-seven, (ii) obtain a letter of full compliance pursuant to subsection (c) of said section one hundred and ninety-seven, or (iii) transfer the property following the procedures required by section one hundred and ninety-seven A. A secured lender who does not take one of such actions within the specified time period shall be fully liable for all damages, including punitive damages, under section one hundred and ninety-nine.

(b) A secured lender who has acquired legal title pursuant to applicable law of premises in which any paint, plaster or other accessible structural material contains dangerous levels of lead may recover from the mortgagor any monies expended in bringing

the premises into compliance with sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive; provided, however, that the mortgagor shall not be liable for such contribution if the mortgagor establishes that no child under six years of age resided in the residential premises while the premises were owned by the mortgagor.

(c) For the purpose of this section, the term "secured lender" shall mean (1) a person, corporation or other entity which holds indicia of ownership in a residential property primarily to protect that person's security interest in said residential property; (2) two or more persons, corporations or other entities when one holds indicia of ownership in a residential property primarily to protect the other person's security interest in that residential property, if the person, corporation or other entity, holding the indicia of ownership is (a) wholly owned by the person, corporation or other entity holding the security interest, or (b) an affiliate of the person, corporation or other entity holding the security interest and both are wholly-owned, directly or indirectly, by the same person, corporation or other entity and (3) persons, corporations or other entities which hold contractual participation rights in a security interest, and any of the following which hold indicia of ownership in a residential property primarily to protect that security interest: a wholly-owned subsidiary of any such person, corporation, or other entity; an affiliate of any such person, corporation, or other entity if both are wholly-owned, directly or indirectly, by the same person, corporation or other entity; and any entity formed among such persons, subsidiaries, or affiliates.

Section 197E. There shall be a loan program in the executive office of communities and development for lead abatement throughout the commonwealth. Said program shall assist residential property owners in financing the abatement and containment of lead paint hazards. The secretary of the executive office of communities and development, in consultation with the commissioner and the director, shall administer said program and may distribute funds through community action agencies, redevelopment agencies, local nonprofit community and housing agencies and other appropriate municipal and non-profit agencies and organizations. Loans under the program must be used for lead-paint abatement and containment activities.

Agencies and organizations eligible for loans under this program shall be selected by the secretary of the executive office of communities and development in consultation with the commissioner and the director. Not less than one-half of funds allocated for this program shall be distributed to agencies and organizations serving high-risk areas and communities. Such high-risk areas and communities shall be chosen by the commissioner based upon the following criteria: the incidence of childhood lead poisoning reported in the previous five years; the proportion of residential housing stock containing lead paint hazards; the proportion of residents of low and moderate income; and the prior efforts of appropriate agencies and organizations to promote and carry out preventive measures designed to alleviate lead hazards. All agencies and organizations wishing to receive funding from this program shall submit to said secretary and the commissioner a report detailing a proposed plan to reduce lead paint hazards.

The secretary of the executive office of communities and development and the commissioner, subject to the consultation provisions of section one hundred and ninety of this chapter, shall promulgate regulations necessary to administer this program. Said secretary and the commissioner shall report to the clerks of the house of representatives and the senate not later than October first of each year concerning the distribution of loan funds under this program. Said secretary shall promulgate regulations which establish reasonable terms and conditions of such loans, including interest rates and maturity dates designed to encourage compliance with this chapter.

SECTION 14. Section 198 of said chapter 111, as appearing in the 1992 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraphs:-

Violations of this section shall not constitute violations of the state sanitary code when (i) an owner has received a letter of full compliance, or (ii) an owner has received a letter of interim control; provided that in the case where an owner has received a letter of interim control and the tenant causes the unit to be inspected by a licensed inspector and found to be out of compliance, the sanitary code provisions will apply after fourteen days and until such time as the unit is recertified pursuant to subsection (b) of section one hundred and ninety-seven. If a tenant has a unit inspected by a licensed inspector, and the unit is found to be out of compliance, the owner shall pay the cost of such inspection. If a tenant has a unit inspected by a licensed inspector, and should the unit is found to be in compliance, the tenant shall pay the cost of such inspection.

Except as provided in the preceding paragraph, any violations of sections one hundred and ninety-six and one hundred and ninety-seven may be treated by any party as a violation of the state sanitary code and all procedures and remedies applicable to such violations of said sanitary code shall be available to correct, deter or punish violations of said sections. In any action in which a tenant is withholding rent due to lead paint and as a result of said action the landlord is required to abate, the judge, unless he finds that the landlord did not act in good faith shall order that any amounts that would be awarded to the tenant pursuant to a finding that the value of the housing was reduced by the violation of the lead law be applied to the costs of abatement; provided, however, that any amounts awarded to the tenant pursuant to a finding of any other violation of the sanitary code or any other law shall be retained by the tenant. The district, housing and superior courts shall have jurisdiction to enforce the provisions of said sections to the same extent that said courts have jurisdiction to enforce said sanitary code.

SECTION 15. The fourth paragraph of said section 198 of said chapter 111 is hereby amended by inserting after the word "district", in line 28, the following word:- , housing.

SECTION 16. Said chapter 111 is hereby further amended by striking out section 199, as so appearing, and inserting in place thereof the following section:-

Section 199. (a) Except as provided in section one hundred and ninety-seven D, the owner of any premises shall be liable for all damages to a child under six years of age at the

time of poisoning, upon proof that said child's blood lead level equals or exceeds the blood lead level at which the department defines lead poisoning, that are caused by his failure to comply with the provisions and requirements of section one hundred and ninety-four, subsection (a) of section one hundred and ninety-six or section one hundred and ninety-seven, and regulations pursuant to said provisions. An owner of premises covered by a letter of full compliance in accordance with subsection (c) of section one hundred and ninety-seven, or a letter of interim control, in accordance with subsection (b) of section one hundred and ninety-seven, shall not be strictly liable under this section for damages caused to a child under six years of age at the time of poisoning, as defined in this section, by exposure to dangerous levels of lead. Notwithstanding the provisions of this subsection, during the period a letter of full compliance or a letter of interim control is in effect, the owner shall take reasonable care to ensure that the premises are in compliance with the requirements of subsection (c) of section one hundred and ninety-seven, in the case of premises covered by a letter of full compliance, or with the requirements of subsection (b) of section one hundred and ninety-seven and the emergency lead management plan, in the case of premises covered by a letter of interim control, and shall be liable for all damages caused by his breach of that duty of reasonable care.

(b) Except as provided in section one hundred and ninety-seven D, an owner of premises who is notified pursuant to the provisions of sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive, of a dangerous level of lead in paint, plaster, or other accessible structural material present upon his premises or who receives a notice or order to comply concerning dangerous levels of lead from the director, a local board or department of health or a code enforcement agency, and who willfully fails to take the actions required by the applicable provisions of sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive, and regulations issued pursuant thereto, or the order to remedy said dangerous conditions by the deadlines contained in the applicable regulations or order, shall, in addition to the provisions of the subsection (a), be subject to punitive damages, which shall be treble the actual damages found.

(c) An owner who is held liable under this section and who seeks contribution pursuant to chapter two hundred and thirty-one B against the parent or guardian of a child who has been awarded damages under this section shall bring a separate action after a judgment has been entered against him; provided, however, that such action shall be brought within one year after the judgment has become final.

(d) Except as provided in section one hundred and ninety-seven D, the new owner of any premises which has undergone a change of ownership, and, either as a result of which a child under six years of age is or will be a resident of the premises, or the premises have been out of compliance with the requirements of this section and a child under six years of age will continue to reside in such premises, shall not be strictly liable for damages under this section if such new owner complies with the requirements of this chapter within ninety days after becoming the owner.

SECTION 17. Paragraph (a) of section 199A of said chapter 111, as so appearing, is hereby amended by striking out said paragraph and inserting in place thereof the following paragraph:-

(a) It shall be an unlawful practice for purposes of chapter one hundred and fifty-one B for the owner, lessee, sublessee, real estate broker, assignee, or managing agent of any premises to refuse to sell, rent, lease or otherwise deny to or withhold from any person or to discriminate against any person in the terms, conditions or privileges of the sale, rental or lease of such premises, because such premises do or may contain paint, plaster or accessible structural materials containing dangerous levels of lead, or because the sale, rental or lease would trigger duties under sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive, or regulations promulgated thereunder, or because a person chooses to exercise any right under said sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive, or regulations promulgated thereunder. Any person claiming to be aggrieved by an alleged unlawful practice as herein defined may file a complaint pursuant to section five of chapter one hundred and fifty-one B and all provisions of said chapter shall be applicable to such complaints.

SECTION 18. Said chapter 111 is hereby further amended by inserting after section 199A the following section:-

Section 199B. The provisions of sections one hundred and eighty-nine A to one hundred and ninety-nine A, inclusive, shall not apply to any dwelling unit having fewer than two hundred and fifty square feet of floor space calculated on the basis of total habitable room area or which is used as a rooming house; provided, that no person occupying said dwelling unit may be less than six years of age.

For the purpose of this section, "rooming house" shall mean every dwelling or part thereof which contains one or more rooming units in which space is let or sublet for compensation by the owner or operator to four or more persons not within the second degree of kindred to the person compensated. Boarding houses, hotels, inns, lodging houses, dormitories and other similar dwelling places shall be included, and "rooming units" shall mean the room or group of rooms let to an individual or household for use as living and sleeping quarters.

Sections one hundred and eighty-nine A to one hundred and ninety-nine A, inclusive and this chapter shall not apply to any unit for which a lease, rental, occupancy or tenancy is of thirty-one days or less in duration, which lease, rental or occupancy is for vacation or recreational purposes; provided, however, that said dwelling unit has no peeling or chipping paint, and the tenant has received the appropriate lead paint disclosure notification pursuant to regulations promulgated by the department of public health.

SECTION 19. Chapter 167 of the General Laws is hereby amended by adding the following section:-

Section 48. No bank, lending institution, credit union or mortgagee pursuant to applicable law, or mortgagee doing business in the commonwealth, which for the purposes of this section shall include any bank as defined in section one and shall include any national

bank, national banking association, federal savings bank, federal savings and loan association, and federal credit union, or mortgage company defined in chapter two hundred and fifty-five E shall discriminate in any manner in the financing or refinancing of the purchase, improvement, repair or maintenance of a residential premises or dwelling unit solely because the residential premises do or may contain paint, plaster, or other structural materials containing dangerous levels of lead. Any such bank, lending institution, credit union, mortgage company or mortgagee may request and receive a copy of any lead inspection report, letter of interim control, poisoning prevention management plan, letter of full compliance or order to comply issued under the provisions of section one hundred and ninety-four or one hundred and ninety-seven of chapter one hundred and eleven or regulations promulgated thereunder which is in the possession of either the loan applicant or seller, as a condition of processing or granting the loan. Nothing contained in this section shall restrict the right of any such bank, lending institution, credit union, mortgage company or mortgagee to process or deny a mortgage or loan application in accordance with accepted underwriting practices or criteria.

SECTION 20. Chapter 175 of the General Laws is amended by inserting after section 111G the following section:-

Section 111H. The commissioner of insurance shall adopt reasonable rules and regulations on or before July first, nineteen hundred and ninety-four designed to achieve the goal of sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive, of chapter one hundred and eleven, of encouraging preventative lead abatement activities by residential property owners.

Such rules and regulations shall be designed to ensure the availability of liability insurance for owners of residential property who bring their premises into compliance with the provisions of said sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive, of chapter one hundred and eleven. Such regulations shall provide that:-

(a) Any liability insurance policy which provides coverage to the owner of any premises for which a letter of interim control or letter of full compliance is in effect, in accordance with section one hundred and ninety-seven of chapter one hundred and eleven, shall cover claims for injury or damage resulting from exposure to dangerous levels of lead in dwelling units, as long as said injury or damage is not the result of gross or willful negligence.

(b) Any liability insurance policy which provides coverage to the owner of any premises not in compliance with section one hundred and ninety-seven of chapter one hundred and eleven shall be endorsed to add coverage for injury or damage resulting from exposure to dangerous levels of lead in dwelling units occurring after the effective date of such endorsement when and if the owner of said premises obtains and maintains a letter of interim control or letter of full compliance, provided that any new owner of any premises who has taken title as the result of a bona fide transaction and who has also complied with the requirements of subsection (d) of section one hundred and ninety-nine of chapter one hundred and eleven, shall be covered from the date such owner took title to the premises.

(c) Companies which elect to offer a liability insurance policy for any premise for which the owner has not obtained a letter of interim control or letter of full compliance shall also make available for that premise additional coverage for injury or damage resulting from exposure to dangerous levels of lead, provided that in the case of an owner occupied single family premise any such coverage for injury or damage resulting from exposure to dangerous levels of lead shall be provided as part of the policy and not offered as additional coverage excepting that such coverage will not apply to claims made by persons insured under the policy.

(d) Any policy providing or making available liability insurance covering injury or damage resulting from exposure to dangerous levels of lead in dwelling units shall be subject to rules, regulations, or guidelines promulgated by the commissioner of insurance.

(e) For the purposes of this section, the words "premises" and "premise" shall mean any residential premises, dwelling unit or residential property constructed prior to nineteen hundred and seventy-eight.

SECTION 21. Chapter 268 of the General Laws is hereby amended by inserting after section 33 the following section:-

Section 33A. Whoever engages in or conducts a lead paint inspection without being licensed to do so, or holds himself out to the public as a licensed lead paint inspector and is not so licensed, shall be punished by a fine of not more than five thousand dollars or imprisonment in jail for not more than one year, or both.

SECTION 22. Notwithstanding the provisions of any general or special law, or rule or regulation to the contrary, there shall be a surcharge on fees assessed by certain boards of registration, or state agencies for the licensure or certification of certain professionals, and on fees assessed for the renewal of such licensure or certification, in accordance with the provisions of this section. The amount of the surcharge shall be as follows: a twenty-five dollar surcharge to those persons licensed by the board of registration of real estate brokers and salesmen; a twenty-five dollar surcharge to those persons licensed by the department of labor and industries to perform deleading services; a twenty-five dollar surcharge to those persons licensed by the department of public health to perform lead inspections; a one hundred dollar surcharge on the annual licensing fee paid by mortgage brokers, mortgage lenders, and small loan agencies registered with the division of banks; and a twenty-five dollar annual surcharge on the licensing fee paid by property and casualty insurance brokers and property and casualty agents of direct writers registered with the division of insurance.

Amounts raised by said surcharges shall be deposited into a retained revenue account hereby established for the department of public health, for the production and dissemination of educational materials pertaining to lead paint poisoning prevention and treatment issues, as required by section one hundred and ninety-two B and section one hundred and ninety-seven A of chapter one hundred and eleven of the General Laws, and for training of lead paint inspectors as well as homeowner training for those aspects of lead paint abatement or containment which the department, through regulations, authorizes homeowners to perform themselves. The department shall use amounts in said retained revenue account for the aforesaid purposes and for no other, without the need for further appropriation.

SECTION 23. The lead poisoning control director of the department of public health shall, on or before July first, nineteen hundred and ninety-four, approve technologies then commercially available for facilitating bringing premises into compliance with the provisions of sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive, of chapter one hundred and eleven of the General Laws at as reduced a cost as possible, including, but not limited to, encapsulating materials approved by the federal Environmental Protection Agency, and further that the department of public health shall duly consider for approval any encapsulants approved by housing and urban development or other federal agencies or other states or municipalities for the containment of paint, plaster or other accessible structural material containing dangerous levels of lead. The director is encouraged, if possible, to approve such products that can be applied by homeowners. The director shall report to the general court on the technologies expected to be so approved by the department of public health, the expected date of their approval and an estimate of their cost to homeowners and the savings that may be attributable to use of such products in the overall cost of compliance with the provisions of sections one hundred and eighty-nine A to one hundred and ninety-nine B, inclusive, of chapter one hundred and eleven of the General Laws, not later than May first, nineteen hundred and ninety-four.

SECTION 24. Any regulations, rules, amendments, certifications, licenses or standards promulgated under the provisions of this act, unless otherwise indicated, shall be filed for review with the joint committee on health care and the joint committee on housing and urban development and with the house and senate committees on ways and means at least thirty days before the effective date of said regulations, rules, amendments, certifications, licenses or standards.

SECTION 25. Section two of this act shall apply to deleading activities occurring in taxable years commencing on or after January first, nineteen hundred and ninety-four.

SECTION 26. The secretary of the executive office of communities and development and the commissioner of the department of public health shall also review the potential costs, benefits and options in creating a state subsidized loan program in conjunction with the Massachusetts banking industry which would be modeled after the H. E. A. T. program so-called.

SECTION 27. Subject to appropriation, the loan program provided in section one hundred and ninety-seven E of chapter one hundred and eleven of the General Laws shall receive an allocation of two million, two hundred twenty-five thousand dollars in fiscal year nineteen hundred and ninety-four, and four million, five hundred thousand dollars in each fiscal year thereafter.

SECTION 28. For the purpose of applying chapter ninety-three A of the General Laws to violations under this act no stricter standard of liability shall be applied than that which applies under this act.

Approved January 14, 1994.

Chapter 483. AN ACT AUTHORIZING THE TOWN OF SHEFFIELD TO CONVEY CERTAIN PARK LAND.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section seven of chapter forty-five of the General Laws or any other general or special law to the contrary, the town of Sheffield is hereby authorized to convey a certain parcel of park land to be used for non-park purposes.

Said parcel is bounded and described as follows:

Beginning at a point on the easterly sideline of Main Street (Route 7) at the northwesterly corner of said parcel and at the southwesterly corner of land of Helen L. Bowen Straleau;

Thence, running S58°-56'-42"E, a distance of 21.43 feet to a point;

Thence, running S73°-53'-24"E, a distance of 170.47 feet to a point;

Thence, running N41°-45'-35"E, a distance of 13.60 feet to a point.

The last three (3) courses being along land of said Straleau.

Thence, running S48°-25'-18"E, a distance of 100.98 feet to a point;

Thence, running N41°-17'-59"E, a distance of 4.62 feet to a point;

Thence, running S47°-40'-02"E, a distance of 148.50 feet to a point;

Thence, running N41°-03'-50"E, a distance of 160.38 feet to a point at land of Rebecca J. MacHaffie.

The last four (4) courses being through land of the Inhabitants of the Town of Sheffield.

Thence, running S47°-39'-43"E, along land of said MacHaffie, along the southerly terminus of Cook Avenue (a private way) and along land of Richard M. Segalla & Wendy A. Segalla, a distance of 144.85 feet to a point;

Thence, running S41°-03'-50"W, a distance of 174.71 feet to a point;

Thence, running N54°-59'-53"W, a distance of 187.97 feet to a point at land of Kenneth J. Cooper & June E. Cooper.

The last two (2) courses being through land of said Inhabitants of the Town of Sheffield.

Thence, running N56°-58'-40"W, along land of said Cooper, a distance of 33.40 feet to a point;

Thence, running N60°-38'-40"W, along land of said Cooper and land of Joseph S. Cowen & Marie P. Cowen, a distance of 259.30 feet to a point;

Thence, running N70°-28'-40"W, a distance of 44.00 feet to a point;

Thence, running N48°-38'-40"W, a distance of 56.00 feet to a point on the easterly sideline of said Main Street (Route 7).

The last two (2) courses being along land of said Cowen.

Thence, running N43°-02'-07"E, along the easterly sideline of Main Street (Route 7), a distance of 20.91 feet to the point of beginning.

Approved January 14, 1994.

Chapter 484. AN ACT RELATIVE TO COLLEGE CREDIT FOR COURSES IN AMERICAN SIGN LANGUAGE.

Be it enacted, etc., as follows:

Chapter 15A of the General Laws is hereby amended by inserting after section 9 the following section:-

Section 9A. American Sign Language is hereby recognized as a full and legitimate language, as the language of a unique culture in the United States, and as the equivalent of a spoken language for the purposes of foreign language study and course credit.

Approved January 14, 1994.

Chapter 485. AN ACT RELATIVE TO INSTITUTIONAL MASTER PLANNING IN THE CITY OF SALEM.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section three of chapter forty A of the General Laws or any other general or special law to the contrary, the city of Salem is hereby authorized to enact an ordinance relative to institutional master planning.

SECTION 2. The city of Salem is hereby authorized to require that any use of land or structures for educational, health care or other institutional purposes shall be in conformity with such an institutional master plan for future development that has been filed by said institution with said city of Salem.

Approved January 14, 1994.

Chapter 486. AN ACT RELATIVE TO THE RIGHT OF EXTENDED FAMILY MEMBERS IN CARE AND PROTECTION PROCEEDINGS.

Be it enacted, etc., as follows:

SECTION 1. Paragraph A of section 23 of chapter 119 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following paragraph:-

Whenever the child is placed in family foster care, the court shall ensure that grandparents, upon their request, have access to reasonable visitation rights with the child who is the subject of the petition and that the department establish a schedule for such visitation unless it is determined by the court or the department that such visitation is not in the child's best interests. In determining the best interests of the child the court or the department shall consider the goal of the service plan and the relationship between the grandparents and the child's parents or legal guardian. Grandparents who are denied the right to visit with said child may appeal a denial by the department through the department's

fair hearing process. The department may establish reasonable conditions governing grandparents visitation, including but not limited to requiring that the grandparents be restrained from revealing the whereabouts of the child's placement.

SECTION 2. Paragraph C of said section 23 of said chapter 119, as so appearing, is hereby amended by adding the following paragraph:-

Whenever the child is placed in family foster care, the court shall ensure that grandparents, upon their request, have access to reasonable visitation rights with the child who is the subject of the petition and that the department establish a schedule for such visitation unless it is determined by the court or the department that such visitation is not in the child's best interests. In determining the best interests of the child the court or the department shall consider the goal of the service plan and the relationship between the grandparents and the child's parents or legal guardian. Grandparents who are denied the right to visit with said child may appeal a denial by the department through the department's fair hearing process. The department may establish reasonable conditions governing grandparents visitation, including but not limited to requiring that the grandparents be restrained from revealing the whereabouts of the child's placement.

SECTION 3. The second paragraph of section 26 of said chapter 119, as so appearing, is hereby amended by inserting after clause (4) the following clause:-

(5) Whenever the child is placed in family foster care, the court shall ensure that grandparents, upon their request, have access to reasonable visitation rights with the child who is the subject of the petition and that the department establish a schedule for such visitation unless it is determined by the court or the department that such visitation is not in the child's best interests. In determining the best interests of the child the court or the department shall consider the goal of the service plan and the relationship between the grandparents and the child's parents or legal guardian. Upon recommendation by the department or on its own accord, the court may establish reasonable conditions governing grandparent visitations, including but not limited to requiring that the grandparents be restrained from revealing the whereabouts of the child's placement.

Approved January 14, 1994.

Chapter 487. AN ACT AUTHORIZING THE RELEASE OF CERTAIN CONSERVATION RESTRICTIONS ON LAND 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, notwithstanding the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws or any other general or special laws to the contrary, to release conditions and restrictions reserved by the commonwealth in the deed conveying

a certain parcel of land to the city of Quincy in accordance with chapter six hundred and twenty-one of the acts of nineteen hundred and eighty-three entitled "Plan of Land in Quincy, Massachusetts, Broad Meadows," made by Edward Al Leone, City Engineer, dated March 15, 1971 and recorded with the Norfolk registry of deeds Plan Book 299, Page 607.

SECTION 2. The release of such conditions and restrictions shall be upon such terms and conditions as the commissioner of the division of capital planning and operations shall prescribe.

SECTION 3. Upon release of such conditions and restrictions, the city of Quincy shall be authorized to use such property, currently being used for conservation purposes in accordance with Article XCVII of the Constitution of Massachusetts, for the purpose of a municipal parking area. The city of Quincy shall place a parcel of land, at least equal in size, under the jurisdiction of the city of Quincy conservation commission which land shall be preserved as conservation land in accordance with Article XCVII of the Constitution of Massachusetts.

SECTION 4. The city of Quincy shall be responsible for all costs associated with the transactions authorized by this act.

Approved January 14, 1994.

Chapter 488. AN ACT INCREASING THE TOTAL OBLIGATION OF MEMBERS OF CREDIT UNIONS ON CREDIT CARDS.

Be it enacted, etc., as follows:

Section 59A of chapter 171 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

The total obligation of one or more members pursuant to any credit card agreement entered into under the provisions of this subdivision shall not exceed ten thousand dollars; and the aggregate balance of such loans and advances made by any such corporation at any time outstanding shall not exceed twenty percent of its deposits and shares.

Approved January 14, 1994.

Chapter 489. AN ACT TRANSFERRING CONTROL OF THE BRIDGEWATER TREATMENT CENTER FROM THE DEPARTMENT OF MENTAL HEALTH TO THE DEPARTMENT OF CORRECTION.

Be it enacted, etc., as follows:

SECTION 1. Chapter 123A of the General Laws is hereby amended by striking out

section 1, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 1. As used in this chapter the following words shall, except as otherwise provided, have the following meanings:-

"Community access board", a board consisting of five members appointed by the commissioner of correction, whose function shall be to consider a person's placement within a community access program and conduct an annual review of a person's sexual dangerousness.

"Community Access Program", a program established pursuant to section six A that provides for a person's reintegration into the community.

"Qualified examiner", a physician who is licensed pursuant to section two of chapter one hundred and twelve who is either certified in psychiatry by the American Board of Psychiatry and Neurology or eligible to be so certified, or a psychologist who is licensed pursuant to sections one hundred and eighteen to one hundred and twenty-nine, inclusive, of chapter one hundred and twelve; provided, however, that the examiner has had two years of experience with diagnosis or treatment of sexually aggressive offenders and is designated by the commissioner of correction. A "qualified examiner" need not be an employee of the department of correction or of any facility or institution of the department.

"Sexual offense", includes any of the following crimes: indecent assault and battery on a child under fourteen under the provisions of section thirteen B of chapter two hundred and sixty-five; indecent assault and battery on a mentally retarded person under the provisions of section thirteen F of chapter two hundred and sixty-five; indecent assault and battery on a person who has obtained the age of fourteen under the provisions of section thirteen H of chapter two hundred and sixty-five; rape under the provisions of section twenty-two of chapter two hundred and sixty-five; rape of a child under sixteen with force under the provisions of section twenty-two A of chapter two hundred and sixty-five; rape and abuse of a child under sixteen under the provisions of section twenty-three of chapter two hundred and sixty-five; assault with intent to commit rape under the provisions of section twenty-four of chapter two hundred and sixty-five; unnatural and lascivious acts with a child under the age of sixteen under the provisions of section thirty-five A of chapter two hundred and seventy-two; and any attempt to commit any of the above listed crimes under the provisions of section six of chapter two hundred and seventy-four.

"Sexually dangerous person", any person previously adjudicated as such by a court of the commonwealth and whose misconduct in sexual matters indicates a general lack of power to control his sexual impulses, as evidenced by repetitive or compulsive sexual misconduct by either violence against any victim, or aggression against any victim under the age of sixteen years, and who, as a result, is likely to attack or otherwise inflict injury on such victims because of his uncontrolled or uncontrollable desires.

SECTION 2. Said chapter 123A is hereby further amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. The commissioner of correction shall maintain subject to the jurisdiction of the department of correction a treatment program or branch thereof at a correctional institution for the care, custody, treatment and rehabilitation of persons and judicated as being sexually dangerous. Said facility shall be known as the "Nemansket Correctional Center". The commissioner of correction shall appoint a chief administrative officer who shall have responsibility for providing personnel with respect to the treatment and rehabilitation of the sexually dangerous persons, consistent with public safety. The commissioner of correction shall have the authority to promulgate regulations consistent with the provisions of this chapter.

SECTION 3. Said chapter 123A of the General Laws is hereby further amended by inserting after section 2 the following section:-

Section 2A. An individual committed as sexually dangerous and who has also been sentenced for a criminal offense and said sentence has not expired may be transferred from the treatment center to another correctional institution designated by the commissioner of correction. In determining whether a transfer to a correctional institution is appropriate the commissioner of correction may consider the following factors:

(1) the person's unamenability to treatment;

(2) the person's unwillingness or failure to follow treatment recommendations;

(3) the person's lack of progress in treatment at the center or branch thereof;

(4) the danger posed by the person to other residents or staff at the Treatment Center or branch thereof;

(5) the degree of security necessary to protect the public.

The department of correction shall promulgate regulations establishing a transfer board and procedures governing transfer, including notification of hearing, opportunity to be heard, written decision notification of decision, opportunity for appeal, and periodic review of placement.

The commissioner of correction shall make available to the remanded individuals a program of voluntary treatment services. An annual review shall be conducted of the current sexual dangerousness of each transferred individual and a report prepared which shall be admissible in a hearing under section nine of this chapter. Upon completion of said person's criminal sentence, he shall be returned to the treatment center and considered for participation in the community access program. Existing civil commitments to the treatment center shall not be vacated by the transfer to a correctional institution.

SECTION 4. Said chapter 123A is hereby further amended by striking out section 6A, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 6A. Any person committed as a sexually dangerous person to the treatment center or a branch thereof under the provisions of this chapter shall be held in the most appropriate level of security required to ensure protection of the public, correctional staff, himself and others.

Only a person whose criminal sentence has expired or upon whom a criminal sentence was never imposed shall be entitled to apply for participation in a community access program once in every twelve months. Said program shall be administered pursuant to the rules and regulations promulgated by the department of correction. As part of its program of community access the department of correction shall establish a board known as the community access board which board shall consist of five members appointed by the commissioner of correction, consistent with the rules and regulations of the department. Membership shall include three department of correction employees and two persons who are not department of correction employees, but who may be independent contractors or consultants. The non-employee members shall consist of psychiatrists or psychologists licensed by the commonwealth. The board shall evaluate residents for participation in the community access program and establish conditions to ensure the safety of the general community. The board shall have access to all records of the person being evaluated and shall give a report of its findings including dissenting views, to the chief administrative officer of the center. Such report shall be admissible in any hearing under section nine of this chapter. The board shall also conduct annual reviews of and prepare reports on the current sexual dangerousness of all persons at the treatment center, including those whose criminal sentences have not expired. The reports shall be admissible in a hearing under section nine of this chapter.

Any person participating in a community access program under this section shall continue to reside within the secure confines of MCI-Bridgewater and be under daily evaluation by treatment center personnel to determine if he presents a danger to the community. Upon approval of a person for participation in a community access program, notice shall be given to the commissioner of public safety, to the attorney general, to the district attorney in the district from which the person's criminal commitment originated, to the police department of the city or town from which the commitment originated, the police department of the town of Bridgewater, the police department where such person's participation in the community access program will occur the employer of persons participating in the access program, and any victim of the sexual offense from which the commitment originated. If such victim is deceased at the time of such program participation, notice of the person's participation in a community access program shall be given to the parent, spouse or other member of the immediate family of such deceased victim.

SECTION 5. Sections eight, nine A and nine B of said chapter one hundred and twenty-three A are hereby repealed.

SECTION 6. Sections ten and eleven of said chapter one hundred and twenty-three A are hereby repealed.

SECTION 7. Said chapter 123A is hereby further amended by striking out section 9, as appearing in the 1992 Official Edition, and inserting in place thereof the following section:-

Section 9. Any person committed to the treatment center shall be entitled to file a petition for examination and discharge once in every twelve months. Such petition may be

filed by either the committed person, his parents, spouse, issue, next of kin or any friend. The department of correction may file a petition at any time if it believes a person is no longer a sexually dangerous person. A copy of any petition filed under this subsection shall be sent within fourteen days after the filing thereof to the department of the attorney general and to the district attorney for the district where the original proceedings were commenced. Said petition shall be filed in the district of the superior court department in which said person was committed. The petitioner shall have a right to a speedy hearing on a date set by the administrative justice of the superior court department. Upon the motion of the person or upon its own motion, the court shall appoint counsel for the person. The hearing may be held in any court or any place designated for such purpose by the administrative justice of the superior court department. In any hearing held pursuant to the provisions of this section, either the petitioner or the commonwealth may demand that the issue be tried by a jury. If a jury trial is demanded, the matter shall proceed according to the practice of trial in civil cases in the superior court.

The court shall issue whatever process is necessary to assure the presence in court of the committed person. The court shall order the petitioner to be examined by two qualified examiners, who shall conduct examinations, including personal interviews, of the person on whose behalf such petition is filed and file with the court written reports of their examinations and diagnoses, and their recommendations for the disposition of such person. Said reports shall be admissible in a hearing pursuant to this section. If such person refuses, without good cause, to be personally interviewed by a qualified examiner appointed pursuant to this section, such person shall be deemed to have waived his right to a hearing on the petition and the petition shall be dismissed upon motion filed by the commonwealth. The qualified examiners shall have access to all records of the person being examined. Evidence of the person's juvenile and adult court and probation records, psychiatric and psychological records, the department of correction's updated annual progress report of the petition, including all relevant materials prepared in connection with the section six A process, and any other evidence that tends to indicate that he is a sexually dangerous person shall be admissible in a hearing under this section. The chief administrative officer of the treatment center or his designee may testify at the hearing regarding the annual report and his recommendations for the disposition of the petition. Unless the trier of fact finds that such person remains a sexually dangerous person, it shall order such person to be discharged from the treatment center. Upon such discharge, notice shall be given to the chief administrative officer, to the commissioners of correction and public safety, to the attorney general, to the district attorney in the district from which the commitment originated, to the police department of the city or town from which the commitment originated, the police department of the town of Bridgewater, the police department where such person is anticipated to take up residency, any employer of the resident, the criminal history systems board, and any victim of the sexual offense from which the commitment originated; provided, however, that said victim has requested notification pursuant to section three of chapter two hundred and fifty-eight B. If such victim is deceased at the time of such discharge, notice of such discharge shall be given to the parent, spouse or other member of the immediate family of

such deceased victim.

SECTION 8. Account 8900-0069 is hereby established for the management and operation of the Nemansket correctional center by the department of correction; provided, that the commissioner of the department of mental health is authorized to allocate from items 5055-0000 and 5095-0000 to item 8900-0069; provided further, that the allocation of funds from the department of mental health to the department of correction be in the form of an intergovernmental service agreement providing for the costs of said correctional center; provided further, that the combined fiscal year nineteen hundred and ninety-four budget for the Bridgewater treatment center under the management of the department of mental health and for the functions of said treatment center transferred by this act to the Nemansket correctional center under the management of department of correction does not exceed three million eight hundred fifty-nine thousand nine hundred thirty dollars, with no more than four hundred forty-three thousand five hundred twenty-seven dollars expended from item 5055-0000 and no more than three million four hundred sixteen thousand four hundred three dollars expended from item 5095-0000; and provided further, that commissioner of the department of mental health and the commissioner of the department of correction shall submit allocation plans for said transfer of control to the state budget director and to the house and senate committees on ways and means.

Approved January 14, 1994.

Chapter 490. AN ACT RELATIVE TO ENHANCING THE COMMONWEALTH'S MOTOR VEHICLE EMISSIONS AND SAFETY INSPECTION PROGRAMS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for enhanced vehicle emissions and safety inspection programs, 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 10 of the General Laws is hereby amended by adding the following two sections:-

Section 60. Notwithstanding the provisions of subsection (1) of section eighteen of chapter twenty-one A, and as required by federal law, there shall be established on the books of the commonwealth a separate fund, to be known as the Motor Vehicle Emissions Inspection Compliance Trust Fund. There shall be credited to such fund all monies that are recovered or collected by the commonwealth from a portion of the fee charged relative to each vehicle emission inspection, required under chapter ninety and chapter one hundred and eleven, such portion to be determined cooperatively by the commissioner of the department

of environmental protection and the registrar of the registry of motor vehicles; any monies recovered as a result of enforcement action authorized in section one hundred and forty-two M of chapter one hundred and eleven; and any income derived from the investment of amounts credited to such fund. Amounts credited to such fund shall be received and held in trust for the commonwealth for the purposes of this chapter, and shall be expended at the direction of said commissioner without further appropriation; provided, however, that such amounts may be expended for direct and indirect costs associated with personnel, any form of applicable equipment, including any capital equipment, and any contractual services. The fund may incur a negative balance in anticipation of revenues to be received; provided, however, that the fund is balanced or has a plan to be balanced by March first, nineteen hundred and ninety-six. Said commissioner shall expend monies from such fund solely for the purposes of the administration and implementation of the provisions of the vehicle emissions program, as authorized by said section one hundred and forty-two M of chapter one hundred and eleven, and related portions of chapter ninety and related portions of the federal Clean Air Act Amendments of 1990. Said commissioner shall, by agreement with the registrar, transfer such monies from such fund as necessary for the registry to carry out its support responsibilities relating to attaining air quality standards, as stated in chapter ninety. Pursuant to section five D of chapter twenty-nine, the comptroller shall transfer to the general fund the fringe benefit costs, including group life and health insurance and retirement benefits, and the indirect costs incurred by the trust. Beginning in the fiscal year nineteen hundred and ninety-five, on or before December first, the commissioner shall file each fiscal year an annual financial plan of the projected revenues and expenditures of the fund for the current fiscal year and for the next fiscal year with the secretaries of environmental affairs and administration and finance, the joint committees on public safety and natural resources and agriculture, and the house and senate committees on ways and means. All revenues credited to and all expenditures made from such fund shall be reported, by subsidiary, on the Massachusetts management accounting and reporting system and all personnel compensated from such fund shall be recorded on the personnel administrative reporting and information system.

Section 61. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Motor Vehicle Safety Inspection Trust Fund. There shall be credited to such fund fifty percent of all the monies received or collected and recovered by the commonwealth from the portion of the fee charged relative to each motor vehicle safety inspection as required under section seven of chapter ninety; and all monies recovered as a result of actions authorized by said chapter ninety. Amounts credited to said fund shall be received and held in trust for the commonwealth, for the purposes of this chapter, and shall be expended without further appropriation; provided, however, that such amounts may be expended for direct and indirect costs associated with personnel, for the purpose of administration and implementation, and of the provisions of section seven of said chapter ninety, and for the several other purposes as may be required by law. All revenues credited to and all expenditures made from such fund shall be reported, by subsidiary, on the Massachusetts management accounting and reporting system and all personnel compensated

from such fund shall be recorded on the personnel administrative reporting and information system.

SECTION 2. The thirteenth paragraph of section 2 of chapter 90 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the third sentence the following sentence:- The registrar shall not issue a registration, or if said registration has already been issued, shall suspend or not renew the registration of any motor vehicle which does not comply with the provisions of sections one hundred and forty-two J and one hundred and forty-two M of chapter one hundred and eleven or any regulation promulgated thereunder.

SECTION 3. Said chapter 90 is hereby further amended by striking out section 7A, as so appearing, and inserting in place thereof the following section:-

Section 7A. The registrar shall establish rules and regulations providing for a decentralized periodic annual staggered safety and combined safety and emission inspection of all motor vehicles not subject to the enhanced emissions inspection and maintenance requirements of sections one hundred and forty-two J and one hundred and forty-two M of chapter one hundred and eleven or the rules and regulations promulgated thereunder. The registrar shall establish rules and regulations for a periodic annual staggered safety inspection for all motor vehicles which are subject to said enhanced emission inspection and maintenance requirements.

All emissions inspection standards, whether classified as an enhanced emission inspection or as part of the combined safety and emission inspection, shall be established by the commissioner, in consultation and coordination with the registrar pursuant to sections one hundred and forty-two J and one hundred and forty-two M of chapter one hundred and eleven or the rules and regulations made pursuant thereto.

Said commissioner shall, in consultation with the registrar, establish rules and regulations which determine and identify and motor vehicles which will be subject to the enhanced emission inspection or the emission portion of the combined safety the emission inspection, as the case may be, and shall notify the registrar of said determination. The registrar shall give reasonable notification in the form he prescribes, to the owners of motor vehicles subject to emissions inspection indicating which emissions inspection procedure will be required.

The rules and regulations for the staggered annual safety inspection established hereunder shall include, but not be limited to, an inspection to determine the proper and safe condition of the following: brakes, stop lamps, lights, directional signals, horn, vehicle identification number, steering and suspension systems, glazing, windshield wipers and cleaner, number plates, tires, fenders, bumpers, external sheet metal, reflectors, splash guards, chock blocks, safety belts and exhaust system. The registrar may waive, by written document, certain inspection requirements if said waiver furthers the public interest or scientific development and does not compromise the public safety.

The registrar shall establish rules and regulations providing for the inspection of school buses or buses operated under a certificate, license, or permit issued in accordance

with the provisions of chapter one hundred and fifty-nine A which are used for the transportation of school children to and from school and in connection with school activities other than such buses used simultaneously as public common carriers of passengers or designed primarily for mass transportation within seven days of the date on which the vehicle is first registered to a new owner and during the fall, winter, and spring. First inspection in the months of August and September, second inspection in the months of December and January, third inspection in the months of April and May. The semiannual safety inspection for those vehicles regulated by section seven D shall be inspected during the fall and winter, first inspection during the months of October and November, second inspection during the months of February and March. Such inspections shall be in addition to the annual safety and emissions inspection as required by this section.

The secretary of administration, pursuant to the provisions of section three B of chapter seven, shall determine the amount to be charged for an inspection of all motor vehicles for the safety or for the combined safety and emissions inspection.

Each safety or combined safety and emissions inspection facility shall remit to the registrar a portion of the collected inspection fee, said portion to be determined by the registrar. The registrar shall retain fifty percent of said fee and shall deposit all monies that are so collected, including any interest accrued thereon, into the Motor Vehicle Safety Inspection Trust Fund. All amounts credited to said fund shall be expended at the direction of the registrar, without further appropriation; provided, however, that said amount expended shall be used solely for the purpose of implementation, administration, oversight and enforcement of any safety and emissions programs instituted by the registrar pursuant to chapter ninety. Pursuant to section five D of chapter twenty-nine, the comptroller shall transfer to the general fund the fringe benefit costs, including group life, and health insurance and retirement benefits, and the incident costs incurred by said account. Beginning in fiscal year nineteen hundred and ninety-five, on or before December first, the registrar shall file each fiscal year an annual financial plan of the projected revenues and expenditures of the account for the current fiscal year and for the next fiscal year with the secretaries of public safety and administration and finance, the joint committee on public safety and the house and senate committees on ways and means. All revenues credited to and all expenditures made from such fund shall be reported, by subsidiary, on the Massachusetts management accounting and reporting system and all personnel compensated from such fund shall be recorded on the personnel administrative reporting and information system.

Each applicant to become a licensee under the provisions of section seven W shall remit a fee established by the registrar before any license is issued pursuant to said section. Said fee shall be deposited in the Highway Fund.

Said rules and regulations promulgated by the registrar pursuant to this section shall provide that a motor vehicle which is not garaged or operated within the commonwealth during its assigned inspection period may be operated for fifteen days after its return to the commonwealth if said motor vehicle bears satisfactory proof of adequate safety or emission

inspection from another jurisdiction. The owner or person in control of said motor vehicle shall obtain the required safety and emissions inspection within said fifteen days.

SECTION 4. Said chapter 90 is hereby further amended by striking out section 7W, as so appearing, and inserting in place thereof the following section:-

Section 7W. No person or facility shall conduct emissions or safety inspections of motor vehicles pursuant to section seven A unless such person is licensed by the registrar.

No person or facility shall engage in the business as an "emissions repair facility", as defined in section one hundred and forty-two M of chapter one hundred and eleven, and no person shall be employed as an "emissions repair technician", as so defined therein, unless such person is licensed or certified by the registrar.

The registrar, in consultation with the commissioner, shall establish rules and regulations for the licensing and operating requirements of all stations or facilities who engage in emissions or safety or combined safety and emissions inspections pursuant to section seven A or who engage in the business as an emission repair facility, or any emission repair facility, or any emissions repair technician certified under this section.

The registrar, upon granting the opportunity for a hearing, may revoke or suspend any license or certification issued under this section, or place conditions or limitations on said license, for violating any rule or regulation made hereunder.

Any person who is convicted of a violation of any provision of this section shall be punished by a fine of up to one thousand dollars or by imprisonment for not more than thirty days, or both.

Notwithstanding the provision of section thirty A of chapter ninety, the registrar may allow access or inquiring into computer data files under his control in order to facilitate the establishment of a computerized communication system between the registry, the department of environmental protection, emissions or safety inspection facilities, emissions repair facilities, or any other person or entity in order to enforce compliance with, any emissions or safety requirements of this chapter or chapter one hundred and eleven or any other law or regulation related thereto.

SECTION 5. Section 142J of chapter 111 of the General Laws, as so appearing, is hereby amended by adding the following paragraphs:-

The commissioner shall establish rules and regulations effective on July first, nineteen hundred and ninety-five. Said rules and regulations shall reflect the phased-in schedule for the vehicle emissions inspection program requirement, as mandated by said section four.

The department, in consultation with the registry of motor vehicles, shall continue to implement the current provisions of this section, while phasing in the new requirements as prescribed by the commissioner.

Nothing shall prevent anyone, whose vehicle is not subject to the inspection requirements of July first, nineteen hundred and ninety-five, from seeking an enhanced emissions inspection on a voluntary basis.

SECTION 6. Said chapter 111 is hereby further amended by inserting after section 142L the following section:-

Section 142M. (a) As used in this section, the following words shall, unless the context requires otherwise, have the following meanings:-

"Bid bond", an irrevocable financial instrument, required to be submitted by the contractor to the terms of its submittal to a request for proposals for the purpose of demonstrating said contractors' financial and technical ability to follow through with its proposal.

"Challenge mechanism", a process available to the consumer to challenge the validity of the results of the consumer's specific emissions inspection.

"Commissioner", the commissioner of the department of environmental protection.

"Department", the department of environmental protection.

"Diagnostic test center", a multi-purpose facility equipped with emissions testing equipment, including an emissions analyzer, a chassis dynamometer, purge and pressure testing equipment, and staffed by trained personnel which provides expert information and diagnostic services on motor vehicles and for emissions inspection failures.

"Dynamometer", also known as a "chassis dynamometer", a device which applies a simulated road load to a vehicle's drive wheels while operating in a stationary, secure position. Used to simulate actual driving conditions, including various, transient vehicle speeds and acceleration/deceleration conditions.

"Emissions analyzer", a device that samples and measures the concentration or volume of pollutants in motor vehicle exhaust.

"Emissions inspection certificate", a written statement, instrument, or device indicating that the required emissions inspection has been performed and the motor vehicle inspected either has passed or has failed said inspection.

"Emissions inspection facility", a facility, licensed by the registry, for conducting public motor vehicle emissions inspections and other related duties.

"Emissions inspection fee", the fee charged to the consumer presenting a motor vehicle for an emissions inspection.

"Emissions inspector", any properly trained employee of the contractor engaged in performing emissions inspections.

"Emissions repair facility", a facility whose business is in diagnosing and repairing motor vehicles that have failed an emissions inspection and licensed by the commonwealth to perform such function.

"Emissions repair technician", any person engaged in diagnosing or repairing motor vehicles that has failed an emissions inspection and certified by the commonwealth to perform such function.

"Enhanced emissions inspection and maintenance (Enhanced I/M)", an improved automobile emissions inspection and maintenance program that includes increases in vehicle coverage by type and model year, tighter stringency of compliance standards, improved oversight and management practices to ensure greater program effectiveness. Also includes

periodic, test-only inspections, performed at vendor-operated, centralized facilities and under-the-hood inspections to detect tampering with pollution control equipment and the performance of purge and pressure testing.

"Emissions waiver certificate", a written statement, instrument, or device indicating that the requirement of compliance with the emissions standards and criteria for motor vehicle emissions inspections has been waived for a particular motor vehicle.

"Idle test", an I/M tailpipe vehicle emissions inspection administered while the vehicle is operating at idle, with no depression to the accelerator.

"Inspection contractor", a private entity selected to construct, design, maintain, and operate emissions inspection facilities and to provide associated services.

"Loaded-mode testing", an I/M vehicle emissions inspection administered while the vehicle is operating on a chassis dynamometer.

"Motor vehicle emissions inspection", a test of the emissions of air contaminants from a motor vehicle and any visual and functional test or inspection related to the emission of air contaminants from a motor vehicle.

"On-road testing", a field test conducted at a time different than the cycle of the vehicle's periodic emissions inspection and is designed to identify motor vehicles which, off-cycle, are found to exceed certain emissions standards.

"Performance bond", an irrevocable financial instrument as security for the faithful performance of the contract and which binds the contractor to fulfill its obligations under contract with the department.

"Performance monitoring", assessing the performance of a licensed emissions repair facility in successfully repairing emissions failures by a certified emissions repair technician.

"Pressure test", a test administered to determine if there are leaks in a vehicle's fuel and evaporative control systems.

"Program evaluation", an on-going initiative to evaluate the Enhanced I/M Program's effectiveness by quantifying emission reduction benefits and determine whether said program is meeting the requirements of the Clean Air Act Amendments and EPA's Final Rule on Enhanced I/M.

"Purge test", a test conducted during loaded-mode testing to determine whether a vehicle's evaporative canister purge system is operating properly.

"Referee" also "waiver officer", a person responsible for verifying the accuracy of emissions inspection and the validity of emissions-related repair work for the purpose of issuing emissions waivers, exemptions, or exceptions. No employee of the contractor shall serve as a referee.

"Registrar", registrar of motor vehicles.

"Registry", the registry of motor vehicles.

"Subject fleet", that portion of the commonwealth's vehicle fleet subject to an emissions inspection.

"Two-speed idle test", an I/M typeable vehicle emissions inspection administered while the vehicle is operating first at idle and then while the engine is operating at two thousand five hundred revolutions per minute.

"VIN", the vehicle identification number, a unique number assigned to each vehicle by the vehicle manufacturer identifying specific vehicle characteristics, such as make, model, year, pollution control devices, and the particular vehicle itself.

"Voluntary emissions recall", a repair, adjustment, of modification program voluntarily initiated and conducted by an automobile manufacturer under the Clean Air Act to remedy any emission-related defect for which direct notification of vehicle or engine owners has been provided.

(b) The commissioner and the registrar shall respectively establish rules and regulations to administer a program for the purpose of conducting emissions inspections for applicable motor vehicles to be in compliance with this section. It shall be the responsibility of the department, under authority of chapter one hundred and eleven, to provide for the direct primary oversight of the operational and environmental aspects of the emissions inspection program. It is the responsibility of the registry, under authority of chapter ninety, to license said facilities as emissions inspection facilities and register vehicles complying with the emissions inspection program requirements. The enhanced emissions inspection program, in total, shall be no less stringent than any performance standard for enhanced motor vehicle emission inspection/maintenance programs adopted by the United States Environmental Protection Agency and shall meet the requirements necessary for motor vehicles to qualify for the emissions performance warranty provisions of the federal Clean Air Act.

The commissioner and the registrar shall establish rules and regulations for a determination for waiving the cost limit for emissions-related repairs in accordance with the provisions of subsection (p). Said rules and regulations shall take into account, to the extent practical, the financial hardship of the individual seeking such waiver.

The commissioner and the registrar shall establish rules and regulations specifying the vehicles subject to the motor vehicle emissions inspection requirement.

The commissioner shall establish rules and regulations for an on-road testing program. The department may require that vehicles it has reason to believe are not in compliance with the standards and criteria for motor vehicle emissions inspections submit to an off-cycle inspection at an emissions inspection facility and, if necessary, be brought into compliance, as provided by this chapter.

The commissioner shall establish training, retraining, certification, re-certification, and de-certification requirements of emissions inspectors to perform vehicle emissions inspections which shall be a precondition for conducting emissions inspections. The department shall establish penalties for anyone conducting emissions inspections without having received such training and certification.

The commissioner and the registrar shall establish procedures to license emissions repair facilities, certify emissions repair technicians, and to initiate a performance monitoring program.

The commissioner and the registrar shall take steps to ensure that the capability exists in the repair industry to repair vehicles that fail motor vehicle emissions inspections, required herein, by establishing a training and certification program for emission repair technicians. Said steps shall include, but not be limited to, the involvement of vocational or technical schools and various members and sectors of the automobile and automotive repair industry.

The commissioner shall establish procedures to ensure that vehicles subject to either a voluntary emissions recall or a remedial plan pursuant to section two hundred and seven of the federal Clean Air Act receive the required repairs.

The commissioner shall establish rules and regulations relative to testing locations, testing equipment specifications, including emissions analyzers, quality assurance and quality control procedures for testing equipment, calibration gases, failure rates, emission standards, testing procedures, data collection and data analysis, and program evaluation requirements of 40 CFR 51.353. With respect to facilitating site locations, the commissioner and the registrar shall consult with the division of capital planning and operations in the department of administration and finance on potential state-owned properties that may be suitable for emissions inspection facilities and to make a list of such properties available to the contractors at the time of seeking bids from the contractor. Rent, through a lease agreement, shall be the appropriate vehicle for compensation for state-owned land. The commissioner and the registrar shall also provide information concerning the availability of site location of municipal-owned properties suitable for siting emissions inspection facilities in the "Goods and Services bulletin" and the "State Register". Under no circumstances shall the use of state-owned or municipal-owned properties relieve the contractor from paying local property taxes.

The commissioner shall establish rules and regulations establishing standards and criteria for motor vehicle emissions inspections, giving consideration to the United States Environmental Protection Agency's performance standards for the enhanced emissions inspection program, the level of emission reductions necessary to achieve and maintain federal and state ambient air quality standards. The standards and criteria shall include, but not be limited to, a requirement to test motor vehicle emissions for hydrocarbons, carbon monoxide, and oxides of nitrogen. The standards and criteria may be different for different model years and types of vehicles.

The department and the registry shall establish programs, in consultation with the executive office of consumer affairs and consistent with the consumer protection authority of the attorney general, for public information and consumer protection, including referee and challenge functions.

The department, on behalf of the commonwealth, shall be responsible for submitting all appropriate and required program regulations on the enhanced motor vehicle emissions inspection program to the United States Environmental Protection Agency and revisions to the state implementation plan, in accordance with the requirements of the federal Clean Air Act.

(c) Beginning on July first, nineteen hundred and ninety-five, at least thirty percent of the commonwealth's motor vehicle fleet, as determined by the commissioner and the registrar, shall be subject to the provisions of this section and shall be subject to an enhanced motor vehicle emissions inspection, conducted biennially. Beginning on January first, nineteen hundred and ninety-six, all of the commonwealth's motor vehicle fleet, as prescribed herein, will be subject to the provisions of this section and shall be subject to an enhanced motor vehicle emissions inspection, conducted biennially.

Enhanced emissions inspections shall be required statewide, shall be conducted on a staggered basis throughout the year, and shall be required of each subject motor vehicle every two years. The department shall establish procedures to implement such enhanced emissions inspection requirements and be further configured by applicable vehicle model year, vehicle weight, emissions standard alternative test procedures, or any other test procedure or element required in this section.

Emission testing will be conducted, at minimum, in the following manner, according to EPA's enhanced performance standard for enhanced emissions inspection:

Model Years 1968-1970:	idle test only,
Model Years 1971-1980:	two-speed idle test and pressure test.
Model Years 1981-current:	transient, loaded-mode text, pressure test, and purge test.

Automobiles legally registered on the islands of Martha's Vineyard and Nantucket: two-speed idle test and pressure test.

Motor Vehicles subject to emissions inspection shall be determined by the commissioner by regulation, and shall include, but not be limited to the following: all vehicles beginning with model nineteen hundred and sixty-eight, light duty vehicles and light duty trucks up to and including eight thousand, five hundred pounds gross vehicle weight. Emissions inspection of any vehicle with a weight greater than eight thousand, five hundred pounds gross vehicle weight shall only be required after a finding by the commissioner, in consultation with the registrar that such action is necessary to attain and maintain applicable federal and state air quality standards.

Any motor vehicle which is inspected for emissions and fails such inspection shall, within twenty days of said emissions inspection, be reinspected until it receives an emissions inspection certificate or has received an emissions waiver certificate, or be denied registration. The department shall establish rules and regulations and shall consult and coordinate with the registry on such requirement in order to affect strict compliance with this provision.

(d) The commissioner shall, in consultation with the registry, establish regulations for exempting or excepting certain motor vehicles from some or all of the requirements of this section. The following motor vehicles shall be exempt or excepted from the provisions

of this section and may require alternative test procedures: a motor vehicle manufactured before the model year nineteen hundred and sixty-eight; any motor vehicle or class of motor vehicle that is exempted by regulation or policy by the department because the vehicle or class presents prohibitive inspection problems or is inappropriate for inspection; motor vehicles operated exclusively by electric power; and, for one inspection cycle only, motor vehicles one model year old or less at the time the vehicle is due for inspection.

(e) The department shall establish procedures to provide for vehicle emissions inspections by contract in accordance with the provisions of this section and any rule and regulation promulgated thereto. The licensing of said emission inspection facilities shall be in accordance with the appropriate sections of chapter ninety.

Notwithstanding any provision of this section to the contrary, the commissioner may establish two or more zones within the commonwealth and select a sole vendor for each zone to conduct the centralized contractor-run emissions inspection facilities in each zone. A single contractor may be selected to provide services in one or more zones. Any fees charged under the provisions of this chapter shall be identical throughout the commonwealth, whether or not there is more than one zone or more than one vendor in the commonwealth.

The department shall contract with a private entity for the design, construction, equipment, establishment, maintenance, and operation of emissions inspection facilities, and for related services and functions. The term of the contract shall be not more than seven years. In this contract with said contractor, the department shall require all bidders to commit to selling its inspections sites and associated equipment and buildings, at fair market value, if at the end of said contract term, the contractor fails to secure a reward of a contract to perform emissions inspections.

Emissions testing will be conducted at centralzed, provate contractor-run emissions inspection facilities, as specified in this section. The process for selecting said contractor shall be the primary responsibility of the department, but shall coordinate with the registry and shall be done by developing and issuing a "request for proposals", as necessary to fulfill the provisions of this section and deemed by the commissioner as necessary for a complete, fair, and proper inspection. Said process, at minimum shall be consistant with the standard bidding practices of the commonwealth. Employees of the department shall not be allowed to seek or take employment with any contractor winning the bid to construct and operate such emissions inspection facilities in the commonwealth for a period of two years after said employee leaves employment with the commonwealth.

Any such facility shall only be permitted to conduct inspections and shall be prohibited from any direct or indirect association with a repair facility or facilities.

The contractor shall provide that emissions inspection facilities be located such that eighty-five percent of the vehicles subject to inspection are within a distance not to exceed five, straight line, miles from an emissions inspection facility, and ninety-five percent of the vehicles subject to inspection are within a distance not to exceed ten, straight line, miles from an emissions inspection facility.

The maximum average waiting time for an emissions inspection to begin at such facilities shall not exceed fifteen minutes at any one facility. No inspection shall require an appointment. The contractor shall design its network with the ability for added lane or facility capacity based upon demographic changes, as determined by the department and registry.

The contractor shall, at the convenience of the consumer, inspect and reinspect, at any of its locations statewide, motor vehicles as provided by the contract. The emissions inspection facility shall issue an emissions inspection certificate for a motor vehicle that has been inspected and determined to comply with applicable standards and criteria for motor vehicle emissions inspection. For a motor vehicle that has been inspected and has failed its inspection, the contractor shall provide a comprehensive, written inspection report. Such inspection report shall, to the extent practicable, provide the results of and reasons for failing the emissions inspection and describe the repairs likely to be needed to bring the vehicle into compliance with the applicable standards and criteria for which the vehicle was failed.

The contractor, including its officers and employees, shall not engage in the business of selling, maintaining, or repairing motor vehicle replacement or repair parts. The contractor shall be responsible for any incidental damage to any motor vehicle presented for inspection and shall perform or have performed such repairs, not including emissions-related repairs resulting from an emissions inspection failure, as necessary to return the vehicle to its original condition when it entered the emissions inspection facility for said inspection.

A portion of each emissions inspection facility, subject to a determination by the commissioner, shall be capable of serving as a Diagnostic Test Center, as required in the United States Environmental Protection Agency: Final Rule (Title 40, CFR Part 51, Support S). Said centers shall be designed to include, but not be limited to, assistance in the effort to repair emissions-related failures by providing technical support to technicians engaged in the diagnosis and repair of emissions-related failures resulting from emissions inspections.

The contractor, subject to the commissioner's determination, shall be required to provide information to inform the public of the requirements, benefits, other consumer-related matters of the emissions inspection program, and any other information useful to the better understanding and facilitation of this inspection to the consumer.

The contractor shall be capable of providing checks concerning vehicle identification number and other such vehicle identification means in such manner and form as is determined by the commissioner and the registrar, in order to verify and validate whether the vehicle is properly and legally registered to operate on public roads of the commonwealth. The contractor, while performing the emissions inspection, shall also be capable of providing consumer protection by generating such data on warranty-related recalls in a form and manner prescribed by the commissioner, and any other such information deemed necessary by the commissioner.

Each emissions facility shall remain open for emissions inspections for a minimum of sixty hours per week, at least one evening per week, and at least for one-half day on Saturday. The commissioner and the registrar shall establish procedures and contractual requirements in order to assure maximum convenience to the consumer.

The department shall, in issuing any request for proposals or executing any contract for any activity authorized herein, establish bid bond and performance bond requirements commensurate with the magnitude of said proposal or contract.

(f) The department shall establish a program to determine eligibility for emissions waiver certificates. A motor vehicle that, after reinspection, fails to comply with the standards and criteria for motor vehicle emissions inspections shall be eligible for such emission waivers, provided that: (1) the minimum expenditure of emission-related repairs performed by an emissions repair technician as a result of such inspection failure exceeds the repair cost limit of four hundred and fifty dollars. adjusted annually based upon the Consumer Price Index for nineteen eighty-nine, in accordance with the requirements of the federal Clean Air Act Amendments of 1990, section one hundred and eighty-two (c) (3) (C) (iii) and that such repair expenditures do not include any costs covered by an emission control performance warranty or the cost to repair or replace any emission control system or mechanism which has been removed, dismantled, or rendered inoperative; or (2) a complete, documented physical and functional diagnosis, at the vehicle owner's expense, conducted in a manner prescribed by the department, shows that no additional emission-related repairs are needed. The contractor shall provide to any consumer whose vehicle fails its emissions inspection, the current dollar amount and other information concerning the actual waiver eligibility expenditure limit. The contractor, accordingly shall annually adjust such waiver eligibility expenditure limit, as prescribed by the commissioner, in order to assist the consumer to the maximum extent feasible.

No person shall knowingly give false information to an emissions inspection facility or the department concerning the repair expenditures or repairs needed to bring a motor vehicle into compliance with the standards and criteria for motor vehicle emissions inspections, required in this section.

(g) The commissioner and the registrar shall each establish rules and regulations prohibiting any person from issuing an emissions inspection certificate or a waiver certificate for a motor vehicle that has not been inspected in accordance with, or is not in compliance with, the standards and criteria for motor vehicle emissions inspections required in this section.

No person shall alter, falsify, or counterfeit an emissions inspection certificate or waiver certificate.

No person shall take any action that materially alters or changes any equipment or mechanism of a motor vehicle in such a manner that causes said motor vehicle to no longer comply with federal or state law or with standards and criteria for motor vehicle emissions inspections or with requirements for motor vehicle registration. No person shall take any action that has the effect of causing a motor vehicle to no longer comply with federal or state law or with standards and criteria for motor vehicle emissions inspections or with requirements for motor vehicle registration. This section shall not be construed as preventing the temporary alteration of equipment for the purpose of motor vehicle repair.

Any person under contract to the commonwealth to provide motor vehicle emission testing or diagnostic testing or any employee of such contractor violating any of the provisions of this chapter over any ninety consecutive day period shall be punished by a fine of up to one thousand dollars or by imprisonment of not more than thirty days or by both such fine and imprisonment for each such violation. The contractor-employer of such employee shall also be assessed an equal per day and per violation penalty for the first offense and treble such amount for the second and repeated violation within said running ninety day period.

Any person who violates any rule or regulation promulgated under the authority of this chapter, including motorists, contractors, repair technicians, repair facilities, or inspectors, shall be subject to a civil or administrative penalty of not more than one thousand dollars per day, per violation as prescribed by the commissioner.

The department shall, in consultation with the registry, establish rules and regulations concerning a penalty schedule consistent with penalties established herein and any other penalty sufficient to cause prompt and effective compliance with the requirements of this section.

(h) The department shall have jurisdiction to enforce the provisions of this section and shall have the authority to coordinate enforcement related activities with the registry.

(i) The department shall, in consultation with the registry, establish rules and regulations assessing a fee on each initial emissions inspection and late fee for such inspection performed in accordance with the requirements of this act and any rule or regulations promulgated pursuant thereto. The amount of fees collected shall provide for the cost of the inspection including the cost of any contract entered into as a result of the requirements of this act and shall be sufficient to also fully offset any administrative costs to the department and the registry related to motor vehicle emissions inspections, as established herein and in chapter ninety. The fee shall be paid for each motor vehicle inspected at an emissions inspections inspection facility at the time of the inspection and is payable whether an emissions inspection certificate, waiver certificate, or no certificate is issued. There shall be no fee charged for reinspecting a vehicle that has failed an initial inspection and is reinspected within twenty days as required by subsection (c). Any such reinspection shall be provided by the contractor at any emissions inspection facility at the convenience of the consumer.

(j) The department shall establish procedures for a program to scrap high emitting in-use motor vehicles if it finds that it is necessary to acquire additional or offsetting air pollution reduction credits to attain and maintain air quality standards.

(k) The department shall develop, establish, and implement a quality control program to ensure that emissions testing equipment is properly calibrated and maintained, and that inspection and calibration records are completely and accurately recorded and maintained. Such program shall include, but not be limited to, the following: frequency and content of records; preventative maintenance procedures and schedules; accuracy, repeatability, and precision of test and audit equipment; automatic lockout features, data recording; and tamper-resistant features; adherence to good engineering practices to assure

test accuracy; quality control features for transient, pressure, and purge test equipment and procedures; computer-controlled functions; data linkage requirements within the contractor's entire statewide network of emissions inspection facilities and between such network and the commonwealth's computer systems, as determined by the commissioner and the registrar; and assurance as to the security of any compliance document. Such compliance documents shall include, but not be limited to, compliance and waiver certificates, windshield stickers, or license plates or license plate decals, to assure the validity of any official compliance document. The commissioner and the registrar shall establish procedures and take measures to prevent the theft and counterfeiting of any such compliance document.

The department shall establish and implement an on-going quality assurance program for the purposes of discovering, correcting, and preventing fraud, waste, and abuse with the inspection process. Such quality assurance program shall determine whether proper procedures are being followed, whether equipment is properly being used and properly capable of reading inspection test results and diagnostic test results, and for any problem found by the commissioner to impede the performance of the quality assurance program. Said quality assurance program shall include, but not be limited to, the following: equipment performance audits, both overt and covert audits; checks for adequacy of the document security requirements; procedures for responding to consumer complaints; data analysis and reporting of results of overt and covert audits; and proficiency training of department personnel assigned to conduct such audits.

The department will, with the cooperation of the registry, have the authority to enforce any provision in this section. Said authority shall not apply to enforcing said program requirements on the public ways of the commonwealth, but shall include compliance monitoring, as required by federal law, with particular respect to the on-road testing provisions of said federal law. Said enforcement authority shall also permit the department to enter the premises of any emissions facility, emissions diagnostics facility, or any other facility authorized herein for the purpose of assuring public health and consumer protection, performing the quality control and quality assurance requirements of this section, and for any other reasonable purpose, as determined by the commissioner.

The department shall review and evaluate its quality control and quality assurance programs periodically in order to assess their effectiveness and relevance to achieving emissions inspection program goals.

(l) Tampering with any emissions control device or system is prohibited. The department shall develop and implement procedures to identify and prevent tampering with any required emission control device or system, and to incorporate such procedures into the emissions inspection. Any such tampering shall be cause for failing the emissions inspection notwithstanding the numerical readings generated from the typeable portion of the emissions test.

(m) The department shall, in cooperation and coordination with the registry, develop, implement, and utilize data systems necessary to link the department and the registry with all emissions inspection facilities. Said linkage shall be capable of allowing each emissions

inspection facility limited access to the registry's vehicle registration database, while at he same time assuring adequate data security, for the purpose of verifying and validating the vehicle for inspection. Subsequent to the inspection, the data system shall be properly configured and transmitted, as determined by the commissioner and the registrar, so as to provide the registry with the information it needs to fulfill the registration requirements of chapter ninety and any other information the registry needs to fulfill its program oversight functions, as well as to provide to the department with any information it requires to oversee and administer any program requirement pursuant to this chapter.

(n) The department shall, in implementing the requirements of this section, acquire personnel, purchase equipment, and procure services necessary to achieve the objectives of this section, for the purposes of quality control and quality assurance; on-road testing; data acquisition, data processing, and data reporting; program evaluation; or for other purpose deemed necessary by the commissioner.

(o) The technical and performance specifications of any equipment or related configuration, determined by the department to be necessary and required in the implementation of the provisions of this section, shall be reevaluated periodically as to its useful life, flexibility, and applicability as to changing technological conditions and continued effectiveness in the enhanced emissions inspection program authorized in this section.

(p) The department shall establish procedures concerning the application and implementation of vehicle on-board diagnostic systems to the motor vehicle emission inspection program established herein and of chapter ninety.

(q) Notwithstanding the provisions of section six B of chapter eleven, any provision of this chapter is a continuation of current, long standing requirements to inspect motor vehicles for emissions and to affect emission-related repairs if a vehicle fails such emissions inspection. Any such requirement that results in emissions inspection or associated repair costs to local or county governments shall not be construed as a new mandate.

SECTION 7. Any regulation promulgated pursuant to the requirements of this act shall be consistent with the public notice requirements of section two of chapter thirty A of the General Laws.

SECTION 8. Section one hundred and forty-two J of said chapter one hundred and eleven is hereby repealed.

SECTION 9. Subsection (c) of section one hundred and forty-two M of chapter one hundred and eleven of the General Laws, added by section six of this act, shall take effect on July first, nineteen hundred and ninety-five. Section eight shall take effect on December thirty-first, nineteen hundred and ninety-five.

SECTION 10. The secretary of administration and finance in conjunction with the registry of motor vehicles and the department of revenue shall conduct a study concerning the costs and fairness of allowing a tax credit for those licensees as defined in section one of chapter ninety of the General Laws who, after January first, nineteen hundred and ninety one, purchased emissions analyzers as defined in said section one. Said study shall take into

account the initial costs of said emissions analyzers, the depreciation of said emissions analyzers and the revenue realized by said license in performing emission inspections.

Said study together with recommended legislation shall be filed with the clerk of the house of representatives with copies to the house committee on ways and means, the joint committee on public safety and the joint committee on taxation within sixty days of the effective date of this act.

Approved January 14, 1994.

Chapter 491. AN ACT RELATIVE TO THE POSSESSION OF FIREARMS BY MINORS IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the following provisions pertaining to firearms shall be in effect in the city of Boston:-

A "Firearms" shall mean a firearm as defined in section one hundred and twenty-one of chapter one hundred and forty of the General Laws

"Firearm" shall not include:

(*a*) a firearm which has been modified so as to render it permanently inoperable or so as to make it permanently a device which may not appropriately be designed as a firearm; or

(*b*) an antique or relic firearm, movie prop or other weapon not capable of firing projectile and not intended for use as a functional weapon and which cannot be readily converted through combination of available parts into an operable firearm.

B It shall be unlawful to sell, rent, lease, barter or transfer a firearm to any person under the age of twenty-one years or for any person under the age of twenty-one years to sell, rent, lease, barter, transfer, possess or purchase a firearm.

Unless otherwise exempt by the provisions of this act, notwithstanding section one hundred and thirty-one of chapter one hundred and forty of the General Laws, no eligible person shall apply to the police commissioner for the city of Boston for a license to carry or possess a firearm, and said police commissioner shall not issue any such license to any such person unless he has clearly established he is twenty-one years of age.

C This act shall not apply to the following:

(*a*) officers, agents, or employees of this or any other state or of the United States, members of the armed forces of the United States or the organized militia of this or any other state, and law enforcement officers, including special police officers licensed by the city of Boston, to the extent that any such person is authorized by competent authority to acquire, possess or carry a firearm and is acting within the scope of their official duties;

(*b*) the sale of firearms by dealers licensed under the provisions of section one hundred and twenty-two of chapter one hundred and forty of the General Laws to those persons described in clause (*a*);

(*c*) the possession of firearms by nonresidents who are licensed to carry firearms under the provisions of section one hundred and thirty-one of said chapter one hundred and forty, while on the property of a lawfully incorporated sporting or shooting club;

(*d*) the possession of firearms by persons specifically authorized to acquire, have, possess or carry a firearm pursuant to federal law;

(*e*) the regular and ordinary transport of firearms as merchandise by any common carrier;

(*f*) to a person voluntarily surrendering a firearm and ammunition therefor to a licensing authority, the Boston police commission or his designee, if prior written notice has been given by said person to the licensing authority or the police commissioner, stating the place and approximate time of said surrender;

(*g*) possession of firearms and ammunition therefor by nonresident of the commonwealth traveling in or through the city, provided that any firearm is unloaded and enclosed in a case and provided that the nonresident has complied with the requirements of section one hundred and thirty-one F of said chapter one hundred and forty; possession of firearms and ammunition therefor by residents of the commonwealth not residing within the city of Boston, traveling in or through the city of Boston, provided that they are licensed to carry the firearm under the provisions of section one hundred and thirty-one of said chapter one hundred and forty;

(*h*) any new resident moving into the city of Boston, or any resident of the city, upon being released from active service with any of the armed services of he United States with respect to any firearm and ammunition therefor in his possession, for sixty days after such release or after the time he moves into the city of Boston;

(*i*) the transfer as provided by law of a firearm upon the death of an owner to his heir or legatee shall be subject to the provisions of this section, provided that said heir or legatee shall within one hundred and eighty days of such transfer, obtain a firearm identification card pursuant to section one hundred and twenty-nine B of said chapter one hundred and forty.

D Any person who violates the provisions of this act shall for a first offense be punished by a fine of one thousand dollars, and for any subsequent offense by a sentence of no greater than two and one-half years in the house of correction.

E (*a*) A police officer shall be authorized to seize any firearm which may be evidence of a violation of this act. The firearm shall be held as evidence by the police and may be disposed of in accordance with section one hundred and twenty-nine of chapter one hundred and forty of the General Laws.

(*b*) The police commissioner of the city of Boston shall be authorized to revoke licenses granted under sections one hundred and twenty-two and one hundred and thirty-one of said chapter one hundred and forty for violations of this act.

(*c*) This act shall not apply to any person who on the effective date of this act has a valid license to carry a firearm issued pursuant to section one hundred and thirty-one or one hundred and thirty-one F of said chapter one hundred and forty.

(*d*) This act shall not be construed to prohibit the enforcement of any other statute and any person who violated the provisions of this act may also be convicted of any other violation of law notwithstanding the provisions of this act.

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

Approved January 14, 1994.

Chapter 492. AN ACT RELATIVE TO INVESTMENT ADVISERS AND FINANCIAL PLANNERS.

Be it enacted, etc., as follows:

SECTION 1. Section 201 of chapter 110A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out paragraph (c) and inserting in place thereof the following three paragraphs:-

(c) It shall be unlawful for any person to transact business in this state as an investment adviser or as an investment adviser representative unless he is so registered under this chapter.

(d) It shall be unlawful for any investment adviser required to be registered as such to employ an investment adviser representative unless the investment adviser representative is registered under this chapter. The registration of an investment adviser representative shall not be effective during any period when he is not employed by an investment adviser registered under this chapter. When an investment adviser representative begins or terminates employment with an investment adviser, the investment adviser shall promptly notify the secretary.

(e) Every registration shall expire on the last day of the calendar year.

SECTION 2. Section 202 of said chapter 110A, as so appearing, is hereby amended by striking out paragraphs (a) to (d), inclusive, and inserting in place thereof the following five paragraphs:-

(a) A broker-dealer, agent, investment adviser or investment adviser representative may obtain an initial or renewal registration by filing with the secretary an application together with consent to service of process pursuant to paragraph (g) of section four hundred and fourteen. The application shall contain whatever information the secretary by rule requires concerning such matters as the applicant's form and place of organization; the applicant's proposed method of doing business; the qualifications and business history of the applicant; and in the case of a broker-dealer or investment adviser, the qualifications and business history of any partner, officer, or director, any person occupying a similar status or

performing similar functions, or any person directly or indirectly controlling the broker-dealer or the investment adviser; any junction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; the applicant's financial condition and history; and any information to be furnished or disseminated to any client or prospective client, if the applicant is an investment adviser. The secretary may rule or order require an applicant for initial registration to publish an announcement of the application in one or more specified newspapers published in this state. If no denial order is in effect and no proceeding is pending under section two hundred and four, registration shall become effective at noon of the thirtieth day after an application is filed. The secretary may by rule or order specify an earlier effective date, and he may by order defer the effective date until noon of the thirtieth day after the filing of any amendment. Registration of a broker-dealer or an investment adviser shall automatically constitute registration of any agent or investment adviser representative, whichever is applicable, who is a partner, officer, or director, or a person occupying a similar status performing similar functions. No person shall be designated as an officer, partner or director or a person occupying a similar position or performing similar functions, for the purpose of the automatic registration if such designation is solely for the purpose of avoiding registration as an agent or investment adviser representative.

(b) Every applicant for initial or renewal registration shall pay a registration fee of three hundred dollars in the case of a broker-dealer or investment adviser; of forty dollars in the case of an agent, including an agent automatically registered pursuant to paragraph (a); fifty dollars in the case of an investment adviser representative, including investment adviser representative registered pursuant to said paragraph (a). When an agent or investment adviser representative transfers an affiliation, he shall pay a fee of forty dollars.

(c) A registered broker-dealer or investment adviser may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the year. There shall be no filing fee.

(d) The secretary may by rule require a minimum capital for registered broker-dealer and establish minimum financial requirements for investment adviser.

(e) The secretary may by rule provide that an applicant may submit one application for registration as both a broker-dealer agent and investment adviser representative. Each applicant shall pay a registration fee of fifty dollars.

SECTION 3. Section 203 of said chapter 110A, as so appearing, is hereby amended by striking out paragraphs (a) and (b) and inserting in place thereof the following two paragraphs:-

(a) Every registered broker-dealer and investment adviser shall make and keep such accounts, correspondence, memoranda, papers, books and other records as the secretary by rule prescribes. All records so required shall be preserved for three years unless the secretary by rule prescribes otherwise for particular types of records.

(b) Every registered broker-dealer and investment adviser shall file such financial reports as the secretary by rule prescribes.

SECTION 4. Said section 203 of said chapter 110A, as so appearing, is hereby further amended by adding the following paragraph:-

(e) With respect to investment advisers, the secretary may require that certain information be furnished or disseminated as necessary or appropriate in the public interest or for the protection of investors and advisory clients. The secretary may rule or order require that such material be filed.

SECTION 5. Said chapter 110A is hereby further amended by inserting after section 203 the following section:-

Section 203A. (a) Each investment adviser registered under this chapter shall disseminate to each client or prospective client a document disclosing material facts. Said document shall include information concerning:

(1) compensation arrangements between the client and the investment adviser,

(2) the nature of services offered,

(3) business practices,

(4) methods for obtaining information on disciplinary history and registration of the investment adviser and persons associated with the investment adviser,

(b) Each person registered under this section shall disclose to each client before a purchase or sale is affected on behalf of the client:

(1) the total amount of sales commissions or other fees that may reasonably be expected to be charged or deducted in connection with the purchase of sale;

(2) That the adviser will receive such amount or a portion of such amount, or, in the case of a transaction to be effected through a broker or a dealer that is a person associated or under common control with the adviser, that the broker or dealer is affiliated with the adviser and will receive such amount or portion of such amount.

(3) the existence of any compensation arrangement with an issuer or other third party with respect to the recommended transaction.

Such initial disclosure shall be in writing if the purchase or sale was recommended in writing. The secretary may, by rule, permit a client to waive in writing, the right to a disclosure.

SECTION 6. Subsection (a) of section 204 of said chapter 110A, as appearing in the 1992 Official Edition, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

The secretary may by order impose an administrative fine or censure or deny, suspend, or revoke any registration or take any other appropriate action if he finds (1) that the order is in the public interest and (2) that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:-.

SECTION 7. Said subsection (a) of said section 204 of said chapter 110A, as so appearing, is hereby further amended by striking out clause (E) and inserting in place thereof the following clause:-

(E) is the subject of an order of the secretary denying, suspending or revoking registration as a broker-dealer, agent, investment adviser, or investment adviser representative.

SECTION 8. Said subsection (a) of said section 204 of said chapter 110A, as so appearing, is hereby further amended by striking out clause (J) and inserting in place thereof the following clause:-

(J) has failed reasonably to supervise agents, investment adviser representatives or other employees to assure compliance with this chapter; or:-.

SECTION 9. Subsection (b) of said section 204 of said chapter 110A, as so appearing, is hereby amended by striking out paragraphs (2), (3), and (4) and inserting in place thereof the following five paragraphs:-

(2) The secretary may not enter an order against any investment adviser of the basis of the lack of qualification of any person other than (a) the investment adviser himself if he is an individual or (b) an investment adviser representative.

(3) The secretary may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both.

(4) The secretary shall consider that an agent who will work under the supervision of a registered broker-dealer need not have the same qualifications as a broker-dealer and that an investment adviser representative who will work under the supervision of a registered investment adviser need not have the same qualifications as an investment adviser.

(5) The secretary may consider that a broker-dealer or an agent is not necessarily qualified to act in the capacity as an investment adviser solely on the basis of experience as an agent. When he finds that an applicant for initial or renewal registration as a broker-dealer or agent is not qualified to act in the capacity of an investment adviser, he may by order condition the applicant's registration as a broker-dealer upon his not transacting the business of an investment adviser in this state.

(6) The secretary may by rule provide for an examination, which may be written or oral or both, to be taken by any class of or all applicants.

SECTION 10. Said section 204 of said chapter 110A, as so appearing, is hereby further amended by striking out subsections (c) to (f), inclusive, and inserting in place thereof the following four subsections:-

(c) The secretary may by order summarily postpone or suspend registration, pending final determination of any proceeding under this section. Upon the entry of the order, the secretary shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent or investment adviser representative, that it has been entered and of the reasons therefor and that within fifteen days after the receipt of a written request the matter will be set down for hearing. If a hearing is requested or ordered, the secretary, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.

(d) If the secretary finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, agent, investment adviser or investment adviser representative, or is subject to an adjudication of mental incompetence

or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the secretary may by order cancel the registration or application.

(e) Withdrawal from registration as a broker-dealer, agent, investment adviser, or investment adviser representative shall become effective thirty days after receipt of an application to withdraw or within such shorter period of time as the secretary may determine, unless a revocation or suspension proceeding to revoke pending when the application is filed or a proceeding to revoke or suspend or impose conditions upon withdrawal is instituted within thirty days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the secretary by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the secretary may nevertheless institute a revocation or suspension order proceeding under clause (B) of subsection (a) within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

(f) No order may be entered under any part of this section except the first sentence of subsection (c) without (1) appropriate prior notice to the applicant or registrant as well as the employer prospective employer if the applicant or registrant is an agent or investment adviser representative, (2) opportunity for hearing, and (3) written findings of fact and conclusions of law.

SECTION 11. Section 401 of said chapter 110A, as so appearing, is hereby amended by adding the following paragraphs:-

(m) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" shall also include financial planners and other persons who, as an integral component of other financially related services, provide the foregoing investment advisory services to others for compensation as a part of a business or who hold themselves out as providing the foregoing investment advisory services to others for compensation. "Investment adviser" shall not include a bank, savings institution, or trust company; a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession, or who does not exercise investment discretion with respect to the assets of clients or maintain custody of the assets of clients for the purpose of investing such assets, except when the person is acting as a bona fide fiduciary in a capacity, such as an executor, trustee, personal representative, estate or trust agent, guardian, conservator, or person serving in a similar fiduciary capacity; and who does not accept or receive, directly or indirectly, any commission, fee or other remuneration contingent upon the purchase or sale of any specific security by a client of such persons; a publisher of any newspaper, news column, newsletter, news magazine, or business or financial publication or service whether communicated in hard copy form, or by electronic

means, or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client; a person whose only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, employee benefit plans with assets of not less than five million dollars, governmental agencies or instrumentalities, or other financial institutions or institutional buyers, whether acting for themselves or as trustees with investment control; a registered broker-dealer or broker-dealer agent; a person who is engaged in interstate commerce, and is registered with the Securities and Exchange Commission as an investment adviser under the provisions of the Investment Advisers Act of 1940, 15 USC 80(b) and is a qualified institutional buyer or affiliate under S.E.C. Rule 144A; and such other persons not within the intent of this paragraph as the secretary may by rule or order designate.

(n) "Investment adviser representative" means any partner, officer, director, or a person occupying a similar status or performing similar functions, or other individual employed by or associated with an investment adviser required to be registered under this act, except clerical or ministerial personnel, who makes recommendations or otherwise renders advice regarding securities; manages accounts or portfolios of clients; determines which recommendation or advice regarding securities should be given; solicits, offers or negotiates for the sale or sells investment advisory services; or supervises employees who perform any of the foregoing.

Approved January 14, 1994.

Chapter 493. AN ACT RELATIVE TO BOND AUTHORIZATIONS TO MEET CERTAIN CAPITAL EMERGENCIES OF THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for emergency capital repairs and to facilitate the acquisition of agricultural restrictions, 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. To provide for a capital outlay program for certain repairs, improvements, construction, reconstruction, and closings of state facilities and for the acquisition of development rights to certain properties, the sums set forth in section two, for the several purposes and subject to the conditions in this act, are hereby made available from the General Capital Projects Fund, subject to the provisions of law regulating the disbursement of public funds.

SECTION 2.

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Department of Environmental Management.

Item

2100-8941 For planning, design, and construction of improvements to the state park located in the town of Plymouth, known as the pilgrim memorial state park and Plymouth rock; provided, that no funds shall be spent for capital improvements in the town of Plymouth without the approval of the board of selectmen $2,500,000

Metropolitan District Commission.

2440-8941 For repairs and improvements to the rink located in the city of Lynn, known as the Connery Memorial rink, operated by the metropolitan district commission $1,000,000

2440-8942 For repairs and improvements to the rink located in the Charlestown section of the city of Boston, known as the Emmons-Horrigan-O'Neil Memorial rink, operated by the metropolitan district commission $400,000

2440-8943 For the reconstruction of the pool located in the West Roxbury section of the city of Boston, known as the Phelan pool, operated by the metropolitan district commission $950,000

2440-8944 For repairs and improvements to the rink located in the west Roxbury section of the city of Boston, known as the Bryan Memorial rink, operated by the metropolitan district commission $250,000

2440-8945 For repairs and improvements to the rink located in the town of Milton, known as the Ulin Memorial rink, operated by the metropolitan district commission $1,000,000

2440-8946 For the expenses of site preparation for a parcel of land with "The Clock Tower Building" thereon situated on the easterly side of George Washington Boulevard in the town of Hull ... $141,834

Department of Food and Agriculture.

2511-8941 For the administration and the securing of agricultural preservation restrictions $10,000,000

2511-8942 For a program on the development and transfer of agro-environmental technology; provided, that the agro-environmental technology funds shall be allocated by the commissioner, with the approval of the board of agriculture, through competitive grants $1,200,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.
Soldier's Homes in Massachusetts.

4180-8941 For the preparation of plans, construction, reconstruction, and renovation improvements related to deficiencies in fire and safety standards compiled in the division of capital planning and operations study project V89-1 at the soldier's home in Massachusetts located in the city of Chelsea $700,000

4180-8942 For the procurement of replacement medical and electrical equipment at the soldier's home in Massachusetts located in the city of Chelsea $500,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.
Massachusetts Emergency Management Agency.

8800-8941 For state matching funds for seawall reconstruction, repairs, and replacement; provided, however, that all projects shall be approved by the army corps of engineers and the appropriate state regulating agency; provided, further, that all federal sources of matching funds shall be pursued prior to the distribution of state matching funds authorized herein; and, provided further, that no state match shall be greater than the local match to the total eligible project costs $12,000,000

SECTION 2A.

TREASURER AND RECEIVER-GENERAL.
State Lottery Commission.

Item

0640-8940 For the acquisition of equipment and software necessary to replace the lottery commission's mainframe computer and lottery terminals; provided, that no funds shall be expended from this item until the executive director of the state lottery commission files a spending plan with the office of management information systems, the state budget director and the house and senate committees on ways and means detailing the equipment and software to be purchased $45,000,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.
Department of Social Services.

4800-8940 For computer equipment and software necessary to automate the department of social services central and area offices; provided, that no funds shall be expended from this item until

the commissioner of the department of social services files a spending plan with the office of management information systems, the state budget director and the house and senate committees on ways and means detailing the equipment and software to be purchased $2,500,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Department of Public Safety.

8311-8941 For computer equipment and associated software required to record, store, and report on firearms records, including firearms identification cards, gun sales records and licenses to carry; provided, that no funds shall be expended from this item until the commissioner of the department of public safety files a spending plan with the office of management information systems, the state budget director and the house and senate committees on ways and means detailing the equipment and software to be purchased $115,000

SECTION 3. To meet the expenditures necessary in carrying out the provisions of section two, 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, not exceeding, in the aggregate, thirty million six hundred forty-one thousand eight hundred and thirty-four dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Emergency Capital Outlay Loan Act of 1993, and shall be issued for such maximum term, 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, that all such bonds shall be payable not later than June thirtieth, two thousand and nineteen. All interest and payments on account of principal of such obligations shall be payable from the Local Aid Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

SECTION 4. To meet the expenditures necessary in carrying out the provisions of section two A of this act, 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, not exceeding, in the aggregate, forty-seven million six hundred fifteen thousand dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Computer System Technology Loan Act of 1993, 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, that all such bonds shall be payable not later than June thirtieth, two thousand and nine. All interest and payments on account of principal of such obligations resulting from expenditures authorized in item 0640-8940 in said section two A shall be payable from the Local Aid Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

SECTION 5. The state treasurer may borrow from time to time on the credit of the commonwealth such sums as may be necessary for the purpose of meeting payments authorized by sections two and two A 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-nine. Notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth. All interest and payments on account of principal of such obligations shall be payable from the Local Aid Fund.

SECTION 6. Section 8B of chapter 212 of the acts of 1975, inserted by section 11 of chapter 130 of the acts of 1987, is hereby amended by striking out, in line 5, the word "seven" and inserting in place thereof the following word:- twelve.

SECTION 7. The first paragraph of section 8E of said chapter 212, as appearing in section 239 of chapter 110 of the acts of 1993, is hereby amended by striking out, in line 6, the word "forty" and inserting in place thereof the following word:- fifty.

SECTION 8. Section 17 of chapter 564 of the acts of 1987 is hereby amended by striking out, in line 5, the word "rehabilitation" and inserting in place thereof the following words:- relocation, rehabilitation.

SECTION 9. Said section 17 of said chapter 564 is hereby further amended by striking out, in lines 6 to 8, inclusive, the words "any and all grants shall be matched with a fifty percent cash or in-kind grant for the costs of such projects from federal, local or private" and inserting in place thereof the following words:- five hundred thousand dollars each shall be expended for the relocation of Highland Lighthouse in the town of Truro and Nauset Lighthouse in the town of Eastham; provided, further, that any and all grants shall be matched by federal, local or other.

SECTION 10. Said section 17 of said chapter 564 is hereby further amended by striking out, in lines 9 and 10, the words "than any municipality receiving a grant from funds appropriated herein shall, as a condition of" and inserting in place thereof the following words:- that any grantee shall, as a condition of receiving.

SECTION 11. Section 8 of chapter 33 of the acts of 1991 is hereby amended by inserting after the word "limit", in line 3, the following words:- , for each fiscal year commencing on and after July first, nineteen hundred and ninety-four,.

SECTION 12. Section 13 of said chapter 33 is hereby amended by striking out, in line 16, the word "nine" and inserting in place thereof the following word:- eight.

SECTION 13. Section 18 of said chapter 33 is hereby amended by inserting after the word "dollars", in line 7, the first time it appears, the following words:- issued in any fiscal year commencing on and after July first, nineteen hundred and ninety-four.

SECTION 14. Item 1101-8921 in section 2 of chapter 194 of the acts of 1992 is hereby amended by inserting after the word "so-called", in line 9, the following words:- ; provided, further, that not less than one million four hundred thousand dollars shall be available for expenditure in fiscal year nineteen hundred and ninety-four and not less than one million two hundred seventy thousand dollars shall be available for expenditure in fiscal year nineteen hundred and ninety-five.

SECTION 15. Item 4000-8200 of section 2 of chapter 52 of the acts of 1993 is hereby amended by adding the following words:- ; provided, further, that the costs of professional personnel, excluding clerical and support personnel, directly and exclusively involved in the construction and planning and design of the projects funded herein may be charged to this item; provided, that said costs shall not be classified as administrative costs; provided further, that an amount not to exceed two percent of the amount authorized herein may be expended for the administrative costs directly attributable to the programs funded herein, including the costs of clerical and support personnel; and provided further, that the secretary of communities and development shall file an annual spending plan with the budget bureau and the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item.

SECTION 16. Notwithstanding the provisions of any other general or special law to the contrary, the secretary of the executive office of transportation and construction is hereby authorized and directed to provide to the towns of Dover and Needham, one hundred and sixty thousand dollars from existing appropriations or capital authorizations for the design and engineering costs necessary for the replacement of the Dover Road/Charles River street bridge, so-called.

Approved January 14, 1994.

Chapter 494. AN ACT PROVIDING FOR HOUSING PRESERVATION AND NEIGHBORHOOD DEVELOPMENT.

Be it enacted, etc., as follows:

SECTION 1. To provide for a program of housing preservation and neighborhood development, there is hereby made available, for the several purposes and subject to the conditions specified under the provisions of this act, subject to the provisions of law regulating the disbursement of public funds and the approval thereof the amounts set forth in items 3722-8891, 3722-8892, 3722-8896, 3722-8898, 3722-8899, 3722-8900 of section two. To provide for a program of housing preservation and neighborhood development, there is hereby made available, subject to the provisions of law regulating the disbursement of public funds and the approval thereof, for the purposes and subject to the conditions and amount specified under the provisions of item 3722-8894 of section two, an amount not to exceed, in each year, six times the amount designated to be expended pursuant to item 3722-8900 in that year in a capital spending plan broken down by authorization item to be

submitted to the house and senate committees on ways and means by the executive office of communities and development; provided, further, that the amounts made available in this act shall not be available in any year in which less than fifteen percent of the total amount designated in said capital plan is made available pursuant to item 3722-8900; and provided, further, that if in any year the amounts designated in said capital plan are not expended, any such deficiency amount must be expended in the following year in addition to any amounts otherwise required to be made available pursuant to this section.

SECTION 2.

Item

3722-8891 For state financial assistance in the form of a grant by the commonwealth acting by and through the department of community affairs within the executive office of communities and development; provided, however, that said department may enter into a contract or contracts with housing authorities for the development costs of housing projects for families of low income pursuant to the provisions of section thirty-four of chapter one hundred and twenty-one B of the General Laws, or for elderly persons of low income pursuant to the provisions of section forty-one of said chapter; provided further, that for any and all amounts expended from this item for the development of housing projects for families of low income pursuant to said section thirty-four, equal amounts shall be allocated and expended from this item to fund projects that satisfy the regulations adopted pursuant to item 3222-9006 of section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three; provided further, that the costs of professional personnel, excluding clerical and support personnel, directly and exclusively involved in the construction and planning and design of the projects funded herein may be charged to this item; provided, that said costs shall not be classified as administrative costs; provided further, that an amount not to exceed two percent of the amount authorized herein may be expended for the administrative costs directly attributable to the programs funded herein, including the costs of clerical and support personnel; and provided further, that the secretary of communities and development shall file an annual spending plan with the budget bureau and the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $20,000,000

3722-8892 For state financial assistance in the form of a grant by the commonwealth acting by and through the department of community affairs within the executive office of communities and development; provided, however, that said department may enter into a contract or contracts with housing authorities for the development costs of housing projects for handicapped persons of low income or families of low income of which one or more persons is handicapped pursuant to the provisions of section forty-one A of said chapter; provided further, that the costs of professional personnel, excluding clerical and support personnel, directly and exclusively involved in the construction and planning and design of the projects funded herein may be charged to this item; provided, that said costs shall not be classified as administrative costs; provided further, that an amount not to exceed two percent of the amount authorized herein may be expended for the administrative costs directly attributable to the programs funded herein, including the costs of clerical and support personnel; and provided further, that the secretary of communities and development shall file an annual spending plan with the budget bureau and the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $20,000,000

3722-8894 For state financial assistance in the form of a grant by the commonwealth acting by and through the department of community affairs within the executive office of communities and development; provided, however, that said department may enter into a contract or contracts with housing authorities for projects undertaken pursuant to clause (j) of section twenty-six of chapter one hundred and twenty-one B of the General Laws, including, but not limited to, renovation, remodeling, reconstruction, redevelopment, hazardous material abatement, including asbestos and lead paint, and for compliance with state codes and laws; provided, however, that three quarters of the amount made available pursuant to this item shall fund projects undertaken for the purpose of compliance with state codes and laws or for other purposes related to the health and safety of residents; provided, however, that if all needs relating to compliance with state codes and protecting health and safety are met the restriction

in the preceding proviso shall no longer apply; provided further, that the costs of professional personnel, excluding clerical and support personnel, directly and exclusively involved in the construction and planning and design of the projects funded herein may be charged to this item; provided, that said costs shall not be classified as administrative costs; provided further, that an amount not to exceed two percent of the amount authorized herein may be expended for the administrative costs directly attributable to the programs funded herein, including the costs of clerical and support personnel; and provided further, that the secretary of communities and development shall file an annual spending plan with the budget bureau and the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $130,000,000

3722-8896 For state financial assistance in the form of community development action grants by the commonwealth acting by and through the department of community affairs within the executive office of communities and development, pursuant to section fifty-seven A of chapter one hundred and twenty-one B of the General Laws; provided, that the costs of professional personnel, excluding clerical and support personnel, directly and exclusively involved in the construction and planning and design of the projects funded herein may be charged to this item; provided further, that said costs shall not be classified as administrative costs; provided further, that an amount not to exceed two percent of the amount authorized herein may be expended for the administrative costs directly attributable to the programs funded herein, including the costs of clerical and support personnel; and provided further, that the secretary of communities and development shall file an annual spending plan with the budget bureau and the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $20,000,000

3722-8898 For state financial assistance in the form of grants or loans by the commonwealth acting by and through the executive office of communities and development; provided, that said office

shall administer a Lead Paint Abatement Program for the purpose of removing, covering, or encapsulating paint, plaster, doors, windows, windowsills, trim, woodwork, or other fixtures on residential premises containing dangerous levels of lead; provided further, that such grants may be provided to the Massachusetts Housing Finance Agency; provided however, that said agency may enter into subcontracts with community development corporations, for-profit or non-profit organizations to carry out the purpose of such grants or loans; provided further, that the costs of professional personnel, excluding clerical and support personnel, directly and exclusively involved in the construction and planning and design of the projects funded herein may be charged to this item; provided, that said costs shall not be classified as administrative costs; provided further, that an amount not to exceed two percent of the amount authorized herein may be expended for the administrative costs directly attributable to the programs funded herein, including the costs of clerical and support personnel; and provided further, that the executive office of communities and development shall file an annual spending plan with the budget bureau and the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $25,000,000

3722-8899 For state financial assistance in the form of loans by the commonwealth acting by and through the department of community affairs within the executive office of communities and development for the development of alternative forms of rental and ownership housing; provided, that said forms of housing shall include, but not be limited to: single room occupancy units; limited equity cooperative housing; transitional housing for the homeless; battered women's shelters; mutual housing; housing acquired by non-profit entities pursuant to Title II of the National Emergency Low Income Housing Preservation Act of 1987, and Title VI of the National Affordable Housing Act of 1990; and other innovative forms of housing; provided further, that at least half of the beneficiaries of such housing shall be persons of incomes less than eighty percent of the area wide median income as determined from time to time by the United States

department of housing and urban development; provided further, that said loan program shall be administered by the department of community affairs within the executive office of communities and development through contracts with authorities which shall include housing authorities and redevelopment authorities duly organized and existing in accordance with chapter one hundred and twenty-one B of the General Laws, and may also include community development corporations duly organized and existing in accordance with chapter forty F of the General Laws, the Massachusetts Housing Finance Agency, a body politic and corporate entity established by chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, as amended, the Massachusetts community economic development assistance corporation (CEDAC), a body politic and corporate entity established by chapter forty H of the General Laws, and the Massachusetts Government Land Bank, a body politic and corporate entity established by chapter two hundred and twelve of the acts of nineteen hundred and seventy-five, as amended; provided, however, that said loan issuing authorities may develop or finance said housing, or may enter into subcontracts with non-profit organizations established pursuant to chapter one hundred eighty of the General Laws; provided, however, that such alternative forms of housing funded pursuant to this item may be made available to individuals of low income in the event that public housing units become unavailable to said individuals due to the implementation of the economic diversity pilot program established in item 3222-9006 of section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three; provided further, that loans issued pursuant to this item shall be subject to the following provisions: (1) said loans shall be limited to not more than thirty percent of the financing of the total development costs; (2) said loans shall only be issued when any contract or agreement for the use of said property for the purposes of such housing provides for the recording of a restriction in the registry of deeds or the registry district of the land court of the county in which the affected real property is located, for the benefit of said department, running with the land, that the land be used for the purpose of providing alternative forms of rental and ownership housing; provided, that said property shall not be

released from such restriction unless and until the balance of the principal and interest for said loan is repaid in full or unless and until a mortgage foreclosure deed is recorded; (4) said loans shall be issued for a term of up to thirty years during which time repayment may be deferred by the loan issuing authority unless at the end of any fiscal year, cash collections from all sources in connection with such housing, except for contributions, donations, or grant monies, exceed one hundred and five percent of cash expenditures on behalf of said housing, including debt service, operating expenses, operating reserves, and capital reserves, in which event such excess cash shall be paid to the commonwealth within forty-five days of the end of said fiscal year, payable first to interest due hereunder and thereafter to principal advanced pursuant to said loan; provided, that if on the date said loans become due and payable to the commonwealth an outstanding balance exists, said loans may be extended for such periods, each period not to extend beyond ten years, as the department determines; provided, that the project continues to remain affordable housing as set forth in the contract or agreement entered into for the duration of the project by the department; provided, further, that in the event that the terms of repayment detailed in this item would cause a project authorized by this item to become ineligible to receive federal funds which would otherwise assist in the development of that project, the commissioner shall be authorized to waive the terms of repayment which would cause the project to become ineligible; (5) interest rates for said loans shall be fixed at a rate, to be determined by the secretary of communities and development in consultation with the treasurer of the commonwealth; (6) expenditures from this item shall not be made for the purpose of refinancing outstanding mortgage loans for housing in existence prior to the effective date of this act unless said housing had previously received funding pursuant to item 3722-8879 of section three of chapter two hundred and twenty-six of the acts of nineteen hundred and eighty-seven; (7) said department shall take due consideration of a balanced geographic plan for such alternative forms of housing when issuing said loans; and (8) housing projects developed pursuant to this act shall not be refinanced during the term of

any loan issued pursuant to this item unless and until the balance of the principal and interest for such loan is repaid in full at the time of such refinancing; provided, that said housing projects may be refinanced if such refinancing would result in a reduction of costs paid by the commonwealth; provided further, that any such refinanced loan shall be due and payable on a date no later than the date on which the original loan was due and payable, except in accordance with subsection (4) of this item, or is necessary to effect extraordinary repairs or maintenance to be approved by the secretary of communities and development; and provided further, that the executive office of communities and development is hereby authorized and directed to promulgate regulations for the implementation of the housing loan program authorized by this item; provided further, that the costs of professional personnel, excluding clerical and support personnel, directly and exclusively involved in the construction and planning and design of the projects funded herein may be charged to this item; provided, that said costs shall not be classified as administrative costs; provided further, that an amount not to exceed two percent of the amount authorized herein may be expended for the administrative costs directly attributable to the programs funded herein, including the costs of clerical and support personnel; and provided further, that the secretary of communities and development shall file an annual spending plan with the budget bureau and the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $30,000,000

3722-8900 For state financial assistance in the form of grants or loans by the commonwealth acting by and through the department of community affairs within the executive office of communities and development; provided, however, that said department shall administer a program for the purpose of undertaking projects to develop and support affordable housing developments and homeownership affordability through the acquisition, preservation and rehabilitation of affordable housing; provided, that such program may include assistance for projects to stabilize and promote reinvestment in cities and towns including, but not limited to, acquisition, rehabilitation and preservation of foreclosed and distressed

properties; provided further, that assistance provided through this program may be made in a manner which qualifies such assistance as a matching contribution under Section 220 of the HOME Investment Partnership Act (the Act), Title II of the Cranston Gonzalez National Affordable Housing Act; provided further, that grants or loans shall be provided to any agency, department, board, commission, authority or instrumentality of the commonwealth or any political subdivision thereof, housing authorities, community development corporations; provided, however, that said recipients may enter into subcontracts to administer the purposes of such contract with other for-profit or non-profit organizations; provided, however, that such alternative forms of housing funded pursuant to this item may be made available to individuals of low income in the event that public housing units become unavailable to said individuals due to the implementation of the economic diversity pilot program established in item 3222-9006 of section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three; provided, further, that prior to providing assistance, the department shall find: (1) that the housing would not by private enterprise alone and without government assistance be available to lower income families and individuals; (2) that the amount of the assistance appears to be the minimum amount necessary to make the housing development feasible; (3) that with respect to rental housing, the operations of the owner and its articles of organization and by laws, and any changes to either, will be subject to regulation by the department; and (4) that the housing shall remain affordable for its useful life as determined by the department; provided further, that such housing shall be considered affordable if during the first twenty years after assistance is first provided, substantially all of the assisted units are to be rented to or owned by families and individuals whose income at initial occupancy is equal to or less than eighty percent of the median income as determined by the secretary of housing and urban development for the federal housing programs, and that thereafter units are to be rented or sold, subject to such restrictions on appreciation as determined by the department to be reasonable and necessary to maintain long term affordability, to families or individuals

at incomes at or below one hundred percent of the median income; provided further, that funds provided herein may be used for grants to cities and towns to assist with the costs of demolishing certain privately owned buildings taken by the city or town for taxes that are vacant and abandoned and that have been found to be uninhabitable and not economically feasible to rehabilitate; provided, that any such demolition shall be undertaken in accordance with a neighborhood revitalization plan adopted by the city or town after a public hearing and after approval by the department which provides for the rehabilitation and development of housing and or in the area or areas in which such demolition is being undertaken; and provided further, that the executive office of communities and development shall promulgate regulations for the purpose of implementing the provisions of this item including, but not limited to, grants to cities and towns for demolition of certain vacant and abandoned buildings and procedures for neighborhood revitalization plans; provided, further, notwithstanding the restrictions described in this item, that funds provided herein may be used for the purposes described in item 3322-8880 of section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three; provided further, that not less than thirty percent of the funds made available from this item in any year shall be used to provide homeownership opportunities to persons of low and moderate income; provided further, that the costs of professional personnel, excluding clerical and support personnel, directly and exclusively involved in the construction and planning and design of the projects funded herein may be charged to this item; provided, that said costs shall not be classified as administrative costs; provided further, that an amount not to exceed two percent of the amount authorized herein may be expended for the administrative costs directly attributable to the programs funded herein, including the costs of clerical and support personnel; and provided further, that the secretary of communities and development shall file an annual spending plan with the budget bureau and the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $50,000,000

SECTION 3. Section 39 of chapter 121B of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "chapter", in line 11, the following words:- ; provided, however, that the secretary of communities and development shall issue regulations requiring that in any state-funded project which contains units for both elderly persons of low income and handicapped persons of low income, the number of units occupied by non-elderly persons shall not exceed ten percent of the total number of units; provided, further, that the secretary shall develop and implement said regulations in a manner consistent with relevant federal laws.

SECTION 3A. The secretary of communities and development is hereby authorized and directed to establish a special commission including members of the general court, to determine the total unmet housing needs of low income persons with disabilities, conduct a housing needs assessment which includes an estimate of low income handicapped persons not on the waiting lists and assess alternative resources and housing models. The commission shall submit a report of their findings to the house and senate committees on ways and means not later than April fifteenth, nineteen hundred and ninety-four.

SECTION 4. Section 2 of chapter 52 of the acts of 1993 is hereby amended by striking out item 4000-8200 and inserting in place thereof the following item:-

Item

4000-8200 For state financial assistance to implement the recommendations of the special commission in the form of loans for the development of community-based housing for the mentally ill and mentally retarded; provided, that said loan program shall be administered by the department of community affairs within the executive office of communities and development through contracts with authorities which shall be limited to housing authorities and redevelopment authorities duly organized and existing in accordance with chapter one hundred and twenty-one B of the General Laws, community development corporations duly organized and existing in accordance with chapter forty F of the General Laws, the Massachusetts Housing Finance Agency, a body politic and corporate entity established by chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, as amended, the Massachusetts community economic development assistance corporation (CEDAC), a body politic and corporate entity established by chapter forty H of the General Laws, and the Massachusetts Government Land Bank, a body politic and corporate entity established by chapter two hundred and twelve of the acts of nineteen hundred and seventy-five; provided, that said loan issuing authorities may develop or finance said community-based housing, or may enter into subcontracts with non-profit organizations established pursuant to chapter one

hundred and eighty of the General Laws or organizations in which such non-profit corporations have a controlling financial or managerial interest; provided, however, that said department shall take due consideration of a balanced geographic plan for such community-based housing when issuing said loans; provided further, that loans issued pursuant to this item shall be subject to the following provisions: (1) said loans shall be limited to not more than thirty percent of the financing of the total development costs; (2) said loans shall only be issued for a community-based housing project contingent on the title to said real property reverting to the commonwealth when said loan becomes due and payable except as provided by section three; (3) said loans shall only be issued when any contract or agreement for the use of said property for the purposes of such community-based housing provides for the recording of a restriction, for the benefit of the said departments, running with the land, that the land be used for the purpose of providing community-based housing for the mentally ill, or mentally retarded and related uses; unless and until the balance of the principal and interest for said loan is repaid in full and is released from such restriction as provided pursuant to section three of this act; (4) said loans shall be issued for a term of up to thirty years during which time repayment may be deferred by the loan issuing authority unless at the end of any fiscal year, cash collections from all sources in connection with a community-based housing project, except for contributions, donations, or grant monies, exceed one hundred and five percent of cash expenditures on behalf of said project, including debt service, operating expenses, and capital reserves, in which event such excess cash shall be paid to the commonwealth within forty-five days of the end of said fiscal year, payable first to interest due hereunder and thereafter to principal advanced pursuant to said loan; provided, that if on the date said loans become due and payable to the commonwealth an outstanding balance exists, said loans may be extended for a period not to exceed ten years for the purpose of repaying the outstanding principal and interest on said loans; (5) interest rates for said loans shall be fixed at a rate, to be determined by the secretary for communities and development in consultation with the treasurer of the commonwealth, that shall be equal to the rate anticipated to be that paid by the commonwealth for

bonds issued pursuant to section eight of this act; which financing shall not exceed terms of thirty years; (6) expenditures from this item shall not be made for the purpose of refinancing outstanding mortgage loans for community-based housing in existence prior to the effective date of this act; except for community-based housing purchased or developed in accordance with the governor's special commission for former residents of the Belchertown state school and the Norfolk Street Project located in the city of Cambridge; (7) community-based housing projects developed pursuant to this act shall not be refinanced during the term of any loan issued pursuant to this item unless and until the balance of the principal and interest for such loan is repaid in full at the time of such refinancing; provided, that said community-based housing projects may be refinanced if such refinancing would result in a reduction of costs paid by the commonwealth; provided further, that any such refinanced loan shall be due and payable on a date no later than the date on which the original loan was due and payable, except in accordance with subsection (4) of this item, or is necessary to effect extraordinary repairs or maintenance to be approved by the commissioners of capital planning and operations, and mental retardation, or mental health, as appropriate, and the house and senate committees on ways and means; (8) said loans shall be provided only for projects conforming to the provisions of this act; and (9) said loans shall be issued in accordance with a facilities consolidation plan prepared by the secretary of health and human services, reviewed and approved by the secretary of communities and development and filed with the secretary for administration and finance and the house and senate committees on ways and means; provided, that no expenditures shall be made pursuant to this item without the prior approval of the secretary for administration and finance; provided further, that not more than ten million dollars may be expended from this item for a pilot program of community-based housing loans to serve mentally ill homeless individuals in the current or former care of said department of mental health; provided further, that in implementing said pilot program, said department shall take due consideration of a balanced geographic plan when establishing community-based residences; provided further, that said housing services made available pursuant to such

loans shall not be construed as a right or an entitlement for any individual or class of persons to the benefits of said pilot program; provided that eligibility for said pilot program shall be established by regulations promulgated by the said department. The executive office of communities and development is hereby authorized and directed to promulgate emergency regulations pursuant to section two of chapter thirty A of the General Laws for the implementation of the community-based housing loan program and the mentally ill homeless pilot loan program authorized by this item, consistent with the facilities consolidation plan prepared by the secretary of health and human services and after consultation with said secretary and the commissioner of the division of capital planning and operations $50,000,000

SECTION 5. Notwithstanding the provisions of section thirty-nine of chapter one hundred and twenty-one B of the General Laws, in any state-funded project which contains units for both elderly persons of low income and handicapped persons of low income, if on the effective date of this section, the number of units occupied by such handicapped persons exceeds ten percent of the total units in the project, the housing authority shall allow any such handicapped person residing in said units on the effective date of this section to continue to reside therein.

SECTION 6. To meet the expenditures necessary in carrying out the provisions of section two 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 two hundred and ninety-five million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Housing Preservation and Neighborhood Development Act of 1993, 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 sold at public bidding pursuant to section fifty-three of chapter twenty-nine of the General Laws and shall be payable not later than June thirtieth, two thousand and eighteen. Bonds and interest thereon under the authority of this section shall be general obligations of the commonwealth.

SECTION 7. 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 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. 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-nine. Notes and interest

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

SECTION 8. Notwithstanding any general or special law to the contrary, the division of capital planning and operations shall convey to the Massachusetts Special Olympics, Inc. the land and buildings currently leased to the Massachusetts Special Olympics by the commonwealth at a price to be determined by negotiation; provided, however, that the terms and sale price of the conveyance as negotiated by the division of capital planning and operations are approved by the inspector general; provided further, that the inspector general shall in his determination give due consideration to prior investments made in the land and buildings to be conveyed and such related costs incurred beyond the terms of the lease by Massachusetts Special Olympics, Inc.

SECTION 9. Section (18) of chapter 21A, as appearing in the 1992 Official Edition, is hereby amended by adding after the word "authority" in line 22, the following:- or any tribal housing authority of a federally recognized Indian tribe when constructing housing.

SECTION 10. Section (18) of chapter 21A, as appearing in the 1992 Official Edition, is hereby further amended by striking the words "or agency" in line 243, and inserting in place thereof:- agency, or tribal housing authority.

SECTION 11. Section (18) of chapter 21A, as appearing in the 1992 Official Edition, is hereby further amended by striking the words "or agencies" in lines 247 and 263, and inserting in place thereof:- agencies or tribal housing authorities.

SECTION 12. Section 32 of chapter 121B of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the sixth paragraph the following paragraph:-

Any tenant of a housing authority who is convicted of violating the provisions of section thirty-two, thirty-two A, thirty-two B, thirty-two C, thirty-two D, thirty-two E, thirty-two F, or thirty-two I of chapter ninety-four C while on housing authority property shall be evicted. Such a conviction shall be cause for such eviction and an action for summary process shall be brought by the housing authority. Any regulation of any agency of the commonwealth or subdivision thereof, or any provision in any lease between the tenant, the landlord, and a housing authority contrary to the provisions of the section shall be void.

SECTION 13. The executive office of communities and development shall develop a plan to expedite the development of housing for the disabled and report back to the joint committee on housing and urban development by April fifteenth, nineteen hundred and ninety-four.

SECTION 14. There is hereby established a special commission under the department of economic affairs to consist of seven members who shall include the secretary of economic affairs or his designee, the secretary of communities and development or his designee, the chairmen of the house and senate committees on commerce and labor, or their designees, one person to be designated by the Federal Reserve Bank, one person to be designated by the Homebuilders Association of Massachusetts, and one person to be designated by the Greater Boston Real Estate Board, for the purpose of making an investigation and study of state and local regulatory barriers to the development of affordable

housing by the private sector, and what measures state and local agencies can implement to address these barriers and develop solutions resulting in policies that would increase the supply of affordable housing by the private sector and facilitate job creation and economic growth in the commonwealth. Said commission shall meet at least once per month and shall report 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 governor of the commonwealth, and the clerk of the senate on or before September first, nineteen hundred and ninety-four. Said clerk shall forward copies of said report to the joint committee on housing and urban development and the house and senate committees on ways and means.

SECTION 15. All amounts provided under provisions of this act shall be in addition to any amount previously authorized prior to the passage of this act.

This bill was returned on January 14, 1994, 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 3, 5, and 12 disapproved

The remainder of the bill was approved by the Governor on January 14, 1994 at four o'clock and fifty minutes P.M.
Emergency Letter: January 18, 1994 @ 12:14 P.M.

Chapter 495. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND NINETY-FOUR 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 for fiscal year nineteen hundred and ninety-four, the sums set forth in section two are hereby appropriated for the several purposes and subject to the conditions specified in chapter one hundred and ten of the acts of nineteen hundred and ninety-three, and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in said chapter one hundred and ten, for the fiscal year ending June thirtieth, nineteen hundred and ninety-four, the sums so appropriated to be in addition to any amounts available for the purpose.

SECTION 2.

ATTORNEY GENERAL.

Office of the Attorney General.

Item		
0810-0045		$306,000

OFFICE OF CAMPAIGN AND POLITICAL FINANCE.

0920-0300		$16,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Massachusetts Teachers' Retirement Board.

1108-4010		$531,922

Department of Veterans' Services.

1410-0250		$130,000

Reserves.

1599-0002		$23,500
1599-0035		$1,039,418

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Department of Environmental Protection.

2220-2205		$311,908

Department of Fisheries, Wildlife and Environmental Law Enforcement.

2350-0101		$52,303

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Holyoke Soldiers' Home.

4190-0100		$265,000

Department of Youth Services.

4202-0001		$1,780,161
4202-0003		$680,000
4238-1000		$970,000

Department of Public Welfare.

4403-2100		$10,800,000

Department of Public Health.

4513-1000		$1,200,000

Department of Mental Retardation.

5920-2000 ..... $1,500,000
5920-5000 ..... $1,400,000

EXECUTIVE OFFICE OF EDUCATION.
Higher Education.

7077-0023 ..... $325,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.
Board of Building Regulations.

8000-0160 ..... $72,500

Division of Fire Prevention and Regulation.

8314-1300 ..... $110,573

Department of Correction.

8900-0004 ..... $2,246,000

EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.
Office of the Secretary.

9000-2200 ..... $20,000

EXECUTIVE OFFICE OF CONSUMER AFFAIRS.
Racing Commission.

9210-0001 ..... $102,200

Community Antenna Television Commission.

9215-0001 ..... $35,000

Division of Registration.

9230-0001 ..... $250,000

Department of Public Utilities.

9270-0001 ..... $30,000

EXECUTIVE OFFICE OF LABOR.
Department of Industrial Accidents.

9440-0200 ..... $1,426,701

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth herein shall be appropriated from the General Fund, unless specifically designated otherwise, and shall be for the several purposes and subject

to the conditions specified herein and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and ten of the acts of nineteen hundred and ninety-three for the fiscal year ending June thirtieth, nineteen hundred and ninety-four.

JUDICIARY.

Committee for Public Counsel Services.

Item

0321-1511 For the compensation of private counsel assigned under the provisions of subsection (b) of 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; provided, that funds appropriated herein shall be expended only for services rendered prior to July first, nineteen hundred and ninety-three $4,704,295

General Fund 20.0%

Local Aid Fund 80.0%

0321-1521 For all fees and costs, as defined in section twenty-seven A of chapter two hundred and sixty-one of the General Laws, 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 by said section twenty-seven A; provided, that funds appropriated herein shall be expended only for fees and costs incurred prior to July first, nineteen hundred and ninety-three $507,606

General Fund 20.0%

Local Aid Fund 80.0%

SECRETARY OF STATE.

0521-0001 For the printing and postage expenses for mailed voter registration forms; provided, that the funds appropriated herein shall be made available only after enactment of legislation providing for voter registration by mail that is to take effect on or before July first, nineteen hundred ninety-four $250,000

Local Aid Fund 100.0%

0521-0002 For a study of a central computerized registry of voters; provided, that the funds appropriated herein shall be made available only after enactment of legislation providing for said study; provided further, that, the full amount appropriated herein shall be allocated to the office of management information system to conduct said study; and provided further, that said study shall explore the use of existing statewide

computer systems and data, including systems utilized by the registry of motor vehicles and shall include such findings in its full report to be submitted to the general court on or before March second, nineteen hundred and ninety-four $75,000
Local Aid Fund 100.0%

0521-0003 For the legal costs associated with legislative redistricting $200,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Department of Veterans' Services.

0610-0093 For the purposes of allowing the department of veterans' services to make bonus payments to Persian Gulf war veterans; provided, that all such payments shall be consistent with the purposes of the trust instrument for "A Hero's Welcome Trust Fund" $420,000
A Hero's Welcome Trust Fund 100.0%

Division of Capital Planning and Operations.

1102-3221 The division of capital planning and operations is hereby authorized to expend for consultant personnel two hundred thousand dollars from revenues received from the Massachusetts convention center authority for project management services related to the renovation of the Boston common garage, pursuant to the provisions of section forty-two J of chapter seven of the General Laws $200,000

Department of Procurement and General Services.

11104-1092 The department of procurement and general services is hereby authorized to expend revenues collected up to a maximum of one hundred and forty thousand dollars, in addition to the amount authorized in item 1104-6603 of section two B of this act, for printing, photocopying, related graphic art or design work, and other reprographic goods and services provided to the general public, including all necessary incidental expenses . $140,000

Reserves.

1599-3388 For a reserve for the payment by the state comptroller of a settlement of sex-based wage discrimination claims filed by female faculty of the community colleges and associated legal fees in Border v. Board of Regents, C.A. No. 86-3016-Z, in accordance with regulations promulgated by the comptroller and pursuant to a settlement agreement executed by the commonwealth on November third, nineteen hundred and ninety-

two $10,552,666

1599-3735 For a reserve to meet the cost of salary adjust-ments incurred to implement section one hundred six of chap-ter four hundred twelve of the acts of nineteen hundred and ninety-one; provided, that the secretary of administration and finance is hereby authorized to transfer from the sum appro-priated herein to other items of appropriation and allocations thereof for the fiscal years nineteen hundred and ninety-three nineteen hundred and ninety-four such amounts as are necessary to meet the cost of said adjustments for said fiscal years where the amounts otherwise available are insufficient for the purpose; and provided further, that said secretary is author-ized to allocate the cost of said adjustments to the several state or other funds to which such items of appropria-tion are charged $1,614,000

Highway Fund 88.2%
Local Aid Fund 9.5%
General Fund 2.3%

1599-3736 For a reserve to meet the cost of salary adjustments incurred to implement section twenty-eight A of chapter twenty-two C of the General Laws; provided, that the secretary of admin-istration and finance is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for the fiscal years nineteen hundred and ninety-three and nineteen hundred and ninety-four such amounts as are necessary to meet the cost of said adjustments for said fiscal years where the amounts otherwise available are insufficient for the purpose; and provided further, that said secretary is authorized to allocate the cost of said adjust-ments to the several state or other funds to which such items of appropriation are charged $2,102,000

Highway Fund 88.2%
Local Aid Fund 9.5%
General Fund 2.3%

1599-3737 For a reserve to meet the cost of salary adjustments authorized by the collective bargaining agreement between the common-wealth and the state police association of Massachusetts (Unit 5A); and to meet the cost of salary adjustments 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 sec-

retary of administration and finance, shall determine such salary adjustments 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 allocation thereof for the fiscal years nineteen hundred and ninety-three and nineteen hundred and ninety-four such amounts as are necessary to meet the cost of said adjustments for said fiscal years where the amounts otherwise available are insufficient for the purpose; and provided further, that said secretary is authorized to allocate the cost of said adjustments to the several state or other funds to which such items of appropriation are charged .. $11,159,000

Highway Fund 88.2%
Local Aid Fund 9.5%
General Fund 2.3%

1599-3738 For a reserve to meet the cost of employee economic benefits authorized by the collective bargaining agreement between the commonwealth and the state police association of Massachusetts (Unit 5A); provided, that said secretary is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for the fiscal years nineteen hundred and ninety-three and nineteen hundred ninety-four such amounts as are necessary to meet the cost of said benefits for said fiscal years where the amounts otherwise available are insufficient for the purpose; and provided further, that said secretary is authorized to allocate the cost of said benefits to the several state or other funds to which such items of appropriation are charged ... $2,862,000

Highway Fund 88.2%
Local Aid Fund 9.5%
General Fund 2.3%

1599-3739 For a reserve to meet the cost of employee fringe benefits authorized by the collective bargaining agreement between the commonwealth and the state police association of Massachusetts (Unit 5A) in fiscal year nineteen hundred and ninety-four; provided, that said secretary is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for the fiscal years nineteen hundred and ninety-three and nineteen hundred ninety-four such amounts as are necessary to meet the costs of said

benefits for said fiscal years where the amounts otherwise available are insufficient for the purpose; and provided further, that said secretary is authorized to allocate the cost of such items of appropriation are charged $3,636,000

Highway Fund 88.2%
Local Aid Fund 9.5%
General Fund 2.3%

1599-3905 For a reserve to meet the cost of salary adjustments and other employee economic benefits authorized by the supplemental agreement between the commonwealth and the Massachusetts correction officers federated union (unit 4); 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 from the sum appropriated herein to other items of appropriation and allocations thereof for the fiscal years nineteen hundred and ninety-three and nineteen hundred and ninety-four such amounts as are necessary to meet the cost of said salary adjustments and benefits for said 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 supplemental 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 salary 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 $12,644,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Department of Environmental Protection.

2200-1202 For the creation of a definitive map of the town of Provincetown coastline which shall distinguish the historic high water mark between the Cape Cod National Seashore and Howland street along the commonwealth tidelands of said town; provided, however, that such map shall include specifications to comply with regulations, as promulgated by the department, pursuant to chapter ninety-one of the General Laws $30,000
Local Aid Fund 100.0%

Metropolitan District Commission.

2440-0150 For the reimbursement to the town of Stoneham of an amount not to exceed fifty-five thousand dollars for the purchase of equipment to be used for emergency situations, including, but not limited to, state owned property within said town $55,000
Local Aid Fund 100.0%

2460-1100 For reimbursements in the amount of eight thousand five hundred dollars to the city of Cambridge in order to fulfill an obligation by the metropolitan district commission for a guard rail at the morse school $8,500
Local Aid Fund 100.0%

EXECUTIVE OFFICE OF COMMUNITIES AND DEVELOPMENT.

Office of the Secretary.

3000-9320 The executive office of communities and development may expend an amount not to exceed twenty thousand dollars accrued from fees collected for the printing and distribution costs of "Community Profiles"; provided, that, notwithstanding the provisions of any general or special law to the contrary, the executive office of communities and development is hereby authorized to establish a fee sufficient to cover the costs of printing and distributing said "Community Profiles" ... $20,000

3799-1966 For the loan program pursuant to the proposed amendment to section one hundred and ninety-seven E of chapter one hundred and eleven of the General Laws for lead abatement throughout the commonwealth; provided, that the funds appropriated herein shall be made available only after enactment of legislation authorizing said lead paint abatement program; provided further, that the maximum loan made under said loan program shall not exceed five thousand dollars per unit and the terms and conditions of such loans

will be based on an income level criteria and include terms and plans that allow low and moderate income individuals to defer loan repayment until transfer of the property; provided further, that funds made available herein shall be administered by the executive office of communities and development in consultation with the department of public health; provided further, that said executive office shall promulgate necessary rules and regulations for said loan program no later than April fifteenth, nineteen hundred and ninety-four $2,250,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Office of the Secretary.

4000-0201 For the additional costs of the MassJobs day care program which are solely attributable to the court decision in the case of Lisa Healey and others v. the commissioner of public welfare 414 Mass. 18; provided, that the secretary of health and human services, the state budget director, and the secretary of administration and finance are hereby authorized and directed to develop a cost containment plan to limit spending for the MassJobs day care program to the amounts made available in this item and in item 4000-0200 of section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three and shall submit said cost containment plan to the house and senate committees on ways and means no later than March first, nineteen hundred and ninety-four; and, provided further, that, notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to withhold advances and expenditures from this item until such time as said cost containment plan is filed with said committees on ways and means $12,400,000

Division of Medical Assistance.

4000-0440 For the payment of prior fiscal year expenses for a program of medical services for disabled children and adults $1,200,000

4000-0810 For Winthrop hospital for a medicaid upper limit adjustment incurred in prior fiscal years and pursuant to Title XIX of the Social Security Act, provided, that future payments to this facility for prior year final rates and settlements shall be offset by the amount appropriated herein $153,423

4000-0811 For payment to the Hampshire county long term care facility to satisfy the decision of the rate setting commission of October fourth, nineteen hundred and ninety-three; provided, however, that such payment shall be made on or before January twentieth, nineteen hundred and ninety-four; provided, that future payments to this facility for prior year final rates and settlements shall be offset by the amount appropriated herein $492,000

4000-0830 For the intergovernmental transfer component of the medicaid rate to the university of Massachusetts medical center for hospital services as provided pursuant to the terms and conditions of the contract between the division of medical assistance and said medical center; provided, that programs funded pursuant to this item shall not create recurring liabilities to the commonwealth in future fiscal years; provided further, that the general fund shall be reimbursed seven million five hundred thousand dollars by the medical center for its share of funds transferred pursuant to this item; and provided further, that said hospital shall submit by April thirtieth nineteen hundred ninety-four, to the house and senate committee on ways and means, a report detailing the programs funded from this item $15,000,000

Department of Public Health.

4510-0617 For environmental monitoring of the nuclear power plant in Seabrook, New Hampshire; provided, that the radiation control program shall evaluate, implement and conduct a program of environmental radiological monitoring of nuclear power plants; provided further, that said program shall include a continuous real-time environmental radiological monitoring system for Massachusetts cities and towns located within the emergency planning zone of said nuclear power plant in Seabrook, New Hampshire; provided however that should said department contract with a private contractor for services to provide said monitoring, then notwithstanding any general or special law to the contrary the provisions of section twenty-nine A of chapter twenty-nine shall be applicable; furthermore the inspector general shall conduct a review of said contract to ensure that the provisions of chapter twelve A have been complied with; in addition, said contract shall be subject to review by the senate and house committees on post

audit and oversight; provided further, that the cost of said item may be assessed on electric companies in Massachusetts which own, in whole or in part, or purchase from the Seabrook nuclear power plant and those located outside the commonwealth whose nuclear power plant areas, as defined by section two B of chapter six hundred thirty-nine of the acts of nineteen hundred fifty, and as amended by section twenty-four of chapter seven hundred ninety-six of the acts of nineteen hundred seventy-nine, include communities located within item the commonwealth; provided further, that for the purposes of said item electric companies shall be defined as all persons, firms, associations and private corporations which own or operate works or a distributing plant for the manufacture and sale or distribution of electricity in the commonwealth; and provided further, that the costs of personnel may be charged to this item $50,000

Department of Social Services.

4800-0014 For expenses incurred by a revenue maximization vendor contract only; provided, that the comptroller is hereby authorized and directed to transfer from item 4800-0015 of section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three to this item, all charges attributable to said contract $2,700,000

Department of Mental Health.

5055-0010 For hearings concerning the determination of sexual dangerousness for residents of the Bridgewater treatment center; provided, that liability insurance shall not be paid from this item $138,859

EXECUTIVE OFFICE OF EDUCATION.

Department of Education.

7027-0017 To fund a study commission to determine the feasibility of establishing a technology center on the campus of Minuteman Regional Vocational Technical School in the town of Lexington for the purposes of facilitating recruitment and training of technicians through a partnership with industry, primarily in the electromagnetical, biomedical, marine electronics biotechnology and environmental fields; provided, that said study commission shall consist of the following: the

commissioner of employment and training, deputy policy officer for the executive office or other designee of the governor, a representative of the department of education, a representative from a private higher educational institution, a representative from a state college, five representatives from high and bio-technology companies, one representative from the house and one from the senate and five educational representatives $15,000

Higher Education Coordinating Council.

7514-0101 For a reserve for the operational and maintenance expenses incurred by Springfield technical community college associated with the acquisition of the digital property, so-called; provided, that no funds shall be encumbered or expended from this item until said Springfield technical community college acquires said digital property and until a spending plan is filed with the house and senate committees on ways and means; provided further, that said college may expend revenues in an amount not to exceed five hundred seventy-five thousand dollars received from rent, utility and other charges for the operation and maintenance of said property $606,920

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Massachusetts Emergency Management Agency.

8800-0050 For grants and reimbursements to state agencies and departments, police agencies, Massachusetts national guard, public housing authorities, county departments and agencies, mosquito control districts, cities and towns for assistance as a result of the presidential declaration of emergencies occasioned by the natural disaster of the "December blizzard", December eleventh, twelfth, and thirteenth, nineteen hundred and ninety-two, and the "March Blizzard", March twelfth, nineteen hundred and ninety-three; provided, that such assistance shall be twelve and one-half percent of the total assistance determined as eligible by the federal emergency management agency, FEMA so-called, as documented in "damage survey reports", according to a schedule of disbursement and prepared by the Massachusetts emergency management agency; provided further, that said assistance shall include, but not be limited to, debris removal; protective measures; repairs, construction, reconstruction; and

other measures for road and bridges, water control facilities, public buildings and public utilities, and other allowable activities, including administrative authorized by FEMA; provided further, that of the sum appropriated herein, not less than one million six hundred twenty-nine thousand two hundred seventy-two dollars shall be made available for assistance associated with Disaster #0975 - "December blizzard 1992"; and provided further, that of the sum appropriated herein, not less than one hundred eighty-two thousand two hundred one dollars shall be made available for Disaster #3103 - "March blizzard 1993" $1,811,473

Local Aid Fund 100.0%

8800-0060 For emergency disaster relief to the town of Hadley for damages caused and expenses incurred as a result of the storm and flooding occurring on April first, nineteen hundred and ninety-three $32,293

Local Aid Fund 100.0%

County Corrections.

8910-0001 For state financial assistance of county corrections operations and maintenance; provided, that not less than two hundred eighty-eight thousand seven hundred two dollars be made available to Barnstable county; provided further, that not less than one hundred sixty-four thousand eight hundred seventy-three dollars be made available to Berkshire county; provided further, that not less than nine hundred sixty-nine thousand nine hundred thirty-three dollars be made available to Bristol county; provided further, that not less than fifty-one thousand six hundred ninety-nine dollars be made available to Dukes county; provided further, that not less than one million one hundred forty-eight thousand six hundred fifty-four dollars be made available to Essex county; provided further, that not less than one hundred thirteen thousand three dollars be made available to Franklin county; provided further, that not less than one million nine hundred eighteen thousand one hundred seventy-five dollars be made available to Hampden county; provided further, that not less than three hundred forty-five thousand six hundred ten dollars be made available to Hampshire county; provided further, that not less than five hundred ninety-one thousand one hundred sixty-eight dollars be made available to Middlesex county; provided further, that not less than seven hundred thirty-one thousand eight hundred

eighteen dollars be made available to Norfolk county; provided further, that not less than eight hundred one thousand six hundred twenty-seven dollars be made available to Plymouth county; provided further, that not less than two million five hundred thirty thousand sixty-five dollars be made available to Suffolk county; provided further, that not less than one million sixty-two thousand three hundred ninety-six dollars be made available to Worcester county; provided further, that the balance be made available for additional county correction shortfalls and for county correction collective bargaining agreement costs to be distributed by the county government finance review board; provided further, that Hampden county shall not receive additional funding from said balance for county corrections operational and maintenance expenses; provided further, that each county receiving an appropriation pursuant to this item shall adjust their spending plans to reflect this additional appropriation; provided further, that said spending plan shall be subject to the further review and approval by the county government finance review board; provided further, that each county shall adjust expenditures appropriately so that no further supplemental appropriation is needed nor requested in fiscal year nineteen hundred and ninety-four; and provided further, that each said county receiving an appropriation shall submit said plans to the house and senate committees on ways and means by January thirty-first, nineteen hundred and ninety-four . . $18,000,000

Local Aid Fund 100.0%

EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.

Office of the Secretary.

9000-0160 For the purpose of financing the establishment of the latino economic development center pursuant to the recommendation of the Hispanic-American advisory commission $250,000

9000-1804 For the implementation of a regionalization and job creation program to be administered by the Massachusetts office of business development; provided, that funds made available herein shall not be expended for any purposes other than said program $430,000

9000-1805 For a program to market and promote the Massachusetts' business environment outside the commonwealth and internationally in an effort to attract and retain targeted industries and businesses; provided, that said program shall be directed

at increasing awareness of the Massachusetts office of business development's services, investment incentives and economic development programs and shall not incorporate the statements, testimony, signature or likeness of any previous or current officer or employee of the commonwealth in any marketing or promotional materials $1,000,000

9000-1921 For the publication of a heritage tour guide for "Cape Heritage '94"; provided, that the funds made available herein shall be allocated to Barnstable county and expended under the direction of the cape and islands historical association $25,000

Local Aid Fund 100.0%

9000-2105 For the Massachusetts technology development partnering program for the purposes of accelerating the conversion and diversification of defense-dependent industries in Massachusetts to civilian technologies and markets by establishing a matching fund program for technology development proposals made to the federal technology reinvestment program within the advanced research projects agency of the department of defense, created and funded pursuant to the Defense Conversion, Reinvestment and Transition Act of Fiscal Year 1993 and Title IV of the Fiscal Year 1993 Defense Appropriations Act, and other federal defense conversion and diversification programs under which matching fund programs Massachusetts-based proposers to the federal technology reinvestment project and similar programs shall be eligible for state grants and/or endorsements, and for demonstration projects within Massachusetts supportive of such federal defense conversion and diversification programs $1,000,000

Division of Energy Resources.

9095-0005 For expenses related to the special commission established pursuant to section three hundred and eighty-five of chapter one hundred and ten of the acts of nineteen hundred and ninety-three, to study and report on the feasibility and impact of mergers or acquisitions of one or more investor-owned gas or electric utilities within the commonwealth by one or more other investor-owned gas or electric utilities servicing the commonwealth; provided, that funds made available in this item shall be administered directly by said special commission $100,000

SECTION 2B. To provide for certain unanticipated intragovernmental chargebacks and to meet certain requirements of law, the sums set forth herein shall be appropriated for the several purposes and subject to the conditions specified in chapter one hundred and ten of the acts of nineteen hundred and ninety-three, including fund designations of said chapter one hundred and ten and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in said chapter one hundred and ten for the fiscal year ending June thirtieth, nineteen hundred and ninety-four. The sums so appropriated shall be in addition to any amounts available for said purposes.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Workers' Compensation Litigation Unit.

Item		
1100-1111		$110,000

Department of Procurement and General Services.

1104-5211		$2,420,000
1104-6600		$460,000
1104-6603		$75,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Metropolitan District Commission.

2410-1003 For the costs of the purchase of fuel, oil, and other associated products for other state agencies $450,000

SECTION 3. Section 115A of chapter 6 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 29, the word "one" and inserting in place thereof the following word:- five.

SECTION 4. Section 179 of said chapter 6, as so appearing, is hereby amended by striking out, in line 1, the word "department" and inserting in place thereof the following words:- executive office of environmental affairs.

SECTION 5. Said section 179 of said chapter 6, as so appearing, is hereby further amended by striking out the third paragraph.

SECTION 6. Section 52 of chapter 7 of the General Laws, as appearing in section 1 of chapter 296 of the acts of 1993, is hereby amended by adding the following sentence:- The general court does not intend to restrict the use of community facilities to provide care for clients of state agencies, if any privatization contract relating to such facilities otherwise complies with the provisions of said sections fifty-three to fifty-five, inclusive.

SECTION 7. Paragraph (7) of section 54 of said chapter 7, as so appearing, is hereby amended by striking out subparagraph (v) and inserting in place thereof the following subparagraph:-

(v) the proposed privatization contract is in the public interest, in that it meets the applicable quality and fiscal standards set forth herein.

SECTION 8. Chapter 8 of the General Laws is hereby amended by striking out section 20 and inserting in place thereof the following section:-

Section 20. In recognition of the place of the old provincial state house in Boston in the history of the commonwealth and of the nation, it is hereby declared to be the intention of the general court to assist in maintaining and preserving it as an historic and patriotic memorial, through the Bostonian Society, a charitable, non-profit corporation which was organized under the laws of the commonwealth in the year, eighteen hundred and eighty-one, for the purposes of promoting the study of the history of Boston and preserving its antiquities and which, for over one hundred years, has been responsible for maintaining the old state house as a museum and place of study.

For the purpose of maintaining the old provincial state house in Boston as an historic and patriotic memorial, there shall be allowed and paid out of the treasury of the commonwealth to the Bostonian Society, a charitable corporation organized under the laws of the commonwealth, the sum of twenty-five thousand dollars annually. The said society shall expend such funds in the furtherance of the above purpose and shall report annually to the governor and the general court as to the specific purposes for which they were expended.

SECTION 9. The ninth paragraph of section 1G of chapter 15 of the General Laws, as appearing in section 3 of chapter 71 of the acts of 1993, is hereby amended by inserting after the word, "specialist,", in line 8, the following words:- a school age child care specialist,.

SECTION 10. Chapter 15A of the General Laws is hereby amended by adding the following section:-

Section 40. (1)(a) Notwithstanding the provisions of chapter thirty-two of the General Laws, or of any general or special law to the contrary the higher education coordinating council shall establish an optional retirement program under which custodial accounts described in section 403(b)(7) of the Internal Revenue Code, as it may be amended from time to time, or contracts providing retirement and death benefits may be purchased for eligible members who elect to participate in the program. The benefits to be provided for participants in such optional retirement program shall be provided through such custodial accounts or individual or group annuity contracts, which may be fixed or variable in nature, or a combination thereof; provided that, at all times, those annuity contracts issued by licensed insurers under the optional retirement program shall provide the minimum values and guarantees required by the laws governing such contracts in the commonwealth; and provided, further, that the benefits shall be payable only to participants in the program or their beneficiaries, and such benefits shall be paid only by the selected providers in accordance with the terms of the custodial accounts, annuity contracts or certificates providing coverage to the participant; provided that such optional retirement program shall not allow a participant to withdraw contributions while an active participant in the commonwealth's optional retirement program.

(b) Said council shall select at least two but no more than four providers for the optional retirement program and enter into contracts with them in accordance with the laws governing the procurement of services for executive agencies of the commonwealth, provided that such procurements shall not be subject to the approval of the commissioner of administration; provided, further, that the selected providers shall be authorized to conduct business within the commonwealth, and each and every provider or issuer of annuity contracts under the optional retirement program which is a life insurance company shall hold a certificate of authority to do a life insurance business in the commonwealth, maintain the minimum required capital and surplus required for life insurance companies under the laws of the commonwealth, be a member of the commonwealth's life and health insurance guaranty association and be a member of the life and health insurance guaranty associations in any and all jurisdictions where required by law with similar retirement programs funded in whole or in part through the provider's annuities in which participants in the optional retirement program might participate upon transfer of employment; and provided, further, that said council shall coordinate the transfer of funds and information between payroll centers, the selected providers and plan participants.

(c) The council shall promulgate regulations governing the administration of and participation in the plan. Such regulations shall be subject to the provisions of chapter thirty A, and a copy of such regulations, and any amendments thereto, shall be filed in advance of their taking effect with the general court. The council shall file the proposed regulation, amendment or repeal with the clerk of the house of representatives, who shall refer such regulations to the joint committee on public service. Within thirty days after such referral, the committee on public service may hold a public hearing on the regulations and shall issue a report to the council. Said report shall contain any proposed changes to the regulations voted upon by the public service committee. The council shall review said report and shall adopt final regulations as deemed appropriate in view of said report and shall file with the chairmen of the public service committee its final regulations. If the final regulations do not contain the changes proposed by the public service committee, the council shall send a letter to the public service committee accompanying the final regulations stating the reasons why such proposed changes were not adopted. Not earlier than forty-five days after the filing of such letter and final regulations with the public service committee, the council 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.

If no such proposed changes to the regulations are made to the council within sixty days of the initial filing of the proposed regulation or any amendment or a repeal of such regulation with the clerk of the house of representatives, the council may 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.

(2) (a) Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership in the state employees' retirement system as established under the provisions of chapter thirty-two; provided, that they are faculty members or chancellors or presidents of the council or of public institutions

of higher education, as defined in section five of chapter fifteen A of the General Laws.

(b) Elections to participate in the optional retirement program shall be made as follows:

(i) Any eligible employee who is initially appointed on or after the effective date of the optional retirement program may elect in writing to participate in the optional retirement program within ninety days of the effective date of the appointment. Any such election shall be effective as of the effective date of appointment. If an eligible employee fails to make an election as provided in this paragraph, such employee shall become a member of the state employees' retirement system established under the provisions of said chapter thirty-two.

(ii) Any eligible employee who is a member of any retirement system established under the provisions of said chapter thirty-two on the effective date of the optional retirement program but who has less than ten years of creditable service on the effective date of the optional retirement program may elect in writing to participate in the optional retirement program within ninety days after the effective date of the optional retirement program. Any such election shall become effective on the first day of the pay period next following such election, and shall constitute a waiver of all retirement benefits to which the individual may be entitled as an employee under any retirement system established under the provisions of said chapter thirty-two.

(iii) Any employee who is a member of any retirement system established under the provisions of said chapter thirty-two but who has less than ten years of creditable service on the date such employee becomes eligible to participate in the optional retirement program may elect in writing to participate in such optional retirement program within ninety days of the date said employee becomes eligible. Any such election shall become effective on the first day of the pay period next following such election, and shall constitute a waiver of all retirement benefits to which the individual may be entitled as an employee under any retirement system established under the provisions of said chapter thirty-two.

(iv) Any eligible employee electing to participate in the optional retirement program shall be ineligible for membership in the state employees' retirement system as long as he remains continuously employed in any eligible position within a public institution of higher education, as defined in section five; provided, that the election by an eligible employee to participate in the optional retirement program shall be irrevocable for so long as the employee continues to meet the eligibility requirements; provided further, however, if an employee becomes ineligible to continue in the optional retirement program, the employee shall thereafter participate in the state employees' retirement system established in accordance with the provisions of said chapter thirty-two.

(3) (a) Any eligible employee electing to participate in the optional retirement program shall not be required to make contributions to the state employee's retirement system but shall contribute to the optional retirement program an amount equal to the contribution which would have been required had such employee been a member of the state employees' retirement system.

(b) For each eligible employee electing to participate in the optional retirement program, the state employees retirement system shall contribute an amount equal to five percent of each employee's regular compensation, as defined in section one of chapter thirty-two, to the optional retirement program and a plan established to provide life and disability benefits to all participants in the program; provided, however, that not more than one percent of said contribution shall be made to the plan established to provide said life and disability benefits; and provided, further, that the balance of said contribution shall be remitted to the appropriate provider for application to the participating employee's contract or custodial account, less any monthly fees established by the council and approved in advance by the state comptroller in order to cover the reasonably necessary direct costs incurred by the council in establishing and administering the plan; and provided, further, that no funds shall be invested in any bank or financial institution which directly or through any subsidiary has outstanding loans to any individual or corporation engaged in the manufacture, distribution or sale of firearms, munitions, including rubber or plastic bullets, tear gas, armored vehicles or military aircraft for use or deployment in any activity in Northern Ireland, and no assets shall be invested in the stocks, securities or other obligations of any such company so engaged.

(c) If any eligible employee is a member of any retirement system established under the provisions of said chapter thirty-two at the time such employee elects to participate in the optional retirement program, the employee may direct that the amount of the accumulated total deductions, and any interest to which the employee would be entitled under said chapter thirty-two if the employee withdrew from the system, credited to such employee's account in such retirement system be transferred directly to such employee's account in the optional retirement program. Any such transfer shall be made in the form of a direct trustee-to-trustee transfer in compliance with the requirements of subchapter D of chapter one of the federal Internal Revenue Code.

(d) The funds accumulated under the optional retirement program shall be exempt from taxation. The rights of a participant to a custodial account, an annuity, the annuity contracts or certificates providing coverage to participants, and all right in and to the funds accumulated under the custodial accounts, annuity contracts or certificates shall be exempt from taxation, including income taxes levied under the provisions of said chapter sixty-two. No assignment of any right in or to any funds or annuities under the optional retirement program shall be valid except such assignment as may be made for the purpose of making restitution in the case of dereliction from duty by any participant as set forth in section fifteen of said chapter thirty-two as long as such assignment does not violate the restrictions of the Internal Revenue Code; provided that nothing in this section shall prevent a participant's custodial account or annuity from being attached, taken on execution, assigned, or subject to other process to satisfy a support order under chapter two hundred and eight, two hundred and nine, or two hundred and seventy-three as long as such order constitutes a qualified domestic relations order under the terms of the Internal Revenue Code.

SECTION 11. Section twenty-six A of chapter fifteen C of the General Laws is hereby repealed.

SECTION 12. Section 44 of chapter 23A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following clause:-

(10) SOMWBA shall impose administrative penalties on an applicant for certification or recertification that knowingly provides false or misleading information on its application or in support of its application for certification or recertification as a minority- or women-owned business, or on a person who fails to comply with any provision of any regulation or approval issued or adopted by the agency or of any law which the agency has the authority or responsibility to enforce.

SECTION 13. Chapter 23F of the General Laws is hereby amended by striking out sections 1 to 8 and inserting in place thereof the following nine sections:-

Section 1. There is hereby created the Technology Two Thousand (2000) Partnership, hereinafter referred to as "Technology 2000", or the "program", to be administered by the Bay State Skills Corporation, hereinafter referred to as "BSSC", or such other entity as may be designated pursuant to the provisions of sections two and eight. The administrator of the program as determined in accordance with sections one and two shall be hereinafter referred to as the "program administrator".

Section 2. (a) The secretary of economic affairs, hereinafter referred to as the "secretary", is hereby authorized and directed to enter into a contract with BSSC for the administration of the program. Such contract shall set forth performance objectives for the program consistent with this chapter and with requirements for alternative deployment pilot projects and other related deployment programs, which services, projects, and programs are herein collectively referred to as "manufacturing extension services" of the Technology Reinvestment Program, a joint undertaking of the Advanced Research Projects Agency and other federal agencies, created and funded pursuant to the Defense Conversion, Reinvestment, and Transition Act of Fiscal Year 1993, and Title IV of the Fiscal Year Defense Appropriations Act, hereinafter referred to as "TRP", and, where appropriate, with requirements of other related federal manufacturing modernization programs.

(b) In the event the secretary determines that the performance objectives for the program, as set forth in the contract, have not been satisfactorily met, such contract shall provide for the replacement of BSSC as program administrator, after reasonable notice and opportunity to correct deficiencies, and in no case sooner than eighteen months after the effective date of this section, in which event the secretary may contract with another qualified non-profit or quasi-public corporation for the administration of the program. The program administrator may also be replaced in the event the advisory board so recommends pursuant to subsection (b) of section eight. The secretary shall submit a copy of any subsequent contract under this chapter to the house and senate chairs of the joint committee on commerce and labor prior to its final execution.

(c) In addition, the secretary may terminate or suspend the contract with the program administrator, and such contract may provide for the replacement of the program administrator, as follows:

(1) If the program administrator breaches any material term or condition of the contract other than failure to meet the performance objectives of the program, or fails to perform or fulfill any material obligation required by the contract, provided, however, that prior written notice is delivered to the program administrator at least seven calendar days before the effective date of the termination. The secretary may terminate the contract immediately in the event of the program administrator's participation in fraudulent activities.

(2) If the secretary determines that an unanticipated emergency situation exists, through no fault of the secretary, which by law mandates the secretary's immediate action to protect state or federal funds, property or persons, or to remedy damages which have already occurred. Such termination shall be effective upon the program administrator's receipt of written notice of either suspension or termination.

Section 3. The purposes of Technology 2000 shall include, but shall not be limited to the following:

(1) Encouraging and assisting in the diversification of defense-dependent firms and enhancing the competitiveness of the commonwealth's manufacturing sector by providing technical assistance to such firms seeking to expand into new product areas and new production processes, and markets, including but not limited to, technology assistance provided pursuant to subsection (p) of section four of chapter forty I, section seven F of chapter forty I, and subsection (a) of section four of chapter twenty-three A.

(2) Supporting the creation and organization of manufacturing extension services, alternative deployment pilot projects, technology access services, alternative use committees, or other related deployment programs to regional consortia of, but not limited to, private companies, especially small- and medium-sized companies, universities, colleges and community colleges, labor organizations, non-profit agencies, and other interested individuals and organizations through: (i) direct support of services through the Economic Conversion Fund as established in section seven or through other means, or (ii) matching funds through the Economic Conversion Fund for funds provided by the Technology Reinvestment Program within the Advanced Research Projects Agency of the Department of Defense, created and funded pursuant to the Defense Conversion, Reinvestment and Transition Act of Fiscal Year 1993 and Title IV of the Fiscal Year 1993 Defense Appropriations Act, or by other related federal programs; provided, however, that the program shall require recipients of Economic Conversion support to provide other non-federal and non-state matching funds as a condition of support.

(3) Providing statewide support services to regional consortia or providers that include but are not limited to training and capacity building of extension service providers, assessment and evaluation of services, federal grant administration services, and interregional communications; provided, however, in no case shall the program administrator make evaluations or assessments of any services it directly provides to consortia, providers, or firms.

(4) Collecting and disseminating information on financial, technical, marketing, management, and other services available to technology-intensive small- and medium-sized

and emerging businesses, including potential sources of debt and equity capital, in cooperation with the executive office of economic affairs, the Industrial Services Program, and the quasi-public corporation planning council established pursuant to section fifty-six of chapter twenty-three A.

(5) In response to a potential or actual dislocation as a result of a major plant closing or base closing, supporting development of a regional defense conversion plan by a regional planning agency, the government land bank, any combination of municipalities, or any other entity designated by the governor.

Section 4. The following additional provisions shall govern the program:

(1) manufacturing extension services supported or provided by Technology 2000 under this chapter shall be designed to increase competitiveness of small and medium sized companies in Massachusetts through access to technical, technology, systems, and management assistance, in accessing training and consulting services, and the transitioning of technologies from research or military uses to viable products and processes.

(2) the program shall support the improvement of business practices, including but not limited to: technology, quality systems, work organization and management practices, including total quality management and just-in-time delivery systems, encouragement of employee-management cooperation in training, product design and manufacturing improvement, marketing, or alternative use development. Technology extension services provided under this chapter may be supported through a fee for service program as provided in subsection (p) of section five of chapter forty I or as otherwise determined by the program administrator in consultation with the appropriate Regional Employment Boards, the Secretary of Economic Affairs, the advisory board created in section eight of this chapter, the legislature and other interested parties; provided, however, that the program administrator may waive all fees in cases of financial hardship as determined by the program administrator.

(3) the program may also seek to stimulate the creation of advanced technologies and techniques to improve both products and manufacturing processes, including activity-based accounting, concurrent engineering, and new problem-solving techniques.

(4) the program administrator shall provide the advisory board, as created in section eight, with copies of the following documents for review prior to their release or submission: (i) request-for-proposals or solicitations for services or grants provided pursuant to this chapter; (ii) contracts between the program administrator and regional consortia, as specified in section three; and (iii) applications for public or private grants or aid.

Section 5. As a condition of providing any grant under clause (ii) of subparagraph (2) of section three, the program administrator shall enter into a contractual agreement with the regional consortia specifying the terms and conditions of such grant, the responsibilities and financial contribution of the consortia, and a requirement for regular reporting by the consortia as specified by the program administrator.

Section 6. The program administrator shall, where appropriate, request the assistance of and coordinate its activities with the quasi-public corporation planning council established pursuant to section fifty-six of chapter twenty-three A.

Section 7. There is hereby created within the program an Economic Conversion Fund, known hereinafter as the "Fund", to be used by the program administrator solely to provide the program with financial support for the creation of a statewide technology deployment coordination system and for matching grants to support the creation of or assistance to manufacturing extension services, alternative deployment pilot projects, technology access programs and other related deployment programs and subject to appropriation.

The program administrator shall provide the advisory board, the house and senate committees on ways and means and the joint committee on commerce and labor with quarterly reports regarding the nature and amount of all expenditures, with a detailed summary of activities supported.

Section 8. (a) There shall be a program advisory board consisting of seventeen members, one of whom shall be the secretary of the executive office of economic affairs or the secretary's designee, two of whom shall be the house and senate chairperson of the joint committee on commerce and labor, or their respective designees, two of whom shall be labor representatives who are affiliated with a union or unions likely to be affected by defense conversion and shall be designated by the AFL-CIO, one of whom shall represent an organization of manufacturers to be appointed by the governor, one of whom shall be a representative of communities heavily impacted by defense cuts and to be appointed by the speaker of the house of representatives, one of whom shall be a representative of communities heavily impacted by defense cuts and to be appointed by the president of the senate and nine of whom shall be representatives of small or medium sized manufacturing companies located in the commonwealth to be appointed by the governor. At least five of the nine manufacturing company representatives shall represent defense-related or defense-dependent companies and at least one of the nine shall be a private sector member of the MassJobs Council.

The members of said board shall elect a chair and vice-chair. Except as otherwise provided by law, members shall serve three year terms. Members shall serve without compensation, except members shall be entitled to reimbursement by the program administrator for actual and necessary expenses incurred in the performance of their official duties. The program administrator shall also provide the advisory board with administrative and research support.

The advisory board may establish subcommittees of individuals who are not advisory board members. Such subcommittees may include individuals representing groups actively advocating the need for economic diversification of defense-dependent firms and industries, and academicians and other individuals with expertise in the area of commercial product and market development application of flexible production technologies and workforce training and retraining.

(b) After a period of eighteen months, but no later than thirty months following the effective date of this chapter, the advisory board shall submit a report to the governor and to the house and senate chairpersons of the joint committee on commerce and labor, evaluating the progress of the program and, if appropriate, recommending changes in the

administration of the program. The program administrator and the program evaluator shall provide the advisory board with any reasonably necessary information to assist in the preparation of the report.

Section 9. The program advisory board shall:

(1) develop a short-term and long-term strategy to harness the best talents available to focus on technology innovation, extension, infrastructure, and education and training for product and process technologies of critical importance for the commonwealth's economic competitiveness and future economic growth;

(2) review and monitor the technological development progress and potential of the various regions of the state and make findings and recommendations to the governor, general court, and program regarding state supported assistance to the regions;

(3) recommend to the program eligibility criteria for accepting applications for technical assistance and grants provided under this chapter;

(4) recommend as to the advisability and nature of, and the appropriate procedures for, any grant or endorsement regarding any program designed to support applications for assistance under the Defense Conversion, Reinvestment and Transition Act of Fiscal Year 1993 and Title IV of the Fiscal Year 1993 Defense Appropriations Act, and other federal defense conversion and diversification programs;

(5) review and make recommendations to the program on any request-for-proposals or solicitations for services or grants to be issued by the program, contracts between the program and regional consortia, and applications for public or private grants or aid to be submitted by the program;

(6) advise the program on the needs of small- and medium-sized manufacturers in becoming more productive and competitive and in addressing the challenges of global competition and the effects of reduced national defense spending;

(7) make recommendations to the program regarding the most efficient and effective means to help address the needs of small- and medium-sized manufacturers and assist the program in setting priorities in light of limited program resources;

(8) review the effectiveness of existing program activities and make recommendations regarding the extent to which such activities could be better directed to the actual needs of targeted companies and groups of companies in order to help the program maintain a "customer-driven focus"; and

(9) advise the program on strategic opportunities to create new partnerships and alliances in promoting manufacturing productivity and competitiveness.

SECTION 14. The fifth paragraph of section 19 of chapter 32B of the General Laws, inserted by section 103 of chapter 110 of the acts of 1993, is hereby amended by inserting after the word "to", in line 4, the following words:- chapter one hundred and seventy-six B, a health maintenance organization organized pursuant to chapter one hundred and seventy-six G, a preferred provider organization organized pursuant.

SECTION 15. Section 9 of chapter 46 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by adding the following paragraph:-

A registered professional nurse, licensed by the board of registration in nursing, after the death of a person that has occurred in a certified nursing home, may declare such person dead; provided, however, that said nurse first make a reasonable effort to contact said physician or medical examiner before making such determination or pronouncement; provided further, that such determination or pronouncement be made in writing on a form approved by the commissioner of public health and subscribed under pains and penalties of perjury; and provided further, that the medical examiner be notified forthwith of the exact location to which the decedent has been removed.

SECTION 16. Section 18D of chapter 58 of the General Laws, as appearing in section 108 of chapter 110 of the acts of 1993, is hereby amended by striking out, in line 7, the words "previous three months" and inserting in place thereof the following words:- three months ending two quarters prior to the quarter for which said distribution is being made.

SECTION 17. Section 2 of chapter 62 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting in line 13 after the word "Code" the following words:- other than contributions to the optional retirement system established by section forty of chapter fifteen A.

SECTION 18. Said section 2 of said chapter 62, as so appearing, is hereby amended by inserting in line 26 after the word "thirty-two" the following words:- or pursuant to section forty of chapter fifteen A.

SECTION 19. Said section 2 of said chapter 62, as so appearing, is hereby amended by inserting in line 52 after the words "sub-division thereof" the following words:- including the optional retirement system established by section forty of chapter fifteen A.

SECTION 20. Said section 2 of said chapter 62, as so appearing, is hereby amended by inserting in line 62 after the word "chapter" the following words:- ; provided, that this subparagraph shall not apply to income from the optional retirement system established by section forty of chapter fifteen A.

SECTION 21. Section 3 of said chapter 62, as so appearing, is hereby amended by inserting in line 49 after the words "political subdivision thereof" the following words:- including the optional retirement system established by section forty of chapter fifteen A.

SECTION 22. Section 6 of chapter 64H of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "purposes" in line 369 the following words:- ; meals served to a resident in a facility providing continuing care to an individual which facility must provide a disclosure statement to a prospective resident as required by section seventy-six of chapter ninety-three.

SECTION 23. Said section 6 of said chapter 64H, as so appearing, is hereby further amended by adding the following paragraph:-

(rr) Sales of cooperative direct mail promotional advertising materials, purchased by a person engaged solely and exclusively in the business of providing cooperative direct mail promotional advertising, which are distributed in Massachusetts from a direct mailer located outside of the state. For the purpose of this paragraph, "cooperative direct mail promotional advertising materials" shall mean discount coupons and advertising leaflets,

including any accompanying envelopes and labels; the term "cooperative direct mail promotional advertising" shall mean the service of providing advertising in the form of discount coupons or advertising leaflets for more than one business which are delivered by mail in a single package to potential customers of businesses subscribing to the cooperative direct mailing advertising; and the term "direct mailer" shall mean a person solely and exclusively engaged in the business of producing, packaging, and mailing cooperative direct mail promotional advertising materials.

SECTION 24. Subsection (e) of section 16D of chapter 71 of the General Laws, as amended by section 263 of chapter 110 of the acts of 1993, is hereby further amended by adding the following words:- ; provided, further, that any regional school district whose member communities hold meetings on regionalization prior to January first, nineteen hundred and ninety-four and becomes newly organized prior to April first, nineteen hundred and ninety-four shall receive seventy-six percent of the amount it would otherwise have been entitled to receive for expenses incurred in the first year of operation as an organized school district pursuant to the foregoing provisions of this section.

SECTION 25. Section 37H of chapter 71 of the General Laws, as appearing in section 36 of chapter 71 of the acts of 1993, is hereby amended by inserting, in line 5, after the word "personnel" the following words:- ; provided, however, that said policies prohibiting the use of tobacco products shall not apply to town meetings and to public meetings of governmental bodies, as defined in section twenty-three A of chapter thirty-nine.

SECTION 26. Said chapter 71 of the General Laws is hereby further amended by striking out section 38G, inserted by section 41 of chapter 71 of the acts of 1973, and inserting in place thereof the following section:-

Section 38G. As used in this section the following words shall have the following meanings:

"Board", the board of education established by chapter fifteen.

"Provisional educator", a person who holds a provisional educator certificate.

"Provisional educator with advanced standing", a person who holds a provisional educator certificate with advanced standing; provisional educator certificate with advanced standing shall be valid for five years of employment as an educator in the schools of the commonwealth.

"Provisional educator certificate", a license to teach issued to a person who has successfully met the preparation and eligibility requirements as established by the board. The provisional educator's certificate shall be valid for five years of employment as an educator in the schools of the commonwealth.

"Provisional educator certificate with advanced standing", a license to teach issued to a person who has successfully met the preparation and eligibility requirements as established by the board for provisional certification and completed (1) a college program, graduate or undergraduate, approved by the board of education for the preparation of teachers; or (2) a college preparation program included in the National Association of State Directors of Teacher Education and Certification (NASDTEC); or (3) an out of state teacher

education program approved by the National Council for the Accreditation of Teacher Education (NCATE); or (4) other program approved by the board.

"Regionally licensed or certified educator", an applicant for a teacher's certificate in Massachusetts who has been granted a regional license or certificate by another state jurisdiction under terms of a contract entered into pursuant to chapter seven hundred and forty-eight of the acts of nineteen hundred and sixty-eight, the Interstate Agreement on Certification of Educational Personnel. Such certificate shall be equivalent to the provisional educator certificate with advanced standing.

"Reciprocity of certified educators", the process and requirements established by the commissioner for candidates to obtain certification who have completed (1) a college preparation program included in the alternative certification reciprocity system of the National Association of State Directors of Teacher Education and Certification (NASDTEC); (2) out-of-state programs approved by the National Council for the Accreditation of Teacher Education (NCATE); or (3) other programs approved by the board. Such certificate shall be equivalent to the provisional educator with advanced standing certificate.

"Standard educator", a person who holds a standard educator certificate.;

"Standard educator certificate", a license to teach issued to a person who has successfully met the preparation and eligibility requirements as established by the board. The standard educator's certificate shall be valid for renewable terms of five years.

The commissioner of education shall have authority to grant, upon application, provisional educator, provisional educator with advanced standing, and standard educator certificates to persons who have satisfied the requirements for such certificates as established by the board. The board shall define the knowledge of subject matter and demonstration of competencies commensurate with attainment and renewal of such certificates.

To be eligible for certification as a provisional educator, the candidate shall (1) hold a bachelor's degree in arts or sciences from an accredited college or university with a major course in the arts or sciences appropriate to the instructional field; (2) pass a test established by the board which shall consist of two parts: (A) a writing section which shall demonstrate the communication and literacy skills necessary for effective instruction and improved communication between school and parents; and (B) the subject matter knowledge for the certificate; and (3) be of sound moral character. Candidates who complete the requirements in this paragraph shall be issued provisional educator certificates which will permit them to seek employment in teaching positions requiring instructional certification in districts which have an approved provisional educator preparation program.

The commissioner shall establish standards for the training, support and supervision of provisional educators. During the period of employment, a person holding a provisional teaching certificate pursuant to this section shall be under the direct supervision of the principal or other appropriate supervisor who shall regularly observe and evaluate the performance of assigned duties by such holder of a provisional teaching certificate. Such evaluation shall be according to relevant to nationally recognized professional standards for personnel evaluation.

Each public school district seeking to hire a provisional educator must submit an provisional educator program plan to the department of education. No district shall be authorized to employ a provisional educator unless it has submitted a plan for such a program and received approval of the commissioner. Each plan shall describe the key elements of the proposed provisional educator program in accordance with guidelines established and published by the department. Such guidelines shall require that provisional educators in district-based programs meet the equivalent standards that provisional educators with advanced standing meet in approved college and university programs. Districts shall show either evidence of joint sponsorship or collaboration of training programs with (1) colleges or universities, or (2) other districts, or (3) other programs approved by the commissioner to provide such programs. The department shall issue standard district plans which districts may implement in lieu of developing original plans. The department shall coordinate the training efforts of districts, shall insure that district programs meet fair, substantive and comprehensive professional development standards and shall establish regional programs for provisional educators. The department shall also provide orientation programs for support team members. Provisional educators shall be observed by a professional support team. The department of education shall devise standardized criteria for a final comprehensive evaluation of each provisional educator, conducted at the end of the provisional educator period by the professional support team. All such evaluations shall be conducted according to nationally recognized professional standards for personnel evaluation.

At the conclusion of each year of the approved district training program for provisional educators, the chairperson of the support team shall prepare a comprehensive evaluation report of the provisional educator's performance. Such report shall be submitted by the chairperson directly to the department of education. The final comprehensive evaluation report on each provisional educator shall be made on forms provided by the department of education. Said report shall include an assessment of the individual's on the job performance and one of the following recommendations:

(1) Approved: recommends that advanced standing status be granted upon completion of the other preparation and eligibility requirements as established by the board;

(2) Insufficient: recommends that the candidate be allowed to seek entry in the future into a district training program; or A candidate found insufficient twice shall not be allowed to enter another district training program; or

(3) Disapproved: recommends that advanced standing status not be granted and that the candidate not be allowed to enter into a district training program.

The support team chairperson shall provide the provisional educator with a copy of the written evaluation report and certification recommendation before submitting it to the commissioner of education.

If the recommendation is to disapprove, the provisional educator may, within fifteen days, submit to the chairperson written materials documenting the reasons why the provisional educator believes his provisional educator certification should continue to remain

valid or a recommendation of insufficient granted. The chairperson shall forward all such documentation to the commissioner of education along with the evaluation report and recommendation concerning certification.

Candidates who receive a recommendation of "disapproved" or two or more recommendations of "insufficient" may appeal to the commissioner for approval of additional opportunities to seek provisional educator employment in districts other than those in which they received unfavorable recommendations. The candidate shall be responsible for demonstrating why he would be likely to succeed if granted the requested opportunity.

To be eligible for certification as a provisional educator with advanced standing, the candidate shall provide evidence that he (1) holds a bachelor's degree in arts or sciences from an accredited college or university with a major course in the arts or sciences appropriate to the instructional field or the equivalent baccalaureate degree; (2) has passed a test established by the board which shall consist of two parts: (A) a writing section which shall demonstrate the communication and literacy skills necessary for effective instruction and improved communication between school and parents; and (B) the subject matter knowledge for the certificate; (3) has satisfactorily completed a board of education approved teacher preparation program; and (4) is of sound moral character. A candidate who completes the requirements of this paragraph shall be issued a provisional educator certificate with advanced standing which will permit him to seek employment in a teaching position requiring instructional certification.

Each public school district seeking to hire a provisional educator with advanced standing must submit a plan to the department of education which details how the district will supervise and support such provisional educators with advanced standing. No district shall be authorized to employ a provisional educator with advanced standing unless it has submitted a plan for the support and evaluation of such educator to the commissioner and received the approval of the commissioner. The department of education shall issue standard plans for provisional educators with advanced standing which districts may implement in lieu of developing an original plan.

In not less than one year after the issuance of a provisional educator certificate, the commissioner upon receipt of a proper application shall issue a standard educator certificate to such provisional certificate holder who has provided the commissioner with evidence, in such manner and form as prescribed by the board, that he has met the preparation and eligibility requirements set by the board through a master's degree program approved by the commissioner, or through an equivalent district program for standard certification approved by the commissioner, or other equivalent programs approved by the commissioner; and has met the requirements set by the commissioner for demonstration of successful performance.

Each standard educator certificate shall be valid for five years and continued every five years thereafter upon the successful completion of an individual professional development plan that meets the subject matter knowledge and teaching skill requirements set by the board. Such plan shall be designed to increase the ability of the person to improve student learning.

Certificates granted by the board prior to October first, nineteen hundred and ninety-four are hereby deemed standard certificates which shall be renewed every five years. All such certificates must be renewed by June eighteenth, nineteen hundred and ninety-nine.

The commissioner shall develop alternative paths for certifying school management and educational leadership personnel which shall facilitate a process whereby persons with significant managerial experience can obtain such certification.

Any certificate issued by the commissioner may be revoked for cause, pursuant to standards and procedures established by the board.

The board shall have the authority to promulgate, amend and rescind such rules and regulations as may be necessary to carry out the provisions of this section. Such regulations shall be presented to the joint committee for informational purposes ninety days before implementation.

All applications for any certificates granted under this section shall be accompanied by a fee to be determined annually by the commissioner of administration under the provisions of section three B of chapter seven. Said fees shall be established and limited to allow the department to carry out the certification and recertification responsibilities but in no case shall said applications exceed one hundred dollars per year with an annual increase no greater than the consumer price index.

No person shall be eligible for employment as a teacher, guidance counselor, director, school psychologist, school adjustment counselor, school nurse, library media specialist, school business administrator, principal, supervisor, director, assistant superintendent of school, and superintendent of schools by a school district unless he has been granted by the commissioner a provisional, or standard certificate with respect to the type of position for which he seeks employment; provided, however, that nothing herein shall be construed to prevent a school committee from prescribing additional qualifications; and provided further, that a superintendent may upon request be exempt by the commissioner for any one school year from the requirement in this section to employ certified personnel when compliance therewith would in the opinion of the commissioner constitute a great hardship in securing teachers for that school district. During the time that such a waiver is in effect, service of an employee of a school district to whom the waiver applies shall not be counted as service in acquiring professional teacher status or other rights under section forty-one.

For the purposes of certifying educators, the board shall establish policies and guidelines and the commissioner may approve preparation programs devoted to the preparation of teachers and other educational personnel. A college or university or school or district or other institution offering such an approved program shall certify to the commissioner that a student has demonstrated satisfactory competence in the skills and knowledge expected of college graduates in the most advanced nations, and has completed the program approved. The college or university or school district or other institution shall also provide the commissioner with a transcript of the student's record.

At the end of each five-year period each standard educator shall attest to and provide appropriate supporting evidence and documentation to the state department of education, in such form and at such time as the commissioner shall prescribe, that the standard educator has successfully completed a professional development plan which meets the standards set by the board.

It shall be one of the objectives of all school districts' professional development plans to satisfy the individual professional development plans required by this section; provided, however, that this requirement shall not be construed to require that a school district or the commonwealth provide funding for the fulfillment of the professional development requirements of this section and section thirty-eight Q beyond the foundation budget.

The board shall establish policies and guidelines for approval for any continuing education units, inservice seminars, projects, courses and other activities which would be deemed sufficient to maintain the development of professional skills and the knowledge of subject matter pertinent to particular certificates in accordance with the same procedures used for initial approval of collegiate preparation programs. The commissioner shall establish for each certification alternate methods for fulfilling the professional development requirement, at least one of which must be at no cost to persons employed by a school district who are engaging in such an activity for the purpose of satisfying the professional development requirements for recertification of this section.

Such policies shall provide that a teacher who is to be employed in a position in an area of certification in which he is not currently employed, but for which he held a certificate which had been valid within five years immediately proceeding the starting date of employment in this position, shall be given a reasonable period, as determined by the board, to fulfill a professional development plan which demonstrates currency in the subject matter knowledge and requalify him for certification in said area. In every instance, all evaluations and assessments shall follow nationally recognized professional standards.

Each local and regional school district shall attest to the department of education, in such form and at such time as the commissioner shall prescribe, that professional development activities for which credit toward certification renewal is granted meet the requirements set by the board and are documented in accordance with procedures established by the board.

The board shall, in establishing said policies and criteria for professional development, give special consideration to the best interests of the students in the commonwealth and the need to maintain the highest performance standards of teachers while taking into proper consideration the financial or time constraints these policies may require. In developing such policies, guidelines and assessment methods, the board shall obtain the input of teachers, administrators, educational experts, parents, business leaders and others interested in the improvement of the professional status of teachers.

Except as otherwise specifically provided in this section, no rights of any employees of a school district under the provision of this chapter shall be impaired by the provisions of this section.

Anyone granted either a provisional or standard certificate under this section or currently holding such certification shall be required to maintain the development of professional skills and the knowledge of subject matter pertinent to the areas of certification.

Teachers who were authorized, permitted or approved to teach in a subject or area for which there was no certification standard before September first, nineteen hundred and eighty-two, shall acquire and maintain the development of the skills and training required of persons certified to teach in said subject or areas after that date.

This section shall not apply to trade, vocational, temporary substitute teachers, exchange teachers, regionally licensed or certified teachers or to teaching or administrative interns; provided, however, that approval for the employment of such personnel shall be generated by the board under such rules and regulations as it may adopt.

SECTION 27. Section 59C of chapter 71 of the General Laws, as amended by section 53 of chapter 71 of the acts of 1993, is hereby further amended in the first paragraph by striking out the words, "or other interested groups;" and inserting in place thereof the following:- or other interested groups including those from school age child care programs;.

SECTION 28. The eighth paragraph of section 2 of chapter 90 of the General Laws, as amended by section 139 of chapter 110 of the acts of 1993, is hereby amended by striking out the third sentence and inserting in place thereof the following two sentences:- Such design shall be selected through a contest to be judged by the Barnstable county commissioners or their designees, and one county commissioner from each of the counties of Nantucket and Dukes. Before selecting a contest winner, said judges shall consult with the registrar of motor vehicles or his designee.

SECTION 29. Section 51 of chapter 111 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

No original license shall be issued to establish a hospital, except a college and school infirmary, unless it complies with the construction standards of the state building code and is of at least type 1-B fireproof construction.

SECTION 30. Said section 51 of said chapter 111, as so appearing, is hereby further amended by inserting in line 59, after the word "inclusive", the following words:- and provided further, that the department may retrospectively and prospectively waive the automatic bed delicensure provisions imposed pursuant to this paragraph to assist financially troubled hospitals for the purpose of qualifying for medicare disproportionate share reimbursement, and for other reasonable purposes.

SECTION 31. Section 2 of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out clause (1) in lines 72 to 74 and inserting in place thereof the following clause:- (1) a graduate of a Canadian medical school, or a medical school legally chartered in a sovereign state other than the United States or the commonwealth of Puerto Rico, and is licensed by the Medical Council of Canada and by a provincial licensing authority;.

SECTION 32. Section 81 of chapter 112 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out subsection (1) in lines 2 to 7, inclusive, the words ": (1) to any graduate of any school for nurses or practical nurses duly approved in accordance with this chapter, during the period from such person's graduation until announcement of the results of the first licensing examination for registered nurses, as the case may be, thereafter held in accordance with this chapter; and (2)".

SECTION 33. Chapter 131 of the General Laws, as so appearing, is hereby amended by inserting after section 2A the following section:-

Section 2B. The state treasurer shall receive and deposit all revenues transmitted to him under provisions of sections two and two A in such a manner that will ensure the highest rate of interest available consistent with the safety of the Inland Fish and Game Fund, and all interest accrued shall be deposited into the Inland Fish and Game Fund.

SECTION 34. Said chapter 131 is hereby further amended by striking out section 11 and inserting in place thereof the following section:-

Section 11. A person shall not fish in any inland waters of the commonwealth, unless he is a minor under fifteen years of age, nor hunt or trap any bird or mammal except as otherwise provided in sections four, fourteen, fifteen, twenty, twenty-one, twenty-three and thirty-seven without first having obtained a sporting, hunting, fishing, or trapping license.

The director, with the approval of the fisheries and wildlife board, shall establish classes of sporting, hunting, fishing, and trapping licenses, which shall be issued upon payment of the appropriate fee, the amount of which shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven. Such license classes may specify the types of fish and game authorized to be taken, the time period when the license is valid if less than one year, and such related aspects as the director may determine, provided that for a class of license valid for a consecutive period of days less than one calendar year, said days shall be specified on the license and the duration of the license shall be so limited, notwithstanding any provisions of section eighteen and section thirty-two.

Resident sporting, hunting, fishing, and trapping licenses shall be issued to the following classes of persons:- (1) A citizen of the United States, resident in the commonwealth for at least six consecutive months immediately prior to his application for a license, and (2) a person who is on active duty in the armed forces of the United States and is stationed within the commonwealth. Nonresident sporting, hunting, fishing, and trapping licenses shall be issued to any other citizen of the United States.

Sporting, hunting, and fishing licenses shall be issued to aliens:- (1) who have established residence in the commonwealth for a period of at least six consecutive months immediately prior to making application, and (2) all other aliens; provided, however, that in the case of a hunting or sporting license, an alien shall hold a valid permit issued under the provisions of section one hundred and thirty-one H of chapter one hundred and forty.

Notwithstanding the foregoing, no fee shall be charged for any license issued under this section to a resident citizen of the commonwealth over the age of seventy, or for a fishing license which is issued to a resident citizen of the commonwealth who is blind or

mentally retarded, or for a sporting, hunting, or fishing license issued to a paraplegic; provided, however, that in the case of a nonresident citizen who is a paraplegic, that said nonresident shows sufficient evidence to the issuing agent that he or she is so afflicted; and provided, further, that the state in which said nonresident is a resident provides a reciprocal privilege to residents of this commonwealth who are similarly afflicted.

The fee for an archery stamp or a primitive firearms stamp issued under section thirteen and the portion of such fee which the authorized agent or city or town clerk issuing such stamp may retain shall be determined under the aforementioned chapter seven provision.

The fee for a Massachusetts waterfowl stamp issued under section thirteen, the designated portion of said fee which may be retained by the authorizing agent or city or town clerk issuing such stamp and the amount which shall be transferred to the state treasurer for deposit and disbursement, shall be determined by the commissioner of administration annually under the provisions of section three B of chapter seven. The state treasurer shall forward upon request of the director and subject to annual appropriation, one dollar of the fee for each stamp issued to Ducks Unlimited, Inc., of Long Grove, Illinois pursuant to an agreement between the director and Ducks Unlimited, Inc. Such funds are to be used exclusively for waterfowl management in the Atlantic provinces of Canada. A written report shall be annually submitted to the division by Ducks Unlimited, Inc. setting forth what projects, activities and expenses were realized from the commonwealth's contribution. The state treasurer shall forward upon request of the director and subject to annual appropriation, up to three dollars of the fee from each stamp issued to the National Fish and Wildlife Foundation of Washington, D.C. for fulfillment of the North American Waterfowl Management Plan pursuant to an agreement between the director and the National Fish and Wildlife Foundation or to another nonprofit, waterfowl conservation and management organization whose purpose is to acquire, enhance, develop, or protect waterfowl habitat with the approval of the Fisheries and Wildlife Board. Such funds are to be used exclusively for waterfowl management in the Atlantic provinces of Canada and the northeastern United States. A written report shall be annually submitted to the division by the National Fish and Wildlife Foundation and/or any other organization receiving funds, setting forth what projects, activities and expenses were realized from the commonwealth's contribution. Any unexpended balance shall be credited to the Inland Fisheries and Game Fund.

A person shall not kill nor possess any species of game bird or mammal for which a permit is required unless he shall first have paid the established fee. A fee shall accompany each such permit application granted, the amount of which shall be determined pursuant to section three B of chapter seven, except that no fee shall be charged those persons qualifying for a farmer or landowner permit as determined by the director.

SECTION 35. Section 51 of chapter 143 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the second and third sentences.

SECTION 36. The definition of "Employer" or "public employer" in section 1 of chapter 150E of the General Laws is hereby amended by striking out the third sentence, as appearing in section 62 of chapter 71 of the acts of 1993, and inserting in place thereof the

following sentence:- For this purpose, the chief executive officer of a city or town or his designee shall participate and vote as a member of the city or town school committee; provided, however, that if there is no town manager or town administrator in a town, the chairman of the board of selectmen or his designee shall so participate and vote.

SECTION 37. Section 25A of chapter 152 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting after the word "employee", in line 166, the following words:- or, at the option of the policyholder, an aggregate deductible as determined by the commissioner.

SECTION 38. Paragraph l0 of section 108 of chapter 175 of the General Laws, added by section 200 of chapter 110 of the acts of 1993, is hereby amended by inserting after the words, "medicare supplement insurance", the following words:- and medicare select insurance.

SECTION 39. The second paragraph of section 6 of chapter 176A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out the seventh sentence.

SECTION 40. Clause (8) of paragraph (c) of section 8 of said chapter 176A, added by section 206 of chapter 110 of the acts of 1993, is hereby further amended by inserting after the words, "medicare supplement insurance", the following words:- and medicare select insurance.

SECTION 41. The second paragraph of section 4 of chapter 176B of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out in the second sentence, the words:- "Under such an agreement" and inserting in place thereof the following words:- For a non-group agreement, except contracts providing supplemental coverage to medicare or other governmental programs,.

SECTION 42. Said section 4 of said chapter 176B, as so appearing, is hereby further amended by striking out the third paragraph.

SECTION 43. The last paragraph of said section 4 of said chapter 176B, added by section 210 of chapter 110 of the acts of 1993, is hereby amended by inserting after the words, "medicare supplement insurance", the following words:- and medicare select insurance.

SECTION 44. The last paragraph of section 6 of said chapter 176B, as added by section 211 of chapter 110 of the acts of 1993, is hereby further amended by inserting after the words, "medicare supplement insurance", the following words:- and medicare select insurance.

SECTION 45. The General Laws are hereby amended by inserting after chapter 176J the following chapter:-

CHAPTER 176K.

MEDICARE SUPPLEMENT INSURANCE PLANS.

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 policies for medicare supplement insurance or medicare select insurance or policies issued pursuant to a risk or cost contract.

"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 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 any entity approved by the commissioner under chapter one hundred and seventy-six I to operate an insured health plan that includes a preferred provider arrangement which offer, sell, issue, deliver, or otherwise make effective, or renew in the commonwealth policies for medicare supplement insurance or medicare select insurance or policies issued pursuant to risk or cost contracts.

"Commissioner", the commissioner of insurance.

"Community rating", a rating methodology in which the premium for all persons covered by a particular policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract is the same, based on the experience of all persons covered by the plan, without regard to age, sex, health status, or occupation, or any other factor which the commissioner may specify by regulation.

"Eligible person", any person who resides in the commonwealth for at least six consecutive months of each calendar year and who is eligible for or enrolled in Medicare coverage for both hospital and physician services due to age or disability, and who is not eligible for employer-sponsored health care coverage, other than a person eligible for Medicare coverage due solely to end-stage renal disease.

"Guaranteed renewable", a policy provision whereby the insured has the right to continue the policy for medicare supplement insurance or medicare select insurance or policy issued pursuant to a risk or cost contract in force by the timely payment of premiums and the carrier has no unilateral right to make any change in any provision of the plan while the plan is in force, unless approved by the commissioner, and cannot cancel or decline to renew, except for the nonpayment of premium, or material misrepresentation.

"Initially eligible for coverage", the date when an eligible person first enrolled for benefits under Medicare Part B, lost employer-sponsored health coverage due to termination of employment or because of employer bankruptcy, moved out of the service area of a health maintenance organization or became a resident of the commonwealth.

"Insured", a subscriber, policyholder, member, enrollee or certificate holder.

"Issue", to offer, sell, issue, deliver, or otherwise make effective, or renew.

"Late enrollee", an eligible person who has submitted an application for a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract after the six month period beginning with the first month in which the

individual first enrolled for benefits under Medicare part B, or lost employer-sponsored coverage due to termination of employment or because of employer bankruptcy, or became a resident of the commonwealth; provided, however, that an eligible person shall not be considered a late enrollee if the person was covered under a reasonably actuarially equivalent previous health plan and the previous coverage was continuous to a date not more than thirty days prior to the effective date of the new coverage.

"Medicare", Health Insurance for the Aged Act, Title XVIII of the Social Security Act Amendments of 1965, as then constituted or later amended.

"Medicare select insurance", a type of health insurance issued by a carrier which is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical or surgical expenses of persons eligible for medicare, and which contains restricted network provisions and is issued under a demonstration project authorized pursuant to amendments to the federal Social Security Act.

"Medicare supplement insurance", a type of health insurance issued by a carrier, other than a policy issued pursuant to a contract under Section 1876 or Section 1833 of the federal Social Security Act (42 U.S.C. Section 1395 et seq.), or a policy issued under a demonstration project authorized pursuant to amendments to the federal Social Security Act, which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare.

"OBRA 90", the federal Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) and as this act has been subsequently amended.

"Policy issued pursuant to a risk or cost contract", a policy issued by a health maintenance organization organized under chapter one hundred and seventy-six G pursuant to a contract under Section 1876 or Section 1833 of the federal Social Security Act (42 U.S.C. Section 1395 et seq.).

"Participate in the market", to offer, sell, issue, deliver, or otherwise make effective, or renew, a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract.

"Policy", any policy, certificate, contract, agreement, statement of coverage, rider or endorsement issued by a carrier for medicare supplement insurance, medicare select insurance, or pursuant to a risk or cost contract.

"Preexisting conditions limitation or exclusion", a policy provision which limits or excludes coverage for charges or expenses incurred following the insured's effective date as to a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

"Waiting period", a period immediately subsequent to the effective date of an insured's coverage during which the insurance coverage does not pay for some or all hospital or medical expenses.

Section 2. (a) Notwithstanding the provisions of any other law to the contrary, and subject to the provisions of OBRA 90 and Section 1882 of the federal Social Security Act (42 U.S.C. Section 1395 et seq.), any policy for medicare supplement insurance or medicare

select insurance or policy issued pursuant to a risk or cost contract offered, sold, issued, delivered, or otherwise made effective or renewed by a carrier in the commonwealth after July first, nineteen hundred and ninety-four shall comply with the provisions of this chapter.

(b) A carrier that participated in the market on or after a date set by the commissioner by regulation may not withdraw from the market until all insureds of such carrier have had the opportunity to join a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract offered by another carrier during the next annual open enrollment period or other enrollment period required in section three.

(c) A carrier that withdraws from the market on or after the effective date of this chapter may not participate in the market in the commonwealth for five years from the date of withdrawal, unless the commissioner finds that such re-entry shall be permitted earlier than said five years due to a compelling public interest.

Section 3. (a) No carrier participating in the market shall, at any time, deny or condition the issuance of any policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract available for sale in the commonwealth, nor discriminate in the pricing of such a plan, to any eligible person because of the age, health status, claims experience, receipt of health care, medical condition of the eligible person, or any other factor which the commissioner may specify by regulation.

(b) No policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract may contain any waiting period or pre-existing condition limitation or exclusion.

(c) No carrier participating in the market shall deny or condition the issuance of any policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract available for sale in the commonwealth, nor discriminate in the pricing of such a policy, to an eligible person when an application for such a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract is submitted during the six month period beginning at the time the eligible person became initially eligible for coverage.

(d) Every carrier that participates in the market shall make available during the required open enrollment to every eligible person all policies for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract which that carrier is authorized to issue pursuant to sections four and five of this chapter. The required open enrollment period for eligible persons shall commence on February first and end on March thirty-first of each year, for coverage to be effective June first of that year or no later than Medicare coverage is first effective, whichever is earlier.

(e) A carrier may offer, sell, issue, deliver, or otherwise make effective or renew a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract to an eligible person at any other time of the year, provided said carrier complies with the requirements of this chapter.

(f) A health maintenance organization shall not be required to accept applications from or offer coverage to an eligible person if: (i) the eligible person does not reside in the health maintenance organization's approved service area; or (ii) within said area, the health maintenance organization demonstrates to the satisfaction of the commissioner that it will not, within said area, have the capacity in its network of providers to deliver services adequately to new eligible persons because of obligations to existing enrollees; provided that a health maintenance organization that makes such a demonstration to the satisfaction of the commissioner may not offer coverage in such applicable area to any other new enrollees or groups 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 persons for policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract coverage.

(g) Any carrier shall make available all its policies for medicare supplement insurance or medicare select insurance or policies issued pursuant to a risk or cost contract to any eligible person of the commonwealth whose coverage under a policy issued pursuant to a risk or cost contract has been canceled because the health maintenance organization's contract with Medicare has been terminated. Such coverage shall comply with all provisions of this chapter, and shall become effective on the date that coverage under the risk or cost contract ends.

(h) The commissioner may by regulation waive provisions of this section for policies for medicare supplement insurance or medicare select insurance or policies issued pursuant to a risk or cost contract issued in the commonwealth prior to the effective date of OBRA 90, or such other date as the commissioner may specify by regulation in order to comply with the provisions of OBRA 90, or with the provisions of law governing contracts; provided that not less than forty-five days prior to the proposed promulgation of said waiver, the commissioner shall file with the clerk of the house of representatives and the clerk of the senate documentation explaining the reasons why said waiver is necessary, including, if applicable, the basis for any refusal by the health care finance administration to not renew or permit modifications to the federal waiver granted pursuant to the provisions of OBRA 90 or, the reasons why such waiver is necessary to comply with contract law.

Section 4. (a) The commissioner shall, to the extent permitted by OBRA 90, promulgate by regulation the plans for medicare supplement insurance and medicare select insurance, and the benefits for those plans, which may be offered, sold, issued, or delivered, or renewed by a carrier on or after a date set by the commissioner by regulation.

(b) Any policy issued pursuant to a risk or cost contract shall comply with the requirements of chapter one hundred and seventy-six G and any regulations promulgated thereunder, provided however, that each policy issued pursuant to a risk or cost contract that includes prescription drug coverage shall meet or exceed minimum standards determined by the commissioner pursuant to regulation, and provided further, that the minimum prescription drug coverage shall be comparable to that required in plans for medicare supplement insurance and medicare select insurance.

On or after a date established by the commissioner by regulation pursuant to this chapter, no carrier may offer, sell, issue, or deliver any policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract unless it complies with the benefit designs set forth in the commissioner's regulations. The provisions of this section shall also apply to all policies for medicare supplement insurance or medicare select insurance or to any policy issued pursuant to a risk or cost contract renewed by any carrier during and after the third calendar quarter of nineteen hundred and ninety-four. Except as authorized by this chapter, as of the end of the third calendar quarter of nineteen hundred and ninety-four, all policies for medicare supplement insurance or medicare select insurance or policies issued pursuant to a risk or cost contract in force in the commonwealth shall comply with the requirements of this chapter. The commissioner shall promulgate regulations to implement and enforce this section.

(c) Any carrier that participates in the market must offer at least one product with prescription drug coverage for each license under which that carrier is participating in the market, provided, however, that a carrier may be granted an exemption from this requirement by the commissioner in order to comply with the provisions of OBRA 90, or with the provisions of law governing contracts; provided that not less than forty-five days prior to the proposed granting of such an exemption, the commissioner shall file with the clerk of the house of representatives and the clerk of the senate documentation explaining the reasons why said exemption is necessary and, if applicable, communication from the health care finance administration relative to prescription drug coverage and the terms of the waiver granted pursuant to the provisions of OBRA 90.

Section 5. Any eligible person who applies on or after a date set by the commissioner pursuant to regulation for a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a risk or cost contract from any carrier participating in the market in the commonwealth, during the six month period beginning at the time the person became initially eligible for coverage shall have the right to any of the policies for medicare supplement insurance or medicare select insurance authorized in the commissioner's regulations from any carrier that provides policies issued pursuant to a medicare supplement insurance or medicare select insurance contract, and shall have the right to the policy issued pursuant to a risk or cost contract authorized in the commissioner's regulations from any carrier that provides a policy issued pursuant to a risk or cost contract. The commissioner may require every carrier that participates in the market for medicare supplement insurance to offer more than a single type of benefit plan to an eligible person.

Notwithstanding any provision of this chapter concerning guaranteed renewability, the commissioner may by regulation establish a process for the conversion of every carrier's business in force as of a date established in such regulations into the policy for medicare supplement insurance or medicare select insurance or policy issued pursuant to a risk or cost contract authorized by section four. The commissioner may by regulation require that this conversion process be completed by the end of the third calendar quarter of nineteen hundred and ninety-four and implemented through a required special open enrollment period prior

to July first, nineteen hundred and ninety-four, during which period eligible persons may enroll without a surcharge for late enrollment and upgrading.

Every policy for medicare supplement insurance or medicare select insurance or policy issued pursuant to a risk or cost contract authorized to be offered, sold, issued, delivered, or otherwise made effective, or renewed on or after a date established by the commissioner pursuant to this chapter shall be a guaranteed renewable plan with respect to an eligible person at the option of the eligible person. A carrier that participated in the market may, however, in its discretion and to the extent permitted by OBRA 90, refuse to offer, sell, issue, deliver, or otherwise make effective, or renew a medicare supplement insurance policy, medicare select insurance policy, or a policy issued pursuant to a risk or cost contract to, or upon reasonable notice, cancel such a plan of any person due to non-payment of premium or material misrepresentation, or because the person does not live in or has moved out of the health maintenance organization service area, or has not resided in the commonwealth for the past six months, or for any other cause which may be approved by the commissioner.

Section 6. A carrier shall not participate in the market unless the policy form or certificate form has been filed with and approved by the commissioner.

Section 7. (a) Any policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a cost contract offered, sold, issued, delivered, or otherwise made effective, or renewed, on or after a date established by the commissioner, by any carrier in the commonwealth shall be community rated.

(b) The commissioner may by regulation permit a carrier whose approved service area includes several different geographical regions of the commonwealth to use separate rates for different portions of its service area, provided the carrier's proposed regions do not contain configurations designed to avoid or segregate particular areas.

(c) As of February first, nineteen hundred and ninety-four, a carrier may apply a surcharge to the premium for a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a cost contract to an eligible person who upgrades coverage or is a late enrollee as of January first, nineteen hundred ninety-four may discount the premium for a policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a cost contract for a person who has enrolled during the six month period beginning at the time the person became initially eligible for coverage. For purposes of this section, an eligible person "upgrades coverage" if the policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a cost contract under which the eligible person is covered at the time of application for new coverage is of lesser actuarial value than the new coverage, as determined in accordance with standards promulgated by the commissioner. Any surcharge applied to the premium of an eligible person who upgrades coverage or is a late enrollee may not exceed fifteen percent annually, and may not be charged for more than three years from the date it is first imposed by the carrier. Any discount applied to the premium of an eligible person who has enrolled during the six month period beginning at the time the person became initially eligible for coverage may not exceed fifteen percent and may not be applied for more than three years

from the date such person first receives coverage under this chapter. The commissioner may promulgate regulations to enforce the provisions of this paragraph.

(d) After a date established by the commissioner pursuant to regulation and subject to the provisions of subsection (g), every carrier desiring to increase or decrease premiums for any policy for medicare supplement insurance or medicare select insurance, or desiring to set the initial premium for a new policy for medicare supplement insurance or medicare select insurance shall file a rate filing or application with the commissioner at least thirty days before the proposed effective date of such new rates. The commissioner may disapprove the proposed rates if the benefits provided therein are unreasonable in relation to the rate charged, or if they are excessive, inadequate or unfairly discriminatory or do not otherwise comply with the requirements of this chapter.

If not disapproved by the commissioner, such filings shall be deemed to be approved by the commissioner thirty days after the date of filing, provided that:

(i) the filing complies with the anticipated minimum loss ratio standards of subsection (e); and

(ii) the carrier submits, as part of such filing, an actuarial opinion and a legal opinion that the carrier is in compliance with the provisions of this chapter. The commissioner may by regulation specify such other information which shall be included in any such filing..

Such filing shall not be disapproved by the commissioner except after a hearing conducted pursuant to chapter thirty A within thirty days after such filing. Any increase in premium rates shall continue in effect for not less than twelve months, except that an increase in benefits or decrease in rates may be permitted at any time.

(e) The anticipated minimum loss ratio shall be:

(i) at least ninety-five percent of premium for medicare supplement insurance or medicare select insurance issued by a non-profit hospital service corporation or medical service corporation for the nineteen hundred and ninety-four policy year;

(ii) at least ninety percent of premium for medicare supplement insurance or medicare select insurance issued by a non-profit hospital service corporation or medical service corporation for subsequent policy years;

(iii) at least sixty-five percent of premium earned from individual policies for medicare supplement insurance or medicare select insurance issued by commercial insurers; or at least seventy-five percent of premium earned from group policies issued by commercial insurers, including, but not limited to policies issued as a result of solicitations of individuals through the mails or through mass media advertising, including both print and broadcast advertising; and,

(iv) at least eighty percent of premium for policies issued for the nineteen hundred and ninety-four policy year and thereafter pursuant to a cost contract by a health maintenance organization, and provided that, where medicare select insurance under chapter one hundred and seventy-six G is issued by any carrier for the nineteen hundred and ninety-four policy year and thereafter, this loss ratio shall apply.

Each policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a cost contract offered by a carrier shall independently meet the applicable minimum loss ratio standard.

(f) A carrier shall annually report to the commissioner no later than May first, the actual loss ratio calculated for each policy for medicare supplement insurance or medicare select insurance or a policy issued pursuant to a cost contract for the previous calendar year. In each case where the loss ratio for policies for medicare supplement insurance or medicare select insurance or policies issued pursuant to a cost contract fails to comply with the minimum loss ratio requirements of this chapter, the carrier shall issue a refund or credit against future premiums to insureds. The instructions and format for calculating and reporting loss ratios and issuing dividends and credits shall be prescribed by the commissioner by regulation, and shall be consistent with the requirements of OBRA 90.

(g) If a carrier files for an increase in premium of ten percent or more than the premium previously charged, or if a carrier files an initial premium request that is ten percent or more than the average premium for the same policies for medicare supplement insurance or medicare select insurance or policies issued pursuant to a cost contract offered by carriers in the same class under subsection (e), or if a carrier files an initial premium request for new policies of medicare supplement insurance or medicare select insurance issued to conform with the initial regulations promulgated by the commissioner under section four, such carrier's rate, in addition to being subject to all other provisions of this chapter, shall be subject to the prior approval of the commissioner as set forth in this subsection. In granting such prior approval, the commissioner shall make a finding on the basis of information submitted by the carrier that the carrier employs a utilization review program and other techniques acceptable to the commissioner which have had or are expected to have a demonstrated impact on the prevention of reimbursement by the carrier for services which are not medically necessary. Any requested premium increase in excess of ten percent for a medicare supplemental insurance plan shall be communicated to the insureds at least ninety days prior to the effective date of such increase, or as the commissioner may direct.

Such requested premium increase or initial premium request shall be filed no later than ninety days prior to the requested effective date of such rate. No such rate shall be effective until after a public hearing conducted by the commissioner, and advertised in newspapers in Boston, Brockton, Fall River, Pittsfield, Springfield, Worcester, New Bedford, and Lowell, or by notifying such newspapers of said hearing, and held within thirty days of the filing of such rate with the commissioner pursuant to subsection (d). The commissioner shall approve or disapprove such rate within thirty days following the conclusion of the public hearing, to be effective not earlier than thirty days subsequent to such approval. No such rate shall be approved if the benefits provided therein are unreasonable in relation to the rate charged, nor if the rates are excessive, inadequate or unfairly discriminatory or do not otherwise comply with the requirements of this chapter.

The commissioner shall promulgate regulations to specify the scheduling of the hearings required pursuant to this subsection, and the timetable for the approval or disapproval of requests for rate increases.

(h) Every carrier, as a condition of doing business under the authority of this chapter, shall file annually with the commissioner an actuarial opinion and legal opinion that certifies that the carrier's rating methodologies and rates comply with the requirements of this chapter and regulations promulgated under authority of this chapter. Every carrier shall maintain at its principal place of business for inspection by the commissioner a complete and detailed description of its rating practices and such other information as the commissioner may by regulation require.

(i) The supreme judicial court shall have jurisdiction in equity upon the petition of the attorney general, on behalf of the commissioner and upon a summary hearing, to enforce all lawful orders of the commissioner.

Any subscriber, non-profit hospital service corporation, non-profit medical service corporation or other person aggrieved by any final action, order, finding, or decision of the commissioner under this section may, within twenty days from the filing of such memorandum thereof in his office, file a petition in the supreme judicial court for the county of Suffolk for a review of such action, order, finding, or decision. The final action, order, finding, or decision of the commissioner shall remain in full force and effect, pending the final decision of the court unless the court or a justice thereof after notice to the commissioner shall by a special order otherwise direct. Review by the court on the merits shall be limited to the record of proceedings before the commissioner. The court shall have jurisdiction to modify, amend, annul, reverse or affirm such action, order, finding or decision and shall uphold the commissioner's action, order, finding, or decision if it is consistent with the standards set forth in paragraph seven of section fourteen of chapter thirty A. The court may make any appropriate order or decree. The court may make such order as to costs as it deems equitable. The court may make such rules or orders as it deems proper governing proceedings under this section to secure prompt and speedy hearings and to expedite final decisions thereon.

(j) The commissioner shall annually conduct a public hearing to monitor the overall condition of the commonwealth's market so as to improve access by individuals to coverage under this chapter, to encourage aggregation of risk pools through product selection and to promote long-term access by individuals to coverage through continued stability and financial viability of all carriers in the market. The commissioner shall annually summarize all claims arising under this chapter experience and loss ratio data from all insurers covered by this chapter and submit such information to the committee on insurance. The commissioner shall also file with the committee on insurance any recommendations for legislation to improve the accessibility and affordability of coverage in the market.

(k) The commissioner may promulgate regulations to facilitate the administration and enforcement of this chapter and to govern hearings and investigations thereunder, and he may issue such orders as he finds proper, expedient or necessary to enforce and administer the provisions of this chapter and to secure compliance with any rules and regulations made thereunder, and he may by written order suspend or modify the requirements of filing or prior approval of contracts and rates.

Section 8. This chapter shall not apply to a policy or contract of one or more employers' or labor organizations, or of the trustees of a fund established by one or more employers' or labor organizations, or a combination thereof, covering employees or former employees, or a combination thereof, or covering members or former members of labor organizations, or a combination thereof.

All policies issued by a carrier to which section two hundred and five of chapter one hundred and seventy-five applies shall be subject to this chapter.

Section 9. Nothing contained herein shall affect, in any way, binding contracts, including the existence, validity or operation of such contracts in existence in the commonwealth prior to the effective date of this chapter.

SECTION 46. Section 9 of chapter 211B of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out in line 324 the words "September first" and inserting in place thereof the following words:- December fifteenth.

SECTION 47. Said section 9 of said chapter 211B, as so appearing, is hereby amended by inserting after the word "said", in line 326, the following word:- past.

SECTION 48. Said section 9 of said chapter 211B, as so appearing, is hereby further amended by striking out, in line 329, the words "October first" and inserting in place thereof the following words:- February fifteenth.

SECTION 49. Said section 9 of said chapter 211B, as so appearing, is hereby further amended by inserting after the words "within the judicial system", in line 332, the following words:- for the past fiscal year and contemplated for the current fiscal year.

SECTION 50. Section 10 of said chapter 211B, as so appearing, is hereby amended by striking out in lines 125 to 129, inclusive, the words "the responsibility to compile a comprehensive written report of the operation of his department of the trial court at the conclusion of each calendar year, and shall deliver said report together with recommendations to the chief justice for administration and management on or before March first of the ensuing year" and inserting in place thereof the following words:- the responsibility to compile a comprehensive written report of the operation of his department of the trial court at the conclusion of each fiscal year, and shall deliver said report together with recommendations to the chief justice for administration and management on or before October fifteenth of the ensuing fiscal year.

SECTION 51. Section 10 of chapter 218 of the General Laws, as so appearing, is hereby amended by striking out, in line 59, the words "district court of Chelsea".

SECTION 52. Section 10 of said chapter 218, as so appearing, is hereby further amended by inserting, after line 71, the following line:- district court of Chelsea.

SECTION 53. Section 10 of chapter 218 of the General Laws, as so appearing, is hereby amended by striking out, in line 213, the words "district court of East Norfolk".

SECTION 54. Said section 10 of said chapter 218, as so appearing, is hereby further amended by inserting, after line 218, the following line:- district court of East Norfolk.

SECTION 55. Said section 10 of said chapter 218, as so appearing, is hereby further amended by inserting, after line 260, the following lines:- district court of East Norfolk.

SECTION 56. Said section 10 of chapter 218, as so appearing, is hereby further amended by inserting, after line 260, the following line:- central district court of Worcester.

SECTION 57. Section 10 of chapter 258 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking out, in line 20, the word "officer." and inserting in place thereof the following:- officer;

(e) any claim based upon the issuance, denial, suspension or revocation or failure or refusal to issue, deny, suspend or revoke any permit, license, certificate, approval, order or similar authorization;

(f) any claim based upon the failure to inspect, or an inadequate or negligent inspection, of any property, real or personal, to determine whether the property complies with or violates any law, regulation, ordinance or code, or contains a hazard to health or safety, except as otherwise provided in clause (1) of subparagraph (j).

(g) any claim based upon the failure to establish a fire department or a particular fire protection service, or if fire protection service is provided, for failure to prevent, suppress or contain a fire, or for any acts or omissions in the suppression or containment of a fire, but not including claims based upon the negligent operation of motor vehicles or as otherwise provided in clause (1) of subparagraph (j).

(h) any claim based upon the failure to establish a police department or a particular police protection service, or if police protection is provided, for failure to provide adequate police protection, prevent the commission of crimes, investigate, detect or solve crimes, identify or apprehend criminals or suspects, arrest or detain suspects, or enforce any law, but not including claims based upon the negligent operation of motor vehicles, negligent protection, supervision or care of persons in custody, or as otherwise provided in clause (1) of subparagraph (j).

(i) an claim based upon the release, parole, furlough or escape of any person, including but not limited to a prisoner, inmate, detainee, juvenile, patient or client, from the custody of a public employee or employer or their agents, unless gross negligence is shown in allowing such release, parole, furlough or escape.

(j) any claim based on an act or failure to act to prevent or diminish the harmful consequences of a condition or situation, including the violent or tortious conduct of a third person, which is not originally caused by the public employer or any other person acting on behalf of the public employer. This exclusion shall not apply to:

(1) any claim based upon explicit and specific assurances of safety or assistance, beyond general representations that investigation or assistance will be or has been undertaken, made to the direct victim or a member of his family or household by a public employee, provided that the injury resulted in part from reliance on those assurances. A permit, certificate or report of findings of an investigation or inspection shall not constitute such assurances of safety or assistance; and

(2) any claim based upon the intervention of a public employee which causes injury to the victim or places the victim in a worse position than he was in before the intervention; and

(3) any claim based on negligent maintenance of public property; (4) any claim by or on behalf of a patient for negligent medical or other therapeutic treatment received by the patient from a public employee.

Nothing in this section shall be construed to modify or repeal the applicability of any existing statute that limits, controls or affects the liability of public employers or entities.

SECTION 58. Chapter 268 of the General Laws is hereby amended by striking out section 6, as so appearing, and inserting in place thereof the following section:-

Section 6. Except as provided in sections forty-eight and forty-nine of chapter one hundred and fifty-five, whoever shall wilfully make false report to the department of public utilities, the department of highways, the department of banking and insurance, the department of environmental protection, the board of registration of waste cleanup professionals, or the commissioner of revenue, or who before any such department, board or commissioner, shall testify or affirm falsely to any material fact in any matter wherein an oath or affirmation is required or authorized, or who shall make any false entry or memorandum upon any book, report, paper or statement of any company making report to any of the said departments or board or said commissioner, with intent to deceive the department or board or commissioner, or any agent appointed to examine the affairs of any such company, or to deceive the stockholders or any officer of any such company, or to injure or defraud any such company, and any persons who with like intent aids or abets another in any violation of this section shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both such fine and imprisonment.

SECTION 59. Section 2 of chapter 317 of the acts of 1983, as appearing in chapter 400 of the acts of 1991, is hereby amended by striking out, in lines 43 to 50, inclusive, the following words:-

"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," and inserting in place thereof the following paragraph:-

Said department, with the prior approval of said commissioner, may enter into lease agreements for the use of all, or portions of, said parcel with any lessees hereinafter described the term of which may be for a maximum of fifty years and which shall include an option allowing the lessees to renew or extend said leases for up to ten additional five-year lease terms, provided, however, that in the event said parcel with any improvements thereon are not used for the purposes described in this section within ten years, the parcel and any improvements shall revert to the commonwealth under such terms and conditions as the commissioner may prescribe in the leases. The initial lessees shall be any non-profit entity incorporated in the commonwealth or any entities owned or controlled

by such non-profit entities. Such initial lessees may sublease any improvements to any persons or entities, including without limitation entities organized for profit-making purposes, for the uses permitted in this section. The leases and any subleases may be mortgaged, assigned, or transferred to any persons or entities, including without limitation any entities organized for profit making purposes, from time to time; provided that during the first twenty years in which the parcel is leased, the tenant's interest in the lease of the parcel or in any portion of said parcel, may be mortgaged, assigned or transferred only (i) to a subtenant of all or any part of the improvements to the parcel in excess of fifty percent of the rentable floor area of such improvements, which subtenant is engaged in the activities permitted under this act, or (ii) to a lender holding a leasehold mortgage or interest on the parcel or on the improvements representing at least fifty percent of the rentable floor area of the improvements which, in the ordinary course, is foreclosing on its interest in the parcel or improvements or receiving a deed or other instrument in lieu of foreclosure, or (iii) to any persons or entities, including entities, organized for profit-making purposes, taking an interest in the parcel or improvements through or under such foreclosing lender. The lease and any recognition and nondisturbance agreements or similar agreements entered into by said department with any tenant, subtenant, mortgagee, assignee or other party holding any interest in through or under the lease or any sublease, may include agreements to provide or approve a new lease or sublease in the event of termination of the lease or sublease upon such terms and conditions as the commissioner may prescribe in the lease, sublease or such other agreements.

SECTION 60. Item 2520-0107 of section 2 of chapter 145 of the acts of 1991 is hereby amended by inserting after the word "measures", in line 5, the following words:- ; provided further, that forty-one thousand six hundred and ten dollars is hereby allocated for a research project of the Cape Cod mosquito control project entitled, control of the enzootic vector of eastern encephalitis using native fish.

SECTION 61. Section 56 of chapter 495 of the acts of 1991 is hereby amended by inserting after the words "to be amortized over a period not to exceed five years" the following words:- ; provided that a hospital, which as of October first, nineteen hundred ninety-three, was (1) licensed for sixty-five beds or fewer; (2) had no emergency room; and (3) could demonstrate gross patient service revenue attributable to Titles XVIII and XIX of the Social Security Act of at least seventy percent, shall not be required to pay any such over generation of approved revenues into the uncompensated care trust fund as so established, and any noncompliance with the provisions of sections seventy-eight to one hundred and one of chapter six A of the General Laws, shall be waived and forgiven.

SECTION 62. Item 8800-0032 of section 2A of chapter 23 of the acts of 1992 is hereby amended by inserting after the words "No Name Storm" the following words:- ; provided further, that not less than thirty-seven thousand five hundred dollars shall be made available to federal emergency management agency identification number 009-59245 for federal disaster number 0975;.

SECTION 63. Section 162 of chapter 379 of the acts of 1992 is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The juvenile court department established under section one of chapter two hundred and eleven B as of July first, nineteen hundred and ninety-five shall be composed of divisions in each of the judicial districts hereinafter enumerated; with the exception of the juvenile court division in the district of Barnstable county and the town of Plymouth which shall be established as of January first, nineteen hundred and ninety-four; and the further exceptions of Boston, Worcester, Springfield, and Bristol county which are currently operational and shall not be expanded until July first, nineteen hundred and ninety-five; provided, that the chief justice of the juvenile court, subject to the approval of the chief justice for administration and management, shall assign any juvenile justice of the juvenile court division of Barnstable county and the town of Plymouth to any district court in the counties of Suffolk, Worcester, Bristol, and Hampden holding juvenile sessions which shall have and exercise jurisdiction over the following cities, towns and territory, in the following counties, respectively:.

SECTION 64. Said section 162 of said chapter 379 is hereby further amended by inserting after the words "Bristol county division of the district court department, as the chief justice of the juvenile court department may determine." the following paragraph:-

The chief justice of the juvenile court department shall, on or before January first, nineteen hundred and ninety-five, submit to the chief justice of administration and management and the house and senate committees on ways and means a plan for implementation of those divisions established as of July first, nineteen hundred and ninety-five, including any plans for the expansion of the juvenile courts of Boston, Worcester, Springfield, and Bristol county.

SECTION 65. Section 203 of said chapter 379 is hereby amended by striking out the words "January first, nineteen hundred and ninety-six" and inserting in place thereof the following words:- January first, nineteen hundred and ninety-seven.

SECTION 66. Said chapter 379 is hereby further amended by striking out section 227 and inserting in place thereof the following section:-

Section 227. Notwithstanding the provisions of sections one and two of chapter two hundred and eleven B of the General Laws, from the period January first, nineteen hundred and ninety-four to June thirtieth, nineteen hundred and ninety-four, there shall be three hundred and twenty-seven justices and special justices of the trial court, including nineteen justices appointed to the juvenile court department; from the period July first, nineteen hundred and ninety-five to December thirty-first, nineteen hundred and ninety-five, there shall be three hundred and thirty-four justices and special justices of the trial court, including twenty-six justices appointed to the juvenile court department; and from the period January first, nineteen hundred and ninety-six to June thirtieth, nineteen hundred and ninety-six, there shall be three hundred and forty-one justices and special justices of the trial court, including thirty-three justices appointed to the juvenile court department.

SECTION 67. Item 4500-1010 of section 2A of chapter 50 of the acts of 1993 is hereby amended by inserting after the words "and state police officers", the following words:- ; provided further, that the cost of administering said grant, including the cost of personnel, may be paid from said amount.

SECTION 68. Section 74 of chapter 71 of the acts of 1993 is hereby amended by striking out in the fifth sentence the word "June", inserted by section 77 of chapter 151 the acts of 1993, and inserting in place thereof the following word:- December.

SECTION 69. Section 2 of chapter 110 of the acts of 1993 is hereby amended by striking out item 0320-0003 and inserting in place thereof the following:-

0320-0003 For the salaries and expenses of the supreme judicial court, including the support of the special commissions, so-called; provided, however, that said commissions shall complete their studies, reports and recommendations on or before June thirtieth, nineteen hundred and ninety-four $3,663,567

SECTION 70. Section 2 of chapter 110 of the acts of 1993 is hereby amended by striking out item 0330-0300 and inserting in place thereof the following:-

0330-0300 For the office of the chief justice of administration and management; provided, that not less than one hundred thousand dollars shall be expended to train court personnel on issues relating to domestic violence; provided further, that not less than one hundred and eighty thousand, five hundred forty-one dollars shall be expended for security training of court personnel; provided further, that not less than two hundred thousand dollars shall be expended for the judicial training institute; provided further, that, prior to June thirtieth, nineteen hundred and ninety-four, the chief justice of administration and management shall conduct a study of the need and feasibility of establishing a third district court of Barnstable to be held at Falmouth to serve the communities of Bourne, Sandwich, Falmouth, and Mashpee $4,357,508

SECTION 71. Said section 2 of said chapter 110 is hereby further amended in item 0330-4200 by striking out the following words "; provided further, that up to five hundred thousand dollars of this item may be transferred from this item to item 0337-0003 for the purpose of implementing a statewide juvenile court; and provided further that the chief justice of administration and management shall report such transfers to the house and senate committees on ways and means no less than fourteen days prior to the transfer".

SECTION 72. Said item 0330-4200 in said section 2 of said chapter 110 is hereby further amended by adding the following words:- ; provided further, that a forensic medicine specialist shall be assigned to an urban court from funds made available in this item.

SECTION 73. Said section 2 of said chapter 110 is hereby further amended by striking out item 0611-5800 and inserting in place thereof the following item:-

0611-5800 For distribution, pursuant to the provisions of section eighteen D of chapter fifty-eight of the General Laws, to each city and town within which racing meetings are conducted $1,380,181

SECTION 74. Item 1000-1100 in said section 2 of said chapter 110 is hereby amended by striking out the words "section two hundred eighty-four" and inserting in place thereof the following words:- section two hundred and eighty-two.

SECTION 75. Item 1104-1091 of said section 2 of said chapter 110 is hereby amended by inserting after the word "property", in line 6, the following words:- ; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department of procurement and general services may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system.

SECTION 76. Item 1104-6601 of said section 2 of said chapter 110 is hereby amended by inserting after the word "property", in line 10, the following words:- ; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department of procurement and general services may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system.

SECTION 77. Item 1104-6607 of said section 2 of said chapter 110 is hereby amended by inserting after the word "vehicles", in line 7, the following words:- ; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department of procurement and general services may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system.

SECTION 78. Said section 2 of said chapter 110 is hereby further amended by striking out the line item number "1107-2500" and inserting in place thereof the line item number 1107-2501.

SECTION 79. Said section 2 of said chapter 110 is hereby further amended by striking out items 1150-5100, 1150-5103 and 1150-5105 and inserting in place thereof the following two items:-

1150-5100 For the office of the commission; provided, that all positions except clerical are exempted from the provisions of chapter thirty-one of the General Laws; provided further, that said commission shall pursue the highest rate of federal reimbursement per charge allowable; and provided further, that expenditures made from the AA subsidiary, so-called, of this item for the personnel costs associated with the purposes of the programs funded herein shall not exceed nine hundred sixty-eight thousand four hundred seventy-three dollars, including not more than twenty-four positions $1,154,233

1150-5104 The Massachusetts commission against discrimination is hereby authorized to expend revenues collected through federal reimbursements received for the purposes of the housing and urban development fair housing assistance type I program and the equal opportunity resolution contract program during fiscal year nineteen hundred ninety-four, and federal reimbursements received for these and other programs in prior fiscal years; provided, that no less than five hundred thirty-two thousand sixty-five dollars shall be paid to the treasurer for costs incurred during prior fiscal years, for which certain laws, regulations and procedures were not properly followed; provided further, that the comptroller certifies in writing to the house and senate committees on ways and means that the treasurer has been reimbursed for said inappropriate expenditures prior to approving any additional encumbrances by said commission; provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, said commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and, provided further, that notwithstanding the provisions of section one of this act or any other general or special law to the contrary, federal reimbursements received in excess of one million eight hundred forty-one thousand four hundred sixty-nine dollars shall be credited to the General Fund $1,841,469

SECTION 80. Item 1201-0100 in said section 2 of said chapter 110 is hereby amended by inserting after the words "tax prosecution unit" the following words:- ; and provided further, that the department may charge the expenses for computer services including the cost of personnel and other support costs provided to the divisions of child support enforcement and local services from this account to the accounts for child support enforcement and local services, respectively, consistent with the costs attributable to the respective divisions.

SECTION 81. Item 1201-0105 of said section 2 of said chapter 110 is hereby amended by inserting after the word "program", in line 5, the following words:- ; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the appropriation; and provided further, that personnel expenses incurred in other accounts may be transferred to this account.

SECTION 82. Item 3022-9108 of said section 2 of said chapter 110 is hereby amended by striking out, in line 9, the word "contracts" and inserting in place thereof the following word:- commitments.

SECTION 83. Item 4400-1000 of section 2 of chapter 110 of the acts of 1993 is hereby amended by inserting after the words "ways and means;" the following:-

provided further, that not more than two hundred thousand dollars may be transferred from this item to the executive office of communities and development for the administrative costs, including the costs of personnel, associated with the homelessness intercept program, so-called.

SECTION 84. Item 4403-2100 of said section 2 of said chapter 110 is hereby amended by inserting after the words "provided further, that funds from this item expended for emergency shelter costs shall be subject to federal reimbursement;" the following:-

provided, however, that expenditures made from this item for said emergency shelter costs which are attributable to families who are otherwise eligible for such shelter pursuant to the provisions of this item, but who do not qualify for federal reimbursement because such families' length of stay in emergency shelter exceeds the federally allowed maximum or such families have received benefits more than once during the previous twelve months shall not be subject to federal reimbursement;.

SECTION 85. Item 4510-0616 of section 2 of said chapter 110 is hereby amended by inserting after the word "registration", in line 6, the following words:- ; and provided further, that the revenues collected may be used for all program costs including compensation of employees.

SECTION 86. Section 2 of said chapter 110 is hereby amended by striking items 4800-0000 and 4800-1111 and inserting in place thereof the following items:-

4800-0000 The department of social services may expend an amount not to exceed three million, eight hundred thousand dollars in federal revenues collected pursuant to the provisions of Title IV-E of the Social Security Act to support the general administrative costs of the department, including the costs of personnel; provided, that expenditures made from the AA subsidiary, so-called, of this item and item 4800-0015 of section two of this act for the personnel costs associated with the purposes of the programs funded herein shall not exceed fourteen million one hundred seventeen thousand three hundred fifty-one dollars; provided further that no Title IV-E revenues shall be credited to this item until the department has first deposited a total of twenty-five million dollars of said Title IV-E revenues in item 4800-1111 of section two of this act; and provided further, that forty-two million, five hundred thousand dollars in said Title IV-E revenues shall be credited to the General Fund as federal reimbursement for

services provided in fiscal year nineteen hundred and ninety-four $3,800,000

4800-1111 The department of social services, for the purposes of the foster care program and subject to the provisions of item 4800-0030 of section two of this act may expend an amount not to exceed twenty-five million dollars from federal revenues collected pursuant to the provisions of Title IV-E of the Social Security Act; provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item for the contracted provider service costs associated with the purposes of the programs funded herein and that said cost shall not exceed twenty-five million dollars; provided further, that no contract or contract amendment shall be authorized in fiscal year nineteen hundred and ninety-four which will have an annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called; provided further, that the costs of revenue maximization contracts, so-called, shall not be paid from this item $25,000,000

SECTION 87. Item 4800-0016 of said section 2 of said chapter 110 is hereby amended by inserting after the word "commonwealth", in line 12, the following words:- ; provided further, that not less than thirty thousand dollars shall be expended for a contract with Big Brothers and Sisters of Cape Cod and the Islands.

SECTION 88. Item 7052-0004 of section 2 of chapter 110 of the acts of 1993 is hereby amended by inserting, after the words "are funded" the following:-

; provided further, that not less than three hundred seventy-five thousand, ninety-six dollars shall be expended from this item for school project number 3232; provided further, that the department of education and the city of North Adams shall enter into an agreement so as to ensure that said three hundred seventy-five thousand, ninety-six dollars is repaid to the commonwealth no later than July first, nineteen hundred and ninety-nine.

SECTION 89. Said item 7052-0004 of said section 2 is hereby further amended by striking out the figure 9,232,800 and inserting in place thereof the figure 9,607,896.

SECTION 90. Item 7070-0065 of section 2 of chapter 110 of the acts of 1993 is hereby amended by inserting after the words "fifteen A;" the following:-

provided further, that, pursuant to the provisions included in section five A of chapter fifteen C of the General Laws, not less than seven hundred and fifty thousand dollars be expended for the purposes of implementing the college opportunity fund, so-called; provided, however, that no funds shall be expended for said college opportunity fund until the chancellor of the higher education coordinating council submits to the house and senate

committees on ways and means a management plan delineating how said funds are to be expended, including, but not limited to, the number of clients to be served and the names of participating institutions;.

SECTION 91. Said item 7070-0065 of said section two is hereby further amended by striking out the figure 58,000,000 and inserting in place thereof the figure 58,750,000.

SECTION 92. Item 7100-0200 of said section 2 of said chapter 110 is hereby amended by inserting after the word "services", in line 76, the following words:- ; provided further, that said cooperative extension program shall maintain the same staffing levels as were in effect during fiscal year nineteen hundred and ninety-three.

SECTION 93. Item 8314-1300 in said section 2 of said chapter 110 is hereby amended by inserting after the words "General Laws" the following words:- ; provided, that said administrative review board shall promulgate the rules and regulations for the municipal grants program administered pursuant to item 8314-1400 on or before January thirty-first, nineteen hundred and ninety-four.

SECTION 94. Said section 2 of said chapter 110 is hereby further amended by striking out item 9000-2101 and inserting in place thereof the following item:-

9000-2103 For the additional expenses of the Massachusetts international trade council $413,000

SECTION 95. Item 1108-1213 of said section 2B of said chapter 110 is hereby amended by striking out the words "pride in performance program and to expend such fees for goods and services rendered in the administration of the program" and inserting in place thereof the following words:- performance recognition programs and to expend such fees for goods and services rendered in the administration of those programs.

SECTION 96. Said chapter 110 is hereby amended by striking out section 8 and inserting in place thereof the following new section:-

Section 8. If the commissioner of the department of social services determines that funds made available pursuant to items 4800-0016, 4800-0017, 4800-0030 and 4800-0041 of section two of this act and made available in any fiscal year nineteen hundred and ninety-four supplemental appropriations acts are insufficient to fund the services for which said items may be expended, said commissioner may, after submitting such written determination and giving thirty days prior notice to the house and senate committees on ways and means and the secretaries of administration and finance and health and human services, reallocate fifteen percent of the amount appropriated for each of said items among said items as deemed necessary in conformance with said notice. Subject to the provisions of this section, funds may also be transferred to line item 4800-0020 from items 4800-0016, 4800-0017, 4800-0030 and 4800-0041 in conformance with the aforementioned notice requirements; provided, however, that no funds may be transferred from item 4800-0020 to another account.

SECTION 97. Section 196 of said chapter 110 is hereby amended by striking out the word "ninety-six" and inserting in place thereof the following word:- ninety-five.

SECTION 98. Section 247 of chapter 110 of the acts of 1993 is hereby amended by striking out subsection (iii) and inserting in place thereof the following subsection:-

(iii) The provisions of subsections (i) and (ii) shall cease to be in effect as of July first, nineteen hundred and ninety-five. No loans shall be made pursuant to paragraph (e) of subsection (i) after December thirty-first, nineteen hundred and ninety-four. Nothing in this section shall be construed to prevent the collection of any outstanding principal or interest on loans made pursuant to said paragraph (e) on or before December thirty-first, nineteen hundred and ninety-four or of any outstanding excess owed to the authority under clause (4) of paragraph (d) of subsection (i).

SECTION 99. Section 274 of said chapter 110 is hereby amended by striking out the fifteenth paragraph, added by section 3 of chapter 296 of the acts of 1993, and inserting in place thereof the following paragraph:-

The division shall adopt rules and regulations governing contracts between governmental units and social service program providers which shall include, but not be limited to: a provision requiring that all transactions between said providers and related parties shall be disclosed in writing in advance to the division and to such governmental units; a provision requiring a complete inventory of equipment which is to be used by a provider and to which a governmental unit has title, and requiring the return of such equipment to the proper governmental unit upon the completion or termination of the contract; and a provision requiring that any contracts for which funds expended by the commonwealth thereunder reimburse or compensate said providers for the amortization of mortgages for the ownership of any real property, whether owned directly or indirectly by said provider, 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; provided, that any such lien shall be subordinated to any statutory lien, to the lien of a first mortgagee who has provided a purchase-money mortgage for such property, and to the interest of any banking institution, as defined in section one of chapter one hundred and sixty-seven A of the General Laws, holding a security interest in such property in an amount not exceeding ten percent of the appraised value of such property as determined and provided by such banking institution; and provided further, that any such recoupment shall be net of any outstanding balance due pursuant to any such superior security interest. If after a hearing the division finds a violation of any regulation adopted under this paragraph, the division may order that the contract be terminated, or may assess a civil penalty of not more than two thousand dollars or ten percent of the amount payable under the contract, whichever is greater, which the agency shall withhold from payments otherwise due under the contract. Notwithstanding the foregoing, any provider aggrieved under this paragraph may exercise any legal remedies or cause of action available to such provider under law. If the division determines after a hearing that a provider has committed repeated willful violations of this paragraph, it may debar the provider from further state contracts but such debarment shall not be for a period longer than five years.

SECTION 100. Section 289 of said chapter 110 is hereby amended by striking out the words "secretary of consumer affairs" and inserting in place thereof the following words:- secretary of economic affairs.

SECTION 101. Section 316 of said chapter 110, as amended by section 117 of chapter 151 of the acts of 1993, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentences:- Any regional school district which has not met its net school spending amount in fiscal year nineteen hundred and ninety-four and which used qualifying revenue amounts in a fiscal year that are not reasonably projected to be available for use in the next year, may appeal to the department of revenue no later than January twenty-ninth, nineteen hundred and ninety-four for an adjustment to its net school spending requirement. If the claim is determined to be valid, the department of revenue shall reduce the net spending requirement amount based on the amount of shortfall in revenue and reduce the minimum local contribution of the member municipalities accordingly. Qualifying revenue amounts shall include but not be limited to extraordinary amounts of excess and deficiency, surplus, and uncommitted reserves. The amount of financial assistance due from the commonwealth in fiscal year nineteen hundred and ninety-four pursuant to chapter seventy or any other provision of law shall not be changed on account of any redetermination of the required local contribution under this section.

SECTION 102. Section 324 of said chapter 110 is hereby repealed.

SECTION 103. Section 375 of said chapter 110 is hereby amended by inserting after the word "owner", in line 8, the following words:- , an official of the Massachusetts Housing Finance Agency.

SECTION 104. Said section 375 of said chapter 110 is hereby further amended by striking out, in lines 16 and 17, the words "October fifteenth, nineteen hundred and ninety-three" and inserting in place thereof the following words:- May second, nineteen hundred and ninety-four.

SECTION 105. Section 381 of said chapter 110 is hereby amended by striking out, in line 20, the word "ninety-four" and inserting in place thereof the following word:- ninety-five.

SECTION 106. Said chapter 110 is hereby further amended by striking out section 385 and inserting in place thereof the following section:-

Section 385. Notwithstanding the provision of any general or special law to the contrary, there is hereby established a special commission for the purpose of studying the feasibility of mergers or acquisitions both of one or more investor-owned electric utilities and of one or more investor owned gas utilities. The special commission shall consist of eleven members: the secretary of consumer affairs or his designee, the commissioner of the division of energy resources, the attorney general or his designee, three members of the senate appointed by the senate president, three members of the house of representatives appointed by the speaker of the house, and two members of the public appointed by the governor. The commission shall be chaired by the commissioner of the division of energy resources and the house and senate chairmen of the joint committee on energy. The commission shall investigate and study the feasibility of mergers or acquisitions of one or

more investor-owned electric utilities within the commonwealth by one or more other investor-owned electric utilities servicing the commonwealth. The commission shall also investigate and study the feasibility of mergers or acquisitions of one or more investor-owned gas utilities within the commonwealth by one or more other investor-owned natural gas utilities servicing the commonwealth. The commission shall investigate and study the impact that such mergers or acquisitions would have on such matters as electric rates for all classes of rate payers within the contemplated service territory. The commission shall file with the clerks of the senate and house of representatives, and the department of public utilities, a final report of its findings and recommendations, with accompanying legislation, if any, no later than the first Tuesday in June, nineteen hundred and ninety-four. Upon filing of the report, the department of public utilities is hereby directed to open a generic hearing to consider and implement the recommendations of the report as appropriate.

SECTION 107. Chapter 132 of the acts of 1993 is hereby amended by adding the following two sections:-

Section 27. For the purpose of making available for expenditure in fiscal year nineteen hundred and ninety-four the following balances, which would otherwise revert on June thirtieth, nineteen hundred and ninety-three, the expiration dates of the items listed herein are hereby extended through June thirtieth, nineteen hundred and ninety-four:

5011-7890	$415,600
5011-8874	$91,397
5011-8875	$76,141
5011-8876	$225,526
5011-8877	$53,940
5011-9873	$197,897
5095-8870	$2,115,751
5095-8871	$210,837
5095-8872	$8,352,861
5095-8874	$789,367
5095-8875	$6,890,209
5095-8876	$1,267,973
5095-8877	$1,030,497
5655-8841	$50,483

Section 28. Section twenty-seven shall take effect as of June thirtieth, nineteen hundred and ninety-three.

SECTION 108. Item 1108-1005 of section 2A of chapter 151 of the acts of 1993 is hereby amended by inserting after the word "Laws", in line 5, the following words:- ; provided however, that notwithstanding the provisions of any general or special law to the contrary, the secretary of administration and finance is hereby authorized and directed to grant a five percent salary adjustment to executive branch employees who perform managerial functions who are ineligible to receive a salary adjustment because their salaries are not set forth in said section forty-six C and who were ineligible to receive a salary

adjustment pursuant to the collective bargaining agreements entered into by the commonwealth and its several employee unions; provided further, that no statutory employee, so-called, shall be eligible for a salary adjustment; provided further, that no higher education employee who performs managerial functions shall be eligible for any salary adjustment authorized herein.

SECTION 109. Item 0330-4100 of section 2C of said chapter 151 is hereby amended by striking out the figure "3,300,000" and inserting in place thereof the following figure:- 7,300,000.

SECTION 110. Item 9000-1920 of section 2C.I of said chapter 151 is hereby amended by striking out the figure "812,206" and inserting in place thereof the following figure:- 1,088,973.

SECTION 111. The department of youth services shall in conjunction with the department of public safety and the executive office of health and human services, conduct a study of recidivism for the years nineteen hundred and ninety to nineteen hundred and ninety-two, inclusive. Said study shall include, but not be limited to, examining the nature of offenses committed by youths before and after commitment to the department of youth services, the length of commitment to department programs and examination of the number of adults currently incarcerated in state or county correctional facilities, who were as youths committed to the department of youth services. The results of said study shall be reported to the senate and house committees on ways and means on or before April thirtieth, nineteen hundred and ninety-four.

SECTION 112. The department of environmental protection is hereby authorized to compile and publish periodically a list of contractors and engineers who wish to design and construct septic systems or system upgrades in the commonwealth. Contractors who wish to be placed on the list shall send a letter to said department expressing their intent to participate, listing their business address and telephone numbers, and giving an estimate for the cost and installation of typical septic systems. The list shall be on file with the department and available to the public through each of the departments's regional service centers. The list shall be compiled solely for the public convenience, and shall contain a statement that the commonwealth does not endorse or guarantee the qualifications, work or prices of any listed party.

SECTION 113. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts emergency management agency is authorized to incur, and the comptroller may certify for payment, expenses and liabilities during fiscal year nineteen hundred and ninety-four to be charged to item 8800-0200 in section two of chapter one hundred ten of the acts of nineteen hundred and ninety-three, in an amount not to exceed two hundred and seventy-eight thousand seven hundred and sixty-eight dollars, for the authorized purposes of said item, for the purpose of accommodating delayed receipt of revenues in fiscal year nineteen hundred and ninety-four, authorized to be retained in said item during fiscal year nineteen hundred and ninety-four.

SECTION 114. Notwithstanding the provisions of any general or special law to the contrary, the secretary of the executive office of health and human services is hereby authorized and directed to conduct a study and make recommendations relative to reorganization of the management and provision of the commonwealth's health care delivery, purchasing, regulatory and advisory functions. Said study shall be conducted in consultation with the secretaries of the executive offices of consumer affairs, elder affairs and administration and finance. Said study shall examine the agencies, departments, boards and commissions within said executive offices that perform such functions and the necessity, feasibility and advisability of achieving their reorganization, consolidation, elimination or strengthening to meet the following purposes: achieving the most efficient and most beneficial allocation of public health care resources by coordinating the purchase of all publicly financed health care services and maximizing the principle of prudent purchasing; constraining growth in public and private health care expenditures by promoting the cost-effective delivery of health care services by public and private health care providers, promoting implementation of preventative care and other measures that reduce demand for more intensive and costly services and minimizing duplicative or unnecessary regulation of health care providers, professionals and purchasers; promoting the availability of essential health services to all citizens of the commonwealth within a time frame regarded to be feasible and affordable by the citizens of the commonwealth; and promoting the principles of universal care and marketplace competition by an accountable and flexible administrative structure as needed to promote the aforementioned purposes and to implement chapter twenty-three of the acts of nineteen hundred and eighty-eight, chapter four hundred and ninety-five of the acts of nineteen hundred and ninety-one and health care reform proposals which may be adopted by the United States Congress.

Said study shall include the following: an inventory of existing agency, department, board and commission resources, including personnel, contractual and automation services; an organizational chart designed to effectuate recommendations included in said report; and a projection of additional resources and savings needed to reorganize, consolidate, eliminate or strengthen said agencies, departments, boards and commissions to achieve the aforementioned purposes. Said study shall further identify the most optimal use of resources for coordinating a system of long term care for the elderly, including, but not limited to, the most effective means for purchasing and coordinating nursing home, chronic hospital, home health and home care services and for expanding the supply of supported housing and elder care options. Said study shall include a reasonable timetable for the implementation of said recommendations, including deadlines for the drafting and filing of legislation necessary to effectuate such administrative reforms.

A report on the preliminary findings of said study, including any recommendations resulting therefrom, shall be filed with the clerk of the house of representatives and the clerk of the senate not later than April first, nineteen hundred and ninety-four to be available for consideration by the general court in deliberating the budget for the commonwealth that begins on July first, nineteen hundred and ninety-four.

SECTION 115. Notwithstanding the effective date of the amendment by this act to paragraph (cc) of section six of chapter sixty-four H of the General Laws, or the provisions of any other general or special law to the contrary, the department of revenue is hereby authorized and directed to cease efforts to collect meals tax payments from continuing care retirement communities as defined by section seventy-six of chapter ninety-three of the General Laws, including those payments that are currently in dispute; provided, that those payments that have been made to date shall not be refunded to said continuing care retirement communities.

SECTION 116. Notwithstanding the provisions of any general or special law to the contrary, the department of environmental management is hereby authorized and directed to enter into an agreement with the city of Lynn for the reconstruction, restoration, and maintenance of Stone Tower at the Lynn Woods Olmstead State Park located in the city of Lynn. For the purposes of undertaking and completing the reconstruction, restoration, and maintenance of said Stone Tower, no less than forty thousand dollars shall be expended from line-item 2100-3000 in section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three by said department and allocated to the city of Lynn.

SECTION 117. Any municipality that has filed a plan with the Statewide Emergency Telecommunications Board (SETB) to establish, staff and operate a public safety answering point (PSAP) as defined by chapter two hundred and ninety-one of the acts of nineteen hundred and ninety and conforms to the standards established by the SETB and submits an amendment to their E-911 municipal plan for SETB approval on or before January fourth, nineteen hundred and ninety-four in conjunction with one or more other municipalities shall receive an equal amount of assistance that would have been provided to each municipality had said municipality established a PSAP individually. Such assistance is to be used to offset the costs related to communications systems, including telephone and radio, associated with the establishment of a regional PSAP.

The rules and regulations pertaining to said funding shall be promulgated by the SETB.

The amount of assistance shall be based on a formula established by SETB which takes into consideration the initial E-911 plan and additional costs associated with implementation of the regional PSAP such as network and PSAP equipment.

SECTION 118. Notwithstanding the provisions of any general or special law to the contrary, no owner or owners of land or interest in land acquired by the division of watershed management of the metropolitan district commission pursuant to the provisions of chapter thirty-six of the acts of nineteen hundred and ninety-two shall incur any loss of market value for such real property by reason of the restrictions contained in said chapter thirty-six.

SECTION 119. The secretary of the executive office of health and human services is hereby authorized and directed to establish a plan that promotes the more equitable distribution and siting of community-based residential programs in cities, towns and neighborhoods of the commonwealth by the agencies within said executive office, the department of corrections and vendors under contract with such agencies. Unless the context

clearly requires otherwise, the word "agency" used hereinafter shall mean the agencies within said executive office, the department of corrections and the vendors under contract with such agencies.

Said plan shall establish the goals of: (1) ensuring that such programs do not disproportionately impact nor become disproportionately concentrated in any city, town, neighborhood or region; (2) actively promoting the reasonable and fair distribution of such residential programs; and (3) establishing that such goals are adopted separately and collectively by said agencies.

Said plan shall establish a centralized process within the executive office to review all proposals by said agencies that would site new community-based residential programs proposed after the effective date of this act. Said plan shall make the applicable line agency within the secretariat, or, as the case may be, the department of corrections, responsible for submitting to said executive office any such proposal initiated by an agency. Said proposals shall describe the nature of the program proposed for a particular site based on guidelines established by the secretary which shall include but not be limited to: a description of the program's clients and program sponsorship; the location and description of the proposed residential structure; a physical and demographic description of the immediate neighborhood; the total number of overnight beds proposed for the structure; the total number of day clients to be served at the structure; the total number of overnight beds, day slots and the total residential population within a one-half mile radius of the structure; the proposed acquisition, lease or rental costs for the structure; proposed operating guidelines that minimize the program's impact on the surrounding neighborhood; and the program's proposed annual operating costs.

Each proposal shall further include information demonstrating how said program complies with the following criteria:

1. The proposal does not add a disproportionate number of new residential beds to the neighborhood or locality relative to the number of beds in surrounding neighborhoods and localities.

2. Alternative sites in localities with disproportionately fewer beds were rejected for documented reasons that are consistent with the purposes of this section.

3. Decisions concerning the proposed site, and the rejection of alternative sites, were not based exclusively on cost.

4. The proposed site was chosen because it enabled an agency, or, if appropriate, the program's residents, to reside in a community of preferred choice.

Each proposal shall be reviewed by the secretary or his designee. The secretary of public safety shall be provided an opportunity to comment during the review of a proposal sponsored by the department of corrections or its vendors. The review process shall examine the impact of the proposed program on the immediate neighborhood and surrounding localities, and the impact of the program in combination with all other community based residential programs, regardless of sponsoring agency, located in the proposed neighborhood and surrounding localities. Said review shall examine whether a program proposed for a

disproportionately impacted neighborhood could not be located in a locality less disproportionately impacted than the proposed locality. For purposes of this section, disproportionate impact shall be assessed on the basis of quantitative and qualitative measures of whether a geographic area supports an inordinate number of community-based residential programs compared with other geographic areas.

Each proposal shall be approved or disapproved by the secretary. In approving a proposal, the secretary shall certify that the proposal complies with the requirements of this section and shall make a finding that the proposed program does not disproportionately impact a neighborhood and its locality relative to a surrounding locality and other nearby cities and towns. The secretary shall disapprove a proposal that does not comply with the requirements of this section or that disproportionately impacts a neighborhood and surrounding locality.

Said plan shall establish a catalogue of community-based residential programs in existence on the effective date of this section for each geographic region, including each zip code, census tract, census block, if feasible, and any other reasonable, discrete measure of a population center which may be defined by the secretary. Said catalogue shall describe the number and type of beds, day slots, structures and program types operated by each agency and its vendors in each such geographic region. Said catalogue shall serve as the basis for assessing the additional impact of locating new residential programs in a city, town or neighborhood. Said catalogue shall be periodically revised to reflect new programs approved by the secretary and changes resulting from programs that close or move.

For purposes of this section, a community-based residential program shall mean any overnight supervised or unsupervised residence housing more than one person operated directly or indirectly by an agency. Said programs shall include, but not be limited to emergency, transitional and permanent residences, shelters, centers and sites, but shall not include the residences of families providing foster care on behalf of the department of social services or housing secured by clients of an agency without financial assistance from said agency.

The comptroller is hereby authorized and directed to withhold the expenditure of funds for any contract, service agreement or other payments for services rendered by a community-based residential program proposed after the effective date of this act which has not been approved by the secretary pursuant to the provisions of this section.

The secretary shall file said plan with the clerk of the house of representatives and the clerk of the senate upon its completion but not later than February first, nineteen hundred and ninety-four.

SECTION 120. Notwithstanding any general law or regulation to the contrary, a provider shall be entitled to receive an administrative adjustment to its rate pursuant to 114.2 CMR 5.15 (1)(e) provided it meets the criteria set forth in 114.2 CMR 5.15 (1)(e) and (2-5), inclusive, and provided further that it meets all of the following criteria: (i) has a public utilization (including Medicare, Medicaid and Massachusetts Commission for the Blind) of seventy-five percent or greater; (ii) a change in ownership after January first, nineteen hundred and ninety; (iii) has had all or part of its long term debt financed by a loan from a

public authority; and (iv) the facility is located in the service area of a federally designated sole community hospital. If the provider meets the criteria described herein, the rate setting commission shall grant the relief provided for in 114.2 CMR 5.15(e).

SECTION 121. Notwithstanding the provisions of any general or special law or regulation to the contrary, the office for children shall issue as a permanent record a lead teacher certificate to Pamela Maine Cavanagh, a nursery school teacher in the town of Brookline, as if said person qualified for said certificate pursuant to the provisions of 102 CMR 7.06(4).

SECTION 122. The secretary of environmental affairs shall make an investigation and study of the effect of a reduction in the gasoline tax and its impact on the environment of the commonwealth; and provided further that said secretary shall make a determination of need and its recommendations in accordance with the provisions of the Massachusetts Environmental Policy Act.

Said secretary shall file its recommendations with the clerk of the house of representatives on or before June thirtieth, nineteen hundred and ninety-four, who shall forward the same to the committee on natural resources and agriculture.

SECTION 123. The metropolitan district commission is hereby authorized and directed to construct a new crosswalk and post with signs said crosswalk for Highland avenue in the area of Doonan/Tucker streets located in the city of Medford.

SECTION 124. Notwithstanding the provisions of any general or special law to the contrary, monies received by the commonwealth pursuant to subsection (i) of section 4 of chapter three hundred and seventeen of the acts of nineteen hundred and eighty-three shall be made available for expenditure, without further appropriation, by the commissioner of the department of food and agriculture for the operation of programs to promote agricultural activities as defined in section two of chapter one hundred and twenty-eight of the General Laws.

SECTION 125. The department of environmental protection shall file with the clerks of the house of representatives and of the senate any new regulations concerning septic systems at least sixty days prior to the effective date of any such regulations.

SECTION 126. Notwithstanding section twenty-six A½ of chapter one hundred and forty-eight of the General Laws, or any other general or special law to the contrary, Don Bosco High School in the city of Boston shall not be required to install automatic sprinklers.

SECTION 127. The portion of the fund bequeathed by Benjamin Franklin to the inhabitants of the town of Boston in trust which is to the disposition of the commonwealth upon termination of the trust shall be distributed to the Franklin Foundation, established by chapter five hundred sixty-nine of the acts of nineteen hundred and eight, in trust for the maintenance, extension and use of the Franklin Institute.

SECTION 128. Notwithstanding the provisions of any general or special law to the contrary, the executive office of health and human services shall report monthly to the state budget director, the secretary of administration and finance, and the house and senate committees on ways and means on the utilization and cost of all day care programs funded

in whole or in part by the commonwealth. Such report shall include: (1) the number of filled MassJobs voucher day care slots; (2) the number of filled MassJobs contracted day care slots; (3) the number of filled teen day care slots; (4) the number of filled income eligible voucher day care slots; (5) the number of filled income eligible contracted day care slots; (6) the number of filled family preservation day care slots; (7) the number of children receiving informal child care. Such report shall also include the daily rate paid for each day care slot in each of the aforementioned categories. Such report shall also include: (1) the number of clients currently enrolled in an approved educational activity that is a mandatory component of the MassJobs program; (2) the number of clients currently enrolled in an approved job skills training or job readiness or job development/placement activity that is a mandatory component of the MassJobs program; (3) the number of clients currently enrolled in each of the optional components of the MassJobs program specified in section 3.4 of the State JOBS plan; (4) the number of former MassJobs clients currently in their one year transition phase. Such report shall also include the number of clients requiring day care in each of the aforementioned categories.

SECTION 129. 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 provisions of said section fifty-seven C of said chapter fifty-nine are hereby authorized with respect to fiscal year nineteen hundred and ninety-four 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 be issued 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.

If the issuance of an additional 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-four, such notice shall be sent on or before December thirty-first, nineteen hundred and ninety-three 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-four or thirty days after the date of mailing 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-four 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.

If the actual bills for fiscal year nineteen hundred and ninety-four are not mailed by December thirty-first, nineteen hundred and ninety-three, 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-four, or thirty days after the date of mailing such bill, whichever is later. Such bill shall represent the full balance owed after credit is given for the preliminary tax payment 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.

SECTION 130. Notwithstanding the provisions of any general or special law to the contrary, in the event of a disaster as defined in regulations promulgated by the department of public welfare, the department of public welfare is hereby authorized to make payments for disaster assistance from item 4403-2100 of section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three; provided, however, that for the purpose of this section, disaster assistance shall be defined as payments for advance rent, security deposits, food, clothing, and household supplies; and provided further, that said department is hereby authorized to pay such disaster assistance retroactive to July first, nineteen hundred and ninety-three.

SECTION 131. The commissioner of education shall, five years after the effective date of this act, undertake a full evaluation comparing the effectiveness of college and university based provisional educator with advanced standing preparation programs, district-based provisional educator preparation programs, or other alternative educator preparation programs, and college and university based provisional educator with advanced standing preparation programs and report the results one year later. Said report shall be filed with the clerks of the house of representatives and of the senate and the joint committee on education, arts and humanities of the general court.

SECTION 132. The division of medical assistance shall establish a process to ensure that payments to chronic disease and rehabilitation hospitals for administratively necessary days are not terminated prior to a determination that the hospital is not making a good faith effort to find a suitable nonhospital placement. Any such determination shall be subject to further review by the division, in cooperation with the Massachusetts Hospital Association. The division shall provide assistance to hospitals requiring such assistance in finding suitable nonhospital placements.

The division, prior to terminating any hospital payments, shall report to the senate and house committees on ways and means on the number of (1) reviews conducted in accordance with the provisions of the preceding paragraph and (2) proposed terminations of payment for administratively necessary days.

SECTION 133. The executive office of consumer affairs and business regulation is hereby authorized and directed to study which small retail establishments should be exempted from the requirements for unit pricing of packaged commodities pursuant to section one hundred and fifteen A of chapter six of the General Laws. Said executive office shall report the findings and conclusions of such study in writing to the house and senate committees on ways and means not later than June first, nineteen hundred and ninety-four.

SECTION 134. The commissioner of the department of mental retardation is hereby authorized and directed to provide to the house and senate committees on ways and means, on or before March first nineteen hundred ninety-four, a list of all individuals who will be deemed priority A turning twenty-two, clients, so-called, during fiscal year nineteen hundred ninety-five. No information requested or provided shall violate said department's standards of client confidentiality. Said list shall include, but not be limited to, the estimated costs of services for each individual during fiscal year nineteen hundred ninety-five and during which quarter turning twenty-two services provided by the department of mental retardation shall commence. Said list shall also include the annualized cost of those services in fiscal year nineteen hundred ninety-six.

SECTION 135. Notwithstanding the provisions of any general or special law to the contrary, the comptroller may authorize payments from the amounts appropriated in the items of appropriation authorized in chapter one hundred and ten of the acts of nineteen hundred and ninety-three, as amended by this act, which are specified below, in the amounts not to exceed those specified below, for certain contracted services or purchases which may have occurred in violation of the provisions of chapter twenty-nine of the General Laws; provided, that nothing in this section shall be construed so as to make any further appropriation of funds for said purpose; provided further, that the comptroller shall not authorize any such payments until the officer having charge of each agency below files with the state budget director, the secretary of administration and finance, and the house and senate committees on ways and means a written statement detailing the circumstances which led to the need for such authorizations; provided further, that the state auditor is hereby authorized and directed to make an audit of the internal financial reporting and control structures of each of the agencies listed below and make such recommendations as may be appropriate so as to prevent the future need for such authorizations; and provided further, said audit shall be filed with the comptroller, the state budget director, the secretary of administration and finance, and the house and senate committees on ways and means no later than June first, nineteen hundred and ninety-four.

Trial Court Department.

0330-4100 ..... $4,000,000

Massachusetts Commission Against Discrimination.

1150-5100 ..... $23,734

Metropolitan District Commission.

2410-1000 ..... $38,547

Division of Medical Assistance.

4000-0310 ..... $89,495

Department of Social Services.

4800-0151 ..... $125,000

SECTION 136. Notwithstanding the provisions of item 0330-4100 of section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three, the trial court is hereby authorized to expend an amount not to exceed four million dollars from said item for the purchase of certain equipment; provided, however, that said funds shall not be expended until authorized by the comptroller pursuant to the provisions of section one hundred and thirty-five of this act.

SECTION 137. (a) There is hereby established a retirement incentive for certain higher education employees of the commonwealth eligible pursuant to the provisions of this section; provided, however, that this incentive shall only be available to the employees of each public institution of higher education if the board of trustees having charge of such institution agrees, by a recorded vote, to accept the provisions of this section. Notwithstanding the provisions of chapter thirty-two of the General Laws or any other 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 said retirement incentive for higher education employees, hereinafter referred to as the retirement incentive program, in accordance with the provisions of this section; provided, that in order to be deemed eligible by said board for any of the benefit options under the retirement incentive program, an employee (i) shall be a higher education 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-three, (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, and (v) shall have filed such written application with said board in accordance with this section.

Said retirement incentive shall be available to not more than one thousand, five hundred full-time equivalent higher education employees and shall be allocated as follows: (1) not more than nine hundred full-time equivalent employees of the university of Massachusetts; provided, that not more than fifty percent of said employees shall be faculty personnel, not more than twenty-five percent of said employees shall be administrative personnel, and not more than twenty-five percent of said employees shall be classified personnel; (2) not more than three hundred full-time equivalent employees of the state college system; provided, that not more than fifty percent of said employees shall be faculty personnel, not more than twenty-five percent of said employees shall be administrative personnel, and not more than twenty-five percent of said employees shall be classified personnel; (3) not more than three hundred full-time equivalent employees of the community college system; provided, that not more than fifty percent of said employees shall be faculty

personnel, not more than twenty-five percent of said employees shall be administrative personnel, and not more than twenty-five percent of said employees shall be classified personnel; provided further, that the retirement of employees with greater creditable service shall be approved before approval is given to employees with lesser creditable service; provided, further, that said applications shall be delivered by mail. No employee shall be eligible for more than one of the incentives offered herein and no employee may become eligible for one incentive by virtue of the application of a different incentive.

For the purposes of this section, 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 eligible employee who retires and receives and additional benefit in accordance with the provisions 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.

(b) 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, in order to receive the retirement benefit provided by this section, an eligible employee, shall file his application for retirement under the provisions of this section with the state retirement board after March fifteenth, nineteen hundred and ninety-four, but no later than April fifteenth, nineteen hundred and ninety-four; provided, that the retirement date requested shall be June thirtieth, nineteen hundred and ninety-four; provided further, that the date requested by an employee under the provisions of this section shall be subject to approval by said employee's appointing authority; provided, further, that such approval shall only relate to the choice of date by said employee.

(c) Any employee who is eligible for the retirement incentive program in accordance with the provisions of subsection (a) of this section 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 five years of creditable service or five years of age or 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 chapter thirty-two of the General Laws.

Notwithstanding such credit, the total normal yearly amount of the retirement allowance, as determined in accordance with the provisions of said section five of said chapter thirty-two, of any employee who retires and receives the retirement benefit provided by this section shall not exceed four-fifths of the average annual rate of his regular compensation as determined in accordance with said section five of said chapter thirty-two.

(d) For any married employee who retires and receives an additional benefit under the retirement incentive 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) its 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.

(e) The state retirement board is hereby authorized and directed to collect and file a report on the following: (1) the number of employees who have retired from any public institution of higher education during each of the past three fiscal years and (2) the amount of retirement benefits, including the costs of health insurance, paid to said employees during each of the past three fiscal years. Based upon the historical information so collected and reported, the state retirement board shall develop an average for each institution of public higher education of the number of employees who would normally retire absent any retirement incentive plan in fiscal years nineteen hundred and ninety-four, nineteen hundred and ninety-five, and nineteen hundred and ninety-six and the average retirement costs, including the costs of health insurance, by institution for such employees in each of said fiscal years. For the purposes of this section the averages developed by the state retirement board shall be known as "base retirement costs". All costs attributable to any employee of any institution of higher education who retires under the retirement incentive plan established by this section which exceed the base retirement costs as defined herein shall be referred to as "incremental retirement costs". The state retirement board shall complete this study within thirty days of the effective date of this act and shall file such study with the chancellor of higher education, the state budget director, the secretary of administration and finance, the clerk of the senate and the house and senate committees on ways and means.

(e½) All incremental retirement costs shall be paid out of the sums appropriated or otherwise made available to the several institutions of higher education for the fiscal year nineteen hundred and ninety-five. The base retirement costs, as described in subsection (e), for fiscal year nineteen hundred and ninety-five shall not be charged to the several institutions of higher education, but shall be funded from the appropriate item of appropriation in section two of the general appropriations act for fiscal year nineteen hundred and ninety-five. All costs associated with the payment of accrued vacation time, unused sick leave or any other severance payment, shall be paid from the sums appropriated or otherwise made available to the several institutions of higher education in the fiscal year nineteen hundred and ninety-five. Any board of trustees which agrees to accept the provisions of this section shall not request nor receive any supplemental funding for the costs of the retirement incentive plan in fiscal year nineteen hundred and ninety-five; provided

further, that it is hereby declared to be the intention of the general court that any funding appropriated to the system of institutions in fiscal year nineteen hundred and ninety-five which exceeds the amounts appropriated to said institutions in fiscal year nineteen hundred and ninety-four shall be for the purpose of enhancing academic programming and shall not be expended for any costs associated with the retirement incentive plan established herein; provided, that each board of trustees shall develop a management plan to implement the staffing reductions and chargeback costs associated with the retirement incentive plan in a manner which minimizes the impact of such reductions and chargebacks on student services; provided further, that such management plan shall be filed with the state budget director, the secretary of administration and finance and the house and senate committees on ways and means no later than April fifteenth, nineteen hundred and ninety-four.

(f) The state retirement board, established under the provisions of section eighteen of chapter ten, shall provide retirement counseling services to employees who choose to retire under the retirement incentive program. Said counseling shall include, but not be limited to, the following provisions; (i) the additional benefit options available under the retirement incentive 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; and (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 retirement incentive program.

(g) The commissioner of the public employee retirement administration, the executive director of the state retirement board, and the executive director of the group insurance commission, in consultation with the chairman of each board of trustees which agrees to accept the provisions of this section, shall analyze, study, and valuate the incremental retirement costs attributable to the benefits payable under the early retirement incentive program. Upon completion of such study, and in no case later than August thirtieth, nineteen hundred and ninety-four, the executive director of the state retirement board shall certify in writing to the state budget director, the secretary of administration and finance, the comptroller, the joint committee on public service, and the house and senate committees on ways and means the total incremental retirement costs associated with those eligible employees enrolled in the retirement incentive program. Said certification shall include a statement which delineates such incremental retirement costs by institution.

(h) Based upon the certification provided pursuant to subsection (g), the comptroller shall transfer to the general fund from items of appropriation made available to the several public institutions of higher education in section two of the general appropriations act for fiscal year nineteen hundred and ninety-five the total amount of incremental retirement costs associated with those employees who retire pursuant to the provisions of this section; provided, that notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to also charge said items of appropriation

for the incremental retirement costs of those employees who enroll in the early retirement incentive program who are compensated from non-appropriated funds and to transfer said charges to the general fund. The secretary of administration and finance may promulgate rules and regulations to enforce the provisions of this subsection. Said secretary shall file monthly reports with the house and senate committees on ways and means detailing all actions taken pursuant to this section.

(i) The chancellor of higher education shall list each position which shall be made vacant by the retirement of an employee under the retirement incentive program and who shall be receiving an additional benefit in accordance with the provisions of this section and shall file such list with the joint committee on public service and the house and senate committees on ways and means on or before August thirty-first, nineteen hundred and ninety-four; provided, that for each such position, such list shall include the line-item of section two the general appropriations act and any supplemental appropriations acts for fiscal year nineteen hundred and ninety-four in which such position was funded, if any, 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.

(j) Notwithstanding any general or special law to the contrary, institutions of higher education may refill positions made vacant due to participants in the early retirement program established by this section in accordance with an allocation plan promulgated by the higher education coordinating council in accordance with this subsection.

No position made vacant by the retirement of any employee under the retirement incentive plan shall be filled 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, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account unless and until such position is included on a list of critical and essential positions filed with the senate and house committees on ways and means and approved by said house committee on ways and means; provided, that not more than seventy-five percent of such faculty positions may be refilled and that not more than fifty percent of administrative and classified positions may be refilled; provided, however, that said allocation plan filed by the higher education coordinating council shall distribute refill authorizations to the university of Massachusetts, the state colleges and the community colleges in proportion to the number of retirees from said categories within said institutions; provided, that no position which was vacant prior to December first, nineteen hundred and ninety-three may be filled without further appropriation for said purpose.

(k) Notwithstanding the provisions of any general or special law or this section to the contrary, this section shall not take effect until thirty days after the state retirement board files the study mandated by subsection (e) and until the general court enacts legislation, which may be subject to amendment, in response to said study.

SECTION 138. Notwithstanding the provisions of any general or special law to the contrary, the parole board is hereby authorized and directed to file a request with the state comptroller to make payment of an award due to Pacita Bradford and Pearl Holder-Jackson,

complaint numbers 86-BEM-0229 and 86-BEM-0230, respectively; provided, that said comptroller is hereby authorized and directed to make such payments from item number 1599-3384 of section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three.

SECTION 139. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized, if directed by the secretary of public safety with the approval of the governor, to transfer funds from items 1100-1100, 1104-1000, 8000-0000, and 8900-0002 of section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three to the item of appropriation listed below, in amounts not to exceed the amount specified below; provided, however, that no supplemental funding shall be made available to said items 1100-1100, 1104-1000, 8000-0000, and 8900-0002 in fiscal year nineteen hundred and ninety-four. The amounts so transferred shall be for the purposes of, and subject to the conditions established in item 8900-0004 of section two of chapter one hundred and ten of the acts of nineteen hundred and ninety-three.

8900-0004 ..... $2,236,043

SECTION 140. The provisions of section forty-one of chapter seventy-one of the General Laws, or of any other general or special law, shall not be deemed to affect or impair any rights to accrued sick, personal, or vacation leave acquired by a school principal before June eighteenth, nineteen hundred and ninety-three, including, but not limited to, the total accumulation of such leave pursuant to the terms of any collective bargaining agreement executed prior to said date; provided, however, that no further benefits shall accrue after the expiration of said collective bargaining agreements unless such continued benefits are approved by mutual agreement of the principal and the employer.

SECTION 141. There shall be established a committee at the department of environmental protection to study the effects of implementing changes to 310 CMR title V that would require mandatory inspection and upgrading of on-site waste disposal, including cesspools and septic systems. This title V committee shall consist of twelve members: the commissioner of the department of environmental protection or his designee; the secretary for administration or his designee; the secretary of communities and development or his designee; a representative of the Massachusetts Housing Finance Agency; a representative of the Massachusetts Municipal Association; a representative of the Massachusetts Association of Health Boards; a representative of the Massachusetts Bankers Association; three municipal officials from towns that have only septic systems, appointed by the governor; a representative of the Massachusetts Audobon Society; and a representative of an environmental group, appointed by the governor.

Said study shall include, but not be limited to, the committee's estimated total cost to individual citizens of the commonwealth for inspection and the committee's estimated potential costs of upgrading said systems. The study shall include the committee's demographic analysis of income and housing values as they relate to estimated costs by region for inspection and upgrading said systems, and the committee's estimated financial impact on housing values. The title V committee shall meet at least monthly and compile a final report of its findings. Said report shall be submitted to the house and senate clerk, the

joint committee on natural resources, and the chairmen of the house and senate committees on ways and means not later than May first, nineteen hundred and ninety-four.

The department of environmental protection shall not adopt any further changes to 310 CMR title V regulations until sixty days after said report has been filed.

SECTION 142. No further regulations shall be promulgated by the department of environmental protection relative to the state environmental code for subsurface disposal of sanitary wastes unless the state department of revenue conducts an economic impact analysis of the impact of said regulations on a loss of new developments as well as the impact of the restrictions on existing developments. Said report shall be submitted to the house and senate clerk, the joint committee on natural resources, and the chairmen of the house and senate committees on ways and means. The department of environmental protection shall not adopt any changes to 310 CMR title V regulations until sixty days after said report has been filed.

SECTION 143. Notwithstanding the provisions of section fifteen of chapter one hundred and eighteen F of the General Laws, or any general or special law to the contrary, a hospital, which on October first, nineteen hundred and ninety-three, was licensed for sixty-five or fewer beds, had no emergency room and could demonstrate gross patient service revenue attributable to Titles XVIII and XIX of the Social Security Act of at least seventy percent, shall be exempt from payment of outstanding liability to the uncompensated care pool established pursuant to said section fifteen for hospital fiscal years nineteen hundred and ninety through nineteen hundred and ninety-three inclusive; provided, that such a hospital shall not be entitled by this section to the repayment or collection of any amount previously paid toward the liability owed for said fiscal years and any amounts heretofore paid by or collected from such a hospital shall not be repaid to such hospital; and provided further, that this section shall not be construed to forgive such a hospital's gross liability to said uncompensated care pool for hospital fiscal year nineteen hundred and ninety-four or subsequent fiscal years.

SECTION 144. Section fifty-seven of this act shall apply to all claims upon which a final judgment has not entered, or as to which an appeal is pending or the appeal period has not expired, and to all claims upon which suit is filed after the effective date of this act.

SECTION 145. Except as otherwise provided, the provisions of this act shall take effect upon its passage.

This bill was returned on January 14, 1994, 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 23, 25, 61, 63, 64, 65, 66, 72, 84, 92, 93, 108, 111, 114, 115, 119, 121, 122, 137, 138, 141, 142, 143.

SECTION 2 *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording stricken
0330-0300	$180,541	$4,176,967	"provided further, that not less than one hundred and eighty thousand, five hundred forty-one dollars shall be expended for security training of court personnel;"

SECTION 86 *Wording disapproved*

4800-0000 "provided, that expenditures made from the AA subsidiary, so-called, of this item and item 4800-0015 of section two of this act for the personnel costs associated with the purposes of the programs funded herein shall not exceed fourteen million one hundred seventeen thousand three hundred fifty-one dollars;"

4800-1111 "provided further, that notwithstanding the provisions of any general or special law to the contrary, no rate increase shall be granted to contracted providers paid from the MM subsidiary, so-called, of this item for the contracted provider service costs associated with the purposes of the programs funded herein and that said cost shall not exceed twenty-five million dollars; provided further, that no contact or contract amendment shall be authorized in fiscal year nineteen hundred and ninety-four which will have and annualized cost exceeding the amounts made available herein until corresponding contract decreases are identified and approved on the Massachusetts management accounting and reporting system, so-called;"

The remainder of the bill was approved by the Governor on January 14, 1994 at four o'clock and fifty-two minutes, P.M.

Chapter 496. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND NINETY-FOUR 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 appro-

priation act for fiscal year nineteen hundred and ninety-four and other fiscal year nineteen hundred and ninety-four appropriation acts and for certain other activities and projects, the sum set forth in section two is hereby appropriated from the General Fund, subject to the conditions specified in said item and subject to the provisions of law regulating the disbursement of public funds, for the fiscal year ending June thirtieth, nineteen hundred and ninety-four.

SECTION 2.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.
Department of Veterans' Services.

Item
1410-0251 For the maintenance and operation of a new transitional housing unit at the New England shelter for homeless veterans $340,000

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

Approved January 14, 1994.

Chapter 497. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND NINETY-FOUR 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 for fiscal year nineteen hundred and ninety-four and other fiscal year nineteen hundred and ninety-four appropriation acts and for certain other activities and projects, the sum set forth in section two is hereby appropriated from the Local Aid Fund, subject to the conditions specified in said item and subject to the provisions of law regulating the disbursement of public funds, for the fiscal year ending June thirtieth, nineteen hundred and ninety-four.

SECTION 2.

EXECUTIVE OFFICE OF ELDER AFFAIRS.
Office of the Secretary.

Item
9100-1993 For emergency maintenance and repairs to facilities and equipment for elderly nutrition and transportation service programs located in the city of Boston; provided, however, that the executive office of elder affairs is hereby authorized and directed to enter into a contract on or before March fifteenth,

nineteen hundred and ninety-four with a nonprofit organization currently operating elderly nutritional and transportation services in the city of Boston to undertake said emergency repairs to the organization's facilities; provided, further, that such nonprofit organization shall complete said improvements on or before June thirtieth, nineteen hundred and ninety-five; provided, further, that notwithstanding the provisions of any general or special law to the contrary, funds appropriated herein shall be reimbursed from funds appropriated in item 1102-8847 in section two of chapter seven hundred and twenty-three of the acts of nineteen hundred and eighty-three; provided, further, that notwithstanding the provisions of any general or special law to the contrary, this appropriation shall not expire until June thirtieth, nineteen hundred and ninety-five $900,000

Local Aid Fund 100.0%

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

Approved January 14, 1994.

Chapter 498. AN ACT CREATING THE DEVENS ENTERPRISE COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. Findings and Purpose. It is hereby found that there exists within the Commonwealth substantial unemployment which is detrimental to the welfare of the people of the Commonwealth; that the termination by the United States of certain activities at Fort Devens threatens to result in blight, economic dislocation and additional unemployment, all to the further detriment of the welfare of the people of the Commonwealth; that Fort Devens has operated as a federal enclave, independent of the four towns in which it is located since its inception; that the reuse of Fort Devens will rehire financial support from the Commonwealth due to the size and complexity of the Fort Devens property; that the towns of Ayer, Harvard and Shirley have a vital interest in the successful reuse of Fort Devens; that the withdrawal of the military from Fort Devens will have a detrimental effect on the towns of Ayer, Harvard and Shirley and on the north-central region of the Commonwealth without the assistance provided by this act; and that in order to facilitate the reuse of Fort Devens for non-military uses it will be necessary to establish various incentives to attract private businesses to locate and expand their operations at Fort Devens, including providing those businesses tax incentives, relief from inconsistent land use controls, and economic relief through the establishment of Fort Devens as an Economic Target Area and an Economic Opportunity Area, and application to establish Devens as a federal enterprise and free trade

zone. Therefore, it is the purpose of this act to promote the expeditious and orderly conversion and redevelopment of Fort Devens for non-military uses, including, but not limited to, housing, industrial, institutional, educational, governmental, recreational, conservation, commercial or manufacturing uses, in order to prevent further blight, economic dislocation and additional unemployment, and to aid in strengthening the local economy, the regional economy and the economy of the Commonwealth.

SECTION 1A. Overall Goal Statement. The Devens reuse challenge demands a visionary planning effort grounded in environmental, social, and economic reality. It must be realistic, pragmatic, market driven, flexible, and future oriented and shall be based on the following goals and objectives:

(1) Development must be sustainable, which means achieving a balance of economic, social and environmental needs while maintaining and enhancing the natural resource base.

(2) Development must provide a diversity of uses to avoid dependence on one use, and to provide opportunities for a range of skills and experience levels.

(3) Development must demonstrate the interdependence of economic development and environmental protection and the symbiosis of public and private uses.

(4) Development must balance local, regional and Commonwealth interests.

(5) Development must foster uses that will create, at minimum, the number of jobs and value of economic activity at Devens in the year one thousand nine hundred and ninety.

(6) Development must take advantage of the skills and experience of the regional work force and work to match the skills of the future work force with the needs of industries of the future.

(7) Development must foster a long term mix of uses which will enhance the regional economy through future growth potential.

(8) Development must build on Devens' unique characteristics to complement the regional economy and expand the economic base.

(9) Development must foster an attitude that supports reuse goals, successful redevelopment and the provision of economic activities for individual and collective prosperity.

(10) Development must protect and enhance Devens' historical resources.

(11) Development must promote public awareness and enjoyment of Devens' environment.

(12) Development must protect and enhance the quality of life of the citizens in the host communities, the region and the Commonwealth.

(13) Development must provide education, training and retraining tied to business, industry and institutions on base and in the region.

(14) Development must ensure an effective, expeditious and efficient clean-up of hazardous materials, including Superfund areas, tied to the needs of the Reuse Plan.

(15) Development must protect and enhance Devens ecological resources of all kinds, particularly the aquifer and the Nashua River system.

(16) Uses which may negatively impact regional natural resources will be allowed only with appropriate technology and proper mitigation.

(17) Development must minimize the off-base impacts of development in areas such as water resources, air quality, viewsheds, traffic and noise, limiting the impacts to those necessary to achieve reuse goals and objectives.

(18) Development must foster businesses which enhance the environment through technology.

SECTION 2. Definitions. In this act, the following words and phrases shall, unless the context requires otherwise, have the following meanings:

(1) "Bank" or "Government Land Bank," the Government Land Bank, established by chapter two hundred and twelve of the acts of nineteen hundred and seventy-five, as amended.

(2) "Commission," the commission established by section nine of this act.

(3) "Devens" or the "Devens Regional Enterprise Zone," the regional development zone created by this act, the boundaries of which include all the land area of Fort Devens, except the South Post, and certain land adjacent to Fort Devens owned by the Commonwealth, and certain land adjacent to Fort Devens currently owned by the Springfield Railway Terminal, Inc. or affiliate thereof or successor thereto, and currently used primarily for railroad purposes.

(4) "Devens Region," the municipalities within the Commonwealth described as follows: (a) the Towns as defined in this act, (b) all municipalities contiguous to the Towns and (c) all municipalities contiguous to those defined in (b) above.

(5) "Fort Devens," the lands, including all easements, reservations and rights appurtenant thereto, and all buildings, structures, utilities and improvements located thereon comprising all or a portion of the military base of that name presently located in the towns of Ayer, Harvard, Lancaster and Shirley and within the ownership, control and jurisdiction of the United States government.

(6) "Reuse Plan," the plan for the reuse of Devens being prepared by the Bank and the Towns, as approved pursuant to section ten of this act.

(7) "Secretary," the Secretary of the Executive Office of Administration and Finance.

(8) "South Post," that portion of Fort Devens located south of the sidelines of the state highway designated as route two.

(9) "Town," any one of the towns of Ayer, Harvard or Shirley.

(10) "Towns," the towns of Ayer, Harvard and Shirley.

SECTION 3. Section four of chapter two hundred and twelve of the acts of nineteen hundred and seventy-five, as most recently amended by section twenty-four of chapter nineteen of the acts of nineteen hundred and ninety-three, is hereby further amended by striking out clause (j) and inserting in place thereof the following clause: "(j) borrow money by the issuance of its debt obligations as provided in section eight E of this act;".

SECTION 4. Said chapter two hundred and twelve of the acts of nineteen hundred and seventy-five is hereby further amended by adding after section eight D thereof the following new section:-

"Section 8E. The Bank may provide by resolution for the issuance from time to time of debt obligations of the Bank for any of its corporate purposes, provided, however, that the Bank shall not issue debt obligations the principal amount of which, when added to the principal amount of debt obligations issued by the Bank and then outstanding, excluding debt obligations previously refunded or being or to be refunded thereby, shall not exceed two hundred and fifty million dollars, two hundred million dollars of which shall be for the exclusive use of the Devens project, so-called. All such debt obligations shall be negotiable for all purposes without regard to any other law, subject only to the provisions of any such debt obligations for registration; provided, however, that notwithstanding the provisions of any general or special law to the contrary, no debt obligations may be issued by the Bank for the purposes of the Devens project without (a) the prior approval of the General Court by a two-thirds majority pursuant to section three of article LXII of the Articles of Amendment to the Constitution; (b) the prior approval of a Reuse Plan and Bylaws by the commissioner of the division of capital planning and operations and the directors of the Bank; and (c) the prior adoption of said Reuse Plan and Bylaws by the towns of Ayer, Harvard and Shirley. Debt obligations issued hereunder may be secured by the full faith and credit of the Bank, by a pledge of any revenues, receipts or other assets or funds of the Bank, by mortgages or other instruments covering all or any part of any and all real property of the Bank, including any additions, improvements, extensions to or enlargements of any real property thereafter made, or by any one or more of the foregoing, all as may be determined by the Bank. Debt obligations 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 Bank, and may be made redeemable or determinable prior to maturity at the option of the Bank or the holder thereof at such price or prices and under such terms and conditions as may be fixed by the Bank. The Bank shall determine the form of debt obligations and the manner of execution, denomination or denominations and place or places of payment thereof. In case any officer whose signature or a facsimile of whose signature shall appear on any debt obligations shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until after such delivery. The Bank may provide for the authentication of debt obligations by a trustee, fiscal agent, registrar or transfer agent. The Bank may by resolution delegate to the executive director or any member or members of the board of directors of the Bank, or any combination of them, the power to determine any of the matters set forth in this section. In the discretion of the Bank, debt obligations of the Bank may be issued with such terms as will cause the interest thereon to be subject to federal income taxation. The Bank may sell its debt obligations in such manner, either at public or private sale, for such price, at such rate or rates of interest, or at discount in lieu of interest, as it determines will best effectuate its corporate purposes. In the discretion of the Bank, any debt obligations issued hereunder may be secured by a resolution of the Bank or by a trust agreement between the Bank and a corporate trustee, which may be any trust

company or bank having the powers of a trust company within or without the Commonwealth, and any such trust agreement shall be in such form and executed in such manner as may be determined by the Bank. Such trust agreement or resolution may pledge or assign, in whole or in part, any revenues and funds held or to be received, and any mortgages or other loan collateral held or to be acquired, by the Bank and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the Bank, and the proceeds thereof.

Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights, security and remedies of holders of debt obligations as may be reasonable and proper, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof which may include the acceleration of maturities, restrictions on individual right of action by holders of debt obligations and covenants setting forth duties of and limitations on the Bank in relation to the conduct of its programs and the management of its property, the custody, safeguarding, investment and application of moneys, the issuance of additional or refunding debt obligations, the establishment of reserves and the making and amending of contracts. In addition to other security provided herein or otherwise by law, debt obligations issued by the Bank may be secured, in whole or in part, by financial guaranties, by insurance or by letters of credit issued to the Bank, or a trustee, or any other person by any bank, trust company, insurance or surety company or other financial institution, within or without the Commonwealth, and the Bank may pledge or assign, in whole or in part, any revenues and funds held or to be received, and any mortgages or other loan collateral held or to be acquired, by the Bank and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the Bank, and the proceeds thereof, as security for such guaranties or insurance or for the reimbursement by the Bank to the issuer of any such letter of credit of any payments made under such letter of credit. It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of debt obligations, revenues or other moneys under any such trust agreement or resolution and to furnish such indemnification or to pledge such securities and issue such letters of credit as may be required by the Bank. Any such trust agreement or resolution may set forth the rights and remedies of holders of debt obligations and of the trustee and may restrict the individual right of action by holders of debt obligations. Any pledge of revenues or other property made by the Bank under the provisions of this act, including, without limitation, any pledge by the Bank of its rights to receive payments of any kind from or for the account of mortgagors under mortgages, participations therein or subsidy, guaranty, insurance or other contracts relating thereto, and of its revenues and other property, and of the mortgages, notes, such participations, such subsidy, guaranty, insurance or other contracts or other collateral, and of the proceeds of any or all thereof, shall be valid and binding and shall be deemed continuously perfected for the purposes of the Uniform Commercial Code and other laws from the time when such pledge is made. The revenues, moneys, property, rights and proceeds so pledged and then held or thereafter acquired or received by the Bank shall immediately be subject to the lien of such

pledge without any physical delivery or segregation thereof or further act, and the lien of any such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the Bank, regardless of whether such parties have notice thereof. Neither the resolution, any trust agreement nor any other agreement by which a pledge is created need be filed or recorded except in the records of the Bank, and no filing need be made under the Uniform Commercial Code or any other law. Any holder of a debt obligation issued by the Bank under the provisions of this act and any trustee under a trust agreement or resolution securing the same, except to the extent the rights herein given may be restricted by such trust agreement or resolution, may bring suit upon the debt obligations and may, either at law or in equity, by suit, action, mandamus or other proceeding for legal or equitable relief, including proceedings for the appointment of a receiver to take possession and control of the business and properties of the Bank, to operate and maintain the same, to make any necessary repair, renewals and replacements in respect thereof and to fix, revise and collect fees and charges, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such trust agreement, resolution or other agreement and may enforce and compel the performance of all duties required by this act or by such trust agreement or resolution to be performed by the Bank or by any officer thereof. Debt obligations issued by the Bank under this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such debt obligations are hereby made securities which may properly and legally be deposited with and received by any Commonwealth or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations of the Commonwealth is now or may hereafter be authorized by law. Debt obligations issued by the Bank under the provisions of this act shall not be deemed to be a debt or a pledge of the faith and credit of the Commonwealth, except to the extent provided pursuant to the provisions of section eight B of this act, but, except as aforesaid, shall be payable solely from the funds of the Bank from which they are made payable pursuant to the provisions of this act. All debt obligations issued by the Bank under the provisions of this act, 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 cities, towns and other political subdivisions in the Commonwealth."

SECTION 5. Clause (k) of section four of said chapter two hundred and twelve of the acts of nineteen hundred and seventy-five, as most recently amended by section twenty-five of chapter nineteen of the acts of nineteen hundred and ninety-three, is hereby further amended by adding the following language thereafter: "and (S) from the United States, lands that were used for Fort Devens or a portion thereof."

SECTION 6. Section two of said chapter two hundred and twelve is hereby amended by striking out the fourth paragraph thereof, as most recently amended by section three of chapter seven hundred and sixty-two of the acts of nineteen hundred and seventy-nine, and inserting in place thereof the following paragraph:-

"The directors may, from time to time, appoint either for a definite term not to exceed four years, or to serve at the directors' pleasure, an executive director, who shall devote his full time during business hours to the duties of his office and who shall receive compensation as the directors shall determine, a treasurer who shall be the chief financial and accounting officer of the Bank and shall be in charge of its funds, books of accounts, and accounting records, and such other officers and employees as are necessary to the functioning of the Bank. Officers and employees of the Bank shall not be subject to the provisions of chapter thirty-one or section A of chapter thirty of the general laws. Salaries for employees, including the executive director and treasurer, shall be set by the directors."

SECTION 7. Section nineteen of said chapter two hundred and twelve, as most recently amended by section five hundred seventy-six of chapter one hundred thirty-three of the acts of nineteen hundred and ninety-two, is hereby repealed.

SECTION 8. Boundaries. The Devens Regional Enterprise Zone is hereby created. Plans and descriptions detailing the precise boundaries and configuration of the Devens Regional Enterprise Zone will be prepared by the Bank, approved by the Board of Selectmen of each Town, and filed with the Secretary, the House and Senate Committees on Ways and Means and recorded in the Middlesex County Registry of Deeds and the Worcester County Registry of Deeds. Said filings shall take place within one hundred and eighty days of the effective date of this act.

SECTION 9. Devens Enterprise Commission. There shall be a body corporate known as the Devens Enterprise Commission, in this act called the "Commission." The exercise by the Commission of its powers and the discharge of its duties shall be deemed and held to be the performance of an essential government function. The Commission shall consist of twelve commissioners who shall be appointed as follows: (1) the board of selectmen of each of the Towns shall nominate two candidates for commissioner whom the Governor may, in each case and in his sole discretion, appoint or reject and, for any rejected nominee, the board of selectmen of the Town whose nominee was rejected shall nominate successive candidates for commissioner until a nominated candidate is accepted and appointed by the Governor; and (2) six commissioners shall be appointed by the Governor, of whom (a) no two shall be legal residents of the same town and (b) at least three shall reside in the Devens Region. All twelve commissioners shall have proven expertise in one or more of the following areas: industrial development, housing, finance, business, real estate, environment, planning, transportation or municipal government. The Governor shall appoint one commissioner to serve as the chairman of the Commission, and one commissioner to serve as vice-chairman of the Commission. Commissioners shall serve for terms of four years, provided, however, that of those initially appointed, three shall be appointed for a term of one year, three for two years, three for three years and three for four years, and provided further, that one nominee each of the boards of selectmen of the Towns

of Ayer, Harvard and Shirley shall be initially appointed for a term of two years, and that one nominee each of the boards of selectmen of said Towns shall be initially appointed for a term of three years. No elected official of the federal government, the Commonwealth or any political subdivision of the Commonwealth may serve hereunder as commissioner. Commissioners may be eligible for renomination at the expiration of their terms and may be removed by the Governor for cause. Vacancies arising otherwise than from the expiration of a term shall be filled by persons appointed by the Governor in the same manner and subject to the same qualifications as provided above for the remainder of the unexpired term. Commissioners shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties. The Governor and the board of selectmen of each of the Towns may also each nominate one candidate for appointment as an associate member of the Commission in the same manner as for a member of the Commission, and the chairman of the Commission may designate any such associate member to sit on the Commission in case of absence, inability to act, or conflict of interest on the part of any commissioner, or in the event of a vacancy on the Commission until said vacancy is filled.

SECTION 10. Reuse Planning, Zoning and Regulations. The Bank and the Towns shall prepare a Reuse Plan and associated zoning bylaws for Devens as provided for in this section, hereinafter referred to as the "Reuse Plan and Bylaws". The purpose of the Reuse Plan and Bylaws will be to establish objectives, policies and standards to guide public and private decision-making and investment and to ensure the maintenance of quality of life and the protection of natural resources. To ensure that the interests of the Towns, the Devens Region and the Commonwealth are reflected in the Reuse Plan, participation of citizens and other interested parties in the planning process shall be encouraged. In formulating the Reuse Plan and Bylaws, the Bank and the Towns shall analyze factors relevant to the reuse of Devens, including the built environment, the natural environment, infrastructure and market conditions; identify the significant problems and opportunities concerning the reuse of Devens; establish objectives for the reuse of Devens and policies for achieving the objectives; and generate and assess alternative reuse options. The Reuse Plan and Bylaws shall establish and convey, through text, maps, illustrations or other media of communication, a comprehensive framework for the reuse of Devens. A principal concern of the Reuse Plan and Bylaws will be the allocation of land uses in Devens, including, but not limited to:

(i) the allocation of land that is expected to be developed primarily by private parties into zones or districts for industrial, commercial, residential and other basic uses, describing guidelines for the height, area and land coverage of development within such zones or districts and the types or range of uses that will be permitted or prohibited within such zones or districts;

(ii) the allocation of land to be devoted to park and recreational uses and to conservation into appropriate zones or districts, and description of the types of regulatory measures to be applied to the use, preservation and protection of such land;

(iii) the allocation of land for public facilities such as schools, libraries, hospitals, police and fire stations, churches and playgrounds; and (iv) the allocation of land for transportation and circulation, including existing and proposed roads, rail and mass transit, parking, bicycling and pedestrian circulation.

The Reuse Plan shall also contain a utilities component, which shall describe the distribution of water, sewer, gas, electrical, telephone, cable television, refuse collection and disposal and other similar services, whether public or private, and an implementation component, which shall address methods for achieving realization of the Reuse Plan, including regulatory programs, tax and other economic incentives and inducements, and direct capital investment. To provide guidance to the mechanism for amending and modifying the Reuse Plan and Bylaws after final approval, as set forth herein, the Reuse Plan and Bylaws shall contain criteria for determining which amendments or modifications constitute substantial revisions to the approved Reuse Plan and Bylaws. Prior to submission of the Reuse Plan and Bylaws to the Towns for adoption, as set forth below, the Reuse Plan and Bylaws shall be approved by the board of directors of the Bank and the commissioner of the division of capital planning and operations. Before granting their approval, the Bank must find that the implementation of the Reuse Plan will provide for the development and redevelopment of Devens so as to eliminate blight, economic dislocation and unemployment, and to carry out the purposes of this act.

Before granting their approvals and adoption, the Bank and the Towns must hold two or more public hearings, as they determine appropriate, in the Devens Region to receive public comment on the proposed Reuse Plan and Bylaws. Notice of said public hearings shall be provided in a newspaper or newspapers of general circulation in the Devens Region at least fourteen days prior to the dates established for said hearings. The final public hearing on the proposed Reuse Plan and Bylaws shall be held not later than one year after the passage of this act.

Within thirty days of the last public hearing on the proposed Reuse Plan and Bylaws held by the Bank and the Towns, the Bank shall submit copies of the Reuse Plan and Bylaws to the Governor, the Secretary, the Clerk of the House and the Clerk of the Senate, the legislative representatives from the House and Senate of the Devens Region and to the Commission.

The Bank and Towns shall, within thirty days of the last public hearing held by the Bank and the Towns, submit the proposed Reuse Plan and Bylaws to the board of selectmen of each of the Towns. Within ninety days of receipt of the proposed Reuse Plan and Bylaws, the board of selectmen of each of the Towns shall convene a town meeting to be held at the same date and time in each of the Towns for the purpose of adopting or rejecting, by majority vote of each town meeting, the Reuse Plan and Bylaws. Each Town shall vote to adopt or disapprove the Reuse Plan and Bylaws as submitted. No amendments to the Reuse Plan and Bylaws shall be made by the Towns. Each Town shall, within thirty days of an adoption or rejection of the Reuse Plan and Bylaws at a town meeting, provide the Bank and the Commission with a written notification stating whether town meeting adopted or rejected

the Reuse Plan and Bylaws. Until such time as all three of the Towns have adopted the Reuse Plan and Bylaws, said Reuse Plan and Bylaws shall have no force and effect. Adoption of the Reuse Plan and Bylaws by at least three of the Towns shall constitute final acceptance of the Reuse Plan and Bylaws for the purposes of this act. Furthermore, such final acceptance shall be considered to be an approval by the boards of selectmen of the Towns of a redevelopment plan, as provided in section six of chapter two hundred and twelve of the acts of nineteen hundred and seventy-five, as amended, and the one-year override provision in such section six shall have no force and effect.

Subsequent to final acceptance of the Reuse Plan and Bylaws, a substantial revision to the Reuse Plan and Bylaws shall not be effective until the Bank and the Towns, following public hearings, have approved said revision, and all three of the Towns have accepted said revision, pursuant to the procedures described in the preceding paragraph relating to the approval of the Reuse Plan and Bylaws. Revisions to the Reuse Plan and Bylaws not considered substantial pursuant to the guidelines contained in the Reuse Plan and Bylaws shall be effective upon approval thereof by the Commission. Notwithstanding any other provision of this act, the Bank and the Towns may submit the proposed Reuse Plan, prior to and after final approval thereof, to the Department of the Army or any successor federal agency, and to the Executive Office of Environmental Affairs, as deemed necessary by the Bank in relation to the preparation of Environmental Impact Statements and other documentation under the National Environmental Policy Act, 42 U.S.C.A. subsection 4321 et seq., as amended, and Environmental Impact Reports and other documentation under the Massachusetts Environmental Policy Act, chapter thirty of the General Laws subsection 61 et seq., as amended.

The preexisting Town zoning and Town Interim Planning Overlay Districts shall apply under applicable law until the Reuse Plan and Bylaws as specified in this act are approved by the Bank and Towns.

Prior to the final acceptance of the Reuse Plan and Bylaws, (i) the Bank and the Towns shall not be prohibited from taking actions and entering into agreements necessary for the continued operation, maintenance, support, administration and redevelopment of Devens; (ii) the Bank may enter into licenses, agreements or leases with the Department of the Army or other appropriate agency of the federal government or other party, related to the reuse of Fort Devens; and (iii) the Towns, or any one or more of them, may enter into licenses or leases with the Department of the Army or other appropriate agency of the federal government or other party, related to the reuse of Fort Devens in conformance with the Reuse Plan for direct public purposes of the Town or Towns as provided for in section fifteen (3) of this act.

Regulations for the effective implementation and enforcement of the Reuse Plan and Bylaws shall be developed, and adopted by the Commission, pursuant to section eleven of this act.

Should final acceptance of the Reuse Plan and Bylaws by the Towns not occur by December 31, 1994, the Bank may, at its option, abandon its activities related to the operation, maintenance and redevelopment of Devens, in which event the provisions of this

act shall be given no further force and effect. Such decision by the Bank to abandon its activities shall be evidenced by a certified copy of a vote of the board of directors of the Bank declaring such abandonment, which certificate shall be filed with the Secretary, the House and Senate Committees on Ways and Means and recorded with the Middlesex County Registry of Deeds and the Worcester County Registry of Deeds. The Bank may extend the aforementioned date for exercising its option to abandon activities at Devens related to the final acceptance of the Reuse Plan and Bylaws by the Towns, on a year-to-year basis, for a period of three additional years, which extension shall, upon each occurrence, be evidenced by a certificate filed and recorded as provided above. Upon the Bank's exercising its option to abandon activities at Devens, the Bank may commence termination of its legal and other contractual obligations related to the operation, maintenance and redevelopment of Devens, and any interests in real or personal property acquired by the Bank in relation to the planned redevelopment of Devens may be liquidated or disposed of over a reasonable period of time as determined by the Bank. Within sixty days after the Bank files the certificate of abandonment, funding authorized by section twenty-nine of this act for the operation, maintenance and redevelopment of Devens shall no longer be available for expenditure for such operation, maintenance and redevelopment, except as may be necessary to accomplish the aforementioned liquidation and disposal in a safe and orderly fashion.

SECTION 11. Powers and responsibilities of the Commission. (1) The Commission shall develop and adopt, by a two-thirds majority of the commissioners, a comprehensive set of regulations for the Devens Regional Enterprise Zone, which set of regulations shall be collectively identified as the Devens regulations, hereinafter referred to as the "Regulations." The Regulations shall, in conjunction with the Reuse Plan and Bylaws, carry out the purposes and intent of the General Laws relating to zoning, subdivision control and conservation commission regulatory powers, and shall be promulgated pursuant to chapter thirty A of the General Laws. The Reuse Plan and Bylaws and Regulations shall constitute the principal means for controlling and guiding the land development activities within Devens. The Regulations shall be promulgated no later than eighteen months after the passage of this act. Revisions to the Regulations shall be approved and promulgated in the same manner as the Regulations.

(2) The Commission shall administer and enforce the Reuse Plan and Bylaws and Regulations and in so doing may exercise the powers of a special permit granting authority and of a planning board for the purposes of regulating land use under chapter forty A of the General Laws and subdivision control under chapter forty-one of the General Laws, sections eighty-one X through eighty-one GG. The Commission shall also have all the powers and authority conferred upon planning boards by chapter forty-one of the General Laws, sections eighty-one A through eighty-one J. The Commission shall have all the powers and authority conferred upon conservation commissions for the purposes of enforcing the provisions of chapter one hundred and thirty-one of the General Laws, sections forty and forty A, provided that the Commission shall administer its powers relating to the protection of wetlands in accordance with regulations issued by the Department of Environmental Protection for the implementation of the Wetlands Protection Act, provided further that any appeal of an order

of conditions issued by the Commission shall be made to said Department. The Commission shall also have all the powers and authority conferred upon boards of health by chapter one hundred and eleven of the General Laws, sections twenty-six through thirty-two. The Commission shall also have all the powers and authority conferred upon zoning boards of appeals by chapter forty A of the General Laws, sections twelve through seventeen. The Commission shall also have all the powers and authority conferred upon historic district commissions by chapter forty C of the General Laws.

(3) Any party or Town aggrieved by a determination of the Commission pursuant to the Reuse Plan and Bylaws and Regulations may appeal to the Superior Court within twenty days after the Commission has recorded its decision in each of the three Towns' clerk's offices. The twenty day period begins after the decision is recorded in the last town clerk's office. The court shall hear all pertinent evidence and shall annul the determination of the Commission if it finds that said determination is unsupported by substantial evidence or exceeds the authority of the Commission, or it may remand the case for further action by the Commission or may make such other decree as is just and equitable.

(4) In addition to its land use regulatory and permitting powers as set forth herein, the Commission may adopt regulations related to performing such other permitting and licensing functions as set forth in this section. Said regulations shall be prepared and adopted in accordance with the provisions of chapter thirty A of the General Laws. These regulations shall be promulgated no later than June 30, 1995.

(5) In order to carry out its purposes and obligations under this act, the Commission may, in addition to the other powers set forth in this act, exercise the following enumerated powers in relation to the reuse of Devens:-

(a) exercise the rights provided to municipal governments and agencies under federal laws or regulations with regard to the powers of the Commission enumerated under this act;

(b) maintain an office at Devens;

(c) employ attorneys, consultants and other persons as necessary to carry out its responsibilities under this act;

(d) sue and be sued in its own name, plead and be impleaded;

(e) exercise the power of eminent domain within Devens, as provided in chapters seventy-nine, seventy-nine A, eighty and eighty A of the General Laws, with the approval of the Bank;

(f) acquire easements and other interest in land contiguous or adjacent to Devens in conformance with the Reuse Plan;

(g) issue licenses and permits as related to development and redevelopment allowed by provisions of General Laws granted to cities or towns, not including those issued by town clerks, and not including those issued under M.G.L., chapter 138, section two, except as provided in clause (h) below;

(h) issue two all-alcoholic beverage licenses to restaurants and said licenses shall not diminish the number of licenses permitted to be granted by the Towns;

(i) adopt rules, regulations and bylaws for the regulation of its affairs and the conduct of its business;

(j) approve such bylaws pursuant to section twenty-one of chapter forty of the General Laws, with regard to the powers of the Commission enumerated under this act;

(k) enforce all Commission bylaws;

(l) adopt and collect reasonable fees, including subdivision, plan and project review fees, to defray its operating expenditures;

(m) to the extent the fees received pursuant to the foregoing subparagraph (I) are insufficient to cover its operating expenditures, submit to the Secretary for his review and approval, an annual budget request for an appropriation from the commonwealth to cover such anticipated shortfall between the income generated from fees and its projected operating expenditures;

(n) establish, increase or decrease any tax, rate, fee, rental or other charge for any service or other activity performed by or under the jurisdiction of the Commission, as provided in section twenty-one of this act;

(o) receive for the purposes of exercising its powers under this act any funds or moneys from any source, including grants, bequests, gifts or contributions made by any individual, association, or corporation, or by municipal, county, state or federal governments, provided that whenever the terms of such grant, bequest, gift or contribution require the grantee to be a municipality, municipal agency or unit of local government, the Commission shall be so considered;

(p) discontinue any street, public way or public use of a private way with the approval of the Bank.

(6) The Commission's accounts and expenditures shall be subject to audit by the state auditor.

SECTION 12. Powers and responsibilities of the Bank. The Bank is hereby designated as the public agency or instrumentality exclusively authorized and empowered to do all acts and things necessary or convenient to negotiate the acquisition of and acquire Fort Devens, or interests therein, improvements thereon, including, without limitation, buildings and utility systems, and equipment and personal property, from the federal government, provided that the Towns and other public agencies and institutions of the Commonwealth may also negotiate the acquisition of portions of Fort Devens as public benefit transfers in accordance with section fifteen of this act.

The Bank may, in its own name or in conjunction with others, license, lease or acquire title to the land, buildings and improvements that comprise all or any portion of Fort Devens upon the transfer or disposition of all, or any portion of, Fort Devens by the federal government pursuant to 40 U.S.C., section 484, the Defense Base Closure and Realignment Act of 1990 (part A of Title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), as amended, or any other applicable statute. The Bank is hereby designated as the exclusive public agency or instrumentality authorized and empowered to maintain, operate, administer, manage and oversee the redevelopment of Devens, pursuant to the provisions of this act and

the powers granted to the Bank pursuant to chapter two hundred and twelve of the acts of nineteen hundred and seventy-five, as amended, and subject to the Reuse Plan and Bylaws, and the authority of the Commission and the Towns hereunder. The Bank's authority with regard to the operation, maintenance and reuse of Devens shall be limited to the provisions of this act and chapter two hundred and twelve of the acts of nineteen hundred and seventy-five, as amended.

In order to carry out the provisions of this act, the Bank may, in addition to the other powers set forth in this act, exercise the following enumerated powers in relation to the redevelopment of Devens as provided by the Reuse Plan and Bylaws:

(a) establish a department of public works or develop alternative methods for providing services necessary to plan, lay out, construct and maintain the streets, public ways, private ways and other public facilities;

(b) contract for police services with one or more of the Town's police, state police or the military police, provided that the police appointed or employed by the Bank shall have within the borders of Devens all the powers of police officers and constables of the towns of the Commonwealth;

(c) establish a fire department pursuant to section forty-two A of chapter forty-eight of the General Laws;

(d) contract or enter into agreements with the Towns, or any one or more of them, the federal government, any agency thereof or any other person or entity, including, without limitation, the Commonwealth, other municipalities or regional entities, for the provision of services to Devens or for the provision of services on a regional basis including Devens, pursuant to the provisions of this act;

(e) enter into agreements with and provide licenses and easements to utility companies, other private or public persons or entities or the Towns to provide utility services, including, but not limited to, electricity, gas, cable television and telephone services;

(f) take any actions authorized by chapter forty of the General Laws, necessary to supply water to Devens, including the establishment of a water supply or water distribution system and to maintain and operate the same, provided that the Towns, or any of them, at its or their own expense, shall be permitted by the Bank to integrate its or their water supply and distribution systems with the water supply and distribution system of Devens, if such capacity exists;

(g) lay out, construct, maintain and operate a system or systems of common sewers and main drains in public and private ways, and a system or systems for sewage treatment and disposal, for all or a part of Devens, which system may be a part of a regional sewage treatment and disposal system in which the Towns or any one of them may be included, at its or their own expense, as required for the public or the public health, and determine assessments and other charges related to laying out, constructing and maintaining such sewerage systems, all as provided in chapter eighty-three of the General Laws;

(h) acquire, construct, maintain and operate refuse treatment and disposal facilities, as provided by the Reuse Plan;

(i) investigate, engineer, lay out and construct any street or private way;

(j) dispose of, by sale, license, lease, in fee or in any other manner any portion or all of Devens or any interest therein, building or improvement thereon, by gift or for such price, rental or other consideration payable over such term, and bearing such interest rate as to deferred payments and secured in such manner, by mortgage or otherwise, all as the Bank may determine to be desirable and consistent with the purposes of this act, notwithstanding the provisions of section six of chapter two hundred and twelve of the acts of nineteen hundred and seventy-five, as amended, relating to the disposition of federal surplus lands;

(k) receive for the purposes of this act any funds or moneys from any source, including grants, bequests, gifts or contributions made by any individual, association or corporation, or by municipal, county, state or federal governments, provided that whenever the terms of such grant, bequest, gift or contribution require the grantee to be a municipality, municipal agency or unit of local government, the Bank shall be so considered;

(l) acquire easements and other interest in land contiguous or adjacent to Devens in conformance with the Reuse Plan;

(m) in partnership with the Towns, develop and approve the Reuse Plan and Bylaws for Devens, as further described in section ten of this act;

(n) establish, increase or decrease any tax, rate, fee, rental or other charge for any service or other activity performed by or under the jurisdiction of the Bank, as provided in section twenty-one of this act; and

(o) exercise the power of eminent domain within Devens, as provided in chapters seventy-nine, seventy-nine A, eighty and eighty A of the General Laws, with the approval of the Commission.

(p) exercise the rights provided to municipal governments and agencies under federal laws and regulations with regard to the powers of the Bank enumerated under this act.

SECTION 13. The Bank shall solicit competitive proposals from the Towns and from other qualified businesses and entities to provide, on a contractual basis, the services required by the Bank for police protection and fire protection at Devens. Likewise, the Bank may solicit competitive proposals from the Towns and from qualified businesses and entities for any other services required by the Bank for the operation, maintenance or development of Devens. A Town may submit a proposal to provide the Bank with the services requested in its own name, jointly with one or both of the other Towns, or jointly with another public or private entity or entities. The Bank shall select proposals that it determines will be in the best interests of operating and maintaining Devens, provided that the Bank shall select a proposal submitted jointly or individually by a Town if the Bank determines that said proposal is substantially equivalent to the proposal that would have otherwise been selected by the Bank.

SECTION 14. Notwithstanding any provision of this act, including section twenty-one, the portion of Devens currently owned by the Springfield Railway Terminal, Inc. or any affiliate thereof or successor thereto, hereinafter referred to as "Springfield," as

more particularly described in section two of this act, shall continue to be subject to all municipal property taxes, assessments and other charges lawfully assessed by the town of Ayer, and shall not be subject to any tax, fee or charge assessed by the Bank or the Commission hereunder, except for a charge or fee assessed in relation to (i) the approval of a license or permit requested by Springfield from the Commission, or (ii) an improvement to such portion of Devens undertaken by the Bank. Furthermore, all municipal services provided to such portion of Devens will be provided by the town of Ayer, at the Town's expense, except as may be specifically agreed by the Bank and the Commission.

SECTION 15. Application for Devens Property. (1) The Towns, or any one or more of them in concert, following notification of and coordination with the Bank, or the Bank itself may submit a request to the Department of the Army, or any other appropriate agency of the federal government, for the transfer of a portion of Devens for a direct public use by the submitting entity, in conformance with the Reuse Plan, for which use said portion is eligible to be transferred as a public benefit transfer under the acts described in this section, hereinafter referred to as the "Eligible Acts."

(2) Any public agency or instrumentality of the Commonwealth with the written approval of the Bank may submit a request to the Department of the Army, or any other appropriate agency of the federal government, for the transfer of a portion of Devens for a direct public use by the submitting entity, in conformance with the Reuse Plan, for which use said portion is eligible to be transferred under the "Eligible Acts" described in this section.

(3) The Eligible Acts are as follows: 40 U.S.C.A. section 484(k) and (p); 50 U.S.C.A. subsection 1622(g), as amended; 16 U.S.C.A. subsection 667 b-d, as amended; 23 U.S.C.A. subsection 107 and subsection 317, as amended; and 40 U.S.C.A. subsection 345(c), as amended.

SECTION 16. Application for designation as a Federal Enterprise Zone. The Commission may, if appropriate, make application to the United States Department of Housing and Urban Development, or, as necessary, any other federal agency, to designate all or a portion of Devens as an enterprise zone, pursuant to 42 U.S.C. subsection 11501 et seq., as amended, or any existing or successor statute of similar import, for the purposes of creating jobs in the Devens Region of the Commonwealth and encouraging the economic redevelopment of Devens.

SECTION 17. Application for designation as a Federal Foreign Trade Zone. The Commission may, if appropriate, make application to the Secretary of Commerce of the United States, or, as necessary, any other federal agency, for the purposes of establishing, operating and maintaining foreign trade zones at Devens; pursuant to the Foreign Trade Zone Act, 19 U.S.C. subsection 81a et seq., as amended, or any existing or successor statute of similar import, in order to expedite and encourage foreign commerce and trade opportunities in the Commonwealth and for other purposes.

SECTION 18. Designation as Commonwealth Economic Target and Opportunity Areas. Devens and the town of Ayer are hereby designated Economic Target Areas and Economic Opportunity Areas as defined in section three of chapter twenty-three A of the General Laws. Pursuant to such designations, certain development projects within Devens

and the town of Ayer shall be eligible for tax deductions, credits and abatements and other economic incentives as provided for in chapter nineteen of the acts of nineteen hundred and ninety-three. The designation of Devens and the town of Ayer as Economic Target Areas shall be in addition to the twenty Economic Target Areas that are authorized to be established throughout the Commonwealth pursuant to section six of chapter one hundred ten of the acts of nineteen hundred and ninety-three.

SECTION 19. One-stop state permitting. Each executive office of state government in the Commonwealth shall identify a senior staff member who shall cooperate with the Bank and the Commission in establishing a method for coordinated one-stop licensing for all businesses and developments to be located within Devens for the purposes of expediting the process for obtaining Commonwealth licenses, permits, certificates, approvals, registrations, charters and meeting other requirements of law. The Bank may assist prospective developers by centrally coordinating the submission of licensing and permitting requests to the permitting agencies.

SECTION 20. One-stop development and financing. Each public agency in the Commonwealth involved in the development or financing of economic development projects shall endeavor to develop a coordinated one-stop program for businesses, institutions and private parties that may intend to locate in Devens in order to enable development activity within Devens to be more effectively promoted by the Commonwealth.

SECTION 21. Taxes and user fees. The Commission and the Bank shall, with the assistance of the Secretary and the Commissioner of Revenue, determine an appropriate plan for assessing property taxes, other taxes available to be levied or assessed by municipalities under the General Laws, and user fees for the maintenance and operation of Devens, which plan shall provide for the imposition and levy of proportional and reasonable assessments, rates, property taxes and user fees upon persons, residents and estates lying within Devens. Upon approval of such plan by the Secretary, the Commission and the Bank shall exercise all the powers granted to cities and towns to enable the collection of such taxes and other charges. The Towns shall not be entitled to assess any fees or taxes on property, persons or businesses located in Devens. The Towns shall not be required to incur any costs or expenses related to the provision of municipal services within Devens, or to provide municipal services within Devens, except with regard to any land within Devens owned or leased by a Town. In order to encourage job creation within Devens, the Commission or the Bank may, with the assistance of said commissioner and the Secretary, develop recommendations for consideration of the general court regarding adjusting or modifying existing laws relating to taxation by the Commonwealth of businesses, industries and commercial enterprises that locate at Devens.

SECTION 22. Public health and safety and inspection services. The Commission shall have the right to establish a department or contract for services for inspections relating to public health and safety and inspection services. The Commission may designate the Division of Inspection in the Department of Public Safety to review and grant permits and other licenses and to conduct inspections and enforce such permits and licenses relating to

the state building code, the issuance of building permits, the wire code, plumbing and gas code, state sanitary code, the fire code and elevator operations, to the same extent as provided to Commonwealth-owned buildings and property pursuant to the General Laws. The Commission may designate the Department of Public Health to be responsible for reviewing and granting permits' and other licenses and conducting inspections and enforcing laws related to the protection of the public health at Devens, to the same extent provided to a local board of health pursuant to the General Laws. The division and the department shall, with the approval of the Commission, establish reasonable fees for such permits and licenses, based upon the costs expended in the review of such permits and licenses. The division and the department shall designate persons who shall perform, in a timely manner, the inspections and issue the licenses, permits and other approvals required by this section and shall, with the approval of the Commission, establish reasonable fees for such permits and licenses, based upon the costs expended in the review of such permits and licenses.

SECTION 23. On or before July 1, 2033, the Commission, the boards of selectmen of the Towns, and the Bank shall submit a joint report to the Governor, the Secretary and to the Clerk of the House and the Clerk of the Senate recommending a permanent government structure for the ongoing operation and administration of Devens. Such report shall also identify any surplus funds that have been generated during the development of Devens, after considering the costs of funding appropriate reserve accounts, costs of retiring all bonds, notes and other debt instruments issued to maintain and develop Devens, and all the Commission's and Bank's unreimbursed costs related in any way to the redevelopment of Fort Devens, including, without limitation, all costs incurred in the operation, maintenance and development of Devens, and recommend how any such surplus funds and any future surplus funds shall be distributed, which recommendation shall include distributing all or a portion of such surplus to the Towns.

SECTION 24. Notwithstanding the provisions of any general or special law to the contrary, the provisions of the General Laws establishing a civil service system shall not apply to any positions or employees hired by the Commission or the Bank to carry out the provisions of this act.

SECTION 25. The residents of Devens who are entitled to vote, shall be entitled to vote in all federal, state, local and regional elections and, in the case of local elections, shall be entitled to vote in the Town in which their residence is located.

SECTION 26. Public schools. The commissioner of education, with the participation of the school committees of the Towns, shall undertake a study and submit a recommendation to the general court for the provision of public education to persons residing within the boundaries of Devens who are entitled to receive a public education pursuant to the applicable provisions of the General Laws. Said report shall be filed with the clerk of the senate and the clerk of the house of representatives on or before January 1, 1995.

SECTION 27. Reports and audits. On or before November thirtieth each year, the Bank and the Commission shall each prepare an annual report of its activities at Devens

during the preceding fiscal year and submit such report to the Governor, the Secretary, the General Court, the Towns, and each other. Each such report shall set forth a complete operating and financial statement covering the Bank's and the Commission's operations at Devens during the previous year, including, but not limited to a detailed account of the receipt of any federal funds by the Commission or the Bank for the purposes of the Devens project or pursuant to 40 U.S.C., section 484, the Defense Base Closure and Realignment Act of 1990 (part A of Title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), as amended. The Bank and the Commission shall each cause an audit of its books and accounts relating to Devens to be made at least once in each fiscal year by certified public accountants. The state auditor shall likewise audit said books and accounts at least once every two fiscal years. Such audits shall be deemed to be public records.

SECTION 28. In addition to any other duties set forth in any provision of this act, the Bank and the Commission shall, and the Towns may, coordinate with, and provide information to the United States Department of Defense and any official or employee thereof, regarding any matter related to the ownership, condition, closure, conversion, redevelopment or future use or operation of Fort Devens. Notwithstanding any other provision of law, and except as provided in sections twelve and fifteen of this act, the Bank shall be the only person or entity in the Commonwealth authorized to negotiate, purchase or otherwise obtain on behalf of itself, the Commonwealth or any of its political subdivisions, agencies or authorities any fee ownership, easement, lease, license or other property interest in any property in, or on a part of, Fort Devens.

SECTION 29. The provisions of this act are severable and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Approved January 14, 1994.

Chapter 1. RESOLVE EXTENDING THE TIME WITHIN WHICH THE SPECIAL COMMISSION ESTABLISHED TO MAKE AN INVESTIGATION AND STUDY RELATIVE TO REVISING THE VEHICLE EMISSIONS INSPECTIONS AND MAINTENANCE PROGRAM SHALL FILE ITS REPORT.

RESOLVED, That the time within which each of the special commissions, established by chapter three of the resolves of nineteen hundred and ninety-one, shall file a final report is hereby extended to June thirtieth, nineteen hundred and ninety-three.

Approved February 12, 1993.

Chapter 2. RESOLVE REVIVING AND CONTINUING THE SPECIAL COMMISSION ESTABLISHED TO MAKE AN INVESTIGATION AND STUDY RELATIVE TO VETERANS' AFFAIRS IN THE COMMONWEALTH.

RESOLVED, That the special commission, established by chapter four of the resolves of nineteen hundred and ninety-one, is hereby revived and continued until the last Wednesday in March, nineteen hundred and ninety-four. The membership of said commission shall consist of two members of the senate, three members of the house of representatives, the commissioner of veterans' services, and one person to be appointed by the governor who shall be the president of the Mass. Veterans' Service Agents Association, Inc.

Approved April 20, 1993.

Chapter 3. RESOLVE IN FAVOR OF THE WIDOW OF THE LATE JOSEPH N. HERMANN.

RESOLVED, That, for the purpose of promoting the public good, and after an appropriation has been made therefor, there be paid out of the state treasury to the widow of the late Joseph N. Hermann, who died while a member of the present house of representatives, the salary to which he would have been entitled had he lived and served until the end of the term for which he was elected. The additional benefits provided for by this resolve shall be included as regular compensation for Joseph N. Hermann for the purpose of computing his retirement benefits pursuant to chapter thirty-two of the General Laws.

Approved June 14, 1993.

Chapter 4. RESOLVE REVIVING AND CONTINUING THE SPECIAL COMMISSION ESTABLISHED TO MAKE AN INVESTIGATION AND STUDY RELATIVE TO PAIN MANAGEMENT PROCEDURES.

RESOLVED, That the special commission, established by chapter one of the resolves of nineteen hundred and ninety-two, is hereby revived and continued.

Approved January 10, 1994.

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 1993 passed four Resolves and 498 Acts of which 481 received executive approval.

Chapter 161, "An Act to Reorganize the Department of Public Welfare 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.

11 Acts were approved by both the Senate and House of Representatives but failed to receive executive approval. As they were not returned with objections thereto within ten days after they were received in the executive department, the General Court not having dissolved in the meantime, these Acts have the force of law under the provisions of the Constitution and have been so certified. Said Acts are respectively Chapters 10, 24, 29, 45, 57, 148, 165, 231, 232, 273 and 274.

Six Acts, Chapters 88, 296, 310, 375, 387 and 388 were returned by the Governor to the House of Representatives or the Senate, the branch in which each originated, with his objections thereto. Said Acts were passed in the House and Senate, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution and they have the force of law.

11 Acts were declared to be emergency laws by the executive department in accordance with the Constitution, the Referendum II, Emergency Measures; respectively Chapters 36, 135, 217, 226, 265, 277, 305, 368, 386, 429 and 494.

The General Court was dissolved at midnight on Tuesday, January 4, 1994 the session having occupied 364 days.

I hereby certify that the Acts and Resolves contained in this volume are true copies of the originals on file with this 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 Massachusetts General Laws, chapter 3, section 51.



WILLIAM FRANCIS GALVIN,
SECRETARY OF THE COMMONWEALTH.

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§§ 1-8 revised, 1993, 495 § 13.
§ 9 added, 1993, 495 § 13.

CHAPTER 24 - Department of Industrial Accidents.

Chapter repealed, 1953, 314 § 14.

CHAPTER 25 - Department of Public Utilities.

CHAPTER 25A - DIVISION OF ENERGY RESOURCES. (Formerly, Executive Office of Energy Resources.)

Title revised, 1992, 286 § 71.

CHAPTER 25B - MASSACHUSETTS APPLIANCE EFFICIENCY STANDARDS ACT.

CHAPTER 26 - Department of Banking and Insurance.

§ 8E, second paragraph revised, 1993, 110 § 80; fifth paragraph revised, 1993, 110 § 81.

CHAPTER 27 - Department of Correction.

CHAPTER 28 - Metropolitan District Commission.

CHAPTER 28A - Office For Children.

CHAPTER 29 - State Finance.

§ 2J amended, 1993, 151 § 12.
§ 2T amended, 1993, 110 § 82; paragraph (e) amended, 1993, 393 § 1.
§ 2W revised, 1993, 110 § 84.
§ 2Y added, 1993, 110 § 83.
§ 2Y added, 1993, 110 § 85.
§ 2Z added, 1993, 110 § 86.
§ 3 amended, 1993, 50 § 5; first paragraph revised, 1993, 151 § 13.
§ 4 revised, 1993, 50 § 6; 151 § 14.
§ 5B amended, 1993, 110 § 89.
§ 5F revised, 1993, 50 § 7; 151 § 15.

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§ 5G added, 1993, 151 § 15.
§ 6 amended, 1993, 110 § 8.
§ 6D, third paragraph revised, 1993, 110 § 92.
§ 7N added, 1993, 50 § 9.
§ 8B revised, 1993, 345.
§ 9B amended, 1993, 50 § 10; first paragraph amended, 1993, 151 §§ 16, 17, 18; fourth paragraph amended, 1993, 151 § 19.
§ 27 amended, 1993, 50 § 11; 151 § 20.
§ 27C, subsection (h) amended, 1993, 71 § 24.
§ 29, first sentence amended, 1993, 50 § 12; **section revised**, 1993, 151 § 21.
§ 31E added, 1993, 71 § 25; first sentence revised, 1993, 151 § 22.

CHAPTER 29A - Financing the Judicial System.

CHAPTER 29B - STATE REVENUE GROWTH CONTROL.

CHAPTER 29C - WATER POLLUTION ABATEMENT REVOLVING LOAN PROGRAM.

New chapter inserted, 1989, 275 § 8.

CHAPTER 30 - General Provisions Relative to State Departments, Commissions,Officers and Employees.

§ 39K amended, 1993, 151 § 23.
§ 45, first sentence amended, 1993, 151 § 24; paragraph (4) amended, 1993, 50 § 14; **section amended**, 1993, 151 § 25; clause (4) revised, 1993, 151 § 26.

CHAPTER 30A - State Administrative Procedure.

CHAPTER 30B - UNIFORM PROCUREMENT ACT.

New chapter inserted, 1989, 687 § 3.

CHAPTER 31 - Civil Service.

§ 39 amended, 1993, 290.

CHAPTER 31A - MUNICIPAL PERSONNEL SYSTEMS.

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CHAPTER 32 - Retirement Systems and Pensions.

§ 3 amended, 1993, 100 § 1; 139.
§ 19, last paragraph revised, 1993, 442.
§ 22, subdivision (6), paragraph (a), clause (iii) amended, 1993, 110 § 98.
§ 23, subdivision (1) paragraph (d) amended, 1993, 474 § 2; subdivision (2), paragraph (g), clause (ii) amended, 1993, 474 § 3; subdivision (2A), paragraph (h) amended, 1993, 474 § 4; subdivision (5) added, 1993, 474 § 5.
§ 94B amended, 1993, 312 § 1. *(See 1993, 312 § 2).*

CHAPTER 32A - Contributory Group General or Blanket Insurance for Persons in the Service of the Commonwealth.

§ 17A added, 1993, 384 § 1.
§ 17A added, 1993, 458 § 5.
§ 19 revised, 1993, 110 § 99.

CHAPTER 32B - Contributory Group General or Blanket Insurance for Persons in the Service of Counties, Cities, Towns and Districts, and their Dependents.

§ 3, first paragraph, sixth and seventh sentences amended, 1993, 110 § 100.
§ 10A added, 1993, 363.
§ 15 admended, 1993, 110 § 102.
§ 19 added, 1993, 110 § 103; first paragraph, subsection (d) amended, 1993, 151 § 27; fifth paragraph amended, 1993, 495 § 14.

CHAPTER 33 - Militia.

CHAPTER 34 - Counties and County Commissioners.

CHAPTER 34A - COUNTY CHARTER PROCEDURES.

CHAPTER 35 - County Treasurers, State Supervision of County Accounts and County Finances.

CHAPTER 36 - Registers of Deeds.

CHAPTER 37 - Sheriffs.

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CHAPTER 38 - Medical Examiners

§ 4A added, 1993, 275.

CHAPTER 39 - Municipal Government.

§ 23B amended, 1993, 455.

CHAPTER 40 - Powers and Duties of Cities and Towns.

§ 3 amended, 1993, 151 § 28.
§ 5F, paragraph added, 1993, 142.
§ 8D amended, 1993, 336.
§ 8J, first paragraph, first sentence amended, 1993, 214 § 1. (*See 1993, 214, § 2.*)
§ 21D revised, 1993, 182 O 4.
§ 57, first paragraph, first sentence amended, 1993, 408 § 1; first paragraph, paragraph (6), first sentence amended, 1993, 408 § 2.
§ 59 added, 1993, 19 § 12; clause (iii) revised, 1993, 110 § 104.

CHAPTER 40A - Zoning Regulations.

§ 3, first paragraph, two sentences added, 1993, 450.

CHAPTER 40B - Regional Planning.

CHAPTER 40C - Historic Districts.

CHAPTER 40D - Industrial Development of Cities and Towns.

§ 12 amended, 1993, 474 § 6.

CHAPTER 40E - Massachusetts Industrial Development Authority.

CHAPTER 40F - The Massachusetts Community Development Finance Corporation.

CHAPTER 40G - Massachusetts Technology Development Corporation.

§ 4B added, 1993, 110 § 105.

CHAPTER 40H - Community Economic Development Assistance Corporation.

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CHAPTER 40I - THE BAY STATE SKILLS CORPORATION ACT.

§ 5, clauses (p) and (q) amended, 1993, 19 § 13.
§ 7F added, 1993, 19 § 34.

CHAPTER 40J - Massachusetts Technology Park Corporation.

CHAPTER 40K - MASSACHUSETTS PRODUCT DEVELOPMENT CORPORATION.

CHAPTER 40L - AGRICULTURAL INCENTIVE AREAS.

CHAPTER 40M - GOVERNMENTAL UNITS POOLED INSURANCE.

CHAPTER 40N - MODEL WATER AND SEWER COMMISSION.

Chapter inserted, 1992, 343 § 2.
§ 9, paragraph (c) amended, 1993, 50 § 15; paragraph (d) amended, 1993, 50 § 16.

CHAPTER 41 - Officers and Employees of Cities, Towns and Districts.

CHAPTER 42 Boundaries of Cities and Towns.

CHAPTER 43 - City Charters.

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.

CHAPTER 44 - Municipal Finance.

§ 7, clause (6) revised, 1993, 413; clause (18) revised, 1993, 110 § 106.
§ 53I added, 1993, 198.
§ 72 added, 1993, 50 § 17.

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CHAPTER 44A - QUALIFIED BOND ACT.

CHAPTER 45 - Public Parks, Playgrounds and the Public Domain.

CHAPTERR 46 - Return and Registry of Births, Marriages and Death.

§ 1 amended, 1993, 460 § 5.
§ 3C added, 1993, 460 § 6.
§ 9 paragraph added, 1993, 495 § 15.

CHAPTER 47 - Infirmaries.

CHAPTER 48 - Fires, Fire Departments and Fire Districts.

§ 77A added, 1993, 141.

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.

§ 1, definitions of "Family member" and "Federal act" inserted, 1993, 475 § 1; definitions of "Registration agency" and "Specially qualified voter"inserted, 1993, 475 § 2.

CHAPTER 51 - Voters.

§ 4 amended, 1993, 475 §§ 2A, 3.
§ 4A added, 1993, 475 § 4.
§ 12, first sentence amended, 1993, 475 § 5.
§ 26 amended, 1993, 475 § 6.
§ 27 **repealed**, 1993, 475 § 7.
§ 28 revised, 1993, 475 § 8.
§ 29 **repealed**, 1993, 475 § 9.
§ 29A **repealed**, 1993, 475 § 9.
§ 29B **repealed**, 1993, 475 § 9.
§ 30 **repealed**, 1993, 475 § 9.
§ 31, last sentence stricken ut, 1993, 475 § 10.
§ 34 amended, 1993, 475 § 11.

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§ 36 revised, 1993, 475 § 12.
§ 37 amended, 1993, 475 § 13.
§ 37A added, 1993, 475 § 14.
§ 42 amended, 1993, 475 § 15.
§ 42B **repealed**, 1993, 475 § 16.
§ 42E revised, 1993, 475 § 17.
§ 42F revised, 1993, 475 § 18.
§ 42G added, 1993, 475 § 19.
§ 42H added, 1993, 475 § 19.
§ 44 revised, 1993, 475 § 20.
§ 46A amended, 1993, 475 § 21.
§ 47C added, 1993, 475 § 22.
§ 50 amended, 1993, 475 § 23.
§ 59 amended, 1993, 475 § 24.
§ 60 amended, 1993, 475 § 25.

CHAPTER 52 - Political Committees.

CHAPTER 53 - Nominations, Questions to be Submitted to the Voters, Primaries and Caucuses.

§ 37, first paragraph, third and fourth sentences amended, 1993; 475 § 26.
§ 37A, first sentence revised, 1993, 475 § 27; second and third paragraphs amended, 1993 475 § 28.
§ 38, first three sentences amended, 1993, 475 § 29; section amended, 1993, 475 §§ 30, 31.

CHAPTER 54 - Elections.

§ 86 amended, 1993, 475 §§ 32, 33.
§ 87, first paragraph, clause (b) stricken out, 1993, 475 § 34; section amended, 1993, 475 § 35.
§ 89 revised, 1993, 475 § 36.
§ 89A **repealed**, 1993, 475 § 37.
§ 91 amended, 1993, 475 § 38; third sentence stricken out, 1993, 475 § 39.
§ 91A added, 1993, 475 § 40.
§ 91B added, 1993, 475 § 40.
§ 92 revised, 1993, 475 § 41.
§ 94, first paragraph, second and third sentences revised, 1993, 475 § 42; fifth sentence revised, 1993, 475 § 43.
§ 95 amended, 1993, 475 § 44.
§ 100 amended, 1993, 475 § 45.

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§ 103B **repealed**, 1993, 475 § 46.
§ 103C **repealed**, 1993, 475 § 46.
§ 103D **repealed**, 1993, 475 § 46.
§ 103P, first sentence revised, 1993, 475 § 47.
§ 103Q amended, 1993, 475 § 48.

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.

§ 3, fifth paragraph revised, 1993, 110 § 107.
§ 5, eleventh paragraph inserted, 1993, 328 § 1.
§ 7 amended, 1993, 328 § 2.
§ 19, subsection (e) revised, 1993, 239.

CHAPTER 55A - Limited Public Financing of Campaigns for Statewide Elective Office.

CHAPTER 55B - The State Ballot Law Commission.

CHAPTER 56 - Violations of Elections Laws.

§ 5 revised, 1993, 475 § 49.
§ 8 revised, 1993, 475 § 50.
§ 26 revised, 1993, 475 § 51.
§ 28 revised, 1993, 475 § 52.

CHAPTER 57 - Congressional, Councilor and Senatorial Districts, and Apportionment of Representatives.

§ 1 amended, 1993, 274 § 1.
§ 2 revised, 1993, 274 § 2.
§ 3 revised, 1993, 274 § 2.
§ 4 revised, 1993, 273 § 1.

CHAPTER 58 - General Provisions relative to Taxation.

§ 18D revised, 193, 110 § 108; **section amended**, 1993, 495 § 16.

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CHAPTER 58A - Appellate Tax Board.
(Former title, Board of Tax Appeals.)

CHAPTER 59 - Assessment of Local Taxes.

§ 5, clause Twenty-second E, paragraph added, 1993, 110 § 110; clause Fifty first added, 1993, 19 § 14; clause Fifty-second added, 1993, 110 § 111.
§ 5I added, 1993, 110 § 112.
§ 21C amended, 1993, 110 § 113; paragraph (n) amended, 1993, 110 § 114.
§ 59 amended, 1993, 110 § 116.

CHAPTER 59A - Classification of Real Property.

CHAPTER 60 - Collection of Local Taxes.

§ 3C, first three paragraphs amended, 1993, 71 § 26.
§ 23, paragraph added, 1993, 110 § 117.

CHAPTER 60A - Excise Tax on Registered Motor Vehicles in Lieu of Local Property Tax.

§ 2A amended, 1993, 151 § 29.

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.

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CHAPTER 62 - Taxation of Incomes.

§ 2 amended, 1993, 495 §§ 17, 18, 19, 20.
§ 3, Part B, paragraph (a), subparagraph (10) added, 1993, 19 § 15; subsection (b) amended, 1993, 19 § 15; section amended, 1993, 495 § 21.
§ 6, subsection (e) revised, 1993, 482 § 2; subsections (g) and (i) added, 1993, 19 § 16.
§ 6D, two sentences added, 1993, 110 § 121.

CHAPTER 62A - Simplified Method of Computing Individual Income Taxes.

CHAPTER 62B - Withholding of Taxes on Wages and Declaration of Estimated Income Tax.

CHAPTER 62C - Administrative Provisions Relative to State Taxation.

§ 21, subsection (b), clause (13) amended, 1993, 460 § 7.
§ 37 amended, 1993, 110 § 122.
§ 83, subsection (a) amended, 1993, 386 § 1; subsection (c) amended, 1993, 386 § 2; subsection (d) amended, 1993, 386 § 3; subsection (e) amended, 1993, 386 § 4; subsection (f) amended, 1993, 386 § 5; subsection (g) amended, 1993, 386 § 6; subsection (h) amended, 1993, 386 § 7; subsection (i) amended, 1993, 386 § 8; subsection (n) added, 1993, 386 § 9. *(See 1993, 386 § 10.)*
§ 84 added, 1993, 110 § 123.

CHAPTER 62D - SET-OFF DEBT COLLECTION.

§ 13 revised, 1993, 460 § 8.

CHAPTER 62E - WAGE REPORTING SYSTEM.

§ 1, definition of "Internal Revenue Code or Code" amended, 1993, 460 § 9.
§ 2, last sentence revised, 1993, 460 § 10.
§ 3, first paragraph revised, 1993, 460 § 11.
§ 4 amended, 1993, 460 § 12.
§ 10 revised, 1993, 460 § 13.
§ 11 amended, 1993, 460 § 14.
§ 12, first paragraph amended, 1993, 460 § 15.
§ 13 amended, 1993, 460 § 16.
§ 14 added, 1993, 460 § 17.

CHAPTER 62F - LIMITATION ON THE GROWTH OF

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STATE TAX REVENUES.

CHAPTER 63 - Taxation of Corporations.

§ 31A, paragraphs (i), (j), (k), (l) and (m) amended, 1993, 19 § 17.
§ 38L, first paragraph, two sentences added, 1993, 110 § 124.
§ 38N added, 1993, 19 § 18.
§ 38O added, 1993, 19 § 18.

CHAPTER 63A - Taxation of Certain Corporations, Associations and Organizations Engaged in the Sale of Alcoholic Beverages.

CHAPTER 63B - Declaration of Estimated Tax by Corporations.

CHAPTER 63CTaxation of Income of Certain Corporations.

Chapter repealed, 1985, 593 § 24.

CHAPTER 64 - Taxation of Stock Transfers.

CHAPTER 64A - Taxation of Sales of Gasoline. (Former Title, Taxation of Sales of Gasoline and Certain other Motor Vehicle Fuel.)

CHAPTER 64B - Excise upon Charges for Meals served to the Public.

CHAPTER 64C - Cigarette Excise.

CHAPTER 64D - Excise on Deeds, Instruments and Writings.

CHAPTER 64E - Taxation of Special Fuels Used in the Propulsion of Motor Vehicles.

CHAPTER 64 F - Taxation of Fuel and Special Fuels Acquired Outside and used within Commonwealth.

CHAPTER 64G - Room Occupancy Excise.

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CHAPTER 64H - Tax on Retail Sales of Certain Tangible Personal Property.

§ 6, paragraph (h), paragraph inserted, 1993, 10 § 125; **section amended**, 1993, 110 § 126; 151 § 30; **section amended**, 1993 474 § 7; 495 § 22; paragraph (rr) added, 1993, 495 § 23.

CHAPTER 64I - Tax on storage, Use or Other Consumption of Certain Tangible Personal Property.

CHAPTER 64J - TAXATION OF FUELS USED IN THE PROPULSION OF AIRCRAFT.

CHAPTER 64K - Controlled Substances Tax

Chapter inserted 1993, 110 § 127 (*See 1993, 110 § 390.*)
§ 9, first paragraph, first sentence revised, 1993, 151 § 31.

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.

CHAPTER 66 - Public Records.

§ 17A amended, 1993, 460 § 18.

CHAPTER 66A - Fair Information Practices.

CHAPTER 67 -Parishes and Religious Societies.

CHAPTER 68 - Donations and Conveyances for Pious and Charitable Uses.

CHAPTER 68A - Limitations Upon the Conduct of Certain Trusts and Corporations Having Charitable Interests.

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CHAPTER 69 - Powers and Duties of the Department of Education.

§ 1 amended, 1993, 71 § 27.
§ 1A amended, 1993, 71 § 28.
§ 1B-1L added, 1993, 71 § 29.
§ 3 **repealed**, 1993, 71 § 30.
§ 35 **repealed**, 1993, 71 § 31.

CHAPTER 70 - School Funds and State Aid for Public Schools. (Former title, School Funds and Other State Aid for Public Schools.)

Chapter revised, 1993, 71 § 32.
§ 2, definition of "Base aid" amended, 1993, 110 § 128; definition of "Equity gap" amended, 1993 151 § 32; second sentence amended, 1993, 151 § 33; definition of "Minimum required local contribution" revised, 1993, 151 § 34; definition of "Municipal revenue growth factor" revised, 1993, 151 § 35; definition of "preliminary local contribution" revised, 1993, 151 § 36;definition of "Standard of effort" revised, 1993, 151 § 37; definition of "Standard of effort gap" revised, 1993, 151 § 38.

CHAPTER 70A - EQUAL EDUCATIONAL OPPORTUNITY GRANTS.

Chapter repealed, 1993, 71 § 33.

CHAPTER 71 - Public Schools.

§ 16D subsections (e), (f), and (g) added, 1993, 71 § 34; subsection (e) revised, 1993, 110 § 263; subsection (e) amended, 1993, 495 § 24.
§ 37 amended, 1993, 71 § 35.
§ 37H amended, 1993, 71 § 36; 495 § 25.
§ 37H½ added, 1993, 380 § 2. (*See 1993, 380 § 3.*)
§ 37L, three paragraphs added, 1993, 71 § 37.
§ 38, first and second paragraphs amended, 1993, 71 § 38; third paragraph amended, 1993, 71 § 39; fifth paragraph amended, 1993, 71 § 40.
§ 38G amended, 1993, 71 § 41; **section revised**, 1993, 495 § 26.
§ 38Q added, 1993, 71 § 42.
§ 41, first paragraph amended, 1993, 71 § 43.
§ 41A revised, 1993, 362.
§ 41B added, 1993, 362.
§ 42 amended, 1993, 71 § 44.
§ 42A **repealed**, 1993, 71 § 45.
§ 42B added, 1993, 71 § 46.

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§ 42D added, 1993, 71 § 47.
§ 43 added, 1993, 71 § 48.
§ 43A **repealed**, 1993, 71 § 49.
§ 43B **repealed**, 1993, 71 § 49.
§ 47A amended, 1993, 71 § 50.
§ 48 amended, 1993, 71 § 51.
§ 59, second sentence stricken out, and four sentences added, 1993, 71 § 52.
§ 59B revised, 1993, 71 § 53.
§ 59C added, 1993, 71 § 53; **section amended**, 1993, 495 § 27.
§ 59D added, 1993, 71 § 53.
§ 67, paragraph added, 1993, 71 § 54.
§ 89 added, 1993, 71 § 55.

CHAPTER 71A - TRANSITIONAL BILINGUAL EDUCATION.

CHAPTER 71B - CHILDREN WITH SPECIAL NEEDS.

§ 5, first paragraph, first sentence revised, 1993, 50 § 19.

CHAPTER 72 - School Registers and Returns.

CHAPTER 73 - State Colleges and Community Colleges. (Former title, State Teachers Colleges and Community Colleges.)

CHAPTER 74 - Vocational Education.

§ 1 amended, 1993, 71 § 56.
§ 2, second paragraph amended, 1993, 71 § 57.
§ 7C added, 1993, 110 § 129.
§ 8 **repealed**, 1993, 71 § 58.
§ 21A **repealed**, 1993, 71 § 59.
§ 22E amended, 1993, 71 § 60.
§ 37C, second sentence amended, 1993, 110 § 130.

CHAPTER 75 - University of Massachusetts. (Former title, Massachusetts State College.)

§ 35, paragraph added, 1993, 52 § 10.
§ 36C added, 1993, 110 § 131.

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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 Attendence.

§ 5, second sentence revised, 1993, 282.
§ 12B amended, 1993, 71 § 61; second sentence amended, 1993, 151 § 39; subsection (g) amended, 1993, 151 § 40; subsection (n) revised, 1993, 151 § 41.

CHAPTER 77 - School Offenders and County Training Schools.

CHAPTER 78 - Libraries.

§ 19, fourth sentence inserted, 1993, 110 § 134.

CHAPTER 78A - YOUTH CONSERVATION AND SERVICE CORPS.

Chapter inserted 1993, 19 § 19.

CHAPTER 79 - Eminent Domain.

§ 8A amended, 1993, 110 § 135.
§ 37 amended, 1993, 110 § 136; two paragraphs added, 1993, 110 § 137.
§ 39 amended, 1993, 110 § 138.

CHAPTER 78A - Relocation Assistance.

CHAPTER 80 - Betterments.

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CHAPTER 82 - The Laying Out, Alteration, Relocation and Discontinuance of Public Ways, and Specific Repairs Thereon.

CHAPTER 83 - Sewers Drains and Sidewalks.

CHAPTER 84 - Repair of Ways and Bridges.

CHAPTER 85 - Regulations and By Laws to Ways and Bridges.

§ 11B, second paragraph, clause (2) revised, 1993, 278 § 1; **section amended,** 1993, 278 § 2. (*See 1993, 278 § 4.*)
§ 11C revised, 1993, 182 § 5.
§ 11D amended, 1993, 278 § 3. (*See 1993, 278 § 4.*)

CHAPTER 86 - Boundaries of Highways and Other Public Places, and Encroachments Thereon.

CHAPTER 87 - Shade Trees.

CHAPTER 88 - Ferries, Canals and Public Landings.

CHAPTER 89 - Law of the Road.

CHAPTER 90 - Motor Vehicles and Aircraft.

§ 1, definition of "Articulated bus" inserted, 1993, 305 § 1; definition of "Saddlemount combination" inserted, 1994, 305 § 2; definition of "Fullmount" inserted, 1993, 305 § 3.
§ 2 amended, 1993, 110 § 139; 327; thirteenth paragraph amended, 1993, 490 § 2; eighth paragraph amended, 1993, 495 § 28.
§ 7A revised, 1993, 490 § 3.
§ 7W revised, 1993, 490 § 4.
§ 8, paragraph added, 1993, 316.
§ 8L added, 1993, 475 § 53.
§ 13A added, 1993, 387 § 1. (*See 1993, 387 §§ 2, 9.*)
§ 17A added, 1993, 404 § 1.
§ 18A revised, 1993, 182 § 6.

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§ 19, first paragraph amended, 1993, 305 § 4; second paragraph, last sentence amended, 1993, 305 § 5.
§ 19C **repealed**, 1993, 305 § 6.
§ 19F amended, 1993, 305 §§ 7, 8, 9, 10, 11, 12.
§ 19G revised, 1993, 305 § 13.
§ 22, paragraph (g) added, 1993, 460 § 19.
§ 24, subdivision (1), subparagraph (1), second paragraph amended, 1993, 110 § 140; subdivision (2), subparagraph (1), second paragraph amended, 1993, 110 § 140.
§ 33, last paragraph revised, 1993, 50 § 20.
§ 34, paragraph added, 1993, 110 § 141.

CHAPTER 90A - The Highway Safety Act.

CHAPTER 90B - Motorboats and Other Vessels.

§ 14 revised, 1993, 182 § 7.

CHAPTER 90C - Procedure against Violators of Motor Vehicle Laws.

CHAPTER 90D - Motor Vehicle Certificate of Title.

CHAPTER 90E - Bikeways.

CHAPTER 90F - UNIFORM OPERATION OF COMMERCIAL MOTOR VEHICLES ACT.

New chapter inserted, 1990, 246 § 2.

CHAPTER 90G - CIVIL INFRACTIONS.

New chapter inserted, 1992, 133 § 452. (*See 1992, 133 § 598.*)
Chapter repealed, 1993, 182 § 8.

CHAPTER 91 - Waterways.

CHAPTER 91A - Port of Boston Commission. (Former title, Port of Boston Authority.)

CHAPTER 92 - Metropolitan Sewers, Water and Parks.

§ 108 amended, 1993, 50 § 21.

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CHAPTER 92A - Commonwealth Zoological Corporation

New chapter inserted, 1991, 6 § 24. (*See1991, 6 § 58.*)

CHAPTER 92B - COMMONWEALTH ZOOLOGICAL CORPORATION.

New chapter inserted, 1992, 286 § 165.

CHAPTER 93 - Regulation of Trade and Certain Enterprises.

§ 106 added, 1993, 388.

CHAPTER 93A - Regulation of Business Practices for Consumers Protection.

CHAPTER 93B - Regulation of Business Practices Between Motor Vehicle Manufactures, Distributors and Dealers.

CHAPTER 93C - Protection of Consumers Against Careless and Erroneous Billings.

CHAPTER 93D - Control of Outdoor Advertising Adjacent to the Interstate and Primary Systems.

CHAPTER 93E - Regulation of Dealers' Agreements for the Sale of Gasoline.

CHAPTER 93F - Regulating Certain Business Practices Between Motion Picture Distributors and Exhibitors.

CHAPTER 94 - Inspection and Sale of Food, Drugs and Various Articles.

94A - MILK CONTROL.

§ 24, two paragraphs added, 1993, 370 § 2.

CHAPTER 94B - Hazardous Substances.

CHAPTER 94C - Controlled Substances Act.

§ 9, subsection (b), last two paragraphs revised, 1993, 47 § 1. (*See 1993, 47 § 2.*)
§ 20 amended, 1993, 224 § 1.
§ 27, subsection (e) added, 1993, 110 § 142; **section amended**, 1993, 224 § 2.
§ 32J amended, 1993, 335.

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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.

CHAPTER 98 - Weights and Measures.

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.*)

CHAPTER 101 - Transient Vendors, Hawkers and Peddlers.

CHAPTER 102 - Shipping and Seamen, Harbors and Harbor Masters.

CHAPTER 103 - Pilots.

§ 21 revised, 1993, 212 § 1.
§§ 22-27 **repealed**, 1993, 212 § 2.
§ 28 revised, 1993, 212 § 3.
§ 30 **repealed**, 1993, 212 § 4.
§ 31 revised, 1993, 150 § 1; first paragraph revised, 1993, 150 § 2. (*See 1993, 150 § 3.*)
§ 32 **repealed**, 1993, 212 § 5.
§ 35 amended, 1993, 212 § 6.

CHAPTER 104 - Agents, Consignees and Factors.

CHAPTER 104A - Consignment of Fine Art.

CHAPTER 105 - Public Warehouses.

CHAPTER 105A - SELF-STORAGE FACILITIES.

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CHAPTER 106 - Uniform Commercial Code.

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.)

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CHAPTER 109 - Limited Partnerships.

CHAPTER 109A - FRAUDULENT TRANSFERS OF REAL AND PERSONAL PROPERTY.

CHAPTER 110 - Labels, Trade Marks, Names and Registration thereof.

CHAPTER 110A - Uniform Securities Act.

§ 201, paragraph (c) revised, 1993, 492 § 1.
§ 202, paragraphs (a) to (d) amended, 1993, 492 § 2.
§ 203, paragraphs (a) and (b) amended, 1993, 492 § 3; paragraph (e) added, 1993, 492 § 4.
§ 203A added, 1993, 492 § 5.
§ 204, subsection (a), introductory paragraph revised, 492, § 6; clause (E) revised, 1993, 492 § 7; clause (J) revised, 1993, 492 § 8; subsection (b), paragraphs (2), (3) and (4) revised, 1993, 492 § 9; paragraphs (5) and (6) added, 993, 492 § 9; subsections (c) to (f), inclusive, revised, 1993, 492 § 10; paragraphs (m) and (n) added, 1993, 492 § 11.

CHAPTER 110B - Registration and Protection of Trademarks.

CHAPTER 110C - Regulation of Take-over Bids in the Acquisition of Corporations.

CHAPTER 110D - REGULATION OF CONTROL SHARE ACQUISITIONS.

New chapter inserted, 1987, 272 § 1. (*See 1987, 272 § 3.*)

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CHAPTER 110E - REGULATION OF CONTROL SHARE ACQUISITIONS OF FOREIGN CORPORATIONS.

New chapter inserted, 1987, 272 § 2.

CHAPTER 110F - BUSINESS COMBINATIONS WITH INTERESTED SHAREHOLDERS.

New chapter inserted, 1989, 242 § 8.

CHAPTER 111 - Public Health.

§ 1 amended, 1993, 297; 309 § 1, 2.; 415 § 1.
§ 2, paragraph inserted, 1993, 161 § 16.
§ 5R added, 1993, 124 § 1.
§ 25B amended, 1993, 350 § 1. (*See 1993, 350 § 7.*)
§ 25C, second paragraph inserted, 1993, 350 § 2; revised, 1993, 350 § 3; section amended, 1993, 350 § 4. (*See 1993, 350 § 7.*)
§ 25C½, subsection (c) amended, 1993, 350 § 5. (*See 1993, 350 § 7.*)
§ 51, fifth paragraph revised, 1993, 495 § 29, 30;
§ 53, seventh sentence amended, 1993, 266.
§ 70, seventh paragraph added, 1993, 111 § 146.
§ 142J, three paragraphs added, 1993, 490 § 5; **section repealed**, 1993, 490 § 8. (*See 1993, 490 § 9.*)
§ 142M added, 1993, 490 § 6. (*See 1993, 490 § 9.*)
§ 150A, fifteenth paragraph revised, 1993, 110 § 147.
§ 189A added, 1993, 482 § 3.
§ 190 revised, 1993, 482 § 3.
§ 192B added, 1993, 482 § 4.
§ 194 revised, 1993, 482 § 5.
§ 194A **repealed**, 1993, 482 § 6.
§ 195, second paragraph, second sentence amended, 1993, 482 § 7.
§ 197 revised, 1993, 482 § 8.
§ 197A revised, 1993, 482 § 9.
§ 197B, subsection (a) amended, 1993, 482 § 10; first paragraph amended, 1993, 482 § 11; subsection (a) amended, 1993, 482 § 11A; subsection (b), paragraph (1) amended, 1993, 482 § 12; subsection (b) amended, 1993, 482 § 12A.
§ 197C added, 1993, 482 § 13.
§ 197D added, 1993, 482 § 13.
§ 197E added, 1993, 482 § 13.
§ 198, first paragraph revised, 1993, 482 § 14; fourth paragraph amended, 1993, 482 § 15.

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§ 199 revised, 1993, 482 § 16.
§ 199A, paragraph (a) revised, 1993, 482 § 17.
§ 199B added, 1993, 482 § 18.
§ 215 added, 1993, 110 § 148.

CHAPTER 111A - Drug Addiction Rehabilitation.

Chapter repealed, 1969, 889 § 23A.

CHAPTER 111B - Alcoholism.

CHAPTER 111C - Emergency Medical Care.

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.

§ 4A, subsection (c) amended, 1993, 428 § 5.

CHAPTER 111I - WOMEN'S, INFANTS AND CHILDREN PROGRAM

Chapter Inserted, 1992, 414 § 3.

CHAPTER 112 - Registration of Certain Professions and Occupations.

§ 2 amended, 1993, 495 § 31.
§ 12B revised, 1993, 446.
§ 12CC added, 1993, 283.
§ 74 revised, 1993, 459 § 4.
§ 74A revised, 1993, 459 § 5.
§ 76B revised, 1993, 237.
§ 77 revised, 1993, 459 § 6.

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§ 80B revised, 1993, 459 § 7.
§ 81 amended, 1993, 495 § 32.
§ 135A, second paragraph, clause (f) stricken out, 1993, 339 § 1.
§ 135B, fourth paragraph, clauses (e) and (f) amended, 1993, 339 § 2.

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.)

CHAPTER 115A - Soldier's Homes.

CHAPTER 116 - Settlement.

CHAPTER 117 - Support by the Commonwealth.
(Former title, Support by the Cities and Towns.)

CHAPTER 117A - SUPPORT BY THE COMMONWEALTH.

New chapter inserted, 1991, 255 § 4 (*See 1991, 255 § 7.*)

CHAPTER 118 - Aid to Families with Dependent Children.
(Former title, Aid to Dependent Children.)

§ 2, last sentence stricken out, 1993, 460 § 20.
§ 3 amended, 1993, 110 §§ 153, 154, 155.

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 118D - Assistance to Persons who are Disabled.

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118E - Medical Care and Assistance.

Chapter revised, 1993, 161 § 17.

CHAPTER 118F - DEPARTMENT OF MEDICAL SECURITY.

New chapter added, 1988, 23 § 45. (*See 1988, 23 § 92.*)
§ 9B, second paragrph, first sentence revised, 1993, 263 § 1.
§ 16, paragraph (d) amended, 1993, 393 § 2.
§ 17A, subsection (i) amended, 1993, 393 § 3; second paragraph, clause (iii) revised, 1993, 50 § 22.
§ 17B added, 1993, 110 § 157; **section revised**, 1993, 393 § 4.

CHAPTER 119 - Protection and Care of Children, and Proceedings against Them.

§ 23, paragraph A, paragraph added, 1993, 486 § 1; paragraph C, pargraph added, 1993, 486 § 2.
§ 26, second paragraph, clause (5) inserted, 1993, 486 § 3.
§ 51A amended, 1993, 50 § 23.
§ 51B, clause (4), first paragraph amended, 1993, 303.
§ 55 amended, 1993, 110 § 158.
§ 58, paragraph added, 1993, 110 § 159.
§ 84 amended, 1993, 110 § 160.

CHAPTER 119A - CHILD SUPPORT ENFORCEMENT.

§ 1 amended, 1993, 460 § 21; sentence added, 1993, 460 § 22.
§ 2 amended, 1993, 460 §§ 23, 24; second paragraph amended, 1993, 460 § 25.
§ 2A added, 1993, 460 § 26.
§ 3, first paragraph amended, 1993, 460 § 27.
§ 5, second paragraph inserted, 1993, 460 § 28.
§ 6, subsection (a) amended, 1993, 460 §§ 29, 30; subsection (b) revised, 1993, 460 § 31.
§ 12, subsection (a) amended, 1993, 460 § 32; subsection (b), second sentence amended, 1993, 460 § 33; third sentence amended, 1993, 460 § 34; section amended, 1993, 460 §§ 35-40; subsection (c) amended, 1993, 460 § 41; section amended, 1993, 460 § 43; subsection (d), two sentences added, 1993, 460 § 44; subsection (e), paragraph (2) amended, 1993, 460 § 45; section amended, 1993, 460 §§ 46, 47, 48, 49; subsection (f), paragraph 3 amended, 1993, 460 § 50; section amended, 1993, 460 § 51; subsections (k), (l), (m) and (n) added, 1993, 460 § 52.

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§ 13 subsections (b), (c) and (d) amended, 1993, 460 § 53.
§ 14 revised, 1993, 460 § 54.

CHAPTER 120 - Department of Youth Services and Massachusetts Training Schools.
(Former title, Youth Service Board and Massachusetts Training Schools.)

§ 5 amended, 1993, 110 § 161.

CHAPTER 121 - Powers and Duties of the Department of Public Welfare, and the Massachusetts Hospital School.

CHAPTER 121A - Urban Redevelopment Corporations.

CHAPTER 131B - Housing and Urban Renewal.
§ 32, seventh pargraph added, 1993, 494 § 12.
§ 39 amended, 1993, 494 § 3.

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.

CHAPTER 123A - Care, Treatment and Rehabilitation of Sexually Dangerous Persons.
(Former title, Care, Treatment and Rehabilitation of Sexual Offenders and Victims of such Offenders.)

§ 1 revised, 1993, 489 § 1.
§ 2 revised, 1993, 489 § 2.
§ 2A added, 1993, 489 § 3.
§ 6A revised, 1993, 489 § 4.
§ 8 **repealed**, 1993, 489 § 5.
§ 9 revised, 1993, 489 § 7.
§ 9A **repealed**, 1993, 489 § 5.
§ 9B **repealed**, 1993, 489 § 5.

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§ 10 **repealed**, 1993, 489 § 6.
§ 11 **repealed**, 1993, 489 § 6.

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.)

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.

§ 129 **repealed**, 1993, 432 § 10.
§ 133 amended, 1993 340 § 1; **section revised**, 1993, 432 § 11.
§ 133B amended, 1993, 432 § 12.

CHAPTER 128 - Agriculture.

CHAPTER 128A - Horse and Dog Racing Meetings.

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 § 5.
§ 2, fifth paragraph amended, 1993, 473 § 1. (*See 1993, 473 § 4.*)

CHAPTER 129 - Livestock Disease Control. (Former title, Animal Industry.)

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.)

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CHAPTER 131 - Inland Fisheries and Game and Other Natural Resourses. (Former title, Powers and Duties of the Division of Fisheries and Game.)

§ 2B added, 1993, 495 § 33.
§ 11 revised, 1993, 495 § 34.
§ 40 amended, 1993, 472 § 1. (*See 1993, 472 § 2.*)
§ 64 revised, 1993, 217 § 1.
§ 69 revised, 1993, 217 § 2.
§ 77A added, 1993, 406 § 1.
§ 87, sentence added, 1993, 182 § 10.
§ 89, three sentences inserted, 1993, 182 § 9.
§ 90, first paragraph revised, 1993, 182 § 11; section amended, 1993, 182 §§ 12, 13, 14, 15, 16; thirteenth paragraph, clause (d) amended, 1993, 182 § 17; section amended, 1993, 182 §§ 18, 19; fifteenth paragraph inserted, 1993, 182 § 20; section amended, 1993, 182 § 21; 406 § 2.

CHAPTER 131A - MASSACHUSETTS ENDANGERED SPECIES ACT.

New chapter added, 1990, 408 § 4. (*See 1990, 408 § 5.*)

CHAPTER 132 - Forestry.

§ 47 added, 1993, 385.
§ 48 added, 1993, 385.
§ 49 added, 1993, 385.
§ 50 added, 1993, 385.

CHAPTER 132A - State Recreation Areas outside of the Metropolitan Parks District. (Former title, State Parks and Reservations outside of the Metropolitan Parks District.)

§ 2D, paragraph (4) added, 1993, 151 § 42.
§ 7A revised, 1993, 182 § 22.

CHAPTER 132B - Massachusetts Pesticide Control Act.

§ 10 amended, 1993, 110 § 163.

CHAPTER 133 - Disposition of Old and Infirm Animals.

CHAPTER 134 - Lost Goods and Stray Beasts.

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CHAPTER 135 - Unclaimed and Abandoned Property.

§ 1, third paragraph, first sentence revised, 1993, § 1. (*See 1993, 421 § 2.*)

CHAPTER 136 - Observance of a Common Day of Rest and Legal Holidays. (Former title, Observance of the Lord's Day and Legal Holidays.)

CHAPTER 127 - Gaming.

CHAPTER 128 - Alcoholic Liquors. (Former title, Intoxicating Liquors and Certain Non-intoxicating Beverages.)

§ 1 amended, 1993, 481 § 1.
§ 12, paragraph added, 1993, 481 § 2.
§ 15D added, 1993, 313 § 1; **section repealed**, 1993, 313 § 2. (*See 1993, 313 § 3.*)
§ 15E added, 1993, 313 § 1; **section repealed**, 1993, 313 § 2. (*See 1993, 313 § 3.*)
§ 22, second paragraph revised, 1993, 416.

CHAPTER 139 - Common Nuisances.

CHAPTER 140 - Licenses.

§ 32B,second sentence inserted, 1993, 145 E 2.
§ 32D amended, 1993, 145 § 3.
§ 32E amended, 1993, 145 § 4; paragraph added, 1993, 145 4A.
§ 32G, third sentence revised, 1993, 145 § 5.
§ 32I amended, 1993, 145 § 6.
§ 32J amended, 1993, 145 § 7; paragraph added, 1993, 145 § 8.
§ 32L, paragraph (3) revised, 1993, 145 § 9; paragraph (5), first sentence revised, 1993, 145 § 10; sentence added, 1993, 145 § 11; paragraph (7), first sentence amended, 1993, 145 § 12; paragraph (7A) amended, 1993, 145 §§ 13, 15; fifth to eighth sentences stricken out and eleven sentences inserted, 1993, 145 § 14; paragraphs (8) and (9) revised, 1993, 145 § 16. (*See 1993, 145 § 21.*)
§ 32N amended, 1993, 145 § 17.
§ 32P revised, 1993, 145 § 18.
§ 32R revised, 1993, 145 § 19.
§ 32S added, 1993, 145 § 20.
§ 114B, first paragraph, last sentence revised, 1993, 151 § 43; third paragraph, sentence added, 1993, 151 § 44.
§ 173A revised, 1993, 182 § 23.

CHAPTER 140A - Regulation of Certain Credit Transactions.

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CHAPTER 140B - Control of Certain Junkyards.

CHAPTER 140C - Consumer Credit Cost Disclosure.

Chapter repealed, 1981, 733 § 1.

CHAPTER 140D - CONSUMER CREDIT COST DISCLOSURE.

New chapter added, 1981, 733 § 2.

CHAPTER 140E - CONSUMER ACCOUNT DISCLOSURE.

CHAPTER 141 - Supervision of Electricians.

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.

§ 3L amended, 1993, 325.
§ 3Z added, 1993, 324.
§ 51, second and third sentences stricken out, 1993, 151 § 45; 495 § 35.

CHAPTER 144 - Tenement Houses in Cities.

CHAPTER 145 - Tenement Houses in Towns.

CHAPTER 146 - Inspection of Boilers, Air Tanks, etc., Licenses of Engineers, Firemen, and Operators of Hoisting Machinery.

CHAPTER 147 - State and Other Police, and Certain Power and Duties of the Department of Public Safety.

CHAPTER 148 - Fire Prevention.

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149 - Labor and Industries.

§ 54 revised, 1993, 110 § 180.
§ 148, fourth paragraph stricken out, 1993, 110 § 181.
§ 148B amended, 1993, 151 § 46.
§ 185 added, 1993, 471.

CHAPTER 150 - Conciliation and Arbitration of Industrial Disputes.

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.

§ 1, second sentence amended, 1993,71 § 62; definition of "Employer" or "Public employer" amended, 1993, 495 § 36.

CHAPTER 151 - Minimum Fair Wages. (Former title, Minimum Fair Wages for Women and Minors.)

CHAPTER 151A - EMPLOYMENT AND TRAINING. (Former title, Employment Security.)

Title revised, 1990, 177 § 247.
§ 1, subsection (a), paragraph added, 1993, 263 § 17; amended, 1993, 19 § 20; paragraph (3) revised, 1993, 1993, 19 § 21; subsection (c) amended, 1993, 263 §§ 3, 4; paragraphs (7) and (8) amended, 1993, 263 § 5. (*See 1993, 263 § 17.*)
§ 6, subsection (a) revised, 1993, 253 § 6.
§ 14, subsection (d), paragraph (3) amended, 1993, 263 § 7; subsection (f), paragraph 3, first sentence amended, 1993, 263 § 8. (*See 1993, 263 § 17.*)
§ 14A, subsection (b), paragraph (3) added, 1993, 263 § 9.
§ 14G, subsection (i) amended, 1993, 263 § 10; subsection (k) amended, 1993, 263 § 11.
§ 24, subsection (a) revised, 1993, 263 § 12. (*See 1993, 263 § 17.*)
§ 25, subsection (b) revised, 1993, 88 § 1. (*See 1993, 88 § 2.*)
§ 29, subsection (c), sentence added, 1993, 263 § 13.
§ 30A, subsection (3), paragraphs (b), (c), (d) and (e) amended, 1993, 263 § 14.

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§ 31 revised, 1993, 263 § 15. (*See 1993, 263 § 17.*)
§ 64A added, 1993, 110 § 187.

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.)

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.

§ 13 amended, 1993, 151 §§ 47, 48.
§ 25A amended, 1993, 495 § 37.
§ 46A, first paragraph amended, 1993, 161 §§ 18, 19, 20, 21; second paragraph, first sentence amended, 1993, 161 § 22.
§ 47 amended, 1993, 161 §§ 23, 24, 55.

CHAPTER 153 - Liability of Employers to Employees for Injuries not resulting in Death

CHAPTER 154 - Assignment of Wages.

CHAPTER 155 - General Provisions Relative to Corporations.

CHAPTER 156 - Business Corporations.

CHAPTER 156A -Professional Corporations.

CHAPTER 156B - Certain Business Corporations.

CHAPTER 157 - Co-operative Corporations.

CHAPTER 157A - EMPLOYEE COOPERATIVE CORPORATIONS.

CHAPTER 157B - Cooperative Housing Cooperations.

CHAPTER 158 - Certain Miscellaneous Corporations.

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CHAPTER 159 - Common Carriers.

CHAPTER 159A - Common Carriers of Passengers by Motor Vehicle.

CHAPTER 159B - Carriers of Property by Motor Vehicle.

§ 13, first sentence revised, 1993, 110 § 189.

CHAPTER 160 - Railroads.

CHAPTER 161 - Street Railways.

§ 31, first paragraph revised, 1993, 150 § 2.

CHAPTER 161A - Massachusetts Bay Transit Authority.

§ 33 added, 1993, 175 § 1.

CHAPTER 161B - Transportation Facilities, Highway Systems and Urban Development Plan.

CHAPTER 161C - Rail Transportation in the Commonwealth.

CHAPTER 161D - THE MASSACHUSETTS INTERCITY BUS CAPITAL ASSISTANCE PROGRAM.

CHAPTER 162 - Electric Railroads.

CHAPTER 163 - Trackless Trolley Companies.

CHAPTER 164 - Manufacture and Sale of Gas and Electricity.

CHAPTER 164A - New England Power Pool.

CHAPTER 165 - Water and Aqueduct Companies.

§ 2B added, 1993, 110 § 195.

CHAPTER 166 - Telephone and Telegraph Companies, and Lines for the Transmission of Electricity.

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CHAPTER 166A - Community Antenna Television Systems.

§ 2, paragraph added, 1993, 110 § 197.

CHAPTER 167 - Supervision of Banks.

§ 38 amended, 1993, 110 § 198.
§ 48 added, 1993, 482 § 19.

CHAPTER 167A - Bank Holding Companies.

§ 2 amended, 1993, 110 § 199; first paragraph, first sentence amended, 1993, 300 § 1.
§ 4A repealed, 1993, 300 § 2.

CHAPTER 167B - ELECTRONIC BRANCHES AND ELECTRONIC FUND TRANSFERS.

CHAPTER 167C - BANK LOCATIONS.

CHAPTER 167D - DEPOSITS AND ACCOUNTS.

CHAPTER 167E - MORTGAGES AND LOANS.

§ 3 revised, 1993, 420 § 1.

CHAPTER 167F - INVESTMENTS AND OTHER POWERS.

§ 2 amended, 1993, 19 § 22.
§ 2A amended, 1993, 19 § 23.

CHAPTER 167G - TRUST DEPARTMENT.

CHAPTER 167H - MUTUAL HOLDING COMPANIES.

New chapter added, 1987, 630

CHAPTER 168 - Savings Banks.

§ 19 amended, 1993, 269 § 1.
§ 20 revised, 1993, 269 § 2.

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§ 23 revised, 1993, 269 § 3.
§ 23A added, 1993, 269 § 4.
§ 34C amended, 1993, 300 § 3.

CHAPTER169 - Deposits with Others than Banks.

Chapter revised, 1991, 337 § 1.

CHAPTER 169A - LICENSING OF CHECK CASHERS.

New chapter inserted, 1993, 308 § 1. (*See 1993, 308 § 2.*)

CHAPTER 170 - Co-operative Banks.

§ 17 revised, 1993, 269 § 5.
§ 19 amended, 1993, 269 § 6; second and third paragraphs revised, 1993, 269 § 7; paragrah inserted, 1993, 269 § 7.
§ 19A added, 1993, 269 § 8.
§ 26C amended, 1993, 300 § 4.

CHAPTER 171 - Credit Unions.

§ 11, second paragraph amended, 1993, 235.
§ 30, first paragraph, second sentence revised, 1993, 244.
§ 59A, third paragraph revised, 1993, 488.
§ 65, first paragraph, second sentence revised, 1993, 445.
§ 75, fourth paragraph amended, 1993, 337.
§ 75A added, 1993, 270 § 1.

172 - Trust Companies.

§ 15 amended, 1993, 369 § 1.
§ 16 amended, 1993, 369 § 2.
§ 18 amended, 1993, 269 § 9; second and third paragraphs revised, 1993, 269 § 10; paragraph inserted, 1993, 269 § 10.
§ 26B added, 1993, 300 § 5.

CHAPTER 172A - Banking Companies.

CHAPTER 173 - Mortgage Loan Investment Companies.

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CHAPTER 174 - BOND AND INVESTMENT COMPANIES.

Repealed, 1950 822 § 1.

CHAPTER 174A - Regulation of Rates for Fire, Marine and Inland Marine Insurance, and Rating Organizations.

CHAPTER 174B - Regulation of Automobile Clubs.

CHAPTER 175 - Insurance.

§ 4 revised, 1993, 226 § 1.
§ 9 amended, 1993, 226 §§ 2, 3, 4; subdivision 4 amended, 1993, 226 § 5; section amended, 1993, 226 § 6; subdivision 8 amended, 1993, 226 § 7; section amended, 1993, 226 § 8; paragraph added, 1993, 226 § 9.
§ 9B added, 1993, 226 § 10. (*See 1993, 226 § 54.*)
§ 11 revised, 1993, 226 § 11.
§ 11A added, 1993, 226 § 12.
§ 14, first paragraph, fifteenth clause inserted, 1993, 226 § 13.
§ 15 **repealed**, 1993, 226 § 14.
§ 19E revised, 1993, 226 § 14A.
§ 20, first paragraph, two sentences added, 1993, 226 § 15; second paragraph stricken out, 1993, 226 § 16; sixth and seventh paragraphs stricken out, 1993, 226 § 16A; paragraph added, 1993, 226 § 17.
§ 20A added, 1993, 226 § 18. (*See 1993, 226 § 55.*)
§ 21 revised, 1993, 226 § 19.
§ 24D added, 1993, 460 § 56. (*See 1993, 460 § 106.*)
§ 25, second paragraph revised, 1993, 226 § 20; four paragraphs added, 1993, 226 § 21.
§ 26 amended, 1993, 226 § 22.
§ 47I revised, 1993, 384 §§ 2, 3. (*See 1993, 384 § 11.*)
§ 47M added, 1993, 332 § 1.
§ 47M added, 1993, 458 § 1.
§ 48, first paragraph, paragraph inserted, 1993, 226 § 23; third paragraph stricken out and eight paragraphs inserted, 1993, 226 § 24.
§ 48A, paragraph added, 1993, 226 § 25.
§ 49A added, 1993, 226 § 25A.
§ 51, paragraph added, 1993, 226 § 26.
§ 54, paragraph added, 1993, 226 § 27.
§ 63A added, 1993, 226 § 28.
§ 66, first paragraph, second sentence revised, 1993, 226 § 29; fourth paragraph amended, 1993, 226 § 30.
§ 73 amended, 1993, 226 § 31.

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§ 74 amended, 1993, 226 § 32
§ 79 amended, 993, 226 § 33; second sentence revised, 1993, 226 § 34.
§ 85A amended, 1993, 226 § 35.
§ 86 amended, 1993, 226 § 36.
§ 90A amended, 1993, 226 § 37.
§ 90B amended, 1993, 226 § 38; second paragraph amended, 1993, 226 § 39; **section amended**, 1993, 226 § 41.
§ 90C amended, 1993, 226 § 42; fifth paragraph revised, 1993, 226 § 43.
§ 93 amended, 1993, 226 § 44.
§ 93E, first sentence amnded, 1993, 226 E 45.
§ 108, subdivision 10 added, 1993, 110 § 200; paragraph 10 amended, 1993, 495 § 38.
§ 108F **repealed**, 1993, 110 § 201.
§ 110A revised, 1993, 466.
§ 111H added, 1993, 482 § 2.
§ 151, second clause revised, 1993, 226 § 46.
§ 174F added, 1993, 226 § 47.
§ 174G added, 1993, 226 § 47.
§ 174H added, 1993, 226 § 47.
§ 174I added, 1993, 226 § 47.
§ 174J added, 1993, 226 § 47.
§ 174K added, 1993, 226 § 47.
§§ 177F-177W added, 1993, 226 § 48.
§ 193L **repealed**, 1993, 226 § 49.
§ 193M **repealed**, 1993, 226 § 49.
§ 193N **repealed**, 1993, 226 § 49.
§ 193Q **repealed**, 1993, 226 § 50.
§ 193S **repealed**, 1993, 226 § 50A.
§ 206 added, 1993, 226 § 51. (*See 1993, 226 § 256.*)
§ 206A added, 1993, 226 § 51. (*See 1993, 226 § 256.*)
§ 206B added, 1993, 226 § 51. (*See 1993, 226 § 256.*)
§ 206C added, 1993, 226 § 51. (*See 1993, 226 § 256.*)
§ 206D added, 1993, 226 § 51. (*See 1993, 226 § 256.*)
§ 207 added, 1993, 226 § 51. (*See 1993, 226 § 51.*)
§ 208 added, 1993, 226 § 51. (*See 1993, 226 § 256.*)

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.

§ 10A amended, 1993, 110 § 202.

CHAPTER 175B - Unauthorized Insurer's Process Act.

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CHAPTER 175C - Urban Area Insurance Placement Facility.

CHAPTER 175D - Massachusetts Insurers Insolvency Fund.

CHAPTER 175E - Regulation of Rates for Optional Motor Vehicle Insurance.

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. (*See 1991, 516 § 6.*)

CHAPTER 175J - ADMINISTRATIVE SUPERVISION AND HAZARDOUS FINANCIAL CONDITIONS OF INSURITIES.

New chapter inserted, 1993, 226 § 52.

CHAPTER 176 - Fraternal Benefit Societies.

CHAPTER 176A - Non Profit Hospital Service Corporations.

§ 1A, third paragraph stricken out, 1993, 110 § 203.
§ 6 amended, 1993, 110 § 204; second paragraph amended, 1993, 445 § 39; third paragraph stricken out, 1993, 110 § 205.
§ 8, paragraph (8) added, 1993, 110 § 206; section amended, 1993, 495 § 40.
§ 8L revised, 1993, 384 § 4, 5. (*See 1993, 384 § 11.*)
§ 8O added, 1993, 332 § 2.
§ 8O added, 1993, 458 § 2.
§ 10 amended, 1993, 110 § 207.

CHAPTER 176B - Medical Service Corporations.

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§ 4, second paragraph amended, 993, 495 § 41; third and fourth paragraphs amended, 1993, 495 § 42; section amended, 1993, 110 §§ 208, 209; paragraph added, 1993, 110 210; last paragraph amended, 1993, 495 § 43.
§ 4K revised, 1993, 384 §§ 6, 7. (*See 1993, 384 § 11.*)
§ 4M added, 1993, 332 § 3.
§ 4O added, 1993, 458 § 3.
§ 6, paragraph added, 1993, 110 § 211; last paragraph amended, 1993, 495 § 44.

CHAPTER 176C - Non-Profit Medical Service Plans.

CHAPTER 176D - UNFAIR PRACTICES AND UNFAIR DECEPTION ACTS AND PRACTICES IN THE BUSINESS OF INSURANCE.

§ 3A amended, 1993, 110 § 212.

CHAPTER176E - Dental Service Corporations.

CHAPTER 176F - Optometric Service Corporations.

CHAPTER 176G - Health Maintenance Organizations.

§ 4, first paragraph, sentence added, 1993, 332 § 4.
§ 4D added, 1993, 384 § 8; **section revised**, 1993, 384 § 9. (*See 1993, 384 § 11.*)
§ 4F added 1993, 458 § 4.
§ 16, paragraph added, 1993, 110 § 213.
§ 18 **repealed**, 1993, 110 § 214.

CHAPTER 176H - Legal Service Plans.

CHAPTER 176I - PREFERRED PROVIDER ARRANGEMENTS.

New chapter inserted, 1988, 23 § 65. (*See 1988, 23 § 92.*)

CHAPTER 176J - SMALL GROUP HEALTH INSURANCE.
New chapter inserted, 1991, 495 § 42.

CHAPTER 176K - MEDICARE SUPPLEMENT INSURANCE PLANS.
New chapter inserted, 1993, 495 § 45.

CHAPTER 176L - RISK RETENTION AND RISK PURCHASING GROUPS.

New chapter inserted, 1993, 226 § 53.

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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.*)
§ 7, fourth paragraph, second sentence stricken out, 1993, 270 § 2.

CHAPTER 179 - Proprietors of Wharves, Real Estate lying in Common, and General Fields.

CHAPTER 180 - Corporations for Charitable and Certain Other Purposes.

CHAPTER 180A - Management of Institutional Funds.

CHAPTER 181 - Foreign Corporations.

CHAPTER 182 - Voluntary Associations and Certain Trusts.

CHAPTER 183 - Alienation of Land.

§ 60, first three paragraphs amended, 1993, 420 § 2.

CHAPTER 183A - Condominiums.

§ 6, subsection (c), paragraph added, 1993, 1 § 1.

CHAPTER 183A - REAL ESTATE TIME-SHARES.

New chapter inserted, 1987, 760 § 1. (*See 1987, 760 § 2.*)

CHAPTER 184 - General Provisions relative to Real Property.

CHAPTER 184A - The Rule against Perpetuities.

CHAPTER 184B - SHORT FORM TERMS FOR WILLS AND TRUSTS.

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CHAPTER 185 - The Land Court and Registration of Title to Land.

§ 78 amended, 1993, 460 § 57.
§ 80 amended, 1993, 460 § 58.

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.

CHAPTER 186 - Estates for Years and at Will.

CHAPTER 187 - Easements.

CHAPTER 188 - Homesteads.

CHAPTER 189 - Dower and Curtesy.

CHAPTER 190 - Descent and Distribution of Real and Personal Property.

§ 7 amended, 1993, 460 § 59.

CHAPTER 190A - Effect of Apparently Simultaneous Deaths Upon Devolution and Disposition of Property, including Proceeds of Insurance.

CHAPTER 191 - Wills.

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.

CHAPTER 193 - Appointment of Administrators.

§ 7, subsection (c) amended, 1993, 161 § 25.

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CHAPTER 194 - Public Administrators.

§ 4 amended, 1993, 161 § 41.
§ 6 amended, 1993, 161 § 27.

CHAPTER 195 - General Provisions relative to Executors and Administrators.

§ 16 amended, 1993, 161 §§ 28, 29.
§ 16A amended, 1993, 161 §§ 30, 31.

CHAPTER 196 - Allowances to Widows and Children, and Advancements.

CHAPTER 197 - PAYMENT OF DEBTS, LEGACIES AND DISTRIBUTIVE SHARES.

§ 9A, paragraph added, 1993, 319.

CHAPTER 198 - Insolvent Estates Of Deceased Persons.

§ 1 amended, 1993, 161 § 32.

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.

CHAPTER 201 - Guardians and Conservators.

§ 38, second paragraph revised, 1993, 480 § 1; section amended, 1993, 480 §§ 2, 3.

CHAPTER 201A - UNIFORM TRANSFER TO MINORS ACT. (Former title, Uniform Gifts to Minors Act.)

Title revised, 1987, 465 § 57.

CHAPTER 201B - UNIFORM DURABLE POWER OF ATTORNEY ACT.

CHAPTER 201C - STATUTORY CUSTODIANSHIP TRUSTS.

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CHAPTER 201D - HEALTH CARE PROXIES.

New chapter inserted, 1990, 332 § 1.
Title inserted, 1992, 286 § 252.

CHAPTER 202 - Sales, Mortgages and Leases of Real Estate by Executors, Administrators, Guardians and Conservators.

CHAPTER 203 - Trusts.

CHAPTER 203A - Uniform Common Trust Fund Act. (Former title, Collective Investment of Small Trust Funds.)

CHAPTER 203B - UNIFORM CUSTODIAL TRUST ACT.

New chapter inserted, 1993, 434 § 1. (*See 1993, 434 §§ 2,3.*)

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.

CHAPTER 208 - Divorce.

§ 28 amended, 1993, 460 § 60; third paragraph, sentence added, 1993, 460 § 61; paragraph added, 1993, 460 § 62.
§ 28A amended, 1993, 460 § 63.

CHAPTER 209 - Husband and Wife.

§ 32 amended, 1993, 460 § 64.
§ 32F, subsection (a) revised, 1993, 460 § 65.
§ 37, six sentences inserted, 1993, 460 § 66; paragraph added, 1993, 460 § 67.

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CHAPTER 209A - Abuse Prevention.

§ 10 added, 1993, 110 § 217; section amended, 1993, 151 § 49.

CHAPTER 209B - Massachusetts Child Custody Jurisdiction Act.

CHAPTER 209C - CHILDREN BORN OUT OF WEDLOCK.

§ 2 amended, 1993, 46 § 68.
§ 3, subsection (b) amended, 1993, 460 § 69; subsection (d) amended, 1993, 460 § 70.
§ 6, subsections (b) and (c) added, 1993, 46 § 71.
§ 8, second sentence inserted, 1993, 460 § 72.
§ 9, subdivision (a) amended, 1993, 460 § 73; section amended, 1993, 460 § 74; subsection (c) revised, 1993, 460 § 75; subsection (f) amended, 1993, 75A.
§ 10, subsection (b) amended, 1993, 460 § 76.
§ 11, subsection (a) revised, 1993, 460 § 77; subsection (d) amended, 1993, 460 § 78.
§ 12, last sentence amended, 1993, 460 § 79.
§ 17 amended, 1993, 460 §§ 80, 81; fifth sentence inserted, 1993, 460 § 82.
§ 20, sentence added, 1993, 460 § 83.
§ 22, subsection (a) revised, 1993, 460 § 84.

CHAPTER 210 - Adoption of Children and Change of Names.

CHAPTER 211 - The Supreme Judicial Court.

CHAPTER 211A - Appeals Court.

CHAPTER 211B - Trial Court of the Commonwealth.

§ 9 amended, 1993, 495 §§ 46, 47, 48, 49.
§ 10 amended, 1993, 495 § 50.

CHAPTER 211C - Commission on Judicial Conduct.

CHAPTER 211D - Committee for Public Counsel Services.

§ 12, two sentences inserted, 1993, 110 § 221.

CHAPTER 212 - The Superior Court.

CHAPTER 213 - Provisions Common to the Supreme Judicial and Superior Courts.

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(Former title, Equity Jurisdiction and Procedure in the Supreme Judicial and Superior Courts.)

§ 3, pararaph added, 1993, 71 § 63.

CHAPTER 215 - Probate Courts.

§ 4 amended, 1993, 460 § 85.

CHAPTER 216 - Courts of Insolvency.

CHAPTER 217 - Judges and Registers of Probate and Insolvency.

§ 29C added, 1993, 110 § 222.
§ 29D added, 1993, 110 § 223.

CHAPTER 218 - District Courts.

§ 8, second paragraph, first sentence amended, 1993, 50 § 24.
§ 10 amended, 1993, 495 §§ 51. 52, 53, 54, 55, 56, 57.
§ 27A, sentence added, 1993, 151 § 50.
§ 43D repealed, 478 § 2. *(See 1993, 478 § 7.)*

CHAPTER 219 - Trial Justices.

CHAPTER 220 - Courts and Naturalization.

CHAPTER 221 - Clerks, Attorneys and Other Officers of Judicial Court.

§ 62C, first paragraph, clause (i) stricken out, 1993, 182 § 24.

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.

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§ 3 amended, 1993, 460 § 86.

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.

§ 6C amended, 1993, 110 § 224.
§ 6I added, 1993, 110 § 225.
§ 85N amended, 1993, 415 § 2.
§ 85V amended, 1993, 331.
§ 140C½, first paragraph, sentence added, 1993, 407.

CHAPTER 231A - Procedure for Declaratory Judgments.

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CHAPTER 232A - Tender.

CHAPTER 233 - Witnesses and Evidence.

§ 23E added, 1993, 477 § 1.

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§ 4, three sentences inserted, 1993, 112 § 226.

CHAPTER 235 - Judgement and Execution.

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.

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.

§ 15A added, 1993, 382.

CHAPTER 245 - Informations by the Commonwealth.

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CHAPTER 249 - Audita Querela, Certiorari, Mandamus and Quo Warranto.

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CHAPTER 251 - Uniform Arbitration Act for Commercial Disputes. (Former title, Arbitration.)

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CHAPTER 253 - Mills, Dams and Reservoirs.

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CHAPTER 255 - Mortgages, Conditional Sales and Pledges of Personal Property, and Liens Thereon.

§ 31E, paragraph added, 1993, 9.

CHAPTER 255A - Trust Receipts and Pledges without Possession in the Pledgee.

CHAPTER 255B - Retail Installment Sales of Motor Vehicles.

§ 2, first sentence revised, 1993, 6.

CHAPTER 255C - Insurance Premium Finance Agencies.

CHAPTER 255D - Retail Installment Sales and Services.

§ 27, subsection B, clause (1) amended, 1993, 151 § 51; clause (3) amended, 1993, 151 § 52.

CHAPTER 255E - LICENSING OF CERTAIN MORTGAGE LENDERS AND BROKERS.

New chapter inserted, 1991, 144 § 3. (*See 1991, 144 § 5.*)
§ 2 amended, 1993, 464.

CHAPTER 256 - Recognizances for Debts.

CHAPTER 258 - 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.

CHAPTER 258 - Compensation of Victims of Violent Crimes.

Chapter repealed, 1993, 478 § 3. (*See 1993, 478 § 9.*)
§ 4, second paragraph revised, 1993, 479.

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CHAPTER 258B - Rights of Victims and Witnesses of Crime.

§ 4 amended, 1993, 478 § 4.
§ 6 revised, 1993, 110 § 228.
§ 9 amended, 1993, 478 § 5.

CHAPTER 258C - COMPENSATION OF VICTIMS OF VIOLENT CRIMES.

New chapter inserted, 1993, 478 § 6. (*See 1993, 478 § 8.*)

CHAPTER 259 - Prevention of Frauds and Perjuries.

CHAPTER 260 - Limitation of Actions.

§ 4C added, 1993, 307.

CHAPTER 261 - Costs in Civil Actions.

CHAPTER 262 - Fees of Certain Officers.

CHAPTER 263 - Rights of Persons Accused of Crime.

CHAPTER 264 - Crimes against Governments.

CHAPTER 265 - Crimes against the Person.

§ 13J added, 1993, 340 § 2.
§ 18C added, 1993, 333.

CHAPTER 266 - Crimes Against Property.

§ 91 amended, 1993, 439.
§ 120E added, 1993, 218 § 1.
§ 123 amended, 1993, 326.

CHAPTER 267 - Forgery and Crimes against the Currency.

CHAPTER 268 - Crimes against Public Justice.

§ 6 revised, 1993, 495 § 58.
§ 16 revised, 1993, 376 § 1.
§ 33A added, 1993, 482 § 21.

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CHAPTER 268A - Conduct of Public Officials and Employees. (Former title, Code of Ethics.)

§ 7, paragraph added, 1993, 301 § 1.

CHAPTER 268B - Financial Disclosure by certain Public Officials and Employees.

CHAPTER 269 - Crimes Against Public Peace.

CHAPTER 270 - Crimes Against Public Health.

§ 16, second paragraph revsed, 1993, 182 R 25.
§ 16A revised, 1993, 182 § 26.

CHAPTER 271 - Crimes against Public Policy.

§ 43, last sentence revised, 1993, 460 § 87.

CHAPTER 272 - Crimes against Chastity, Morality, Decency and Good Order.

§ 43A revised, 1993, 175 § 2.
§ 99, paragraph D, subparagraph 1, clause (e) added, 1993, 432 § 13.
§ 103 **repealed**, 1993, 279.

CHAPTER 273 - Desertion, Non-support and Illegitimacy.

§ 1, second paragraph, first sentence stricken out, 1993, 340 § 3; section amended, 1993, 460 § 88.
§ 3 amended, 1993, 460 § 89.
§ 15 amended, 1993, 460 § 91.
§ 15A amended, 1993, 1993, 92, 93, 94, 95.
§ 16 revised, 1993, 460 § 96.

CHAPTER 273A - Uniform Reciprocal Enforcement Of Support. (Former title, Enforcement of the Duty to Support Dependents.)

§ 1 amended, 1993, 460 §§ 97, 98, 99.
§ 3A added, 1993, 460 § 100.
§ 10, fourth paragraph stricken out, 1993, 460 § 101.
§ 10A added, 1993, 460 § 102.
§ 15B added, 1993, 460 § 103.

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CHAPTER 274 - Felonies, Accessories and Attempts to Commit Crimes.

CHAPTER 275 - Proceedings to Prevent Crimes.

CHAPTER 276 - Search Warrents, Rewards, Fugitives from Justice, Arrest, Examination, Committment and Bail, Probation Officers and Board of Probation.

§ 98 revised, 1993, 12 §§ 11, 12. (*See 1993, 12 §§ 13, 14.*)
§ 99 revised, 1993, 12 §§ 11, 12. (*See 1993, 12 §§ 13, 14.*)

CHAPTER 276A - District Court Pretrial Diversion of Selected Offenders.

CHAPTER 277 - Indictments and Proceedings before Trial.

CHAPTER 278 - Trials and Proceedings before Judgment.

§ 16E added, 1993, 417.

CHAPTER 279 - Judgment and Execution.

§ 17 **repealed**, 1993, 432 § 14. (*See 1993, 432 § 21.*)
§ 18 **repealed**, 1993, 432 § 15. (*See 1993, 432 § 21.*)
§ 24 revised, 1993, 432 § 16.
§ 28 **repealed**, 1993, 432 § 17. (*See 1993, 432 § 21.*)
§ 31 **repealed**, 1993, 432 § 18. (*See 1993, 432 § 21.*)
§ 32 **repealed**, 1993, 432 § 19. (*See 1993, 432 § 21.*)
§ 33 **repealed**, 1993, 432 § 20. (*See 1993, 432 § 21.*)
§ 42, second paragraph revised, 1993, 182 § 27.

CHAPTER 280 - Fines and Forfeitures.

§ 6, second and third paragraphs revised, 1991, 138 § 214. (*See 1991, 214 § 393.*)
§ 82, second and third paragraphs revised, 1991, 138 § 215. (*See 1991, 138 § 393.*)

CHAPTER 281 - The General Laws And Their Effect.