ACTS

AND

RESOLVES

PASSED BY THE

General Court of Massachusetts

IN THE YEAR

1996

VOLUME I

PUBLISHED BY

William Francis Galvin

SECRETARY OF THE COMMONWEALTH

The General Court, which was chosen November 8, 1994, assembled on Wednesday, the third day of January, 1996 for the first session.

His excellency, William F. Weld and his Honor Argeo Paul Cellucci served as Governor and Lieutenant Governor respectively for the political year of 1996.

1996 ACTS AND RESOLVES

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Secretary of the Commonwealth

Chapter 1. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JEANNE JEFFERY, AN EMPLOYEE OF THE TRIAL COURT AND EXTENDING A CERTAIN PILOT PROGRAM IN THE COUNTY OF ESSEX AND THE COUNTY OF NORFOLK.

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:

SECTION 1. 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 Jeanne Jeffery, an employee of the Norfolk county division of the probate and family 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 Jeanne Jeffery.

SECTION 2. Section 2 of chapter 220 of the acts of 1994 is hereby amended by striking out after the word "of", in line 2, the second time it appears, the word "one" and inserting in place thereof the following word:- two.

This chapter was passed by the General Court during the 1995 session and signed by the Governor in the 1996 session.

Approved January 3, 1996.

Chapter 2. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND NOTES TO BE ISSUED BY THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to facilitate the issuance of bonds and notes to carry out the purposes of various acts passed by the general court, 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 any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter two hundred and forty-three of the acts of nineteen hundred and ninety-five, providing for funding a Settlements and Judgements Loan, shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty, as recommended by the governor in a message to the general court dated December sixth, nineteen hundred and ninety-five, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 2. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter two hundred and sixty-seven of the acts of nineteen hundred and ninety-five, providing for funding a Higher Education Capital Outlay Loan, shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty, as recommended by the governor in a message to the general court dated December sixth, nineteen hundred and ninety-five, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 3. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four of chapter two hundred and forty-three of the acts of nineteen hundred and ninety-five, shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and one, as recommended by the governor in a message to the general court dated December sixth, nineteen hundred and ninety-five, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 4. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four of chapter two hundred and sixty-seven of the acts of nineteen hundred and ninety-five, shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and one, as recommended by the governor in a message to the general court dated December sixth, nineteen hundred and ninety-five, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

This chapter was passed by the General Court during the 1995 session and signed by the Governor in the 1996 session.

Approved January 5, 1996.

Chapter 3. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND 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 bonds and notes to carry out the purposes of a certain act passed by the general court, 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 any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter one hundred and thirty-four of the acts of nineteen hundred and ninety-five, shall be issued for a term not to

exceed five years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and ten, as recommended by the governor in a message to the general court dated November second, nineteen hundred and ninety-five, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 2. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four of chapter one hundred and thirty-four of the acts of nineteen hundred and ninety-five, shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and two, as recommended by the governor in a message to the general court dated November second, nineteen hundred and ninety-five, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

This chapter was passed by the General Court during the 1995 session and signed by the Governor in the 1996 session.

Approved January 8, 1996.

Chapter 4. AN ACT RELATIVE TO THE APPOINTMENT OF THE TOWN MANAGER IN THE TOWN OF SHREWSBURY.

Be it enacted, etc., as follows:

Section 7 of chapter 559 of the acts of 1953 is hereby amended by striking out, in lines 13 and 14, the words "or appointive".

This chapter was passed by the General Court during the 1995 session and signed by the Governor in the 1996 session.

Approved January 8, 1996.

Chapter 5. AN ACT RELATIVE TO THE RETIREMENT PROGRAM OF THE MASSACHUSETTS PORT AUTHORITY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is relative to the retirement program of the Massachusetts Port 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:

Chapter 133 of the acts of 1992 is hereby amended by striking out section 49 and inserting in place thereof the following section:-

Section 49. The board of directors established by chapter four hundred and sixty-five

of the acts of nineteen hundred and fifty-six is hereby authorized to design and implement an early retirement program for its employees; provided, however, that retirement under said program must occur between the period of September first, nineteen hundred and ninety-two through August thirty-first, nineteen hundred and ninety-three or January first, nineteen hundred and ninety-six through December thirty-first, nineteen hundred and ninety-six.

This chapter was passed by the General Court during the 1995 session and signed by the Governor in the 1996 session.

Approved January 8, 1996.

Chapter 6. AN ACT RELATIVE TO THE ADMINISTRATION OF THE HYANNIS FIRE DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 313 of the acts of 1984, as amended by section 1 of chapter 419 of the acts of 1993, is hereby further amended by striking out the third paragraph.

SECTION 2. This act shall take effect upon its acceptance by a regular or special meeting of the Hyannis Fire District.

This chapter was passed by the General Court during the 1995 session and signed by the Governor in the 1996 session.

Approved January 10, 1996.

Chapter 7. AN ACT AUTHORIZING THE POSTPONEMENT OF A SPECIAL DEBT EXCLUSION ELECTION IN THE TOWN OF WAKEFIELD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of paragraph (m) of section twenty-one C of chapter fifty-nine of the General Laws or any other general or special law or by-law to the contrary, the debt exclusion election scheduled to be held in the town of Wakefield on Tuesday, January ninth, nineteen hundred and ninety-six is hereby authorized to be held on Monday, January twenty-second, nineteen hundred and ninety-six, consistent with the authorization received from Robert A. Mulligan, chief justice of the superior court on January eighth, nineteen hundred and ninety-six, provided, however, that absentee ballots received on or before January twenty-second, nineteen hundred and ninety-six, including those received on or before January ninth, nineteen hundred and ninety-six, shall be processed and counted and the results of the election shall be valid notwithstanding its postponement.

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

Approved January 16, 1996.

Chapter 8. AN ACT FURTHER PROTECTING THE CONFIDENTIALITY OF PATIENTS.

Be it enacted, etc., as follows:

SECTION 1. Paragraph (c) of section 47B of chapter 175 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following sentence:- No company shall require consent to the disclosure of information, other than patient name, diagnosis and date and type of service as a condition to receiving benefits mandated by this paragraph.

SECTION 2. Section 108 of said chapter 175, as so appearing, is hereby amended by adding the following subdivision:-

11. An insurer shall not refuse to contract with or compensate for covered services an otherwise eligible provider or nonparticipating provider solely because such provider has in good faith communicated with one or more of his current, former or prospective patients regarding the provisions, terms or requirements of the insurer's products as they relate to the needs of such provider's patients.

SECTION 3. Section 108E of said chapter 175, as so appearing, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

No company may, without the express and informed written consent of its insured or a covered family member of the insured acquired at the first notice of claim as defined in subdivision (G) of section one hundred and ten, disclose any information it may have acquired from or about any such insured or covered family member pertaining to the administration of benefits provided for expenses arising from the outpatient diagnosis or treatment or both of mental or nervous conditions; provided, however, that such informed consent shall include notification to the subscriber or covered family member of the right not to give such consent pursuant to clause (a); and, provided further, that:.

SECTION 4. Section 110 of said chapter 175, as so appearing, is hereby amended by adding the following subdivision:-

(M) An insurer authorized to issue or deliver within the commonwealth any general or blanket policy of insurance under the provisions of this section shall not refuse to contract with or compensate for covered services an otherwise eligible provider or nonparticipating provider solely because such provider has in good faith communicated with one or more of his current, former or prospective patients regarding the provisions, terms or requirements of the insurer's products as they relate to the needs of such provider's patients.

SECTION 5. Paragraph (c) of section 8A of chapter 176A of the General Laws, as so appearing, is hereby amended by adding the following two sentences:- No nonprofit hos-

pital service corporation shall require consent to the disclosure of information, other than the patient name, diagnosis and date and type of service as a condition to receiving benefits mandated by this paragraph. As used in this section, the word "diagnosis" shall mean a condition sufficient to meet diagnostic criteria specified within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

SECTION 6. Said chapter 176A is hereby further amended by inserting after section 8A the following section:-

Section 8A½. No nonprofit hospital service corporation shall acquire or disclose any communications by a subscriber to a psychotherapist arising out of the outpatient diagnosis or treatment of a mental or nervous condition without the express and informed written consent of the subscriber acquired at the first notice of claim as defined in subdivision (G) of section one hundred and ten of chapter one hundred and seventy-five; provided, however, that such informed consent shall include notification to the subscriber of the right not to give such consent pursuant to clause (a) of section one hundred and eight E of said chapter one hundred and seventy-five.

SECTION 7. Paragraph (c) of section 4A of chapter 176B of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following two sentences:- No medical service corporation shall require consent to the disclosure of information other than the patient name, diagnosis and date and type of service as a condition to receiving benefits mandated by this paragraph. As used in this section, the term diagnosis shall mean a condition sufficient to meet diagnostic criteria specified within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

SECTION 8. Said chapter 176B is hereby further amended by inserting after section 4A½ the following section:-

Section 4B. No medical service corporation shall acquire or disclose any communications by a subscriber to a psychotherapist arising out of the outpatient diagnosis or treatment of a mental or nervous condition without the express and informed written consent of the subscriber acquired at the first notice of claim as defined in subdivision (G) of section one hundred and ten of chapter one hundred and seventy-five; provided, however, that such informed consent shall include notification to the subscriber of the right not to give such consent pursuant to clause (a) of section one hundred and eight of said chapter one hundred and seventy-five.

SECTION 9. Section 7 of said chapter 176B, as appearing in the 1994 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- A medical service corporation shall not refuse to contract with or compensate for covered services an otherwise eligible provider solely because such provider has in good faith communicated with one or more of his current, former or prospective patients regarding the provisions, terms or requirements of the medical service corporation's products as they relate to the needs of such provider's patients.

SECTION 10. Section 4B of chapter 176G of the General Laws, as so appearing,

is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

No health maintenance organization shall acquire or disclose any communication by a member to a psychotherapist arising out of the outpatient diagnosis or treatment of a mental or nervous condition without the express and informed written consent of the member; provided, however, that:.

SECTION 11. Section 6 of said chapter 176G, as so appearing, is hereby amended by adding the following sentence:- A health maintenance organization shall not refuse to contract with or compensate for covered services an otherwise eligible provider solely because such provider has in good faith communicated with one or more of his current, former or prospective patients regarding the provisions, terms or requirements of the organization's products as they relate to the needs of such provider's patients.

SECTION 12. The first paragraph of section 2 of chapter 176I of the General Laws, as so appearing, is hereby amended by adding the following sentence:- An organization shall not refuse to contract with or compensate for covered services an otherwise eligible participating or nonparticipating provider solely because such provider has in good faith communicated with one or more of his current, former or prospective patients regarding the provisions, terms or requirements of the organization's products as they relate to the needs of such provider's patients.

This chapter was passed by the General Court during the 1995 session and signed by the Governor in the 1996 session.

Approved January 19, 1996.

Chapter 9. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF DEDHAM.

Be it enacted, etc., as follows:

SECTION 1. Article 3 of the charter of the town of Dedham, 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 adding the following section:-

Section 3-15. RECALL OF ELECTED OFFICIALS.

(*a*) Who can be Recalled - Any holder of an elective town office, as defined in section 3-1 (*a*), with more than six months remaining of the term for which elected, may be recalled therefrom by the voters as herein provided.

(*b*) Recall Petition - Any two hundred fifty voters may file with the town clerk an affidavit bearing the name of the officer sought to be recalled and a statement of the grounds for recall. An affidavit shall contain the names of at least twenty-five voters from each district into which the town is divided. If, within three days following such submission said affidavits are found by the registrars of voters to be sufficient and valid, and, if on said date the candidate whose recall is sought has at least six months remaining of the term for which

elected, the town clerk shall forthwith make available to the first ten voters making the affidavit copies of petition blanks demanding such recall, printed forms of which shall be kept available. When issued the blanks shall contain the signature and official seal of the town clerk and may be completed by printing or typewriting. They shall be dated, shall be addressed to the selectmen and shall contain the names of the ten persons first named on the said affidavit, the name of the person whose recall is sought, the grounds for 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 town clerk. The recall petition shall be returned and filed with the town clerk within twenty-one days following the date they are issued and shall have been signed by at least one thousand two hundred and fifty voters, not more than twenty-five percent of which shall be voters in any one district into which the town is divided. In signing such petitions voters 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, but in no event more than five days after receipt, certify thereon the number of signatures which are the names of voters.

(*c*) Selectmen's Action on Receiving Petition - If the petition shall be found and certified by the registrars of voters to be sufficient they shall submit the same with their certificate to the board of selectmen without delay, and the board of selectmen shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by it not less than sixty days nor more than seventy-five days after the date of the registrars' 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, 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.

(*d*) Nomination of Candidates - The officer whose recall is sought may be a candidate at the recall election, and unless such officer has resigned the office or requests otherwise in writing, the town clerk shall place the officer's name on the official ballots without nomination. 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 in this section.

(*e*) Incumbent Holds Office Until Election - The incumbent shall continue to perform the duties of the office until the recall election. If not then recalled, such person shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in this section. If recalled, such person shall be deemed removed.

(*f*) Recall Election - Ballots used in a recall election shall contain the names of all candidates nominated as hereinbefore provided, arranged as provided in section 6-12 (*c*). The candidate receiving the highest number of votes shall be declared elected. If the incumbent receives the highest number of votes, the incumbent shall be deemed not recalled.

If a person other than the incumbent receives the highest number of votes, the incumbent shall be deemed recalled; in such case the person receiving the highest number of votes shall, upon qualification, serve for the balance of the unexpired term. If such successor shall fail to qualify within five days after receiving notification of election, the office shall be deemed to be vacant and shall be filled in the manner provided in section 6-13; provided, however, that if fewer than three thousand voters participate at the election, no votes need be counted and the election shall be deemed to have determined that the incumbent should not be recalled.

(*g*) Repeat of Recall Petition - No recall petition shall be filed against an officer within six months after taking office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least six months after the election at which the recall was submitted to the voters.

(*h*) Appointment of Person Recalled - No person who has been recalled from an office, or who has resigned from office while recall proceedings were pending against them, shall be appointed to any town office within two years after such recall or such resignation. Resignation at any time after a recall affidavit has been certified by the board of registrars of voters as being valid shall be deemed to be while recall proceedings were pending.

SECTION 2. This act shall be submitted for acceptance to the voters of the town of Dedham at the annual town election to be held in the year nineteen hundred and ninety-six in the form of the following question which shall be placed on the official ballot to be used for the election of town officers at said election, "Shall an act passed by the general court in the year nineteen hundred and ninety-five, entitled 'An Act providing for recall elections in the town of Dedham' be accepted?" which question shall be followed by a brief summary of the amendment to be prepared by the town counsel.

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 January 31, 1996.

Chapter 10. AN ACT PROVIDING FOR THE APPOINTMENT OF A TREASURER-COLLECTOR IN THE TOWN OF TOPSFIELD.

Be it enacted, etc., as follows:

SECTION 1. The town treasurer and collector of the town of Topsfield 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 offices of town treasurer and town collector.

SECTION 2. Notwithstanding the provisions of section one, the incumbent in the office of town treasurer and collector on 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 31, 1996.

Chapter 11. AN ACT PROVIDING FOR THE APPOINTMENT OF A TREASURER-COLLECTOR IN THE TOWN OF DENNIS.

Be it enacted, etc., as follows:

SECTION 1. Chapter two hundred and nineteen of the acts of nineteen hundred and ninety-five is hereby repealed.

SECTION 2. The office of treasurer-collector of the town of Dennis is hereby established. Said treasurer-collector 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 vested in the office of treasurer and the office of collector. A vacancy in said office shall be filled in a like manner for the unexpired portion of the term.

SECTION 3. The incumbents in the offices 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 their terms and the appointment of a treasurer-collector or a precedent vacating of office.

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

Approved January 31, 1996.

Chapter 12. AN ACT RELATIVE TO THE EXPANSION, UPKEEP, AND REINVESTMENT IN THE CORRECTIONAL FACILITIES OF THE COMMONWEALTH AND THE COUNTIES, CERTAIN STATE POLICE FACILITIES, AND THE FACILITIES OF THE DEPARTMENT OF YOUTH SERVICES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide funds for the expansion, upkeep and reinvestment in the existing correctional facilities in the commonwealth, county houses of correction and department of youth services facilities, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for planning and studies, acquisition of land and buildings and interests therein by purchase or eminent domain pursuant to chapter seventy-nine of the General Laws, the preparation of plans and specifications, construction, renovation, reconstruction, alteration, improvement, demolition, expansion, repair, and furnishings and

equipment, the sums set forth in section two, for the several purposes and subject to the conditions of this act, are hereby made available, subject to the provisions of law regulating the disbursement of public funds.

SECTION 2.

JUDICIARY.

Trial Court.

0330-8968 For the implementation of a program of intermediate sanctions; provided, that not less than two million dollars shall be expended for the purchase of equipment for intermediate sanctions programs; provided further, that two hundred fifty thousand dollars shall be made available to the Barnstable county probation department for the capital costs of an intermediate sanctions program; provided further, that eight hundred thousand dollars shall be expended for electronic monitoring equipment for the Essex county correctional alternative center; provided further, that not less than five hundred thousand dollars shall be expended for the purchase of equipment for the Suffolk county courts' community service program, so-called; provided further, that not less than five million dollars shall be expended for equipment for treatment of substance abusers; provided further, that not more than two percent of the funds authorized herein may be expended for the administration and implementation of the capital projects funded herein; and provided further, that said chief justice shall submit a report detailing said administrative expenditures to said committees; and provided further, that any program receiving funds authorized herein shall submit to the chief justice for administration and management of the trial court a plan detailing the planned expenditure of said funds prior to the receipt of said funds $15,000,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Division of Capital Planning and Operations.

1102-7967 For planning and studies, acquisition of land and buildings and interests therein, the preparation of plans and specifications, construction, renovation, reconstruction, alteration, improvement, demolition, expansion, repair and furnishings and equipment, for county correctional facilities as provided for herein; provided, that not less than twenty million dollars shall be expended for the Barnstable county jail and house of correction; provided further, that Barnstable county is hereby authorized to build a two hundred and twenty-two bed facility with said funds or to apply said funds, with the consent of the secretary of the executive of-

fice of public safety, to the planning, design and site work for up to a five hundred bed facility; provided, however, that nothing herein shall be construed to commit the commonwealth to funding the costs in addition to those authorized herein; provided further, that not less than twenty-six million dollars shall be expended for the construction of the Berkshire county jail and house of correction to be located in the town of Pittsfield as a part of a parcel of land bounded on the north by the Pittsfield/ Lanesborough town line, on the east by Cheshire road (Route 8) and on the west by Partridge road; provided further, that not less than twenty-two million dollars shall be expended for the Essex county jail and house of correction; provided further, that not less than twenty-one million dollars shall be expended for the Franklin county jail and house of correction; provided further, that not less than forty million dollars shall be expended for the Middlesex county jail and house of correction in Billerica; provided further, that not less than ten million dollars shall be expended for the Norfolk county jail and house of correction; provided further, that not less than twenty million dollars shall be expended for the Suffolk county jail and house of correction; provided further, that not less than eighteen million dollars shall be expended for the Worcester county jail and house of correction; provided further, that not less than fifteen million dollars shall be expended for the development of a one hundred and twenty-five cell women's facility in Hampden county; provided further, that eighty thousand dollars shall be provided to Hampden county for the purchase of an inmate telephone recording system; provided further, that six hundred and fifty thousand dollars shall be expended for the Western Massachusetts Law Enforcement Community application for the purchase of a mobile data system; provided, that not more than twenty-five thousand dollars of the amount made available in this section shall be expended for a study relative to the feasibility of establishing a new facility or renovating the existing jail facility in Dukes county for use as a regional lock-up facility provided further, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 attri-

butable to the programs or projects funded herein, including the costs of clerical and support personnel; and provided further, that the commissioner of the division of capital planning and operations shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $192,755,000

1102-8968 For planning and studies, acquisition of land and buildings and interests therein, the preparation of plans and specifications, construction, renovation, reconstruction, alteration, improvement, demolition, expansion, repair and furnishings and equipment, for infrastructure, waste management projects and life safety and other facility improvements at state and county correctional facilities; provided, that not less than sixty percent of the amount authorized in this item shall be expended for state correctional facilities; provided further, that not less than forty percent of the amount authorized in this item shall be expended for county correctional facilities; provided further, that seven hundred fifty thousand dollars shall be expended for the demolition of the Norfolk county facility located in the town of Dedham; provided further, that not less than two million five hundred thousand dollars be expended for the Essex county correctional alternative center in the city of Lawrence; provided further, that not less than seven hundred fifty thousand dollars shall be expended for the demolition of the Essex county facility located in said city of Lawrence; provided further, that not less than two million dollars be expended for the connection of the Middlesex county jail and house of correction in the town of Billerica to the town of Billerica's municipal sewer system; provided further, that the division of capital planning and operations shall dismantle and remove the existing treatment plant currently servicing the Middlesex county jail and house of correction in Billerica and ensure that the site is returned to an environmentally safe condition; provided further, that one hundred and fifty thousand dollars shall be allocated for upgrading the farm facilities at Massachusetts correctional institute known as the Northeast correctional center in the town of Concord; provided further, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 a-

mount not to exceed two percent of the amount authorized herein may be expended for the administrative costs directly attributable to the programs or projects funded herein, including the costs of clerical and support personnel; and provided further, that the commissioner of the division of capital planning and operations shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item ... $91,000,000

1102-8969 For grants to communities hosting state correctional facilities impacted by inmate capacity increases; provided, that the secretary of the executive office of public safety, in consultation with the commissioner of the division of capital planning and operations, is authorized to issue funds authorized herein as grants to communities at a rate of ten thousand dollars for each new secure general population cell at state facilities; provided further, that all grants shall be used for publicly-owned capital projects within the communities; provided further, that not less than nine hundred and sixty thousand dollars shall be provided to communities impacted by prior year prison expansion at Massachusetts correctional institution at Norfolk; provided further, that not less than one million six hundred thousand dollars shall be provided to communities impacted by prior year prison expansion at the Massachusetts correctional institution at Cedar Junction; provided further, that not less than three million dollars shall be provided to communities impacted by increased medium security capacity at correctional facilities located in the town of Bridgewater; provided further, that not less than five hundred thousand dollars shall be provided to the host communities impacted by prior year prison expansion at the Massachusetts correctional institution at Lancaster; provided further, that not less than two million five hundred thousand dollars shall be provided to the host communities impacted by prior year prison expansion at the Massachusetts correctional institution at Shirley; provided further, that twelve million six hundred and eighty thousand dollars may be authorized for grants to communities impacted by inmate capacity increases due to authorizations in item 8900-7967 of section two; provided further, that said grant money awarded for the expansion of the Massachusetts correctional institution at Shirley shall be divided equally between the towns of Shirley and Lancaster; provided further, that unless otherwise provided for in this item, said grant money shall be paid to communities within six months of the occupancy

of the facilities constructed with funds authorized by this act; provided further, that the department of correction, in conjunction with the department of public health and the department of education, shall conduct a study into the biological causes of crime based on the premise that scientists have been studying biological risk factors which they believe predispose individuals to criminal behavior; provided further, that said study should incorporate these findings to work toward a more effective approach toward criminology; provided further, that the results of said study shall be submitted to the general court no later than June thirtieth, nineteen hundred and ninety-six $21,240,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Department of Youth Services.

4200-8968 For the expansion and improvement of the facilities of the department of youth services; provided, that of the amount authorized herein, not less than six million dollars shall be expended for the establishment of three fifty-bed juvenile bootcamps, so-called, to be operated by said department to serve the youth committed to said department and youth in the custody of the juvenile courts; provided further, said department in consultation with the juvenile court, shall draft regulations governing the operation of said bootcamps; provided further, that all bootcamp programs, may, subject to further appropriation, include appropriate follow-up services for participants, including job search, counseling, continued substance treatment, drug testing and housing search; provided further, that said department shall conduct follow-up interviews with each participant within six months of departure to evaluate the success of the program; provided further, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the commissioner of the department of youth services shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged

to this item $37,684,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Department of State Police.

8199-7966 For repairs, improvements, and maintenance of existing state police stations; provided, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the department of state police shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $3,000,000

8199-7967 For the planning and studies, acquisition of land and buildings and interests therein, the preparation of plans and specifications, construction, renovation, reconstruction, alteration, improvement, demolition, expansion, repair and furnishings and equipment, for new state police facilities; provided, that not less than five million dollars authorized herein shall be allocated for the state police facility in the town of Dartmouth; provided further, that not less than five million dollars authorized herein shall be allocated for the construction of a state police facility in the town of Millbury; provided further, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the department of state police shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $10,000,000

Department of Correction.

8900-7967 For the planning and studies, acquisition of land and buildings and

interests therein, the preparation of plans and specifications, construction, renovation, reconstruction, alteration, improvement, demolition, expansion, repair and furnishings and equipment, for the improvement and the expansion of capacity at state correctional facilities; provided, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the commissioner of the department of correction shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $115,571,860

SECTION 3. To meet the expenditures necessary in carrying out the provisions of section two, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor, from time to time, but not exceeding in the aggregate, the sum of four hundred eighty-six million, two hundred fifty thousand, eight hundred sixty dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Criminal Justice, Youth Services and Prison Expansion Loan Act of 1996, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-one. All interest and payments on account of principal of such obligations shall be payable from the General Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 4. The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by section two and may issue and renew from time to time notes of the commonwealth thereof bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such 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 final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and one. Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general

obligations of the commonwealth.

SECTION 5. The commissioner of the division of capital planning and operations is hereby authorized to acquire by purchase, or eminent domain pursuant to chapter seventy-nine of the General Laws, or otherwise, any and all interests in land and buildings deemed necessary by said commissioner to carry out the purposes of this act, including, but not limited to, land and buildings necessary to construct and operate facilities in accordance with this act, easements for drainage, access, utilities, environmental mitigation, and other purposes, as deemed necessary by the commissioner of the division of capital planning and operations to carry out the purposes of this act.

SECTION 6. The commissioner of the division of capital planning and operations is hereby authorized, notwithstanding chapter seven of the General Laws, to grant easements for drainage, access, utilities and other purposes, as deemed necessary by the commissioner to carry out the purposes of this act.

SECTION 7. Section 7 of chapter 150E of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 8 and 9, the words ", the chief justice for administration and management of the trial court".

SECTION 8. Said section 7 of said chapter 150E, as so appearing, is hereby further amended by striking out, in lines 23 and 24, the words ", the chief justice for administration and management of the trial court".

SECTION 9. The General Laws are hereby amended by inserting after chapter 211D the following two chapters:-

CHAPTER 211E.

MASSACHUSETTS SENTENCING COMMISSION.

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 assistant district attorneys, 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 because of their public office or position shall end when the member leaves such 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 that 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 who serve on the commission and shall not be required to resign their judicial appointments.

(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 chapter, 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 programmatic, budgetary and capital matters that the commission finds to be necessary and advisable to carry out the purposes of this chapter;

(9) hold hearings and call witnesses to assist the commission in the exercise of its powers or duties.

(d) Except as hereinafter provided, 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 trial court 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 its basis;

(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, on correctional facility capacity of the discontinuation of sentence reductions for good conduct;

(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 chapter and existing law, shall recommend sentencing guidelines, which shall take effect only if enacted into law.

(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), 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). 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 imprisonment may not be necessary or appropriate. In establishing such intermediate sanctions, the commission shall make specific reference to non-institutional sanctions, including but not limited to: standard probation, intensive supervision probation, community service, home confinement, weekend jail sentences, day reporting, residential programming, substance abuse treatment, restitution, means-based fines, continuing education, including but not limited to the "Changing Lives Through Literature" program administered by the trial court and the University of Massachusetts at Dartmouth, vocational training, special education, and psychological counseling; provided, however, that in no event shall a state employee be replaced by an offender serving an intermediate sanction.

(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.

(E) The circumstances, if any, under which substance abuse treatment may be mandated, and the circumstances under which substance abuse treatment may be offered to an offender for voluntary participation.

(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 not be bound by any existing mandatory maximum or minimum term prescribed by statute and may recommend target sentences that exceed existing mandatory maximum terms or that fall below existing mandatory minimum terms. 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 discontinuation of sentence reductions for good conduct. The commission shall promulgate guidelines regarding participation in work release, education, training, employment or treatment programs outside correctional facilities. 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), 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 that describe the nature and circumstances of the offense;

(2) factors that describe the offender's mental state at the time of the offense;

(3) factors that describe the relationship, if any, between the offender and victim;

(4) factors that 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) Except for the crimes set forth in section one of chapter two hundred and sixty-five, the sentencing judge may depart from the range established by the sentencing guidelines 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 this section, 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 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 submit to the legislature proposed amendments to the sentencing guidelines. Such amendments shall be accompanied by a report stating the reasons therefor. The amendments to the guidelines shall take effect only if enacted into law.

(h) The chief justice for administration and management, in consultation with the sentencing 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 judge shall complete the statement for every sentence imposed. If the sentencing judge imposes a sentence that departs from the range established by the guidelines, he shall, in the sentencing statement, give the facts, circumstances, evidence, opinions and any other matters considered by him to support the mitigating circumstances justifying the imposition of a sentence different from the one otherwise prescribed by the guidelines or below any applicable mandatory minimum term. One copy of the sentencing statement shall be forwarded by the court to the commission, 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 any sentencing guidelines enacted into law 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) A person sentenced to a term of imprisonment as prescribed by any sentencing guidelines enacted into law 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.

(k) The commission shall provide a public hearing and opportunity for public comment on its sentencing guidelines prior to submitting said guidelines to the legislature.

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.

CHAPTER 211F.

OFFICE OF COMMUNITY CORRECTIONS.

Section 1. The following terms as used in this chapter shall have the following meanings:

"Chief justice", the chief justice for administration and management of the trial court.

"Commission", the Massachusetts sentencing commission.

"Community corrections program", any program that is operated by a state, local or private service agency, that has been deemed an appropriate intermediate sanctions program by the office of community corrections.

"Intermediate sanctions program", any program that has been determined to impose an appropriate sanction upon an offender for whom imprisonment may not be necessary or appropriate, including but not limited to standard probation, intensive supervision probation, community service, home confinement, weekend jail sentences, day reporting, residential programming, substance abuse treatment, restitution, means-based fines, continuing education, including but not limited to the "Changing Lives Through Literature" program administered by the trial court and the University of Massachusetts at Dartmouth, vocational training, special education, and psychological counseling.

"Community corrections plan", a written proposal submitted to the executive director of the office of community corrections for approval and funding as a community corrections program.

"Executive director", the executive director of the office of community corrections.

Section 2. (a) There is hereby established subject to appropriation within the office of the chief justice for administration and management of the trial court an office of community corrections, whose purpose is to establish a continuum of community corrections programs and services statewide. The goal of this chapter is to ensure and promote public safety by developing community corrections programs for appropriate offenders.

(b) The executive director of the office of community corrections shall be appointed by the chief justice for administration and management of the trial court to establish, oversee and operate a statewide program of community corrections.

(c) The executive director shall operate subject to the direction and approval of the chief justice for administration and management of the trial court. Said executive director shall work in consultation with the commission, the department of probation, the department of corrections, the parole board and the county sheriffs to ensure consistency between sentencing guidelines and community corrections. The office shall, to the extent practicable, utilize existing resources of the administrative office of the Massachusetts courts for the purpose of avoiding unnecessary duplication.

Section 3. (a) Any court exercising jurisdiction is authorized to sentence any eligible offender to a community corrections program; provided, however, that the court designate the duration of the sentence of imprisonment that otherwise would have been imposed.

(b) The court may dictate the duration and conditions of the sentence in a community corrections program for any period of time consistent with existing law.

(c) A sentence to a community corrections program shall be imposed as a condition of probation consistent with chapters two hundred and seventy-six and two hundred and seventy-six A. The court may modify the sentence of an offender serving a sentence in a community corrections program in the same manner as if the offender had been placed on probation.

(d) The chief justice shall develop interim standards for the eligibility of offenders

for community corrections, taking into consideration the following factors:

(1) the nature and circumstances of the offense;

(2) the offender's mental state at the time of the offense;

(3) the relationship, if any, between the offender and victim;

(4) 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 age of the offender;

(8) the deterrent effect a particular sentence may have on the commission of the offense by others;

(9) the current incidence of the offense in the community and in the commonwealth as a whole;

(10) the role of the offender in cases involving multiple offenders;

(11) the mental and emotional condition of the offender;

(12) the offender's physical condition;

(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;

(17) the offender's amenability to correction, treatment, or supervision;

(18) the offender's past criminal history, including convictions, acquittals, guilty pleas, pleas of nolo contendere, dismissals and matters continued without a finding;

(19) the offender's arrest record;

(20) the offender's past history of violence.

No offender shall be eligible for sentencing to a community corrections program who is: (1) convicted of a crime that results in serious bodily harm or death to another person, excluding offenses in which negligence was the primary element, (2) convicted of rape, attempted rape, or sexual assault, or (3) convicted of a crime involving the use of a firearm.

Section 4. (a) The executive director is hereby authorized and directed to develop and implement standards for a contracting process for community corrections plans, as follows:

(1) A community corrections plan shall include:

(A) a description of its goals and anticipated reductions in incarcerations, including the types and number of targeted offenders to participate in the program;

(B) a description of the administrative, capital and operating costs of the programs and supplemental funding sources, including the imposition of user fees to defray program costs;

(C) a description of methods for supervision of offenders and measures for the maintenance of public safety;

(D) a description of measures to collect restitution payments to victims.

(2) Subject to appropriation, the executive director, shall select plans for funding. All contracts shall provide that the executive director may suspend funding or may assume

administrative responsibility for any community corrections program not in compliance with program standards, or if the public safety is threatened.

(3) The executive director shall monitor programs for compliance with the goals of chapter two hundred and eleven E of the General Laws, and shall provide technical assistance, training and education to providers in developing and operating community corrections programs.

(4) Continued funding shall be subject to appropriation, and eligibility for continued funding shall be contingent on provider compliance with the goals, standards and procedures established by the commission, and on an evaluation by the executive director of the effectiveness of the program. Each provider shall submit a biannual report no later than March fifteenth and August fifteenth of each year to the county community corrections advisory board, to the executive director and to the commission.

(b) Subject to an agreement between the chief justice and the secretary of public safety and subject to appropriation, the resources of community corrections programs shall be utilized by the parole board for the purpose of parole supervision.

(c) The office of community corrections shall develop and implement a public education program about community corrections, provide technical assistance, training and education to the judiciary and criminal justice system agencies and personnel, coordinate training for providers, and serve as a clearinghouse for information regarding community corrections programs.

Section 5. The chief justice shall submit a biannual report no later than July fifteenth and January fifteenth of each year to the governor, the commission, the joint committees on criminal justice, the judiciary and public safety, and the clerks of the house of representatives and the senate. The report shall include but shall not be limited to the following information:

(1) the effectiveness of the office of community corrections in promoting the goals of the commission;

(2) the effectiveness of the office of community corrections in diverting offenders by reducing prison commitments;

(3) the evaluations and recommendations submitted by the county community corrections advisory boards and by providers of community corrections programs;

(4) fiscal audits on the expenditure of state funds;

(5) allegations of provider noncompliance and the results of any investigations into such allegations.

Section 6. (a) There is hereby established within each county a county community corrections advisory board consisting of at least eight but not more than twelve members including the following:

(1) the first justice of the superior court, or his designee;

(2) a district court judge appointed by the chief justice for administration and management of the trial court;

(3) a probation officer appointed by the chief justice for administration and management of the trial court;

(4) a representative of the parole board appointed by the secretary of public safety;

(5) the district attorney, or his designee;

(6) a public defender appointed by the committee for public counsel services;

(7) a mental health professional or substance abuse counselor appointed by the chief justice for administration and management of the trial court;

(8) the sheriff, or his designee;

(9) not more than four other members appointed by the chief justice for administration and management of the trial court.

(b) The county community corrections advisory board shall assist in the review and monitoring of community corrections programs located in that county. Its responsibilities shall include holding public hearings on community corrections plans submitted to the executive director, reporting any allegations of provider noncompliance, and submitting written comments to the executive director and to the commission, which shall include evaluations of each provider located in that county, analysis of the results of community corrections programs located in that county, recommendations for change and any other information, statistics or data requested by the executive director or the commission, no later than May fifteenth and November fifteenth of each year.

SECTION 10. Section 87A of chapter 276 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 10, the word "thirty" and inserting in place thereof the following word:- forty-five.

SECTION 11. Section 1 of chapter 785 of the acts of 1985 is hereby amended by inserting after the word "available", in line 7, the following words:- ; provided, that not more than twenty-five thousand dollars of the amount made available in this section shall be expended for a study relative to the feasibility of construction of a regional lock-up facility for the lower portion of Cape Cod; provided further, that not more than two hundred thousand dollars of the amount made available in this section shall be expended to study the feasibility of locating a Suffolk county regional lock-up at the Spaulding Hospital site, so-called, in the city of Boston; provided further, that the chief justice for administration and management of the trial court is hereby authorized and directed to study the feasibility of establishing a regional lock-up at the East Brookfield district court; provided further, that said chief justice shall consult with the presiding justice and the clerk magistrate of said court, as well as the sheriff of Worcester county and the chiefs of police in communities within the court district and other central Massachusetts communities in the preparation of said study; provided further, that the trial court or the presiding justice of said East Brookfield district court may initiate the study of said court in the event that said study is not initiated within thirty days of the effective date of this act; and, provided further, that the feasibility studies authorized by this section shall be submitted to the house and senate committees on ways and means no later than April first, nineteen hundred and ninety-six.

SECTION 12. Said chapter 785 is hereby further amended by adding the following section:-

Section 5. Notwithstanding the provisions of any general or special law to the contrary, funds authorized in sections one and two of this act shall be available for expenditure until June thirtieth, two thousand.

SECTION 13. Chapter 799 of the acts of 1985 is hereby amended by inserting after section 25 the following section:-

Section 25A. Notwithstanding the provisions of any general or special law to the contrary, funds authorized in this act shall be available for expenditure until June thirtieth, two thousand.

SECTION 14. Item 2440-7882 of section 2D of chapter 199 of the acts of 1987 is hereby amended by striking out the wording and inserting in place thereof the following words:- For the preservation, repair, renovation, and construction, including the cost of furnishings and equipment, of state police stations.

SECTION 15. Item 2440-7890 of section 2D of chapter 164 of the acts of 1988 is hereby amended by striking out the wording and inserting in place thereof the following words:- For studies and the preparation of plans, if necessary, and for repairs, renovations, and construction, including the cost of furnishings and equipment, of state police stations.

SECTION 16. Sections one to six, inclusive, of chapter four hundred and thirty-two of the acts of nineteen hundred and ninety-three are hereby repealed.

SECTION 17. Notwithstanding any general or special law, regulation, rule or order to the contrary, the secretary of the executive office of public safety is hereby authorized and directed to discontinue operation of the bootcamp, so-called, located at the Bridgewater correctional complex upon the graduation of the class in attendance on the effective date of this act. The land and facilities used to operate said bootcamp shall thereafter be utilized for minimum security correctional purposes.

SECTION 18. Notwithstanding the provisions of section fourteen of chapter thirty-four of the General Laws or any other general or special law to the contrary, within thirty days after the effective date of this act, the county commissioners of Norfolk county are hereby authorized and directed to convey by deed or deeds a certain parcel of land and the buildings thereon in the town of Dedham known as the old Norfolk county jail, located on Village avenue, to the division of capital planning and operations, said parcel to be more particularly described in a plan to be prepared by said division and recorded in the Norfolk county registry of deeds.

SECTION 19. Notwithstanding the provisions of sections thirty-eight A to thirty-eight O, inclusive, of chapter seven of the General Laws, section thirty-nine M of chapter thirty of the General Laws, sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine of the General Laws, or any other general or special law to the contrary, the commissioner of the division of capital planning and operations may, after consultation with the secretary of public safety and the secretary of administration and finance, employ alternative methods of procurement of design and construction services, including design build, for the design and construction of the Barnstable county house of correction, the Berkshire county jail and house of correction, the Dukes county jail and house of correction, the Essex county jail and house of correction, and the Worcester county jail and house of correction; provided, however, that the design build method of construction and design shall be limited to not more than two projects authorized by this section at any given time; and provided further, that the Barnstable county house of correction and the

Berkshire county jail and house of correction shall be accorded priority for any such design build method before the other projects authorized by this section. The division of capital planning and operations shall develop procedures for alternative methods of procurement in consultation with the office of the inspector general. Final procedures shall be submitted to the inspector general for comment at least thirty days before the solicitation of proposals for design or construction services. Such procedures and the inspector general's comments shall be submitted to the governor and the clerks of the senate and house of representatives by the division of capital planning and operations not less than forty-five days before the execution of any contract for design or construction services.

SECTION 20. Prior to the commencement of construction at the Middlesex county jail and house of correction in the town of Billerica, the division of capital planning and operations or its designee shall conduct a water suitability study which shall ensure that said town of Billerica is able to provide an adequate supply of water to said Middlesex county jail and house of correction without overburdening the town's water purification and delivery system and without exceeding the maximum amount of water which said town is permitted to withdraw from the Concord river.

SECTION 21. In connection with authorizing funds to expand the Suffolk County House of corrections pursuant to item 1102-7967 of section two, no bituminous concrete manufacturing facility shall be located within the city of Boston which is less than one-half mile in linear distance from said correctional facility within the city of Boston and which shall receive funds or shall have received funds pursuant to said item 1102-7967. Said linear distance shall be measured from the outermost perimeter of such bituminous concrete manufacturing facility to the outermost point of any such correctional facility; provided however, that this section shall not apply to any bituminous concrete manufacturing facility in operation as of November fifteenth, nineteen hundred and ninety-five.

SECTION 22. The department of youth services shall relocate the two programs at the Hadley building to an alternative site within the Westborough compound. Said site shall be determined by the commissioner of said department in consultation with the Westborough DYS Task Force.

SECTION 23. The office of community corrections shall examine the feasibility of establishing a pilot program entitled the woman's restitution program within the Barnstable county jail and house of correction, to be administered by the sheriff of Barnstable county.

SECTION 24. The secretary of the executive office of public safety is hereby authorized and directed to reconvene the advisory committee on correction as provided in section three of chapter twenty-seven of the General Laws. Said committee shall make written findings and recommendations to the house and senate committees on ways and means, the president of the senate and the speaker of the house of representatives not later than June thirtieth, nineteen hundred and ninety-six.

SECTION 25. The secretary of the executive office of public safety, in consultation with the National Institute of Corrections, Federal Bureau of Prisons, shall commission a study of the classification process of the department of correction and incorporating the results of the objective point based classification system currently being tested at the Massa-

chusetts correctional institution at Norfolk and the Massachusetts correctional institution at Concord for the purpose of improving the identification and assessment of current inmate risk and need. Said study shall make recommendations regarding efficient use of pre-release and minimum security and medium security placements by the department and the removal of impediments to such placements. Said study shall be submitted to the house and senate committees on ways and means and the joint committee on public safety not later than June thirtieth, nineteen hundred and ninety-six.

SECTION 26. The secretary of the executive office of public safety, in consultation with the National Institute of Corrections, the American Probation and Parole Association, the Association of Parole Authorities International, and the Federal Bureau of Prisons, shall commission a study of the parole process of the parole board and department of correction for the purpose of improving the identification and assessment of current inmate risk and need. Said study shall make recommendations regarding effective use of classification and parole supervision and ways to improve the parole rate and parole supervision of inmates. Said study shall be submitted to the house and senate committees on ways and means and the joint committee on public safety not later than June thirtieth, nineteen hundred and ninety-six.

SECTION 27. The department of correction in conjunction with the trial court, parole board and county sheriffs shall utilize and review the findings and recommendations of the studies required by sections twenty-five and twenty-six, and the objective or point-based classification system currently in use at the Massachusetts correctional institution at Norfolk and the Massachusetts correctional institution at Concord, prior to the submission of any future proposals for the expansion, rehabilitation, renovation or construction of any state or county correctional facility.

SECTION 28. There shall be a special committee to study the development and implementation of a functional literacy program for individuals incarcerated in the state correctional facilities of the commonwealth. The committee shall consist of eight members to be appointed by the governor, one of whom shall be representative of the department of correction, one of whom shall be a prison educator, one of whom shall be a community adult educator, one of whom shall be a person who has previously served time at a prison, one of whom shall be representative of the department of employment and training, one of whom shall be representative of the department of education, one of whom shall be a member of the parole board, and one of whom shall be a member of the business or industrial community. The commissioner of correction or his designee shall serve as chairman. Said committee shall recommend methods for providing to inmates of correctional facilities the educational skills necessary to function independently in society, including, but not limited to, reading of english, writing, comprehension, and arithmetic computation. The committee shall submit to the governor and the clerks of the senate and house of representatives a report containing its evaluation, findings and recommendations, not later than June thirtieth, nineteen hundred and ninety-six.

SECTION 29. 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 relative to developing a full range of sentencing options consistent with the goals of chapter two hundred and eleven E of the General Laws, 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. A report of the findings and recommendations of said investigation and study shall be submitted to the house and senate committees on ways and means not later than April eleventh, nineteen hundred and ninety-six.

SECTION 30. The Massachusetts sentencing commission shall submit sentencing guidelines pursuant to chapter two hundred and eleven E of the General Laws to the general court not later than April eleventh, nineteen hundred and ninety-six. The guidelines shall take effect only if enacted into law.

SECTION 31. The members of the sentencing commission appointed pursuant to chapter four hundred and thirty-two of the acts of nineteen hundred and ninety-three shall be members of the commission established under the provisions of section nine of this act according to the terms of their appointment.

Sections disapproved: Sections 9, 16, 17, 21 and 31.

The remainder of the bill was approved by the Governor February 8, 1996.

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on February 26, 1996 in the House of Representatives and on March 4, 1996 the Senate passed the following Sections: 9, 16, 21 and 31 and therefore they have the force of law.

Chapter 13. AN ACT RELATIVE TO THE EXCHANGE OF CERTAIN LAND BY THE TRUSTEES OF THE HIGHER EDUCATION COORDINATING COUNCIL AND WENTWORTH INSTITUTE OF TECHNOLOGY.

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, and subject to the requirements of section two and three of this act, the commissioner of the division of capital planning and operations, hereinafter called the commissioner, is hereby authorized to convey by deed to Wentworth Institute of Technology, hereinafter called Wentworth, a certain parcel of land located in the city of Boston and the improvements thereon, in consideration for the conveyance by Wentworth to the commonwealth of Massachusetts of a parcel of land described in section two of this act, together with any other such monetary consideration as is deemed appropriate by the commissioner. Such land is more particularly described as follows: A certain parcel of unregistered land situated on the southerly side of Huntington Avenue in the city of Boston, in the county of Suffolk, commonwealth of Massachusetts, bounded and described as follows:-

Beginning at the intersection of the southerly line of Huntington Avenue with the easterly line of Vancouver Street, said point of beginning being the westerly most point of the lot to

be described herein; thence
N61°- 36'20"E by the southerly line of said Huntington Avenue a distance of Fifty-one and Forty-four Hundredths feet (51.44') to a point; thence
S28°- 23'40"E by land of now or formerly Wentworth a distance of One Hundred Nine and Thirty Hundredths feet (109.30') to a point; thence
S72°- 47'08"W by land of now or formerly Wentworth a distance of Eight and Fifty-six Hundredths feet (8.56') to a point of curvature; thence
Southwesterly and curving to the left along the arc of a curve having a radius of One Hundred Twenty and No Hundredths feet (120.00') and a length of Forty-five and Fifty-two Hundredths feet (45.52') to a point of curvature; thence
Southwesterly and curving to the left along the arc of a curve having a radius of One Hundred Twenty-five and No Hundredths feet (125.00') and a length of Fifty-one and Eighty-two Hundredths feet (51.82') to a point of curvature; thence
Southwesterly and curving to the left along the arc of a curve having a radius of One Hundred Thirty and No Hundredths feet (130.00') and a length of Sixty-eight and Eighty-six Hundredths feet (68.86') to a point of curvature; thence
Southwesterly and curving to the left along the arc of a curve having a radius of Seventy-five and No Hundredths feet (75.00') and a length of Sixty-three and Fifty Hundredths feet (63.50') to a point of nontangency. The previous four (4) courses being by land of now or formerly Wentworth; thence
N84°- 41'35"W by said Lot "A" a distance of One Hundred Seventy-one and Sixty-three Hundredths feet (171.63') to a point; thence
N24°- 54'23"E by the easterly line of said Vancouver Street a distance of Two Hundred Sixty-eight and Nine Hundredths feet (268.09') to the point of beginning.
The above described parcel of land in this section contains an area of 27,007 square feet, more or less, and is more particularly shown as Lot "B" on a plan entitled "Subdivision Plan of Land in Boston, Massachusetts", prepared for the Commonwealth of Massachusetts Division of Capital Planning and Operations, Scale 1 inch = 30 feet, dated December 2, 1992, prepared by Allen & Major Associates, Inc., 400 West Cummings Park, Suite 5050, Woburn, Massachusetts 01801 and comprises a portion of the land transferred to the Trustees of the Higher Education Coordinating Council, as successor to the Board of Trustees of State Colleges, pursuant to chapter eight hundred and thirty-six of the acts of nineteen hundred and seventy-four.

Said parcel shall be conveyed subject to the sewer easement as shown in the aforementioned plan and an easement providing pedestrian and vehicular access for the Massachusetts Water Resources Authority across said parcel, said easement to be confined to an area mutually agreed upon by the commissioner and Wentworth prior to the conveyance of said parcel as authorized hereunder.

Said parcel shall be conveyed subject to a restriction limiting the use of the property to parking and open space purposes related to educational uses; provided, however, that the commissioner may waive this restriction upon payment by Wentworth of such additional consideration as the commissioner deems to be reflective of the value of any additional use.

SECTION 2. The commissioner shall not effect the conveyance set forth in section one unless Wentworth conveys to the commonwealth by deed satisfactory to said commissioner a certain parcel of land, or so much thereof as said commissioner in consultation with the president of Massachusetts College of Art deems appropriate, located in the city of Boston and the improvements thereon. Wentworth is currently the record owner of said land, which is more particularly described as follows: A certain parcel of land located on the southerly side of Huntington Avenue, in Boston, Suffolk County, Massachusetts, bounded and described as follows:

Beginning at the intersection of the westerly sideline of Vancouver Street and the northerly sideline of Ward Street; thence running N72° 34'38"W, a distance of 283.12 feet along the northerly sideline of Ward Street; thence turning and running N61° 36'23"E, a distance of 75.66 feet by land now or formerly of 634 Huntington Avenue Trust; thence turning and running N28° 23'37"W, a distance of 66.61 feet by land now or formerly of 634 Huntington Avenue Trust to a point on the southerly sideline of Huntington Avenue; thence turning and running northeasterly by a curve to the left having a radius of 9,512.00 feet a distance of 102.64 feet along said sideline of Huntington Avenue to a point of tangency; thence running N61° 36'23"E a distance of 188.15 feet along said sideline of Huntington Avenue to a point of curvature; thence running northeasterly by a curve to the left having a radius of 1842.00 feet a distance of 44.95 feet along said sideline of Huntington Avenue; thence turning and running S18° 05'20"W, a distance of 113.94 feet by land now or formerly of Wentworth; thence turning and running S67° 23'15"E, a distance of 74.84 feet by land now or formerly of Wentworth, to a point on the westerly sideline of Vancouver Street; thence turning and running S24° 55'09"W, a distance of 242.66 feet by Vancouver Street to the point of beginning.

The above described parcel of land in this section contains an area of 62,421 square feet (1,433 acres), more or less, and is comprised of five parcels of land described in the following deeds and certificate of titles:

Parcel 1	Area= 6,307 s.f.	Book 8046, Page 322
Parcel 2	Area= 3,036 s.f.	Book 10313, Page 221
Parcel 3	Area= 4,357 s.f.	Cert. of Title 95587
Parcel 4	Area= 7,994 s.f.	Book 8719, Page 324
Parcel 5	Area= 40,727 s.f.	Book 8089, Page 668

Said parcel of land in this section shall be conveyed subject to such easements for access, egress, drainage and utilities for the benefit of the land described in section one as the commissioner in consultation with the president of Massachusetts College of Art deems appropriate.

SECTION 3. The value of the properties described in sections one and two shall be determined by the commissioner based upon an independent professional appraisal prepared in accordance with standard appraising procedures and taking into consideration the impact on value of any easements and restrictions including, without limitation, use restrictions contained herein. The inspector general shall review and approve said appraisal and said review shall include a review of 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 chairmen of the joint committee on state administration.

The consideration paid by the commonwealth for the property described in section two shall not exceed the fair market value of the property as determined in accordance with this section, minus the value of the property described in section one as determined in accordance with this section.

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 a report of 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 chairmen of the joint committee on state administration at least fifteen days prior to execution.

SECTION 4. Wentworth shall pay any and all costs for all survey, engineering, environmental site assessments and appraisals which the commissioner determines are necessary in connection with the conveyances authorized by this act.

SECTION 5. Nothing in this act shall be construed to impair any statutory or other rights that the city of Boston may have in any land currently utilized by the Massachusetts College of Art.

SECTION 6. This act shall take effect upon its passage.

Approved February 9, 1996.

Chapter 14. AN ACT VALIDATING THE CONVEYANCE OF A CERTAIN PARCEL OF PARK LAND IN THE TOWN OF SOUTH HADLEY.

Be it enacted, etc., as follows:

SECTION 1. The town of South Hadley, acting by and through its board of selectmen, is hereby authorized to convey a certain parcel of park land located in said town to John A. Benoit and Eva M. Benoit of South Hadley. Said parcel is more particularly described in a deed dated July 6, 1993 and recorded in the Hampshire County Registry of Deeds, Book 4271, Page 69.

SECTION 2. The conveyance of the parcel described in section one by the town of South Hadley by deed dated July sixth, nineteen hundred and ninety-three is hereby ratified, validated and confirmed.

SECTION 3. Section one of this act shall take effect as of May first, nineteen hundred and ninety-three.

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

Approved February 9, 1996.

Chapter 15. AN ACT PROVIDING FOR AN ENVIRONMENTAL ENHANCEMENT AND PROTECTION PROGRAM FOR THE COMMONWEALTH.

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

Be it enacted, etc., as follows:

SECTION 1. To provide for a program to enhance, protect and conserve open space land in the commonwealth through the preparation of plans, studies, construction, alteration, and improvement of various state properties, and the purchase of certain properties, including the purchase of furnishings and equipment for the sole purpose of improving the ecological, recreational, and public health conditions of the commonwealth, the sums set forth in section two of this act for the several purposes and subject to conditions specified under said section two are hereby made available, subject to the provisions of law regulating the disbursements of public funds and the approval thereof.

SECTION 2.

SECRETARY OF STATE.

Secretary of State.

0526-9961 For a program of matching grants to units of municipal government and to private non-profit organizations for the preservation of historic properties, landscapes and sites; provided, that such funds shall be awarded in accordance with regulations promulgated by the secretary of the commonwealth, chairman of the Massachusetts historical commission $10,000,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Division of Capital Planning and Operations.

1102-1960 For a study of the Chestnut Hill reservoir reservation, including the adjacent pumping stations and waterworks located on Beacon street at the borders of the cities of Boston and Newton and the town of Brookline and the adjacent parkway for the purpose of creating a comprehensive plan for preserving and upgrading this area including its future uses for recreation, museum display, and environmental preservation of open space; provided, that the division shall report the results of said study to the house and senate committees on ways and means no later than July first, nineteen hundred and ninety-six $200,000

THE EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Office of the Secretary.

2000-7967 For the restoration of sites, research, and other environmental or recreational improvements in watersheds designated by the secretary for coordinated state action, including, but not limited to, the Neponset river watershed; provided, that the secretary may award grants to carry out the purposes of this line-item; and provided further, that said funds may be allocated by the comptroller to the department of environmental management, the metropolitan district commission, the department of fisheries, wildlife and environmental law enforcement, the department of food and agriculture, and the department of environmental protection pursuant to schedules filed by the secretary with the comptroller and the house and senate committees on ways and means $2,500,000

2000-8961 For the self-help program to provide assistance to cities and towns in the acquisition of land pursuant to the provisions of section eleven of chapter one hundred and thirty-two A of the General Laws, as amended, and any regulations promulgated by the secretary to effect the provisions of this act or said section eleven; provided, that notwithstanding the provisions of any general or special law to the contrary, the title to any land acquired with the funds authorized herein which is no longer used pursuant to the provisions of said section eleven of said chapter one hundred and thirty-two A as open space shall revert to the commonwealth...$25,000,000

2000-8962 For the urban self-help program to provide assistance to cities and towns in the acquisition and development of land pursuant to the provisions of chapter nine hundred and thirty-three of the acts of nineteen hundred and seventy-seven, as amended, and any regulations promulgated by the secretary to effect the provisions of this act or said chapter nine hundred and thirty-three; provided, that notwithstanding the provisions of any general or special law to the contrary, the title to any land acquired with the funds authorized herein which is no longer used pursuant to the provisions of said chapter nine hundred and thirty-three as open space shall revert to the commonwealth $25,000,000

2000-8963 For the acquisition of property, easements, rights in development and associated costs, and a watershed study reserve, for properties within the Quabbin, Ware River, Wachusett, and Sudbury watersheds, and in other watersheds as determined by the secretary of environmental affairs pursuant to recommendations made by the department of environmental protection, for the pro-

tection of the water resources of the commonwealth; provided, that notwithstanding the provisions of any general or special law to the contrary, two million four hundred thousand dollars shall be expended for the acquisition of approximately forty acres of land adjacent to the No Town Reservoir watershed located in the city of Fitchburg; provided, that said funds shall be allocated by the comptroller to the department of environmental management, the metropolitan district commission and the department of fisheries, wildlife and environmental law enforcement pursuant to schedules filed by said secretary with the comptroller and the house and senate committees on ways and means; provided further, that for all purposes of other general and special laws, debt service on bonds issued for extending the watershed of the metropolitan district commission's division of watershed management shall be deemed debt service of the division, and such extensions by said division made pursuant to this section shall be considered a capital improvement for the purposes of section one hundred and thirteen of chapter ninety-two of the General Laws $12,400,000

2000-8965 For the implementation of the Americans With Disabilities Act (P.L. 101-336, 42 USC 12101-12213, 47 USC 225, 47 USC 611) at facilities, offices, parks and recreation areas of the executive office of environmental affairs or its departments; provided, that said funds may be allocated by the comptroller to the department of environmental management, the metropolitan district commission, the department of fisheries, wildlife and -environmental law enforcement, the department of food and agriculture, and the department of environmental protection pursuant to schedules filed by the secretary with the comptroller and the house and senate committees on ways and means $5,000,000

2000-8966 For the development and implementation of Massachusetts geographic information system and related activities; provided, that not more than five million dollars shall be expended for a wetlands conservancy mapping program; provided further, that such funds may be allocated by the comptroller to the department of environmental management, the metropolitan district commission, the departments of fisheries, wildlife and environmental law enforcement, the department of food and agriculture, the department of environmental protection and regional planning commissions; provided further, that the secretary may provide grants to, including but not limited to, municipalities and regional planning agencies to implement said

programs; provided further, that the secretary shall develop standards and guidelines for the development of data and management of said system; provided further, that said standards and guidelines shall include scale and resolution requirements based on the use of the data; provided further, that all data developed with funds made available from this item shall comply with said standards and guidelines and shall be made available to the secretary; provided further, that priority shall be given to the development of the following data bases from existing source materials where possible, including wetlands, soils, public water supply protection areas, economic growth areas, transportation development, aquifer recharge areas, floodways, vernal pools, endangered species, public lands, recreation areas, zoning, hazardous and toxic waste sites and historical and cultural resources; provided further, that such registered vernal pools shall be presumed to be protected vernal pools in accordance with all applicable regulations; provided further, that such efforts shall be coordinated to maximum extent feasible with federal, state, and local governments, regulated utilities and conservancy efforts; provided further, that said secretary shall provide complete copies of the data developed accompanied with an application program for installation in the regional library system for access by the general public; and provided further, that said secretary shall submit to the clerks of the house of representatives and senate an annual report detailing the progress in the development of said system $20,000,000

2000-9962 For the development of local, regional, and state comprehensive land use plans and land management capabilities, for the implementation of components of the statewide comprehensive outdoor recreation plans, and to facilitate coordination of the various land acquisition and development programs under the jurisdiction of the executive office of environmental affairs; provided, that not more than two million dollars may be allocated to state programs and activities and not more than six million dollars may be available for grants or contractual agreements for comprehensive land use plans for cities and towns, the remainder not to exceed two million dollars to be made available to regional planning agencies to coordinate local comprehensive land use planning and to develop regional policy plans $10,000,000

2000-9963 For the purpose of a pilot project grant program for the demolition of abandoned buildings and the conversion of such properties and vacant lots to open space park, conservation, or recreational

usage by municipalities to be administered by the director of the division of conservation services; provided, that said director shall provide grants to cities and towns which have experienced severe public health and safety problems as a result of having a large number of vacant lots and abandoned buildings which require demolition; provided further, that grants awarded from funds authorized herein shall be for up to ninety percent of the total cost of the approved project, including, but not limited to, study, design, demolition, reconstruction, rehabilitation, and acquisition; provided further, that in determining which municipalities shall receive a grant, said director shall establish rules and regulations which take into account the municipality's inventory of abandoned buildings, and the financial capacity of the municipality to demolish abandoned buildings using available revenues and to convert such property to an open space park or other type of conservation or recreational facility; provided further, that said director shall work in cooperation with the grant recipient community to study the feasibility of converting any such current or subsequent vacant parcel of property to an open space park or other type of conservation or recreational facility; provided further, that monies authorized shall be provided to municipalities as grants for the costs of study, design, acquisition, construction, and implementation of any such project $2,000,000

Department of Environmental Management.

2120-8962 For the costs of planning, study, and acquisition of recreational facilities and of land and interests therein, including the acquisition and/or construction of the following projects: a parcel of land along the Merrimack river in the city of Haverhill; the bay circuit trail, so-called, including necessary connections, barriers, and buffers, a three and eighty-four hundredths acre parcel of land along the Merrimack River in the town of Methuen, Freedom's Way trail system on or near Route 2 between Lexington and Gardner, a bike path from the Connecticut border to Westfield, sixty acres of land in the town of Rockport known as Johnson's Quarry, land known as lot three block one of the Holliston Assessors' Atlas, land known as the Conroy property in Hopkinton, a bikeway on the Penn Central railbed in the towns of Marion, Mattapoisett, and Fairhaven; provided, that said bikeway project may be subject to a local or federal matching requirement; a three and seven-tenths acre parcel of land along the shoreline in the area immediately south of the Braga Bridge in the town of Somerset, six and one-half acres of land near Pierce Beach Park

in the town of Somerset, a depressed crossing of the Boston and Maine railroad tracks by the Norwatuck Rail Trail located in Northampton, a bikeway/walkway along the Housatonic River from the city of North Adams south to the town of Sheffield, a certain parcel of land located on assessor's map forty-five parcels thirty-nine and forty for the town of North Reading for the purposes of expanding Harold Parker State Forest, a Route 125 bicycle/pedestrian underpass in the town of Andover to the Harold Parker State Forest, the Den Rock Park, located in the city of Lawrence; and, provided further, that no funds may be expended from said item for said Den Rock Park prior to the submission to and approval by said department of a capital renovation plan, a twenty-one acre parcel of land for the town of Boxford known as Witch Hollow, a one hundred and fifty-three and seven-tenths acre parcel of land known as the Wilmington town forest recreation area, a certain parcel of land known as Nun's Hill in Groveland, the Pitman Bicycle Path in the town of Reading; provided, that said town of Reading shall be required to contribute twenty percent of the total project cost; a bike and pedestrian pathway from Malden, Saugus, Everett, and Medford to Revere Beach, a bike path on the Boston and Maine Watertown branch line to connect the Minuteman path to the Charles River, a bicycle path in the town of Southwick, a parcel of land known as the Morrison parcel on Concord Road in the town of Acton, a parcel of land known as the Hall property which abuts Perry Lane in the town of Agawam, twenty-four acres of land adjacent to the Longham reservoir in the city of Beverly and the town of Wenham commonly referred to as the Johnson Tree Farm, the Abdo property in the city of Beverly, the Sherman property in Franklin, and a parcel of land known as the East Boston Camps in the town of Westford, parcels of land contiguous with Callahan state park, land along the Sudbury River within the Walden Woods, land in Beaver Brook drainage, the Blackstone River Heritage State Park in Worcester, Connecticut Riverway and Bikeway project in Agawam, Chicopee, Longmeadow, Springfield and West Springfield on both sides of the Connecticut River; for the acquisition, development, and maintenance of recreation facilities to a parcel of land along Narrows Road in the town of Freetown consisting of 43.2185 acres, and the construction of a visitor center in the Blackstone River Heritage State Park in the city of Worcester, and the conversion of an abandoned north-south rail line covering

thirty miles through the towns of Danvers, Wenham, Topsfield, Boxford, Georgetown, Newbury, Salisbury and the city of Newburyport for the purposes of creating a bicycle and pedestrian pathway; provided further, that funds shall be expended for the Cape Cod Pathways Project for the acquisition of critical property links; provided, however, that no funds authorized herein shall be expended for said project prior to the receipt of equal matching funds; provided further, that the department shall complete an inventory of parcels in the metrowest region which are contiguous or are in the immediate vicinity of already existing department properties and other public and private open space parcels; provided further, that funds shall be expended for the acquisition of parcels contiguous or in the immediate vicinity of the Appalachian Scenic Trail; provided further, that funds may be expended for acquisition of parcels in coastal areas which are contiguous to existing state reservations; provided further, that funds shall be expended from this item for a comprehensive study of the available outdoor recreational opportunities at October Mountain State Forest; provided further, that the department shall give consideration to protecting land along the Connecticut River that provides multiple resource management benefits including, but not limited to, agricultural land protection and river corridor protection; provided further, that funds shall be expended for the planning, construction maintenance and upkeep of walkways and other facilities at the Webb State park in Weymouth; and provided further, that the purpose of this program is to protect and enhance the state's natural resources, outdoor recreational opportunities, and heritage by expanding and improving the state parks system, access to coastal areas and other water resources, bikeways, trails, and sites of exceptional ecological, historic, cultural, or public recreational value $30,000,000

2120-8964 For a program of improvements or replacements to the infrastructure and holdings of the department of environmental management; provided, that such improvements or replacements shall include, but not be limited to, buildings, picnic areas, visitor centers and other interpretive structures, other structures, bridges, roads, culverts and other necessary structures and improvements to enhance access to state forest lands for the purpose of managing that forest land, and that improve or enhance the viability of an ecosystem, and improvements to comfort facilities that result in zero pollution discharge, signs, roads, paths, bridges,

dams, piers, and flood control projects, equipment, vehicles, and vessels used to support, maintain, and improve said infrastructure and for the purchase of rolling stock, so-called; provided, that funds shall be expended for the rehabilitation of the following dams and facilities: Manns Pond Dam in Sharon, Mill Pond Dam, Turner's Pond Dam in Walpole, Manhan Dam in Easthampton, the dam on Factory Pond on the Hanson-Hanover boundary; Hanson Factory Pond, Red Dam at Lake Pearl in the town of Wrentham, Coes Pond Dam and the Lake Cochituate State Park Dam, walkways and other access facilities for Maudsley park; and the Senator P. Eugene Casey Pool in Milford . . . $5,000,000

2150-9963 For financial assistance pursuant to section thirty-seven A of chapter twenty-one of the General Laws; provided, that the department shall conduct a study regarding the costs and benefits of the purchase of weed harvesting equipment and hydrorakes, so-called; provided further, that said study shall be filed with the house and senate committees on ways and means no later than July first, nineteen hundred and ninety-six; provided further, that the necessary funds be expended for the dredging and/or improvements to the following projects: Ell Pond in the city of Melrose, as recommended by the Ell Pond Master Plan, Swain's Pond in the city of Melrose, five to ten acres at the Charles river section at North Beacon street and Charles River road in Watertown, Hardy pond in Waltham, Hampton Ponds, Five Mile Pond, Breckwood Pond, Putnam's Puddle and Lake Massasoit in Springfield, Gleason and Norton Ponds in Framingham, Muddy River Watershed, Red Lily Pond, Buttonwood Pond within the Buttonwood brook watershed, Lake Quannapowitt in Wakefield, Fellsmere Pond in Malden, Mill Pond in Norwood, and the Hearthstone Quarry Brook and End Street drainage and restoration project in Chicopee and Chebacco Lake in the towns of Essex and Hamilton; provided further, that funds authorized herein shall be expended for the following studies: a nutrification study of Snake Brook in Natick and a feasibility study for Cedar Swamp Pond in Milford $5,000,000

2150-9965 For groundwater appraisals, aquifer assessments, and related geologic and hydrological studies as may be required for the protection of existing sources of groundwater supply, and for the identification of new groundwater sources pursuant to section eight A of chapter twenty-one of the General Laws; to be in addition to the amounts appropriated in chapter eight hundred of the acts of nineteen hundred and seventy-nine and in chapter one

hundred and sixty-four of the acts of nineteen hundred and eighty-eight; provided, that no funds authorized herein shall be expended prior to the receipt of equal funds by the United States Geological Survey $2,000,000

Department of Environmental Protection.

2200-8969 For the purpose of a loan program pursuant to item 2200-9959 of section two of chapter eighty-five of the acts of nineteen hundred and ninety-four, to assist homeowners in complying with the revised state environmental code for subsurface disposal of sanitary waste, Title V; provided, that twenty-five million dollars of the funds authorized herein shall be used for loans associated with betterments, including approved innovative alternative systems, to septic systems pursuant to the provisions of said item 2200-9959; provided further, that the department may allocate funds from this item for the purposes of participating in the state revolving fund, so-called; provided further, that five million dollars shall be used for loans associated with connecting homeowners currently on septic systems to available municipal sewer systems or to replace failing septic systems with zero pollution discharge systems $30,000,000

Department of Fisheries, Wildlife and Environmental Law Enforcement.

2300-0961 For the restoration and other environmental improvements to the Neponset River watershed, including the construction of an ecological restoration center on the upper Neponset river $5,000,000

2300-8960 For the planning, study, and acquisition of land and interests therein for the purpose of protecting the native floral and fauna communities of the commonwealth; provided, that not less than six million dollars shall be expended on lands identified as habitat for state rare or endangered plant or animal species; provided further, that not less than six million dollars shall be expended on lands fronting saltwater and freshwater rivers in the coastal zone as defined by the coastal zone management office $20,000,000

2300-8961 For improvements and replacements to the infrastructure and holdings of the department of fisheries, wildlife and environmental law enforcement; provided, that said improvements or replacements shall include, but not be limited to, buildings, equipment, picnic areas, visitor centers and other structures, signs, roads, paths, bridges, dams, piers, flood control facilities, vehicles, and vessels; and site clearance, including the demolition of structures, and other holdings including remediation of environmental compliance matters throughout the commonwealth, the preparation, relocation, reclamation, and development of said

sites $10,000,000

2300-8962 For the purpose of restoration studies, preparation of restoration plans, and the execution of ecological restoration projects on natural floral and fauna communities as identified by the division of fisheries and wildlife's natural heritage and endangered species program and approved by the commissioner of said department, and for associated costs; provided, that said associated costs, may include, but not be limited to, research, restoration, monitoring services, and equipment purchases; provided further, that not less than five hundred thousand dollars shall be expended by the division of fisheries and wildlife for a model program for inland habitats restoration and by the division of marine fisheries for the enhancement of marine habitats through the use of artificial reefs, including, but not limited to, the siting, design, development and construction of artificial reefs; provided, however, that said department shall produce, with the towns of Hamilton and Essex, a lake management plan for Chebacco Lake in said towns; provided further, that said projects may be carried out in cooperation with other governmental agencies; and provided further, that the funds authorized herein shall only be expended for the restoration of lands which are protected under Article XCVII of the Amendments to the Constitution of the Commonwealth of Massachusetts $5,000,000

2310-8960 For the planning, study and acquisition of land and interests therein for the protection of wildlife and fisheries habitats; provided, that such funds shall be used to match at a ratio of one dollar for every one dollar collected pursuant to section thirteen A of chapter one hundred and thirty-one of the General Laws; provided further, that the department shall acquire the Ellis property adjacent to Paines Creek in Brewster $5,000,000

2310-8961 For a program of habitat management for upland wildlife species that shall include, but not be limited to, research, planning, and implementation of habitat management plans; provided, that such funds shall be expended by the director of the division of fisheries and wildlife; provided further, that said habitat management activities shall be conducted on land that provides equality of access to the public insofar as the resources being managed may allow; and provided further, that said management activities may be conducted with other governmental agencies, private land owners, and conservation organizations $5,000,000

2320-8960 For the acquisition of land or interests therein and for the planning, design, construction, reconstruction and construction supervision

of boating access facilities, barrier-free sport fishing piers and related facilities, pursuant to section seventeen A of chapter twenty-one of the General Laws $5,000,000

Metropolitan District Commission.

2420-7961 For the purpose of providing a portion of the financing necessary to design and construct a sewer and sewage pumping system in the towns of Holden and West Boylston for the express purpose of complying with a consent order dated June eleventh, nineteen hundred and ninety-three, between the Massachusetts water resources authority ("the Authority"), the commission, and the department of environmental protection ("the Department"); provided, however, that no funds shall be expended from this item until the watershed protection division of the commission shall have submitted a total project financing plan to the secretary of administration and finance ("the Secretary") detailing the various components of the financing plan, including binding and enforceable commitments from a) the Massachusetts water resources authority in the amount of eight million five hundred thousand dollars, b) the town of Holden in the amount of seven million two hundred seventy-five thousand dollars, and c) the town of West Boylston in the amount of eight million one hundred thirty thousand dollars; provided, further, that no funds shall be expended from this item unless the Commonwealth, acting through the executive office of administration and finance, the Massachusetts water resources authority and the town of Clinton enter into an agreement providing that the contributions made by the commonwealth pursuant to this item shall satisfy any judgment entered against the town of Clinton relating to user fees, rates and charges levied against the town of Clinton by the Massachusetts water resources authority for services provided by the town of Clinton wastewater treatment plant prior to fiscal year nineteen hundred and ninety-six, and shall make void any and all user fees, rates and charges incurred prior to fiscal year nineteen hundred and ninety-six by the town of Clinton or the commonwealth of Massachusetts, relating to said wastewater treatment plant; provided, further, that none of the funds authorized by this item may be recovered by the commission pursuant to sections one hundred and thirteen and one hundred and thirteen A of chapter ninety-two of the General Laws $27,800,000

2420-7962 For the purpose of financing the payment of the fee for the entrance of the town of Holden and the town of Rutland as voting members of the Upper Blackstone Water Pollution Abatement

District, pursuant to chapter seven hundred fifty-two of the acts of nineteen hundred and sixty-eight; provided, that the commissioner of the metropolitan district commission in consultation with the Upper Blackstone Water Pollution Abatement District determines the amount of the payment $1,600,000

2420-7963 For the purpose of financing the payment of the fee for the entrance of the town of West Boylston as a voting member of the Upper Blackstone Water Pollution Abatement District, pursuant to chapter seven hundred fifty-two of the acts of nineteen hundred and sixty-eight, provided that the commissioner of the metropolitan district commission in consultation with the Upper Blackstone Water Pollution Abatement District determines the amount of the payment $1,000,000

2420-7964 For the purpose of financing construction of private property sewer connections in the towns of Holden and West Boylston on properties served by the sewer and sewage pumping system provided for in section sixty-four of this act; provided, however, that no funds shall be expended from this item until the metropolitan district commission and the division of local services of the department of revenue shall have jointly certified to the secretary of the executive office of environmental affairs that the towns of Holden and West Boylston have each taken the necessary actions to insure for the recovery of these funds over a period not to exceed twenty-five years, pursuant to the procedures provided for in section sixty-five of this act $6,900,000

2420-8960 For a program of improvements or replacements to the infrastructure of the watershed management division; provided, that said improvements or replacements shall include, but not be limited to, buildings, picnic areas, visitor centers and other structures, signs, roads, paths, bridges, dams, piers, and flood control facilities; equipment, vehicles, and vessels used to support and maintain said infrastructure, water purification systems, and site clearance, including the demolition of structures, and the preparation, relocation, reclamation and development of such sites; provided, that, funds shall be expended from this item for the purpose of providing greater accessibility to Spot Pond in Stoneham for recreational purposes, including, but not limited to public recreation facilities $5,000,000

2420-8961 For the remediation and restoration of the Hallet Street site in Dorchester 15,000,000

2440-8960 For the planning, study, and acquisition of land and interests therein, including bikeways, trails, and other recreational sites, includ-

ing land in and around rivers, streams, ponds, and marshes within the jurisdiction of the metropolitan district commission; provided, that funds be awarded to the town of Hull for the preservation and acquisition of the Paragon Park Carousel; provided further, that the commission shall use funds authorized herein to acquire Hancock Woods in the West Roxbury section of the city of Boston in addition to those funds provided in chapter one hundred and nineteen of the acts of nineteen hundred and ninety-five $30,000,000

2440-8961 For the implementation of Charles river and Neponset river master plans prepared for or by the metropolitan district commission, including, but not limited to, park improvements and public recreation facilities; provided, that said funds shall not be used for recreational facilities unless said facilities are directly dependent on river use; and provided further, that no such improvements or facilities shall be constructed without the prior approval of the governing body of the city or town in which said improvement or facility will be located $10,000,000

2440-8962 For the purchase of rolling stock, so-called, and other specialized equipment for the metropolitan district commission, including, but not limited to, beach sanitizers, farm and ground tractors, pickup trucks and other vehicles; provided, that said funds may also be expended for the rehabilitation of durable equipment; and provided further, that amounts authorized herein shall be in addition to any funds previously appropriated for this purpose $3,750,000

2440-8963 For the preparation of plans, if necessary, and for repairs, renovations, general rehabilitation and reconstruction to the commission's sanitary structures, and for the renovation and conversion of certain facilities to year-round use, including but not limited, to the purchase of equipment, and related appurtenances $6,000,000

2440-8964 For the extension of the Malden/Medford line brook culvert to the west bank of the Malden River, to improve the channel configuration, including the shores and banks of the Malden River and other projects and works as may be required to improve the quality of the water therein, and improve, protect and restore the natural environment of the river; provided, that the metropolitan district commission may make application for federal assistance in the construction of any project authorized by this act and any federal funds to be received shall be credited to the metropolitan district commission funds and be used to pay debt service costs incurred as authorized by this act; provided further, that the metropolitan district commission, for the purpose

of this project, may, on behalf of the commonwealth, take by eminent domain under chapter seventy-nine of the General Laws, or acquire by purchase or otherwise any lands, waters, water rights, watercourses, rights of way, easements, or other property or interest in property, and shall have all the rights, powers and duties and be subject to the limitations of section thirty-two of chapter ninety-two of the General Laws; provided, however, that cities and towns in the area or areas within which construction may occur shall grant to the commission the right to enter upon any public land and to construct such facilities as may be necessary without recourse to damages therefor; and provided further, that the metropolitan district commission shall, as provided in section thirty-two, heed all reasonable requests of officials of said cities and towns to restore such public property to its present conditions as far as is practicable $3,000,000

2440-8965 For the planning, study, and acquisition of land and interests therein for the purpose of the completion and improvement of the Neponset Greenway, for the completion of the Harborwalk along the Dorchester shoreline, and for the acquisition of land and interests therein for the purpose of providing a buffer for the Stony Brook Reservation, so-called, in the community of Hyde Park in the city of Boston; provided, that no such improvements shall be initiated and no funds authorized herein shall be expended for any improvements northerly, westerly or "up-stream" of Granite Avenue located in the community of Dorchester in the city of Boston prior to the review and approval of the commission's plan for such improvements, by the board of selectmen of the town of Milton, the mayor and the city council of the city of Boston, and the Legislature $20,000,000

2443-7967 For improvements to the Franklin Park and Stone Zoos; provided, that funds shall only be expended from this item when an equal amount of matching funds have been received from private sources; provided further, that funds authorized herein shall be made available for the repairs, renovations, general rehabilitation and reconstruction of Peabody circle in the city of Boston abutting the Franklin Park Zoo; provided further, that the department shall not be required to collect matching funds for the Peabody Circle project, so-called; and provided further, that funds made available for said Peabody circle shall be expended without a requirement to collect matching funds $5,000,000

Department of Food and Agriculture.

2530-8969 For a program to acquire agricultural preservation restrictions pur-

suant to sections eleven A to eleven D, inclusive, of chapter one hundred and thirty-two A of the General Laws; provided, that any person or entity who receives funds from the amounts authorized herein shall be encouraged to participate in any and all programs of the department of food and agriculture as may be suggested by the commissioner of the said department; provided further, that these programs may include, but not be limited to, integrated pest management, pesticide regulation and reduction, and agri-composting; provided further, that the agricultural lands preservation committee shall prioritize the allocation of funds awarded herein for the acquisition of agricultural preservation restrictions on those lands deemed to be of significance to the protection and preservation of the commonwealth's agricultural base; provided further, that in determining that significance the committee shall consider the agrarian character of the community in which the lands are located and the degree to which the acquisition would serve to preserve that character; provided further, that not less than five million dollars shall be expended for the purpose of developing and implementing farm viability plans to enhance the economic and environmental viability of farms, and to provide for shorter term land covenants, and for undertaking feasibility studies to look at markets for agricultural products to assist in agricultural business enhancement and transition; provided further, that five hundred thousand dollars shall be expended for the study, design, preparation of plans, if necessary and for the construction and related costs of the establishment of a commercial food processing kitchen to be operated by the department of food and agriculture; provided, that notwithstanding the provisions of any general or special law to the contrary, the commissioner of said department is authorized to accept matching funds from other public or private sources for the purposes of establishing said commercial food processing kitchen $25,000,000

SECTION 3. To meet the expenditures necessary in carrying out the provisions of section two, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor, from time to time, but not exceeding in the aggregate, the sum of three hundred ninety-nine million, one hundred and fifty thousand dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Environmental Enhancement and Open Space Acquisition and Preservation Loan Act of 1996, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth;

provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-one. All interest and payments on account of principal of such obligations shall be payable from the General Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 4. The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by section two and may issue and renew from time to time notes of the commonwealth thereof bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such 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 final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and one. Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

SECTION 5. Each agency acquiring land or an interest in land pursuant to the provisions of section two of this act may expend an amount not to exceed five percent of the amount appropriated to such agency in said sections for the purpose of reimbursing non-profit land conservation organizations or land trusts for their reasonable expenses directly associated with the acquisition of land or interests in land subsequently conveyed to the commonwealth. Reimbursements shall be made at the discretion of each agency, subject to the approval of the secretary of the executive office of administration and finance. Said secretary shall determine by regulation what shall constitute reasonable expenses. Any organization receiving a reimbursement pursuant to this section shall convey such land or interest in land to such agency for an amount not to exceed the actual purchase price paid by such organization for such land or interest in land in addition to any reimbursement received pursuant to this section.

SECTION 6. No state agency or commission responsible for the administration of any program authorized and funded by section two of this act shall expend or obligate more than twenty-five percent of the total funds available for each such individual program for the purchase of one individual acquisition without the prior written approval of the secretary of the executive office of environmental affairs.

SECTION 7. Notwithstanding any general or special law to the contrary, the department of fisheries, wildlife and environmental law enforcement may acquire lands identified as rare and endangered species habitat by taking such lands by eminent domain under the provisions of chapter seventy-nine and chapter eighty A of the General Laws using the funds appropriated by item 2300-8962 of section two of this act or by section twenty-nine of chapter five hundred and sixty-four of the acts of nineteen hundred and eighty-seven.

SECTION 8. Of the monies authorized within items 2120-8962, 2300-8960, 2310-8960, 2320-8960, 2440-8960 and 2530-8969 of section two of this act for the planning

and acquisition of lands by the commonwealth, no more than two percent of any amounts authorized in each said item shall be appropriated and expended for planning activities; provided, that no such planning monies shall be used for personnel costs.

SECTION 9. A portion of the funds provided in section two of this act, subject to the prior approval of the secretary of administration and finance, may be used for the cost associated with the acquisition and development of property. Such associated costs may include, but not be limited to, the cost of legal services, appraisals, title examinations, surveys, design, engineering, inspections, audits, environmental risk assessments and studies, and planning. Notwithstanding the provisions of section thirty of chapter twenty-nine of the General Laws, a portion of the funds authorized in said section two of this act may be used for the costs associated with title insurance. Not more than two percent of the funds authorized pursuant to said section two of this act may be used for the payment of salaries of permanent or temporary employees of the commonwealth who provide direct and substantial support for the purposes authorized in said section two of this act. No amounts authorized in said section two shall be used by any recipient municipality for the supplementing or supplanting of normal operating expenses of any function of said municipality.

SECTION 10. All improvement projects done by the department of environmental protection, the department of environmental management, the department of fisheries, wildlife, and environmental law enforcement, the metropolitan district commission, and the department of food and agriculture which are funded under section two of this act shall use recycled products and materials wherever feasible and cost effective.

SECTION 11. Section 9A of chapter 8 of the General Laws, inserted by section 20 of chapter 38 of the acts of 1995, is hereby amended by striking out, in the fourth sentence, the word "thirty-five N" and inserting in place thereof the following word:- thirty-five O.

SECTION 12. Chapter 10 of the General Laws is hereby amended by inserting after section 35 O the following section:-

Section 35P. There shall be established upon the books of the commonwealth a separate fund to be known as the State House Special Event Fund. The superintendent of state buildings is hereby authorized and directed to establish and charge a fee or service charge to non-governmental individuals, entities and groups using the state house during non-business hours for meetings, receptions, or exhibits. The superintendent or his designee shall establish such fees or charge based upon the actual cost of use including personal requests for security preparation, cleanup and utilities used as well as compensation for wear on the building. The superintendent or his designee shall also have the authority in his discretion to require non-governmental entities to enter into a written agreement indemnifying the commonwealth against any claims for casualty liability and may require the posting of an insurance bond. All monies received by the superintendent under this section shall be by check made payable to and deposited in the State House Special Event Fund; provided, however, that said superintendent may retain an amount not to exceed fifty thousand dollars to be expended after consultation with the state secretary for educational and cultural programs at the state house.

SECTION 13. Section 2F of chapter 21 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "secretary", in line 9, the following words:- and the joint committee on natural resources and agriculture of the general court.

SECTION 14. Said chapter 21 is hereby further amended by inserting after section 37A the following three sections:-

Section 37B. The department shall establish and maintain an aquatic nuisance control program. The aquatic nuisance control program shall perform the following services: (a) receive and respond to aquatic nuisance complaints; (b) work with municipalities, local interest organizations, and agencies of the state to develop long range programs regarding aquatic nuisance controls; (c) work with federal, state and local governments to obtain funding for aquatic nuisance control programs; and (d) administer the grant program under sections thirty-seven C and thirty-seven D.

For the purposes of this aquatic nuisance control program, the term "aquatic nuisance" shall mean undesirable or excessive substances or populations that interfere with the recreational potential of a body of water. Aquatic nuisances shall include, but shall not be limited to, rooted aquatic vegetation and algae populations.

Section 37C. A municipality, or group of municipalities, or an agency of the state, which desires state assistance to control aquatic nuisances may apply in writing to the department in a manner prescribed by the department. When the department finds that a proposed aquatic nuisance control program is suitable to control or minimize the effect an aquatic nuisance has on water quality and water use, it may grant an award of up to fifty percent or less of the project costs as determined by the department. Recurring maintenance projects may be awarded grants of twenty percent or less of the annual project cost. In approving requests and determining the amount of any grant, the department shall consider the following: (a) the use of the waters by persons outside the municipality in which the waters are located; (b) the long range effect of the control project; (c) the recreational use of the waters; and (d) the effectiveness of municipal shoreland zoning and other controls in minimizing or preventing existing or new development from having any adverse effects on the waters subject to the control program.

Section 37D. The department shall make awards to priority projects to the extent that funds are available. First priority shall be projects to manage incipient infestations of aquatic nuisances, second priority shall be projects to prevent or control the further spread of aquatic nuisances, and third priority shall be recurring maintenance projects. In establishing priorities for individual projects, the department shall consider the following: (a) public accessibility and recreational uses; (b) the importance to commercial, agricultural or other interests; (c) the degree of local interest, as manifested by municipal or other contributions to the project; (d) local efforts to control aquatic nuisances; (e) other considerations affecting feasibility, probability of achieving long term control, necessity or advantage of the proposed work; and (f) the extent to which the control project is a development rather than a maintenance project.

SECTION 15. Section 8 of chapter 21A of the General Laws, as appearing in the

1994 Official Edition, is hereby amended by inserting after the sixth paragraph the following paragraph:-

The department of fisheries, wildlife and environmental law enforcement shall have the power to take by eminent domain under the provisions of chapter seventy-nine and chapter eighty A lands and interests therein determined by the commissioner thereof as necessary or desirable to carry out the policies, programs or authorities of said department, including, but not limited to, the acquisition of locations of public access, designated by the public access board pursuant to section seventeen A of chapter twenty-one.

SECTION 16. Subsection (b) of section 3 of chapter 21H of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

(3) The secretary of the executive office of environmental affairs, in consultation with the division of conservation services and the department, shall establish and implement a landfill closure and conversion grant program. Eligible applicants shall include any municipality which owns and operates a solid waste landfill which is scheduled to close, cease operation, and be capped pursuant to the fifteenth paragraph of section one hundred and fifty A of chapter one hundred and eleven; provided, however, that in order to be eligible to receive assistance pursuant to this section the municipality shall, at the time of applying, recycle at least thirty-five percent of their solid waste. Eligible expenses of any such project shall include ordinary and necessary costs associated with eligible projects, including, but not limited to, site design planning, surveys, construction, reconstruction, alteration, and improvement of the property relative to the creation of a recreational facility upon the site. Grants provided by said secretary pursuant to this section shall be made in accordance with procedures and a priority system established by said secretary, in consultation with said division of conservation services and the department, pursuant to rules and regulations adopted pursuant to chapter thirty A after public hearing.

SECTION 17. Section 1 of chapter 29C of the General Laws, as so appearing, is hereby amended by inserting after the word "chapter", in line 52, the following words:- ; provided, however, that for all purposes of this chapter, notwithstanding any other general or special law to the contrary, a loan made at one-half of market interest rate, as determined by the trust, shall be deemed the financial equivalent of a grant of twenty-five percent of the eligible costs of the project financed by the loan.

SECTION 18. Section 6A of said chapter 29C is hereby amended by striking out the first paragraph, as so appearing, and inserting in place thereof the following paragraph:-

In addition to the purposes set forth in sections five and six, the board may apply and disburse monies of the fund to provide for the subsidy or assistance to local governmental units in the payment of debt service costs on loans made by the trust authorized and directed by section twenty-six and twenty-seven of chapter two hundred and three of the acts of nineteen hundred and ninety-two and by section one hundred ninety of chapter sixty of the acts of nineteen hundred and ninety-four.

SECTION 19. Said section 6A of said chapter 29C, as amended by section 5 of chapter 120 of the acts of 1995, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

To provide for such subsidy or assistance, the state treasurer acting on behalf of the commonwealth shall enter into an agreement with the trust that the commonwealth shall provide contract assistance for debt service obligations on loans made by the trust up to a maximum amount of twenty-six million dollars per fiscal year of the commonwealth for a period of fiscal years ending no later than June thirtieth, two thousand and twenty-five. Such contract assistance agreement shall provide for payments by the commonwealth to the trust at such time during each fiscal year and upon such terms and under such conditions as the trust may stipulate. No contract assistance shall be provided to subsidize debt service obligations payable more than twenty years after the first date of amortization of principal of the loan.

SECTION 20. Section 4 of chapter 40I of the General Laws, as so appearing, is hereby amended by inserting after the word "trades", in line 9, the following words:- , agriculture, aquaculture.

SECTION 21. Section 8 of chapter 44 of the General Laws is hereby amended by striking out clause (24), as so appearing, and inserting in place thereof the following clause:-

(24) For the purpose of closing out a landfill area, opening a new landfill area, or making improvements to an existing landfill area, twenty-five years; provided, however, that no indebtedness shall be incurred hereunder until plans relating to the project shall have been submitted to the department of environmental protection and the approval of said department has been granted therefor.

SECTION 22. Section 9 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- A tractor, trailer or truck may be operated without such registration upon any way for a distance not exceeding one-half mile, if said tractor, trailer or truck is used exclusively for agricultural purposes, or between one-half mile and two miles if said tractor, trailer or truck is used exclusively for agricultural purposes and the owner thereof maintains in full force a policy of liability insurance which conforms to the provisions of section one hundred and thirteen A of chapter one hundred and seventy-five or for a distance not exceeding three hundred yards, if such tractor, trailer or truck is used for industrial purposes other than agricultural purposes, for the purpose of going from property owned or occupied by the owner of such tractor, trailer or truck to other property so owned or occupied.

SECTION 23. The last paragraph of section 19 of said chapter 90, as so appearing, is hereby amended by striking out the eighth sentence and inserting in place thereof the following sentence:- A trailer which with its load weighs not more than six thousand pounds, or farm machinery or implement which exceeds the maximum width dimensions aforementioned, may be operated, drawn or carried upon any way, if such trailer, farm machinery or implement is used exclusively for agricultural purposes, but this provision shall not prevent any trailer, farm machinery or implement, if used exclusively for such purposes, from being operated without registration upon any way in the manner provided in section nine.

SECTION 24. The first paragraph of section 11 of chapter 131 of the General Laws,

as so appearing, is hereby amended by adding the following sentence:- No sporting or hunting license shall be issued unless the applicant provides to the issuing authority proof of compliance with section fourteen.

SECTION 25. Said chapter 131 is hereby further amended by striking out section 14, as so appearing, and inserting in place thereof the following section:-

Section 14. It shall be unlawful for any resident or non-resident to hunt for any bird or mammal in the commonwealth unless such person has successfully completed a hunter education course as prescribed by this section, or unless such person has held a license so to hunt, before January first, nineteen hundred and ninety-six. Said hunter education course shall be conducted, under the direction of the division of law enforcement and shall include, but not be limited to, the safe handling of hunting equipment, firearms, archery tackle or other equipment used in recreational hunting: and the responsibilities of the hunter to himself, the wildlife, the landowner and the general public. Said course shall be minimum of twelve hours in length and shall be made available to the public in all areas of the commonwealth. The division of law enforcement shall provide agency-qualified instructors and furnish said instructors with necessary materials and equipment to conduct such courses. Said instructors shall be certified by the division of law enforcement, with the approval of the director of law enforcement, in cooperation with the director of the division of fisheries and wildlife.

The division of law enforcement shall establish the content of said courses. A person, upon the successful completion of said course shall be issued a certificate of completion except that nothing in this section shall require the issuance of a certificate of completion, to a person who is under the age of fifteen. A certificate issued by another state or province, which claims completion of a comparable course, shall if approved by the director be accepted by the division of law enforcement in lieu of said certificate of completion. The division of law enforcement may provide insurance for participants, officers and civilian instructors in said course of instruction.

The hunter education program of the division of law enforcement, for the purpose of conducting such course may cooperate with any departments or divisions of the federal government, the commonwealth or any of its subdivisions, and any associations or organizations.

Except as hereinafter provided, no sporting, hunting, fishing or trapping license shall be granted to a minor under the age of fifteen, nor, except as hereinafter provided, shall a sporting or hunting license be granted to a minor fifteen to seventeen years of age, inclusive; but the director, any city or town clerk, or any person duly authorized under the provisions of section twelve may issue a fishing license to any minor fifteen to seventeen years of age, inclusive, if such minor has been a resident of the commonwealth for at least six months and is a citizen of the United States, or a fishing license to non-resident minor fifteen to seventeen years, inclusive, or a trapping license to any minor twelve to seventeen years of age, inclusive, if such minor is a citizen of the United States. The director or any city or town clerk shall issue a hunting or sporting license to any minor fifteen to seventeen years of age, inclusive, who presents to the person authorized to issue such license, either a written

statement that at all times when hunting or target practicing other than on a duly recognized range said minor shall be accompanied by a person eighteen years of age or older, or a certificate of completion as provided in this section. Every application for a license hereunder, except a fishing license, from a minor fifteen to seventeen years of age, inclusive, shall be in writing and shall be accompanied by the written consent thereto of the parent or guardian, which shall be preserved for one year by the director, the city or town clerk or any person duly authorized, as the case may be.

Nothing in this section or any other provision of law shall prohibit any minor from participating in target practice on any skeet trap or target range; nor prohibit a minor twelve to fourteen years of age, inclusive, from participating in the hunting of birds and mammals when accompanied by a duly licensed adult; provided, however, that the bag limit established by law or regulation for one person shall not be exceeded; and, provided further, that only one firearm shall be used. Not more than one such minor shall at any time accompany one adult, and such minors shall not be required to be licensed.

Any firearm whether discharged by air, mechanical action or otherwise, use or possession by any minor who is not licensed, or who is not accompanied as provided in this section, or which is used in violation of this section, shall be confiscated by any officer empowered to enforce this section, and shall be disposed of by the director of law enforcement for the best interest of the commonwealth, after a hearing, due notice of which has been given.

SECTION 26. Section 37 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "person permanently employed thereon" and inserting in place thereof the following words:- his employee, as defined pursuant to section one of chapter sixty-two B.

SECTION 26A. Section 8E of chapter 212 of the acts of 1975, inserted by section 4 of chapter 498 of the acts of 1993, is hereby amended by inserting after the word "so-called", in line 7, the following words:- ; provided, that of said amount, not less than one million dollars shall be expended for the study and design of the necessary interim wastewater treatment needs at Fort Devens; provided further, that said study shall include, but shall not be limited to, the need for additional capacity from the town of Shirley and the Massachusetts correctional institute at Shirley.

SECTION 27. Section 19A of chapter 589 of the acts of 1983 is hereby amended by inserting after the word "therewith", in line 9, the following words:- ; provided, that not less than five million dollars of the amount authorized herein shall be allocated for the planning and development of a sports complex and recreation facility in the city of Fall River; provided further, that said complex shall be capable of accommodating the needs of athletic teams participating in the game of soccer; provided further, that said facility shall encompass adequate parking areas, public rest rooms, and other recreation capabilities; provided further, that said complex shall be managed by the department of environmental management; and provided further, that notwithstanding the provisions of any general or special law to the contrary, funds authorized by this section shall be available for expenditure until June thirtieth, two thousand.

SECTION 28. Section 9I of chapter 723 of the acts of 1983, as amended by section 49 of chapter 564 of the acts of 1987, is hereby further amended by inserting after the word "recreation", in line 11, the following words:- , or for grants to cities and towns for projects that promote the preservation or restoration of wildlife habitat or recreation on lands along urban rivers and waters of the commonwealth.

SECTION 29. Section 9Q of said chapter 723 is hereby amended by inserting after the first sentence the following sentence:- The amount authorized in this section shall be available for expenditure until June thirtieth, two thousand.

SECTION 30. Paragraph (*i*) of section 6 of chapter 372 of the acts of 1984 is hereby amended by inserting after the word "purposes", in line 11, the following words:- ; provided, that there shall be no diversion of water from the Connecticut River for the purposes of augmenting the water resources of any political subdivision serviced by the waterworks division of the Authority pursuant to paragraph (*d*) of section eight of this act;.

SECTION 31. Item 2120-7885 in section 2F of chapter 199 of the acts of 1987 is hereby amended by inserting after the word "facilities", in line 2, the following words:- ; and provided, further, that notwithstanding the provisions of any general or special law to the contrary, not less than one hundred and forty-two thousand dollars shall be provided to the town of Templeton as a state match for the purchase of firefighting equipment.

SECTION 32. Item 2120-8882 of section 2 of chapter 564 of the acts of 1987 is hereby amended by striking out the wording and inserting in place thereof the following:- For the preparation of the studies and plans, engineering services, acquisition, construction, rehabilitation, and restoration of historic landscapes, including, but not limited to, the Olmstead parks in the commonwealth; provided, however, that the department of environmental management shall establish a municipal grant program for the purposes described herein; provided, further, that notwithstanding the provisions of any general or special law to the contrary, the department of environmental management is hereby authorized and directed to expend five million dollars for improvements to Forest Park in the city of Springfield. For expenditures under said grant program, a municipal cash grant of no less than ten percent and no more than fifty percent of the total project costs shall be required.

SECTION 33. Said chapter 564 is hereby further amended by striking out section 14 and inserting in place thereof the following section:-

Section 14. The commissioner of the department of environmental management is hereby authorized to expend a sum not exceeding twenty-eight million five hundred thousand dollars for the acquisition of lands fronting on rivers and coastal areas and for the design and construction of recreational facilities thereon, including associated costs for conservation and recreation purposes, provided that not less than five hundred thousand dollars of the amount authorized herein be obligated and expended for the purposes of an interagency agreement between said department and the department of highways for the purposes of a study, design, planning, engineering, acquisition, development and related and associated costs for the improvement of lands within or adjacent to traffic reconstruction

projects of the department of highways; provided further, that not more than three million dollars be expended for the acquisition of coastal parcels contiguous to existing state reservations. The amount hereby appropriated shall be in addition to any funds previously appropriated for this purpose.

SECTION 34. Section 19 of said chapter 564 is hereby amended by inserting after the word "otherwise", in line 4, the following words:- or for other land in the vicinity of land fronting saltwater which would serve to protect and enhance such land; provided further, that no more than two hundred and twenty thousand dollars of the monies authorized in this section shall be expended for the study, design, acquisition, construction and implementation of a waterfront park known as the Hyannis Walkway to the Sea.

SECTION 35. Said chapter 564 is hereby further amended by striking out section 26 and inserting in place thereof the following section:-

Section 26. The commissioner of the department of environmental management is hereby authorized and directed to expend an amount not to exceed two hundred and ten thousand dollars for improvements to the Mount Tom State Reservation, including improvements to the Stone House pavilion, the field surrounding said pavilion, the digging of new wells and installation of sanitary facilities at the main pavilion, and surveying the metes and bounds of said reservation. Notwithstanding the provisions of any general or special law to the contrary, funds authorized herein shall be available for expenditure until June thirtieth, two thousand.

SECTION 36. Section 27 of said chapter 564, as amended by section 394 of chapter 177 of the acts of 1990, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- The department of environmental protection is hereby authorized to expend a sum not to exceed fifteen million dollars to plan, maintain, and improve projects related to water supply and wetlands protection; for the delineation of recharge areas; for providing technical assistance and equipment related to wetlands protection to cities and towns; for providing technical assistance and equipment related to groundwater and surface water supply protection to cities, towns, and districts; for conducting basin-wide water resource assessments pertaining to critical resource protection; and for grants to cities, towns and districts for the acquisition of lands and waters and easements by said cities, towns and districts to protect and conserve groundwater aquifers and recharge areas, surface water supplies and watershed areas, and surface or underground lands adjacent to said resources, for the protection of water that is determined by said department to be of potential or existing use for water supply purposes, consistent with section one hundred and sixty of chapter one hundred and eleven of the General Laws; provided further, that any such grants approved by the department and provided hereunder to cities, towns and districts may be for up to eighty percent of the eligible costs of such projects; and provided further, that said department shall establish standards and guidelines for the administration and disbursement of said funds and criteria for the receipt of such funds with the approval of the water resources commission.

SECTION 37. Said chapter 564 is hereby further amended by striking out section 38 and inserting in place thereof the following section:-

Section 38. A portion of the funds provided in sections two to thirty-four, inclusive, of this act, subject to the prior approval of the secretary of administration and finance, may be used for the costs associated with the acquisition and development of property. Such associated costs may include, but not be limited to, the cost of legal services, appraisals, title examinations, surveys, design, engineering, inspections, audits, environmental risk assessments and studies, and planning. Notwithstanding the provisions of section thirty of chapter twenty-nine of the General Laws, a portion of the funds authorized in said sections two to thirty-four, inclusive, of this act, may be used for costs associated with title insurance. Not more than two percent of the funds authorized pursuant to said sections two to thirty-four, inclusive, of this act, may be used for the payment of salaries of permanent or temporary employees of the commonwealth who provide direct and substantial support for the purposes authorized in said sections two to thirty-four. No amounts authorized in said sections two to thirty-four, inclusive, of this act, shall be used by any recipient municipality for the supplementing or supplanting of normal operating expenses of any function of said municipality.

SECTION 38. Section 22 of chapter 584 of the acts of 1987, as most recently amended by section 400 of chapter 177 of the acts of 1990, is hereby further amended by striking out clause (*c*) and inserting in place thereof the following clause:-

(*c*) up to forty million dollars for the costs of construction of landfills or other solid waste facilities as authorized by paragraph (2) of said subsection (c) of said section three of said chapter twenty-one H, for the costs of closure of an existing landfill or other solid waste facility as authorized by paragraph (1) of subsection (b) of said section three of said chapter twenty-one H, and for the closure and conversion of an existing municipal landfill as authorized by paragraph (3) of subsection (b) of said section three of said chapter twenty-one H.

SECTION 39. Said chapter 584 is hereby further amended by striking out section 23 and inserting in place thereof the following section:-

Section 23. The executive office of environmental affairs is hereby authorized and directed to expend a sum, not to exceed twelve million five hundred thousand dollars for: (*a*) the purposes of discovery, assessment, containment, clean-up, and closure of existing or closed solid waste facilities causing or threatening to cause pollution as authorized by section four of chapter twenty-one H of the General Laws; and (*b*) in cooperation with the executive office of transportation and construction, a pilot project using recycled tires on secondary roadways as construction material in order to develop and promote the technological requirements and uses of recycled tires as road material.

SECTION 40. Section 7 of chapter 236 of the acts of 1988 is hereby amended by striking out subsection (*a*) and inserting in place thereof the following subsection:-

(*a*) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Environmental Trust Fund. It shall be the sole purpose of the Trust Fund to fund and coordinate projects to restore, protect and improve the quality of all commonwealth waterways, including but not limited to the Boston and Lynn harbors and Massachusetts, Buzzards and Cape Cod Bays, the waters and watersheds of the Bashbish,

Blackstone, Chicopee, Connecticut, Deerfield, Farmington, French, Hoosic, Housatonic, Kinderhook, Millers, Quinebaug, Ten Mile and Westfield rivers, to increase understanding of the harbors, bays, watersheds, and rivers and their resources and the effect of human activities upon them, and to encourage public involvement in activities which promote the harbors, Bays, watersheds and rivers as living resources and public treasures for present and future citizens of the commonwealth of Massachusetts. The expenditure of the two million dollars of principal appropriated to the trust by this section shall be made at the direction of the secretary of environmental affairs solely in accordance with the terms and conditions of the Stipulation and Order filed with the United States District Court for the District of Massachusetts on or about April twelfth, nineteen hundred and eighty-eight, by the United States and the commonwealth for the purpose of settling the United States' claim of penalties against the commonwealth and the metropolitan district commission in United States v. Metropolitan District Commission, Civil Action No. 85-0489-MA. All other monies for the Trust Fund shall be solicited, received and expended within the limits of and in the manner described in rules and procedures to be adopted by the board of trustees to be appointed by the secretary of environmental affairs. The board shall also develop criteria for project grants to be made to qualifying not-for-profit organizations, community associations, civic groups, schools, cities or towns, regional planning agencies or public agencies for projects consistent with the purposes of the trust fund.

SECTION 41. Subsection (*b*) of said section 7 of said chapter 236 is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The board shall consist of nine distinguished citizens, two of whom shall be residents of the western part of the commonwealth, who by virtue of standing in the community and experience, are suited to advise the secretary on effecting the purposes of the Trust Fund.

SECTION 42. Section 22 of chapter 275 of the acts of 1989 is hereby amended by striking out, in line 5, the word "twenty" and inserting in place thereof the following word:- ten.

SECTION 43. Section 27 of chapter 203 of the acts of 1992 is hereby amended by inserting after the word "department", in line 7, as appearing in section 190 of chapter 60 of the acts of 1994, the following words:- ; provided, further, that the water pollution abatement trust shall make such loans to the towns of Holden and West Boylston, or to the metropolitan district commission as statutorily authorized, for the components of the project described in Metropolitan District Commission Waste Water Project No. WM93-001-SIA, Waste Water Facilities Plan West Boylston-Holden-Wachusett Reservoir Project which are on the department's priority list for fiscal years nineteen hundred and ninety-five through two thousand and two, inclusive, such that the total financial assistance provided to said towns or commission with respect to the project is the financial equivalent of a grant of fifty percent of the eligible costs thereof as determined by the department.

SECTION 44. Section 340 of chapter 110 of the acts of 1993 is hereby amended by striking out, in line 3, the word "four" and inserting in place thereof the following word:- seven.

SECTION 45. Section 12 of chapter 498 of the acts of 1993 is hereby amended by adding the following paragraph:-

Notwithstanding any provision of this act or of chapter two hundred and twelve of the acts of nineteen hundred and seventy-five, as amended, the Bank, in carrying out the provisions of this act shall be deemed a "public employer" as that term is defined in section one of chapter two hundred and fifty-eight of the General Laws, and is therefore subject to the provisions of said chapter two hundred and fifty-eight. Any notice of claim pursuant to section four of said chapter two hundred and fifty-eight shall be presented to the treasurer of the Bank.

SECTION 46. Item 2120-7957 in section 2 of chapter 85 of the acts of 1994 is hereby amended by inserting after the word "item", in line 17, the following words:- ; and provided, further, that notwithstanding any other provision of this item, not more than six million dollars shall be expended from this item for the acquisition and demolition of five parcels of land located on Salisbury Beach.

SECTION 47. Item 2440-8952 in said section 2 of said chapter 85 is hereby amended by inserting after the word "item", in line 18, the following words:- ; provided further, that not less than six hundred thousand dollars be expended for the implementation of the Brook Farm Master Plan.

SECTION 48. Said item 2440-8952 in said section 2 of said chapter 85 is hereby further amended by inserting after the word "waste", in line 15, the following words:- ; provided, further, that notwithstanding the provisions of any general or special law to the contrary, the commission is hereby authorized to acquire the site occupied by the former Bay State Smelting Company located on Somerville avenue in the city of Somerville, but neither the commission nor the commonwealth shall have any liability with respect to said site pursuant to chapter twenty-one E of the General Laws.

SECTION 49. The first paragraph of section 44 of said chapter 85 is hereby amended by adding the following sentence:- Under no circumstances shall any lease entered into pursuant to this section be for a period of more than five years.

SECTION 50. Said section 44 of said chapter 85 is hereby further amended by striking out, in line 35, the words ", E.F. Dodge house" and inserting in place thereof the following words:- , the Coach House and Carriage Garage at Bradley Palmer State Park, the Farm Complex at Maudslay State Park, Gilder House complex at Jug End, the Weeks House at Myles Standish State Forest, the Baker Chocolate Factory Company Administration Building at Lower Mills in the city of Boston, Lamson House and garage.

SECTION 51. Item 6033-9517 in section 2A of chapter 273 of the acts of 1994 is hereby amended by inserting after the word "replacement", the second time it appears, in line 28, the following words:- ; provided, further, that not less than six hundred thousand dollars shall be expended for a study to determine the environmental impact and the feasibility of widening Route 88 in Westport for its entire length from the present two-lane section to a posted four-lane section, including but not limited to, the mitigation efforts which might be undertaken to minimize the environmental impacts and the estimated cost of the proposed widening including mitigation, right-of-way costs, and construction; and

provided further, that the Massachusetts highway department shall submit said study to the joint committee on transportation not later than July first, nineteen hundred and ninety-six.

SECTION 52. Notwithstanding any general or special law to the contrary, the commissioner of the metropolitan district commission may acquire development rights or other interests, including fee interests, in land pursuant to the provisions of chapter seventy-nine or chapter eighty A of the General Laws.

SECTION 53. Notwithstanding the provisions of any general or special law to the contrary, the department of environmental protection and the office of the attorney general shall work in cooperation with the office of seized property management within the division of capital planning and operations, created pursuant to paragraph (2) of subsection (f) of section forty-seven of chapter ninety-four C of the General Laws, to identify and obtain a vessel forfeited pursuant to the provisions of said section forty-seven, suitable to meet the needs of the department in enforcing the provisions of chapter ninety-one of the General Laws and regulations promulgated thereunder.

SECTION 54. Any and all draft and final regulations, and any amendments thereto, promulgated by the secretary of the executive office of environmental affairs, pursuant to clause twenty-six of section two of section twenty-one A of the General Laws, and the fisheries and wildlife board, pursuant to section two A of chapter one hundred and thirty-one of the General Laws, shall be submitted to the joint committee on natural resources and agriculture for its review at least sixty days prior to the effective date of any such regulations or amendments thereto.

SECTION 55. The Massachusetts Water Resources Authority is hereby authorized and directed, notwithstanding any law, ordinance or regulation to the contrary, to convey to the city of Chelsea, for park and recreation purposes and for no other purposes, a certain parcel of land owned by said authority in the city of Chelsea, consisting of approximately 32,939 square feet. The parcel of land is generally located at the intersection of Central and Eastern Avenues, and is more particularly described in deeds registered in the Suffolk County Registry of Deeds. The consideration for such conveyance shall be negotiated between said city and said Authority.

SECTION 56. Upon notification of the Interstate Commerce Commission's approval of the abandonment by the Boston & Maine Corporation of the corporation's freight rights on the Saugus Branch, so-called, the Massachusetts Bay Transportation Authority, notwithstanding any general or special law to the contrary, is hereby authorized and directed to convey to the cities of Everett and Malden, respectively, the portions of the Saugus Branch railbed located within said cities. The consideration for such conveyance shall be negotiated between said city and said authority.

SECTION 57. Except as otherwise provided by law, any amounts made available by this act or heretofore made available by chapter five hundred and sixty-four of the acts of nineteen hundred and eighty-seven shall be available for expenditure until June thirtieth, two thousand and one.

SECTION 58. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balances of bond funded authorizations which are listed herein

shall cease to be available for expenditure on the effective date of this act: 2320-8813, 2410-8801, 2440-7871, 2440-7884, 2440-7899, 2440-8794, 2440-8812, 2440-9813, 2440-9872.

SECTION 59. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balances of the bond funded authorizations which are listed below which are in excess of the amount specified below for each such item shall cease to be available for expenditure on the effective date of this act.

2260-9882 ..... $50,000,000
2260-9883 ..... $50,000,000

SECTION 60. Notwithstanding the provisions of any general or special law to the contrary, in or upon acquiring any fee interest in land for purposes within Article XCVII of the Amendments to the Constitution of the Commonwealth, all state agencies, commissions, or boards expending or receiving state funds pursuant to this act shall obtain the approval of the secretary of the executive office of environmental affairs before implementing or endorsing any prohibition of fishing, hunting, or trapping on such land and shall provide the secretary with written justification of said prohibition. Any state agency, commission, or board managing or controlling fee interests in such land acquired prior to the effective date of this section shall provide the secretary with written justification of any prohibition of fishing, hunting, or trapping on such land within sixty days of said effective date. Any management plan developed for such land shall include such justifications.

SECTION 61. Notwithstanding the provisions of any general or special law to the contrary, the metropolitan district commission is authorized and directed to prepare detailed plans and file an application with the executive office of transportation and construction for transportation enhancement funds made available to the commonwealth under the Federal Intermodal Surface Transportation Efficiency Act (ISTEA) for the conversion of the Stone Barn adjacent to Route 9 in the Hemlock Gorge Reservation to a visitor's center/office/storage space for the reservation in accordance with the concept plans prepared for the Friends of Hemlock Gorge with funding from the National Trust For Historic Preservation.

SECTION 62. Notwithstanding any general or special law to the contrary, the metropolitan district commission is authorized to take the necessary steps to acquire vacant parcels adjacent to the Hemlock Gorge Reservation to prevent further encroachment of incompatible uses on the reservation, subject to review and report by the inspector general, and report to the general court; and provided further that such acquisition shall be subject to appropriation.

SECTION 63. The metropolitan district commission is hereby authorized, to the extent not otherwise authorized by statute, to do all things necessary to design, construct, test, and transfer to the ownership of the appropriate public and private property owners, the project described in Metropolitan District Commission Waste Water Project No. WM93-001-S1A, Waste Water Facilities Plan West Boylston-Holden-Wachusett Reservoir Watershed, hereinafter called the project, including, but not limited to, entering into contracts and other agreements with the Towns of West Boylston and Holden; the Water

Pollution Abatement Trust, established pursuant to chapter twenty-nine C of the General Laws, hereinafter called the Trust; the Upper Blackstone Water Pollution Abatement District, established pursuant to chapter seven hundred and fifty-two of the acts of nineteen hundred and sixty-eight; the department of environmental protection; and private and public property owners to be serviced by the project.

Upon completion of the project, said commission shall file a project completion report with the secretary of the executive office for administration and finance and the Senate and House committees on ways and means detailing the original estimated costs, final estimated costs, contract bid amounts, and actual project costs, by individual project components. In the event that the Massachusetts Water Resources Authority financed more than 14.14 percent of the total actual project cost, or the town of Holden financed more than 12.10 percent of the total actual project cost, or the town of West Boylston financed more than 13.53 percent of the total actual project cost, said secretary shall take all steps necessary to reimburse each of the preceding organizations which had financed more than their respective percentage share, to the extent necessary to ensure that the net amount financed by each organization does not exceed the percentage share specified herein.

SECTION 64. The towns of West Boylston and Holden shall each take the necessary actions to establish a program of betterment assessment and collection with respect to the improvements to the private and publicly owned property to be served by the project to be funded from account 2420-7964 to insure the recovery of these funds by the respective towns. In each year that funds are expended from account 2420-7964, the metropolitan district commission shall certify to the division of local services of the department of revenue and to each town the amounts expended for the benefit of property owners in each town, accompanied by a schedule of the amounts expended for each property, and the property address and owner. Said division, upon review, shall advise each town of the amounts to be recovered, over a period of twenty-five years, and shall deduct each annual amount, on a quarterly basis, from each town's local aid distribution. At the end of each fiscal year in which such a recovery is made from either or both towns, the treasurer shall transfer the sum of the amounts so recovered to the trust for deposit pursuant to clause (*iv*) of subsection (*a*) of section four of chapter twenty-nine C of the General Laws.

Notwithstanding section thirteen of chapter eighty or any other provision of the General Laws, the towns of West Boylston and Holden shall commit as assessments of the town any amounts certified to them by the metropolitan district commission as expended for the benefit of property owners in their respective towns. Such assessments may be apportioned for up to twenty-five years at the election of the property owners, and shall bear no interest. One twenty-fifth of the total amount of such assessments for each town shall be deducted from the town's local aid each year until the full amount of said total has been recovered by the commonwealth. To the extent that a town receives more than one twenty-fifth of the total assessment amount in any year, the excess shall be placed in a reserve account to be used to meet the annual obligation to the commonwealth in any year when the town's collection of such assessments are less than one twenty-fifth of the total assessment amount.

Said commission shall annually notify the commissioner of revenue no later than February first of the amounts to be deducted from the local aid of West Boylston and Holden pursuant to this act. Said commission shall also cause to be recorded in the registry of deeds a list of parcels upon which special assessments are to be imposed on account of the project, which list shall constitute a lien upon the parcels as provided in chapter eighty of the General Laws.

SECTION 65. There shall be a special commission to oversee the centennial of the department of environmental management and to plan for the future of the state parks system. Said study shall include, but not be limited to, coordination, development and recommendation of a plan for the future of said department, which shall have as its objective determining the best means of preserving the natural resources managed by the department for the citizens and tourists of the commonwealth. Said study shall review parks operations within the commonwealth as well as other state park systems. The commission shall coordinate, develop and recommend to the governor a plan for the future of the department, which shall have as its objective the best means of preserving the agency's natural resources for the citizenry and tourists of the commonwealth. The commission shall oversee the plan of public events to celebrate the centennial of the department, and investigate the potential utilization of resources from both the public and private sectors to fund centennial events and to create management plans to strengthen the department. The commission shall consist of seventeen members, four of whom shall be members of the house of representatives to be appointed by the speaker; four of whom shall be members of the senate to be appointed by the president; and nine of whom shall be appointed by the governor, two of whom shall be representative of a department friends group or advisory board, two of whom shall be a member of a statewide environmental organization which promotes both recreation and conservation activities, two of whom shall be members of the Massachusetts Recreation and Parks Association, one of whom shall be a member of a professional natural resource management organization, one of whom shall be a city or town forest warden, and one of whom shall be a representative of an AFL-CIO labor organization whose interests and employment directly and continually relate to the scope and activity of the department. All appointments shall be made within sixty days of the effective date of this act. Members shall serve without compensation. The commission shall report the results of its study and its recommendations, together with any drafts of legislation necessary to carry out its recommendations, to the secretary of the executive office of environmental affairs and the joint committee on natural resources and agriculture, not later than January first, nineteen hundred and ninety-seven.

SECTION 66. A special commission is hereby established to explore alternatives to funding payments in lieu of taxes pursuant to section thirteen through eighteen of chapter fifty-eight of the General Laws. Said commission shall consist of two members appointed by the speaker of the house of representatives, the chair of the house ways and means committee or designee thereof, two members appointed by the senate president, the chair of the senate ways and means committee or designee thereof, the commissioner of the department of revenue division of local services or designee, and the secretary of the execu-

tive office of administration and finance or designee. Said commission shall report to the joint committee on natural resources and agriculture not later than March first, nineteen hundred and ninety-six.

SECTION 67. There is hereby established an urban task force, whose members shall serve without compensation, to consist of one representative from the city of Chelsea, one representative from the community of Dorchester in the city of Boston, one representative from Springfield, one representative from Pittsfield, one representative from Worcester, one representative from New Bedford, one representative from Lynn and five persons to be appointed by the secretary of the executive office of environmental affairs, of which one shall be the commissioner of the department of environmental protection or his designee, who shall serve as chairman, one individual with a scientific background in the study of hazardous substances, an attorney licensed to practice law in the commonwealth with knowledge of, and experience in dealing with hazardous waste remediation issues, one member of the Massachusetts bankers association, and one member of a statewide environmental organization, for the purpose of making an investigation and assessment of the impact of chapter twenty-one E of the General Laws on access to capital, state and municipal loan capacities, existing businesses, future economic development, retroactive and third-party liability, and innocent owner remediation. Said task force shall also investigate and promulgate a list of those older urban areas located within the commonwealth that are, or are likely to be, most impacted by the provisions of said chapter twenty-one E. Said task force shall report the results of its investigation, its assessment list, and its recommendations, if any, together with any drafts of legislation necessary to carry out its recommendations to the secretary of the executive office of environmental affairs, the senate and house chairs of the committee on ways and means, and the joint committee on natural resources on or before December thirty-first, nineteen hundred and ninety-six. Said task force may employ technical experts and any such officers, agents, and employees as are necessary to effectuate the purposes of the task force and may fix their qualification, duties, and compensation, subject to appropriation.

SECTION 68. Sections twenty-four and twenty-five shall take effect on July first, nineteen hundred and ninety-six.

Sections disapproved: Sections 49, 51 and 54.

The remainder of the bill was approved by the Governor February 12, 1996.

Chapter 16. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT EASEMENTS IN CERTAIN LAND LOCATED IN THE CITY OF NORTHAMPTON.

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 Northampton a certain permanent storm sewer easement located in said city, subject to such terms and conditions as the commissioner may prescribe in consultation with the department of environmental management. Said land is bounded and described on a Plan of Drainage Easement off Marshall Street in Northampton, Massachusetts, dated August 9, 1986, scale 1"=20', Paul D. Hadsel, City Engineer, to be recorded herewith in the Hampshire county registry of deeds.

The description of the centerline of the proposed easement is bounded and described as follows:

Beginning at a point on the northwesterly sideline of Marshall Street said point being fifteen (15) feet more or less from this sideline intersection of Marshall and Crosby Streets;

Thence running in a northeasterly direction through land now or formerly of John F. and Sophie A. Filoski, intersecting the northeasterly property line of said land at a point a distance of four (4) feet more or less from the northwesterly corner of the Filoski parcel;

Thence continuing at the same course through land now or formerly of the city of Northampton to a point. The total distance of the preceding course from Marshall Street to the above mentioned point in the city of Northampton land is one hundred twenty (120) feet more or less;

Thence turning left at an angle of one hundred twenty-four (124) degrees more or less and running in a northwesterly direction through land now or formerly of the Commonwealth of Massachusetts, department of environmental management for a total distance of seventy-one (71) feet more or less to a manhole located on an angle point of existing drainage easement recorded at the Hampshire county registry of deeds in Book 2546, Page 23 and Plan Book 131, Page 68.

The proposed drainage easement is located in land now or formerly of the Commonwealth of Massachusetts and is described as follows:

The easement is thirty feet more or less wide, centered on the centerline of the proposed easement mentioned and described above and extends from the southeasterly property line of the above mentioned land to the southerly boundary line of the existing easement described above. The area of the easement is seven hundred twenty square feet more or less.

SECTION 2. The commissioner of the division of capital planning and operations is hereby authorized to grant an easement for rail transportation and rail utility purposes over a certain parcel of land, currently being used for public recreation purposes, located in the city of Northampton to a public or private entity, subject to such terms and conditions as the commissioner may prescribe in consultation with the department of environmental management. Said easement shall be located within a parcel of land acquired by the Commonwealth of Massachusetts by a deed recorded in the Hampshire county registry of deeds Book 2546, Page 132 and shown on a plan recorded in the Hampshire county registry of deeds Plan Book 131, Page 79 and shown on Northampton Assessors' Map 25A as parcels 166 and 167. Said easement shall be laid out so as to allow the construction of a non-motorized rail trail along the entire length, in keeping with standard design practices for such trails.

Consideration for the easement described in this section shall be an easement for a tunnel for a recreation rail trail under the Boston and Maine Railroad north-south main line to be located within one-quarter mile of the western terminus of the easement described in this section and any other amounts pursuant to section eight of this act and shall not be subject to the provisions of chapter seven of the General Laws; provided, however, that if the appraisal conducted pursuant to section eight of this act establishes that the easement granted by the Boston and Maine Railroad is equal to the fair market value of the easement granted by the commonwealth, then no further payment will be owed by the Boston and Maine Railroad.

SECTION 3. 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 Northampton a certain permanent sewer utility access and maintenance easement located in said city, subject to such terms and conditions as the commissioner may prescribe in consultation with the department of environmental management. Said land is bounded and described on a plan entitled "Northampton Industrial Park, Industrial Redevelopment Project" and subtitled "Plan-Sanitary Sewer Connection Between Industrial Park Sewer and Existing City Sewer, scale: 1"=200'," prepared for Northampton Redevelopment Authority by E.H. Lord-Woods Associates, Inc. on file with the city of Northampton department of public works.

SECTION 4. The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty I, inclusive, of chapter seven of the General Laws, to convey to the city of Northampton a certain easement or easements for public roadway, right to pass and repass, utilities and public safety purposes for a widening of Bradford Street by the intersection with Woodmont Road, subject to such terms and conditions as the commissioner may prescribe in consultation with the department of environmental management. Said easement shall be located adjacent to the existing Bradford street layout and within a parcel of land acquired by the commonwealth by a deed recorded in the Hampshire county registry of deeds Book 2546, Page 132 and shown on a plan recorded in the Hampshire county registry of deeds Plan Book 131, Page 79 and shown on the Northampton Assessors' Map 24D parcels 25A-166 and 32A-263.

SECTION 5. The recipients of said easements and interests granted or conveyed pursuant to and described in sections one, two, three, four and nine shall assume the costs of appraisals, surveys, or other expenses relative to the granting of the easement or interest.

SECTION 6. In the event that the easements described in sections one, two, three and four are not used for the purposes stated in this act within five years of the effective date of this act, or if grantee ceases to use said easement for such purposes stated in sections one, two, three and four, at any time hereafter for a period exceeding one year, upon notice delivered to said easement grantee by the commissioner said easement shall revert to the commonwealth upon such terms and conditions as the commissioner may prescribe in the notice.

SECTION 7. The more precise configuration of the easement areas described in this act shall be shown on recordable plans of land as such plans are further revised, if necessary,

and recorded with the Hampshire county registry of deeds. In the event the easement area so described in this act contradicts or is inconsistent with such area as shown upon said plan, then said plan and any subsequent plan of record shall control as to the accuracy and correctness of such description.

SECTION 8. The consideration paid for the interests or easements conveyed or granted pursuant to sections one, two, three, four and nine shall be the full and fair market value of the property determined by the independent appraisal, for its use as described herein. The inspector general shall review and approve said appraisal and said review shall include a review of methodology utilized for said appraisal. The inspector general shall prepare a report for his review and file said report with the commissioner for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration in accordance with section five of this act.

SECTION 9. The amount paid as consideration pursuant to sections one, two, three, four and nine shall be deposited in the General Fund of the commonwealth.

SECTION 10. The commissioner shall, thirty days before the execution of any agreement to grant any easement or interest 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 chairmen of the joint committee on state administration at least fifteen days prior to execution.

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

Approved February 12, 1996.

Chapter 17. AN ACT AUTHORIZING THE CITY OF LYNN TO USE CERTAIN PARK LAND FOR NON-PARK PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The city of Lynn is hereby authorized to use a certain parcel of park land located in said city for non-park purposes. Said parcel is shown as Map 28, Block 257 of the assessor's map of the city of Lynn and shown on a plan of land entitled "Plan of Hospital Avenue", dated July thirteenth, nineteen hundred and twenty which is on file in the office of the city engineer.

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

Approved February 12, 1996.

Chapter 18. AN ACT PROVIDING FOR NONPARTISAN TOWN ELECTIONS IN THE TOWN OF GRANBY.

Be it enacted, etc., as follows:

SECTION 1. Chapter six of the acts of nineteen hundred and ninety-four is hereby repealed.

SECTION 2. Any person who is qualified to vote for town officers in the town of Granby may be a candidate for an elective town office and shall be entitled to have his name as such candidate printed on the official ballot to be used at a town election; provided, however, that he files nomination papers provided by the town clerk containing not less than twenty-five signatures certified as voters of said town. Nomination papers shall be filed with the town clerk not later than five o'clock in the afternoon of the thirty-fifth day preceding such town election. Every nomination paper shall be submitted to the registrars of voters for certification of names thereon on or before five o'clock in the afternoon of the fourteenth day preceding the day on which it shall be filed with the clerk.

No preliminary or primary election or caucus for the nomination of town officers shall be held. No ballot used at a 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 such political designation or mark.

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

Approved February 16, 1996.

Chapter 19. AN ACT RELATIVE TO THE MEMBERSHIP OF THE CONSERVATION COMMISSION OF THE TOWN OF CHILMARK.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section eight C of chapter forty of the General Laws, the board of selectmen of the town of Chilmark are hereby authorized to appoint not more than two associate members of the conservation commission of said town for terms not to exceed one year.

The chairman of said commission may designate any such associate member to sit on the board in the absence of a quorum, failure of a quorum for any reason including a conflict of interest, the existence of a vacancy until said vacancy is filled in the manner provided in section eight C of said chapter forty or for any other reason the chairman may determine to be in the best interest of the commission.

Approved February 16, 1996.

Chapter 20. AN ACT RELATIVE TO THE POSSESSION OF CERTAIN WEAPONS.

Be it enacted, etc., as follows:

Section 10 of chapter 269 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out paragraph (h) and inserting in place thereof the following paragraph:-

(h) Whoever owns, possesses or transfers possession of a firearm, rifle, shotgun or ammunition without complying with the requirements relating to firearm identification cards as provided in section one hundred and twenty-nine C of chapter one hundred and forty shall be punished by imprisonment in a jail or house of correction for not more than two years or by a fine of not more than five hundred dollars. A second violation of this paragraph shall be punished by imprisonment in a jail or house of correction for not more than two years or by a fine of not more than one thousand dollars or both. A violation of this subsection shall not be considered a lesser included offense to a violation of subsection (a), nor shall any one prosecute as a violation of this subsection the mere possession of a firearm, rifle, or shotgun by an unlicensed person not being present in or on his residence or place of business, nor shall the court allow an attempt to so prosecute. A person committing a violation of this subsection may be arrested without a warrant by any officer authorized to make arrests.

Approved February 16, 1996.

Chapter 21. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT CERTAIN EASEMENTS IN THE CITY OF GARDNER.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations is hereby authorized to grant easements on a certain parcel of land, located in the city of Gardner, to the city of Gardner for sewer purposes.

Said easements are shown on a plan of land entitled "Plan of Easement to be taken for Sanitary Sewer Purposes: drawn by Arthur E. Young, P.E., City Engineer, dated January 9, 1976 which is on file in the engineering department of said city.

SECTION 2. The city of Gardner water district shall be responsible for any cost for appraisals, surveys, and all of the expenses and liabilities relating to the granting and exercise of said easement.

SECTION 3. Any deed conveying by or on behalf of the commonwealth the easements described in section one shall limit the use of said easements to installation, construction, operation and maintenance of sewer lines. In the event the purposes described in section one are not complied with, easements authorized therein shall revert to the commonwealth under such terms and conditions as the commissioner of capital planning and operations shall prescribe.

Approved February 16, 1996.

Chapter 22. AN ACT PROVIDING FOR AN ALTERNATE MEMBER ON THE BUILDING COMMITTEE IN THE TOWN OF PROVINCETOWN.

Be it enacted, etc., as follows:

SECTION 1. The charter of the town of Provincetown which is on file in the office of the archivist of the commonwealth, as provided in section twelve of chapter forty-three B of the General Laws, is hereby amended by striking out section 6-5-1 and inserting in place thereof the following section:-

6-5-1. There shall be a building committee, consisting of five regular members and one alternate member appointed by the board of selectmen for three year overlapping terms so arranged that the term of at least one regular member shall expire each year.

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

Approved February 16, 1996.

Chapter 23. AN ACT LIMITING THE TERMS OF CERTAIN OFFICEHOLDERS IN THE TOWN OF TRURO.

Be it enacted, etc., as follows:

Section 2 of chapter 6 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 12 of chapter 43B of the General Laws, is hereby amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

No member of a multimember body, except a member of the board of fire engineers, shall serve for more than three consecutive terms on such body, and two years must pass before such member shall again be eligible for membership on the same such body. No member of the board of fire engineers shall serve more than nine consecutive one-year terms on such body and two years must pass before such member shall be eligible for membership on the same such body. Service to complete a vacant, unexpired term shall not constitute a term for the purpose of this section.

Approved February 16, 1996.

Chapter 24. AN ACT FURTHER REGULATING THE BOARD OF SELECTMEN IN THE TOWN OF NATICK.

Be it enacted, etc., as follows:

SECTION 1. Article 3 of the charter of the town of Natick 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 3-2 (a) and inserting in place thereof the following section:-

Section 3-2 (a) Board of Selectmen. There shall be a board of selectmen to consist of five members elected for terms of three years each. Members of the board of selectmen now in office shall serve until their terms expire. At the annual town election of nineteen hundred and ninety-seven one person shall be elected for a term of three years, one person shall be elected for a term of two years and one person shall be elected for a term of one year. Persons elected thereafter shall be elected for terms of three years.

SECTION 2. This act shall take effect upon its acceptance by the town of Natick.

Approved February 16, 1996.

Chapter 25. AN ACT RELATIVE TO THE SOUNDING OF CERTAIN WARNING DEVICES IN THE TOWN OF NORFOLK.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter one hundred and sixty of the General Laws or any other general or special law, rule or regulation to the contrary, a railroad corporation, including the Massachusetts Bay Transportation Authority, shall not permit a locomotive engine passing on its railroad in the town of Norfolk to sound a whistle at any grade crossing in said town which has the following safety features: flashing lights in each direction which are caused to be automatically activated by an approaching train; two gates, one on each side of the crossing, both of which are caused to be automatically lowered by an approaching train and each of which extends across at least half the width of said crossing so that the entire width of said crossing is blocked when said gates are lowered; a bell that is caused to be automatically activated by an approaching train; overhead street lights; signs posted before the grade crossing in each direction warning motorists and pedestrians of the crossing ahead; posted speed limits for traffic of not more than twenty-five miles per hour; and not more than two lanes of vehicular traffic in each direction at the grade crossing. Notwithstanding the provisions of this section, the whistle of a locomotive engine shall be sounded in the event of an emergency.

SECTION 2. The department of public utilities shall require that whistle markers on the railroad right of way on the approach to each grade crossing in the town of Norfolk shall be replaced with bell markers within ninety days of the effective date of this act.

SECTION 3. The department of public utilities shall notify the Massachusetts Bay Transportation Authority and all other railroad corporations operating locomotive engines in the town of Norfolk of the provisions of this act within thirty days of its effective date.

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

Approved February 20, 1996.

Chapter 26. AN ACT RELATIVE TO THE PROSECUTION OF THE CRIME OF RAPE.

Be it enacted, etc., as follows:

Section 63 of chapter 277 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

An indictment for murder may be found at any time after the death of the person alleged to have been murdered. An indictment for an offense set forth in sections twenty-two, twenty-two A, twenty-three, twenty-four, and twenty-four B of chapter two hundred and sixty-five, or for conspiracy to commit any of said offenses or as an accessory thereto or any one or more of them may be found and filed within fifteen years of the date of commission of such offense. An indictment for an offense set forth in sections seventeen, eighteen, nineteen and twenty-one of said chapter two hundred and sixty-five or section seventeen of chapter two hundred and seventy-two or for conspiracy to commit any such crime or as an accessory thereto or any one or more of them may be found and filed within ten years of the date of commission of such offense. An indictment for any other crime shall be found and filed within six years after such crime has been committed; provided, however, that any period during which the defendant is not usually and publicly a resident within the commonwealth shall be excluded in determining the time limited.

Approved February 23, 1996.

Chapter 27. AN ACT ESTABLISHING A BOARD OF SELECTMEN-TOWN MANAGER FORM OF GOVERNMENT IN THE TOWN OF FRAMINGHAM.

Be it enacted, etc., as follows:

SECTION 1. This act may be cited and shall be known as the Framingham Board of Selectmen-Town Manager Act.

SECTION 2. To the extent that the provisions of this act modify or repeal existing General Laws and special laws or the body of laws which pertain to the town under Section 9 of Article LXXXIX of the Amendments to the Constitution of the Commonwealth, this act shall govern.

SECTION 3. There shall be in the town of Framingham a board of selectmen which shall consist of five members elected for terms of three years, so arranged that as nearly an equal number as possible shall expire each year.

The executive powers of the town shall be vested in the board of selectmen, and said board shall have all of the powers and duties given to boards of selectmen under the Constitution and laws of the commonwealth unless otherwise provided by this act and such additional powers and duties as may be authorized by this act, by by-law or by other town meeting vote.

Said board of selectmen shall cause the laws and orders for the government of the town to be enforced and shall cause a record of its official acts to be maintained.

Said board of selectmen shall be the chief policymaking board of the town and shall act by the issuance of policy statements and guidelines to be followed and implemented by all town agencies serving under said board.

Except as otherwise provided by general law, the board of selectmen shall be the licensing authority of the town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses and to attach such conditions and restrictions thereto as it deems to be in the public interest, and to enforce the laws relating to all businesses for which it issues licenses.

To aid the board of selectmen in conducting its official business and duties, said board shall appoint a town manager and town counsel.

Said board of selectmen shall establish all boards, committees and commissions and appoint their members, except as otherwise provided by this act, by by-law or other vote of the town meeting; and shall appoint members of such other regional authorities, districts, or committees in accordance with any applicable laws or interlocal agreements.

SECTION 4. The board of selectmen, shall appoint a town manager who shall serve for a term not to exceed three years; provided, however, that any such person appointed as town manager may be appointed for more than one term. Said town manager shall meet the minimum qualifications, as determined by the personnel board, to perform the duties of the office. A vacancy in the office of town manager shall be filled as soon as possible by said board of selectmen. Pending the appointment of a town manager or the filling of a vacancy, said board of selectmen shall appoint a suitable person to perform the duties of the office with qualifications as determined by the personnel board. In the event of temporary absence or disability of said town manager, said board of selectmen may designate a qualified person to serve as acting town manager and to perform the duties of said town manager during such temporary absence or disability.

SECTION 5. The town manager shall be the chief administrative officer of the town, shall act as the agent for the board of selectmen and shall be responsible to said board of selectmen for the proper operation of town affairs as provided in this act.

Said town manager, under the policy direction of said board of selectmen, shall supervise, direct and be responsible for the efficient administration of all officers appointed by said town manager and their respective departments and of all functions for which said town manager shall have responsibility, authority or control by this act, by by-law, by town meeting vote or by vote of said board of selectmen. Said town manager shall have the power to delegate, authorize or direct a subordinate or employee of the town to exercise any power, duty or responsibility which the office of said town manager is authorized to exercise under this act. All actions that are performed under such delegation shall be deemed to be the actions of said town manager.

Said town manager may reorganize, consolidate or abolish, any town department, office, agency or function under the jurisdiction of said town manager with the concurrence of town meeting.

SECTION 6. In accordance with the personnel by-law, except as otherwise provided by this act, the town manager shall appoint, based upon merit and fitness alone, the police chief, fire chief, treasurer-collector, town accountant, director of public works, director of parks and recreation, director of health, personnel director and any other officers, subordinates and employees under the direct supervision of said town manager as well as officers, subordinates and employees for whom no other method of selection is provided in this act, except employees of the school department and library department. Said town manager may appoint such ad hoc committees as he deems necessary. Appointment of the personnel director, police chief and fire chief shall be with the concurrence of the board of selectmen.

SECTION 7. The personnel management powers, duties and responsibilities of the town manager shall include, but shall not be limited to, the following:-

(*a*) administering and adopting personnel policies, practices and rules and regulations, any compensation plan and any related matters for all municipal employees and to administer all collective bargaining agreements, except for the school and library departments, entered into by the town.

(*b*) fixing compensation for all town employees and officers appointed by the town manager within the limits established by appropriation and any applicable compensation plan and collective bargaining agreements.

(*c*) negotiating all contracts with town employees concerning wages and other terms and conditions of employment, except the school department; provided, however, that such contracts shall be subject to the approval of the board of selectmen and adoption of a compensation pay plan by town meeting. The town manager may, subject to the approval of the board of selectmen, employ special counsel to assist in the performance of such duties.

SECTION 8. The town manager shall be responsible for all the financial management functions of the town unless otherwise provided by this act or by by-law. Such functions shall include, but not be limited to, the following:-

(*a*) preparing annually, a financial forecast of revenue, expenditures and the general financial condition of the town;

(*b*) preparing and submitting, after consultation with all town departments, an annual operating budget and capital improvement program for town departments;

(*c*) insuring that complete and full records of the financial and administrative activity of the town are maintained and to render reports to the board of selectmen as may be required;

(*d*) approving warrants for the payment of town funds prepared by the town accountant;

(*e*) purchasing all supplies, materials and equipment except books and other educational material for schools and books and other media materials for libraries. The town manager shall approve the award of all contracts for all town departments with the exception of the school department, subject to the approval of the board of selectmen;

(*f*) keeping the board of selectmen and finance committee fully informed as to the financial condition of the town and to make recommendations to said board of selectmen and

to such other elected and appointed officials as such town manager deems necessary.

SECTION 9. The administrative powers, duties and responsibilities of the town manager shall include, but not be limited to, the following:

(*a*) attending all regular and special meetings of the board of selectmen, unless otherwise excused at his request;

(*b*) attending all sessions of the town meeting and to answer all questions addressed to the town manager which are related to the warrant articles and to matters within the scope of responsibility of the town manager;

(*c*) administering either directly or through persons supervised by the town manager in accordance with this act, the provisions of general or special laws, by-laws and other votes of the town meeting;

(*d*) investigating or inquiring into the affairs of any town department or office under the supervision of the town manager;

(*e*) coordinating activities of all town departments, officers, boards or commissions of the town through joint meetings, as appropriate;

(*f*) keeping the board of selectmen fully informed as to the needs of the town requiring action by said board or by other agents of the town as the town manager deems necessary;

(*g*) ensuring the efficient use, maintenance and repair of all town facilities under the jurisdiction of the board of selectmen;

(*h*) maintaining a full and complete inventory of all town-owned real and personal property;

(*i*) performing such other duties as may be necessary or as may be required by this act, by-law, town meeting vote, or vote of the board of selectmen.

SECTION 10. All laws, by-laws, votes, rules and regulations, whether enacted by authority of the town or any other authority, which are in force in the town of Framingham on the effective date of this act, or any portion or portions thereof, not inconsistent with the provisions of this act shall continue to be in full force and effect until otherwise provided by other laws, by-laws, votes, rules and regulations, respectively. Nothing contained herein shall impair contractual rights established prior to the adoption of this act.

SECTION 11. Any person holding a town office or employment in the town on the effective date of this act shall retain such office or employment, and shall continue to perform the duties of such office or employment until provisions shall have been made for the performance of such duties by another person or agency; provided, however, that the executive administrator of said town on the effective date of this act shall continue in said office until a town manager has been appointed pursuant to this act.

SECTION 12. The board of public works, the board of health and the parks and recreation commission shall cease to be elective offices upon acceptance of this act by the voters of the town of Framingham on the effective date of this act. The incumbents in said offices shall continue to serve for the balance of the term for which they have been elected and their successors shall be appointed by the board of selectmen. The number of members, the terms of office and the powers and duties of each such board and commission shall re-

main as currently in effect, until changed in accordance with the provisions of this act.

The board of public works, the board of health and the parks and recreation commission shall continue to operate under the board of public works, the board of health, and the parks and recreation commission, respectively, until a town manager has been appointed at which time said boards and commission shall operate under the supervision of the town manager.

Until a person assumes the position of town manager, the executive administrator shall continue to perform the duties of executive administrator as currently defined.

Within six months of the effective date of this act, the board of selectmen shall appoint a town manager. Upon the appointment of the town manager, the position of executive administrator shall be abolished.

Within ninety days of the effective date of this act, the selectmen shall call a special town election to elect one additional selectman for a term expiring at the nineteen hundred and ninety-eight annual election and one additional selectman for a term expiring at the nineteen hundred and ninety-nine annual election.

SECTION 13. This act shall be submitted for acceptance to the qualified voters of the town of Framingham at the next town election. The vote shall be taken in precincts by ballot in accordance with the provisions of the General Laws in answer to the question, which shall be placed upon the official ballot to used at said meeting: "Shall an act passed by the general court entitled, 'An Act Establishing a Board of Selectmen-Town Manager Form of Government in the Town of Framingham', be accepted by this town?" If a majority of the votes in answer to said question is in the affirmative, said act shall take effect, but not otherwise.

SECTION 14. Chapter eight hundred and sixteen of the acts of nineteen hundred and seventy-five is hereby repealed.

SECTION 15. This act shall take effect upon its passage.

Approved February 23, 1996.

Chapter 28. AN ACT RELATIVE TO THE REVITALIZATION AND DEVELOPMENT OF THE COMMONWEALTH'S SEAPORTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for the immediate revitalization of the seaports 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. To provide for a capital outlay program of revitalization and development of the commonwealth's seaports, through the preparation of plans, studies, construction, alteration, and improvement of various state, municipal and other properties,

and for the purpose of improving the economy and infrastructure of the commonwealth, the sums set forth in sections two, two A and two B of this act, for the several purposes and subject to conditions specified under said section two, are hereby made available, subject to the provisions of law regulating the disbursement of public funds and the approval thereof. The sums appropriated herein shall be in addition to the amounts previously appropriated and made available for the purposes of said items, unless otherwise specified.

SECTION 2.

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Office of the Secretary.

2000-6966 For improvements to coastal facilities in designated and non-designated port areas, including those defined pursuant to chapter twenty-one F of the General Laws and 301 CMR 25.00; provided, that improvements may include, but shall not be limited to, constructing, reconstructing, rehabilitating, expanding, replacing and improving public facilities, piers, wharves, boardwalks, berths, bulkheads, and other harbor and waterfront facilities; provided further, that notwithstanding the provisions of any general or special law to the contrary, funding from this item shall be awarded on a project by project basis and each award shall be contingent upon a matching contribution of twenty-five percent of the cost of the non-dredging components from the community in which improvements are to be made; provided further, that not less than eighteen million dollars shall be expended for the dredging, improvements, expansion and development of the Salem Port, including the dredging of an additional deep water basin, the construction of a public port facility, the development of increased shipping capacity and the construction of a "Sea Rail Link"; provided further, that not less than twenty-five million dollars shall be expended for the dredging, expansion, and development of commercial berths within the port of Fall River; provided further, that not less than three hundred and fifty thousand dollars shall be expended for improvements to Green Harbor, so-called, in the town of Marshfield, including but not limited to, the provision of electricity and water, the reconstruction of the harbormaster's facility, including lavatory access for commercial and recreational harbor users, the provisions of safe collection and environmentally sound storage of used boat oil and improvements to piers and associated facilities; provided further, that not less than four hundred and fifty thousand dollars shall be expended for costs associated with the construction of a boardwalk from the parking lot to the beach at Plum Island, including the construction

of an observation deck at the beach; provided further, that not less than two million dollars shall be expended for the construction, reconstruction, or other improvements to the Salisbury beach seawall; provided further, that not less than three hundred and fifty thousand dollars shall be expended for improvements to the Cashman Park public access facility in Newburyport; provided further, that not less than one hundred and fifty thousand dollars shall be expended for a study relative to the redevelopment of the Newburyport waterfront; provided further, that not less than one million eighty-five thousand dollars shall be expended for improvements to the New Bedford fendering system, so-called; provided further, that not less than five million dollars shall be expended for heavy duty cranes and forklifts for New Bedford and Fall River; provided further, that five hundred thousand dollars shall be allocated to the department of environmental management for the design and construction of a roll-on, roll-off intermodal ferry terminal in the port of New Bedford serving passengers, vehicles and freight; provided further, that not less than five hundred thousand dollars shall be expended for improvements to the Public Landing at Blossom Street, located in the city of Lynn; provided further, that not less than thirty-two thousand dollars shall be expended for repairs to the wooden docks in Kingston; provided further, that not less than three hundred thousand dollars shall be expended for improvements to the main town pier in Plymouth; provided further, that not less than one million dollars shall be expended for improvements to the T Wharf, so-called, in Plymouth; provided further, that not less than seven hundred and fifty thousand dollars shall be expended for the construction of a cold storage facility in the port of Fall River; provided further, that not less than two million dollars shall be expended to make improvements to the port of Fall River to accommodate commercial cruise ships; provided further, that not less than eight hundred thousand dollars shall be expended for improvements to Battleship Cove in Fall River; provided further, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, in-

cluding the costs of clerical and support personnel; and provided further, that the secretary of environmental affairs shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $65,000,000

2000-6967 For the construction, reconstruction, rehabilitation, expansion and replacement and improvement of piers owned by the commonwealth in Gloucester, Fall River, New Bedford, and for improvements to the piers, docks, and all associated facilities at the Hingham shipyard commuter boat terminal; provided, that not less than seven hundred and fifty thousand dollars shall be expended for improvements to said Hingham commuter boat terminal; provided further, that not less than two million twenty-five thousand dollars shall be expended for the construction of a cold storage facility at the state owned piers in New Bedford; provided further, that not less than one million one hundred twenty-five thousand dollars shall be expended to relocate the state owned pier in Fall River; provided further, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the secretary of environmental affairs shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $6,000,000

2000-6968 For any and all non-federal costs incurred after November first, nineteen hundred and ninety-four, for the non-federal share of the Boston Harbor Navigation Improvement Project, authorized by Congress in the Water Resources Development Act of 1990, including but not limited to, the dredging of publicly-owned deep cargo berths in the port of Boston, all costs associated with the preparation of environmental studies and reports, permitting of the project, and all costs associated with the design and relocation of the Massachusetts Water Resources Authority section eight low service pipeline located in the Chelsea river approximately eight hundred feet east of the McArdle Bridge; provided, that not-

withstanding the provisions of any general or special law to the contrary, the Massachusetts Port Authority is hereby authorized and directed to pay twenty-five percent of the non-federal share costs associated with this project; provided further, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the secretary of environmental affairs shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $15,000,000

2000-6969 For the purpose of funding the costs associated with the preparation of comprehensive studies for the designated port areas; provided, that said studies shall include the preparation of environmental impact reports (EIRs) pursuant to the Massachusetts environmental policy act regulations at 301 CMR 10.00; provided further, that said EIRs shall (a) develop all information necessary to initiate the permitting process for such designated port area dredging projects; and (b) shall identify long-term disposal sites for contaminated sediments dredged from all locations, public and private, in the harbor within which the designated port area is located; provided further, that said studies shall include an economic analysis of designated port areas, which, along with the information obtained from the EIRs, shall be presented in a designated port area dredging plan for the commonwealth; provided further, that a portion of the funds authorized herein may be used for associated costs, including but not limited to the cost of environmental assessments, sediment testing and analysis, and surveys and analyses of marine resources and habitats; provided further, that the executive office of environmental affairs, through the Massachusetts coastal zone management office, shall be responsible for the preparation of the EIRs, in consultation and coordination with affected communities, and the designated port area dredging plan; provided further, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction,

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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the secretary of environmental affairs shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $5,000,000

2000-7967 For the costs of equipment related to the development of an electronic fish display auction, so-called, and for the purposes of providing a state match to receive federal grant funds provided under the Northeast Fishing Initiative, so-called, to implement a comprehensive economic development strategy for the fishing industry and to pursue initiatives for voluntary vessel brokerage to international markets; provided, that not less than five hundred and fifty thousand dollars shall be expended for an electronic fish display auction in New Bedford; and, provided further, that not less than five hundred thousand dollars shall be expended for an electronic fish display auction in Gloucester; provided further, that said display auctions shall to be state owned and the secretary may contract with public or private entities for the operation and administration of said display auctions; and provided further, that every effort shall be made to not adversely affect privately operated display auctions $2,600,000

Department of Environmental Management.

2150-6966 For the purpose of funding any and all non-federal costs incurred on or after November first, nineteen hundred and ninety-four, associated with the dredging and the disposal of dredged materials from public channels, anchorages and publicly owned berths within designated port areas and public approach channels thereto, hereinafter "designated port area dredging projects", including but not limited to, maintenance dredging projects defined under 310 CMR 9.00, or maintenance dredging projects with a subsidiary improvement dredging component; provided further, that the seaport advisory council shall recommend the allocation of funding for designated port area dredging projects based upon the designated port area dredging plan; provided further, that the seaport advisory council may recommend funds be allocated sooner where it finds that certain designated port

area dredging projects should be undertaken prior to the completion of the designated port area dredging plan; provided further, that a portion of the funds authorized herein may be used for (a) the implementation and construction of any disposal alternatives determined necessary through the course of environmental review; provided, however, that such alternative does not preclude potential disposal sites with long-term capacity, including design, engineering and expenses to mitigate adverse environmental impacts, and (b) for associated costs, including but not limited to, contract management, inspections, audits and legal services; provided further, that the expenditure of funds authorized herein for designated port area dredging projects shall be made through such agency or agencies as may be recommended to the secretary of the executive office of environmental affairs by the seaport advisory council; provided further, that not more than three million seven hundred fifty thousand dollars shall be expended for the costs incurred by maintenance dredging of the inner portion of the port of Gloucester harbor; provided further, that not less than eighteen million seven hundred fifty thousand dollars shall be expended for the dredging, expansion, and development of commercial berths within the port of New Bedford; provided further, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, planning, and design of the projects funded herein may be charged to this item; provided further, that said personnel 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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the commissioner of the department of environmental management shall file an annual spending plan with 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

2150-6967 For the improvement, preservation and survey of existing rivers and harbors; provided, that funds may be expended from this item for costs incurred after November first, nineteen hundred and ninety-four, associated with dredging projects located outside of designated port areas; provided further, that such awards shall be contingent upon a twenty-five percent matching contribution by

the community in which dredging will occur; provided further, that not less than one million five hundred seventy-five thousand dollars shall be expended for dredging in waters adjacent to the town of Danvers; provided further, that not less than one million two hundred thousand dollars shall be expended for the dredging of Winthrop harbor; provided further, that not less than one million eight hundred seventy-five thousand dollars shall be expended for dredging Belle Isle Creek and waters adjacent to the Beachmont Yacht Club and the Revere veterans of foreign wars post; provided further, that not less than nine hundred thirty-seven thousand five hundred dollars shall be expended for dredging and bulkhead improvements in Hyannis; provided further, that not less than one million eighty-seven thousand five hundred dollars shall be expended for dredging projects in the town of Wareham; provided further, that the department shall give priority to the dredging of the harbors of Falmouth and Plymouth and the clean-up of the Jones River in Kingston; provided further, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the commissioner of the department of environmental management shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $8,900,000

2150-9969 For the removal of unsafe and hazardous wharves and piers, upon certification and notification by the commissioner of the department of environmental protection in accordance with the provision of section forty-nine B of chapter ninety-one of the General Laws and for the removal of submerged or abandoned vessels upon certification and notification by the commissioner of the department of environmental protection; provided, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the commissioner of the department of environmental management shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $3,000,000

Department of Environmental Protection.

2250-9959 For the updating and implementation of the study of development potential of the Fall River Waterfront Study, so-called; provided, that said study shall consider the use and development of the waterfront for tourism, economic development and public recreation; provided further, that not more than five hundred thousand dollars shall be expended for said study; provided further, that said study shall be submitted to the house and senate committees on ways and means no later than October thirty-first nineteen hundred and ninety-six; and provided further, that no funds authorized herein for the implementation of said study shall be expended prior to further legislative approval $18,000,000

Department of Fisheries, Wildlife, and Environmental Law Enforcement.

2300-7967 For research, planning, and public infrastructure investments in fish hatcheries, aquaculture, expansion of shellfish purification facilities, and other fisheries, including the modeling, design and construction of artificial reefs for the enhancement and restoration of marine habitats; provided, that funds may be expended for the costs of converting vacant industrial buildings into fish hatcheries; provided further, that not less than eight thousand four hundred dollars shall be expended for an artificial reef project in Yarmouth; provided further, that not less than three hundred seventy-five thousand dollars shall be expended for the development of the Northeast Aquaculture Center in the city of Gloucester by Salem State College, and for the establishment of a coordinator to coordinate the aquaculture programs offered by said college, North Shore Community College, Essex Agricultural and Technical Institute, North Shore Regional Vocational High School, and the Gloucester public school system; provided further, that not less than seven hundred fifty thousand dollars shall be expended for the capital costs of an economic development project for aquaculture in Barnstable

county; provided further, that no funds authorized in this item shall be expended for the compensation of employees $3,500,000

Metropolitan District Commission.

2496-8967 For the rehabilitation of the Amelia Earhart Dam in the cities of Everett and Somerville, including but not limited to, the replacement of gaskets and other related appurtenances $100,000

2496-8968 For the preparation of studies and plans, engineering services, construction, draining, rehabilitation, and restoration of the historic site known as the Quincy Quarries under the care, custody and control of the metropolitan district commission; provided, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the commissioner of the metropolitan district commission shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item .. $1,000,000

EXECUTIVE OFFICE OF EDUCATION.

Higher Education Coordinating Council.

7118-7961 For research, development and capital equipment purchases at the Massachusetts Maritime Academy associated with the implementation of simulator databases for the commonwealth's waterways and harbor areas for use in infrastructure planning, marine casualty prevention, oil pollution response and the training and certification of pilots and docking masters $750,000

EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.

Office of the Secretary.

9000-8968 For the purpose of supporting a vessel conversion program for the Massachusetts commercial fishing fleet pursuant to the provisions of section twenty-two of this act $5,000,000

SECTION 2A.

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Office of the Secretary.

6000-7967 For projects established pursuant to the provisions of chapter one hundred and sixty-one C of the General Laws to modify clearances over certain railroad lines and to modify grade crossings in the commonwealth that accommodate the efficient and safe movement of freight and to improve rail capacity and access in accordance with the provisions of section twenty of this act; provided, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the secretary of transportation and construction shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $85,000,000

SECTION 2B.

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Office of the Secretary.

6000-7969 For the design, study, and preparation of plans, if necessary, for safety improvements along the Fitchburg division of the Boston and Maine railroad in North Cambridge; provided, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the secretary of transportation and construction shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs

and administrative costs charged to this item $500,000

6000-8968 For the design, preparation of plans, if necessary, and for construction, reconstruction, repairs and other improvements to railroad facilities at Gloucester Harbor; provided, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the secretary of transportation and construction shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $1,000,000

6000-8969 For the design, preparation of plans, if necessary, and for construction, reconstruction, repairs or other improvements to the railroad beds and railroad lines leading to the waterfront of Fall River; provided, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, including the costs of clerical and support personnel; and provided further, that the secretary of transportation and construction shall file an annual spending plan with the house and senate committees on ways and means which details, by subsidiary, all personnel costs and administrative costs charged to this item $10,000,000

SECTION 3. To meet the expenditures necessary in carrying out the provisions of section two, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor, from time to time, but not exceeding in the aggregate, the sum of one hundred eighty-three million eight hundred and fifty thousand dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Seaport Revitalization Loan Act of 1996, 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 Consti-

tution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-one.

All interest and payments on account of principal of such obligations shall be payable from the General Fund.

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

SECTION 4. The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by section three and may issue and renew from time to time notes of the commonwealth thereof bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such 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 final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and one.

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

SECTION 5. To meet the expenditures necessary in carrying out the provisions of section two A, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor, from time to time, but not exceeding in the aggregate, the sum of eighty-five million dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Commonwealth Railroad Capacity Enhancement Loan Act of 1996, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-one.

All interest and payments on account of principal of such obligations shall be payable from the General Fund.

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

SECTION 6. The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by section five and may issue and renew from time to time notes of the commonwealth thereof bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such 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 final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and one.

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

SECTION 7. To meet the expenditures necessary in carrying out the provisions of section two B, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor, from time to time, but not exceeding in the aggregate, the sum of eleven million five hundred thousand dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Gloucester and Fall River Railroad Improvement Loan Act of 1996, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-one.

All interest and payments on account of principal of such obligations shall be payable from the General Fund.

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

SECTION 8. The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by section seven and may issue and renew from time to time notes of the commonwealth thereof bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such 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 final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and one.

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

SECTION 9. Section 2 of chapter 564 of the acts of 1987 is hereby amended by striking out item 2000-8881 and inserting in place thereof the following item:-

2000-8881 For a study and the preparation of plans, if necessary, and for repairs and improvements to MacMillan wharf in the town of Provincetown; provided, that at least twenty-five percent of the costs of said improvements shall be provided by a match from federal, local, or private sources $7,500,000

SECTION 10. Section 21 of said chapter 564 is hereby further amended by inserting after the word "terminal", in line 2, inserted by section 2 of chapter 196 of the acts of 1993, the following words:- in the New Bedford harbor.

SECTION 11. Section 44 of said chapter 564 is hereby amended by striking out, in lines 5 and 6, the words "million, one" and inserting in place thereof the following words:- one million six.

SECTION 12. Item 2150-9951 of section 2 of chapter 85 of the acts of 1994 is

hereby amended by inserting after the word "communities", in line 5, the following words:- ; provided, further, that not less than three hundred thousand dollars shall be expended for seawall improvements in the town of Nahant.

SECTION 13. Item 2440-8952 of said section 2 of said chapter 85 of the acts of 1994, is hereby amended by inserting after the word "item", in line 18, the following words:- ; provided, further, that not less than seventy-five thousand dollars shall be expended for weed control and the ecological maintenance of the Aberjona River, its adjacent ponds and its connecting Mystic Lake in the town of Winchester; provided further, that not less than twenty-five thousand dollars shall be expended for the design, repair and maintenance of the dam at Upper Mystic Lake near the boat club; and provided further, that not less than one hundred thousand dollars shall be expended to create better access to Spot Pond in the town of Stoneham.

SECTION 14. Section 30 of chapter 267 of the acts of 1995 is hereby amended by striking out items 7508-7871, 7508-7890, 7508-7891 and 7514-7890.

SECTION 15. Section 2 of chapter 12 of the acts of 1996 is hereby amended by striking out item 1102-8969 and inserting in place thereof the following item:-

1102-8969 For grants to communities hosting state correctional facilities impacted by inmate capacity increases; provided, however, that the secretary of the executive office of public safety, in consultation with the commissioner of the division of capital planning and operations, is authorized to issue funds authorized herein as grants to communities at a rate of ten thousand dollars for each new secure general population cell at state facilities; provided further, that all grants shall be used for publicly-owned capital projects within the communities; provided further, that not less than nine hundred sixty thousand dollars shall be provided to the host communities impacted by prior year prison expansion at the Massachusetts correctional institution at Norfolk; provided further, that not less than one million six hundred thousand dollars shall be provided to communities impacted by prior year prison expansion at the Massachusetts correctional institution at Cedar Junction; provided further, that not less than three million dollars shall be provided to communities impacted by increased medium security capacity at correctional facilities located in the town of Bridgewater; provided further, that not less than one million fifty-seven thousand two hundred and forty-eight dollars shall be provided to communities affected by prior year prison expansion at the Massachusetts correctional institution at Gardner; provided further, that not less than five hundred thousand dollars shall be provided to the host communities impacted by prior year prison expansion at the Massachusetts correctional institution at Lancaster; provided further, that not

less than two million five hundred thousand dollars shall be provided to the host communities impacted by prior year prison expansion at the Massachusetts correctional institution at Shirley; provided further, that twelve million six hundred and eighty thousand dollars may be authorized for grants to communities impacted by inmate capacity increases due to authorizations in item 8900-7967 of section two; provided further, that said grant money awarded for the expansion of the Massachusetts correctional institution at Shirley shall be divided equally between the towns of Shirley and Lancaster; provided further, that unless otherwise provided for in this item, said grant money shall be paid to communities within six months of the occupancy of the facilities constructed with funds authorized by this act; provided further, that the department of corrections, in conjunction with the department of public health and the department of education, shall conduct a study into the biological causes of crime based on the premise that scientists have been studying biological risk factors which they believe predispose individuals to criminal behavior; provided further, that said study should incorporate these findings to work toward a more effective approach toward criminology; and provided further, that the results of said study shall be submitted to the general court no later than June thirtieth, nineteen hundred and ninety-six $22,297,248

SECTION 16. Item 8900-7967 of said section 2 of said chapter 12, is hereby amended by striking out the wording and inserting in place thereof the following wording:-

For the planning, and studies, acquisition of land and buildings and interests therein, the preparation of plans and specifications, construction, renovation, reconstruction, alteration, improvement, demolition, expansion, repair and furnishings and equipment, for the improvement and the expansion of capacity at state correctional facilities; provided, however, that the costs of professional personnel, excluding clerical and support personnel directly and exclusively involved in the construction, 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 or projects funded herein, including the costs of clerical and support personnel; provided further, that the commissioner of the department of correction shall file an annual spending plan with the house and senate committees on ways and means which

details, by subsidiary, all personnel and administrative costs charged to this item; and provided further, that no funds shall be expended from this item for the expansion of the existing Massachusetts correctional institution at Lancaster.

SECTION 17. Section 3 of said chapter 12 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- To meet the expenditures necessary in carrying out the provisions of section two, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor, from time to time, but not exceeding in the aggregate, the sum of four hundred eighty-seven million three hundred eight thousand one hundred and eight dollars.

SECTION 18. Notwithstanding the provisions of section thirty of chapter two hundred and sixty-seven of the acts of nineteen hundred and ninety-five to deauthorize items 7508-7871, 7508-7890, 7508-7891 and 7514-7890, said items are hereby reauthorized and the amounts available for expenditure on said items on the effective date of said section shall remain available for expenditure through June thirtieth, nineteen hundred and ninety-six.

SECTION 19. The public agencies, authorities and instrumentalities of the commonwealth are further authorized, in accordance with all applicable state and federal laws and regulations, to exercise all powers and do all things necessary and convenient to carry out the purposes of this act, including, without limitation, entering into such contracts or agreements as are appropriate with other federal, state, local or regional public agencies, authorities and instrumentalities and, to the extent permitted by law, private entities, and the advancing and accepting of monies necessary to carry out such agreements; provided, however, that such public agencies, authorities and instrumentalities of the commonwealth certify to the comptroller the amounts so advanced; provided further, that such agreements contain provisions for the accounting of such monies as expended under such agreement be credited to the account of the department from which they were advanced.

In addition to the foregoing, such public agencies, authorities and instrumentalities are further authorized to expend funds made available by this act to acquire from any person land or rights in land by lease, purchase, or eminent domain under the provisions of chapter seventy-nine of the General Laws.

SECTION 20. The Massachusetts Water Resources Authority is hereby authorized and directed to undertake a study of the public health need for and the economic benefits of the metrowest water supply tunnel project which will provide transmission redundancy for the existing Hultman aqueduct. Said authority shall file said study report with the clerks of the senate and the house of representatives not later than March thirty-first, nineteen hundred and ninety-six.

SECTION 21. Notwithstanding the provisions of any general or special law to the contrary, on or before August thirty-first, nineteen hundred and ninety-six, the commission established pursuant to chapter eight of the acts of nineteen hundred and eighty-eight shall file a report with the secretary of administration and finance and with the house and senate committees on ways and means detailing the status of the project authorized by said chapter

and shall file a schedule which delineates the timetable for the completion of said project.

SECTION 22. There is hereby established within the executive office of economic affairs, a Commercial Fishing Vessel Conversion Loan Fund, hereinafter referred to in this section as the conversion fund. It shall be the objective of the conversion fund to provide a portion of the capital necessary to allow commercial fishing vessels licensed by the commonwealth to convert from present ground fishing capabilities to more inclusive fish harvesting technologies. Any commercial vessel licensed by the commonwealth and owned by a resident of the commonwealth, corporation, or partnership may apply to the executive office of economic affairs for a conversion loan, subject to the following conditions:

(*a*) The maximum loan provided by the conversion fund for any single vessel shall not exceed one hundred thousand dollars;

(*b*) Each conversion fund loan shall make its best effort to match the dollar amount from another financing source, the amount of which may be determined by the executive office of economic affairs, with the conversion fund giving priority to loan applications that have received local community or industry funds as a source of matching loan or grant funds;

(*c*) The conversion fund loan shall be subject to such terms and conditions as may be approved from time to time by the executive office of economic affairs, including, but not limited to, any rules and regulations promulgated to effectuate the purposes of this section.

SECTION 23. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balances of bond funded authorizations which are listed herein shall cease to be available for expenditure on the effective date of this act: 0330-7884, 0332-8811, 0332-8812, 1102-7841, 1102-7847, 1102-7873, 1102-7885, 1102-7896, 1102-8804, 1102-8806, 1102-8814, 1102-8893, 2000-8886, 2120-7848, 2120-7876, 2120-7881, 2120-7883, 2120-9841, 2130-8771, 2130-8772, 2150-7841, 2150-7871, 2150-7875, 2150-7876, 2150-7879, 2150-7883, 2150-7882, 2150-7885, 2150-8845, 2150-8885, 2150-8886, 2150-9845, 2270-8871, 2270-8811, 2270-8812, 3722-9030, 4000-7880, 4536-7880, 4536-7890, 4540-8881, 4540-8882, 5011-8875, 8200-8842, 9200-8870, 9300-2801, 9300-3902.

SECTION 24. The unexpended balance in bond account number 9200-8870 shall cease to be available for expenditure on the effective date of this act. Any authorization to borrow and any guarantee made by chapter four hundred and ninety-one of the acts of nineteen hundred and eighty-six is hereby rescinded. Notwithstanding any general or special law or other requirement to the contrary; a public employer group organized pursuant to sections twenty-five E to twenty-five U, inclusive, of chapter one hundred and fifty-two of the General Laws, and a public employers self-insurance group organized pursuant to chapter forty M of the General Laws, may enter into reinsurance agreements with each other or may merge with each other, with the approval of the board of trustees of each such group and the approval of the commissioner of insurance, and such agreements shall comply with all financial requirements of said statutes.

SECTION 25. Notwithstanding the provisions of any general or special law to the contrary, fifty percent of the unexpended balances remaining in the bond funded items listed

herein on the effective date of this act shall cease to be available for expenditure. The remaining fifty percent of said unexpended balances shall be made available to the departments of mental health and mental retardation for the purposes of making emergency repairs or the maintenance of state hospitals and state schools: 5011-7880, 5011-7890.

SECTION 26. There is hereby established within the department of fisheries, wildlife and environmental law enforcement a fisheries marketing council to consist of six members of the general court to be appointed jointly by the senate president and the speaker of the house of representatives three of whom shall represent any portion of Bristol county, three of whom shall represent any portion of Essex county, and seven persons to be appointed by the governor, upon the recommendation of the commissioner of said department, one of whom shall be a resident of Cape Cod, Dukes or Nantucket county; provided, however, that all appointments made by the governor shall be individuals experienced in seafood marketing, management, or harvesting; provided, further, that said council shall advise said commissioner regarding the marketing and promotion of underutilized species of fish caught or harvested by commercial fishermen licensed by the commonwealth, and advise said commissioner regarding the implementation of a comprehensive multi-year marketing strategy designed to support Massachusetts fish and seafood processors; and provided, further, that the commissioner of the department of environmental management or his designee shall serve on the council in an advisory, non-voting capacity.

SECTION 27. The commissioner of the department of fisheries, wildlife and environmental law enforcement and the director of the division of marine fisheries within said department shall make a report to the general court relative to the economic status of the commercial fishing industry in the commonwealth; provided, however, that said report shall include a detailed analysis of depleted fishing stocks, the economic downturn in the fishing industry, existing and potential markets for various fish types landed in the commonwealth, the effect of the downturn in the fishing industry upon the commonwealth's economy as well as regional and municipal economics, including state and local revenue losses, current licensing procedures, recommendations for improving the health of the commercial fishing industry, and drafts of legislation necessary to carry its recommendations into effect. Said commissioner and said director shall consult with the director of the division of fisheries and wildlife to ascertain and develop policies which would ensure a more successful management of the coastal fisheries resources than has been experienced to date. Said report shall be filed with the joint committee on natural resources and agriculture by October first, nineteen hundred and ninety-six.

SECTION 28. The secretary of environmental affairs is hereby authorized and directed to establish the Massachusetts fisheries recovery commission in conjunction with the director of marine studies, technology, and environment at the University of Massachusetts-Dartmouth for the purposes of developing scientific and socioeconomic research for the purposes of facilitating the recovery of the commonwealth's commercial fishing industry. Members of said commission shall include, but not be limited to, the commissioner of the department of fish, wildlife, and environmental enforcement, the com-

missioner of the department of food and agriculture, the secretary of environmental affairs or their designees, the executive director of the Massachusetts office of business development or his designees, four members of the house of representatives to be appointed by the speaker of the house of representatives, one of whom shall be a member of the minority party, three members of the senate to be appointed by the president of the senate, one of whom shall be a member of the minority party, two individuals engaged in the retail sale of Massachusetts fisheries products, two individuals engaged in the wholesale sale of Massachusetts fisheries products, and not less than ten commercial fishermen, whom shall represent the ports of Gloucester, New Bedford, Boston and Cape Cod.

Said commission shall include additional scientific and research personnel at the discretion of the director of marine studies, technology and environment at the University of Massachusetts at Dartmouth. Said commission shall work in conjunction with the commonwealth's commercial fishing industry to develop scientific and economic development programs.

SECTION 29. (A) Notwithstanding the provisions of section fifty-nine of chapter one hundred and fifty-nine or section one hundred of chapter one hundred and sixty of the General Laws or any other general or special law to the contrary, it is hereby declared that the public necessity and convenience require that vertical clearances on the Massachusetts double stack network shall be increased to at least twenty feet eight inches above top of rail in accordance with the provisions of this section. It is not the intention of this section to use the investment of public funds to transfer existing levels of international container business to facilities located on or off routes hereinafter identified.

For purposes of this section, the following words shall have the following meanings:

"Conrail", the Consolidated Rail Corporation.

"Department", the department of highways.

"Double stack train", any train in which at least one intermodal rail car carries two containers, one on top of the other.

"Executive office", the executive office of transportation and construction.

"Fully funded lines", segments of the Massachusetts double stack network eligible for one hundred percent state funding, as designated by the secretary pursuant to subsection (D) and including (*i*) the Conrail line easterly from the eastern line of the city of Worcester to the existing intermodal facility at Beacon Park Yard, in the city of Boston; (*ii*) the Boston and Maine Corporation line easterly from the eastern line of the city of Gardner and including the Pleasant Street bridge in the city of Gardner to the existing intermodal facility at Fort Devens in the town of Ayer; and (*iii*) any other lines that the secretary determines to be necessary to include in the Massachusetts double stack network consistent with the criteria established by said subsection (D).

"Massachusetts double stack network", the interconnected segments of freight rail lines designated for vertical clearance improvements by subsection (C) or the secretary, including but not limited to rail lines owned or operated by Conrail, the Boston & Maine Corporation and the Providence and Worcester Railroad Company.

"Master agreement", an agreement negotiated by the secretary with a participating

railroad to finance and effectuate the vertical clearance improvements to the Massachusetts double stack network authorized by this section.

"Participating railroads", railroad corporations entering into master agreements and agreeing to finance at least fifty percent of the vertical clearance improvements made to partnership lines pursuant to the provisions of subsection (E).

"Partnership lines", segments of the Massachusetts double stack network for which public-private financing of vertical clearance improvements are governed by master agreements and including but not limited to (*i*) the Conrail line from New York/Massachusetts state line to the easterly line of the city of Worcester, (*ii*) the Boston & Maine line from Vermont/Massachusetts state line to the easterly line of the city of Gardner (*iii*) and the Providence and Worcester lines in Worcester county; and (*iv*) any other lines that the secretary determines to be necessary to include in the Massachusetts double stack network consistent with the criteria established by subsection (E).

"Reimbursement charge", a charge of three hundred and fifty dollars per container, carried loaded or empty, by participating railroads over all or a portion of a fully funded line in a double stack train pursuant to the provisions of subsection (G), the collection of which is governed by a master agreement.

"Reimbursement container", a container transported by a double stack track over a fully funded line subject to a reimbursement charge pursuant to the provisions of subsection (G) and not subject to the exemptions established by said subsection (G).

"Secretary", the secretary of the executive office of transportation and construction.

"Vertical clearance improvements", changes to rail grades, overhead highway and bridge grades or combinations of both made to freight rail lines in the Massachusetts double stack network necessary to achieve clearances for double stack trains of at least twenty feet eight inches above the rail track.

(B) The Massachusetts double stack network shall consist of the following routes:

(*i*) the portion of the line now or formerly owned by Conrail known as the "Boston Line" extending from the New York/Massachusetts state line easterly to the presently existing intermodal facility at Beacon Park Yard in the city of Boston;

(*ii*) the portion of the line now or formerly owned by the Boston & Maine Corporation known as the "B&M Main Line" extending from the Vermont/Massachusetts state line easterly to the existing Intermodal facility at Fort Devens in the town of Ayer;

(*iii*) all lines or portions thereof now or formerly owned by Providence and Worcester Railroad Company in Worcester county; and

(*iv*) any other lines in the commonwealth that the secretary determines are necessary to include in the Massachusetts double stack network based on an evaluation of market needs, engineering feasibility, cost, the availability of funds and financial commitments from the railroad owning or operating such lines; provided, however, that no other lines may be added to the Massachusetts double stack network without the approval of the general court.

(C) The department shall, after a public hearing to be held in Boston, determine the most appropriate and cost-effective means of altering the grade separation of highways and railroad tracks to achieve vertical clearance improvements along the Massachusetts double

stack network and shall report its findings to the secretary. The department, in consultation with the appropriate participating railroads, may recommend alteration of the grade of the highway over the railroad track or the alteration of the grade of the railroad track, or a combination thereof. Said recommendations shall be subject to the approval of the secretary, and shall set forth the budget, schedule, sequence, manner and limits of the work at each particular location, which shall be consistent with the terms of and shall constitute the scope of work to be accomplished under a master agreement. Said master agreement may permit a participating railroad to alter the grade or structure of highways at locations where the department has determined that improved clearances may best be obtained by altering the grade of such highway; provided however, that the participating railroad shall perform, or cause to be performed, all work in accordance with plans and specifications approved by the department.

(D) The secretary is hereby authorized to effectuate vertical clearance improvements on the fully funded lines using funds appropriated in item 6000-7967 in section two A of this act subject to (1) the terms and conditions of any applicable master agreement and (2) the written commitment from participating railroads to complete vertical clearance improvements on the partnership lines. Vertical clearance improvements to the fully funded lines shall be eligible for one hundred percent funding by the commonwealth and shall include the segments defined in subsection (A) and any other line that the secretary may determine to be eligible based on an evaluation of market needs, engineering feasibility, cost, and the availability of funds; provided, however, that no other lines may be added to the Massachusetts double stack network without the approval of the general court; provided, however, that of the cost of the vertical clearance improvements on the Conrail line from the western line of the city of Framingham easterly to the existing intermodal facility at Beacon Park Yard, one-half shall be paid by the commonwealth and one-half shall be paid by the Massachusetts Port Authority; and provided, further, that said authority is hereby authorized and directed to make said payment.

(E) The secretary is hereby authorized to effectuate vertical clearance improvements on the partnership lines using state funds appropriated in item 6000-7967 in section two A of this act based on applicable master agreements with participating railroads and the following public-private funding formulas:

(*i*) for the Conrail partnership line: fifty percent funding by Conrail, with the commonwealth paying a maximum of eighteen million dollars;

(*ii*) for the Boston & Maine partnership line: fifty percent funding by the Boston and Maine Corporation, with the commonwealth paying a maximum of twenty million dollars; and

(*iii*) for the Providence and Worcester partnership lines in Worcester county: fifty percent funding by the Providence and Worcester Railroad Company, with the commonwealth paying a maximum of five million five hundred thousand dollars.

The partnership lines shall include the segments defined in subsection (A) and any other line that the secretary may determine to be eligible based on an evaluation of market needs, engineering feasibility, cost, and the availability of funds; provided, however, that no

other lines may be added to the Massachusetts double stack network without the approval of the legislature. Any cost overruns in excess of the maximum state investment set forth in this subsection for partnership line projects shall be borne by the participating railroad.

(F) Funds appropriated for vertical clearance improvements in said item 6000-7967 in said section two A shall not be expended for the replacement or reconstruction of overhead highway bridges along fully funded lines or partnership lines which currently are, or are in the future, placed on the federal highway administration selection list, so-called, and are included in the commonwealth's approved federally-funded statewide transportation improvement program; provided, however, that such funds may be expended for the state's share of the incremental work deemed by the department necessary for the purpose of achieving the vertical clearance improvements required by this act.

Where an overhead bridge is being replaced, repaired or rehabilitated by a participating railroad or the commonwealth solely to provide for the vertical clearance improvements required by this act, the party responsible for any such work which is not federally reimbursable shall be responsible for the cost of engineering, design and construction associated with achieving the required vertical clearance. Said work may include the raising of the bridge structure or the lowering of the track structure or both, as deemed most practical by the department, in consultation with the participating railroad.

(G) To accomplish the objectives of public investment in fully funded lines, the secretary shall require payment by a participating railroad of a reimbursement charge, provided that no reimbursement charge shall be collected:

(*i*) for containers handled for the account of either (*a*) a steamship line, or (*b*) a steamship line's agents or subsidiaries moving equipment of a type accepted by the steamship line for movement in its ocean vessels; and

(*ii*) such containers have immediately prior to or subsequent to passage over the fully funded line been shipped via a maritime port facility located in the commonwealth.

The reimbursement charge shall be adjusted annually by increases or decreases in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for all urban consumers.

The reimbursement charge shall apply to all containers, whether or not said containers are actually double stacked, that are transported by a double stack train over a fully funded line, with the exception of containers that meet the criteria set forth in clauses (*i*) and (*ii*).

Reimbursement charges shall be paid by the railroad handling reimbursement containers and shall be in effect for a period of fifteen years from the date of completion of vertical clearance improvement on the particular route, segment or line, or until fifty percent of the commonwealth's investment in fully funded lines has been recovered by the payment of reimbursement charges by the appropriate participating railroad; provided, however, that reimbursement charges shall not be charged to a railroad for that number of container movements, loaded or empty, to Beacon Park or Fort Devens, as the case may be, equal to the number of such containers handled by such railroad in nineteen hundred and ninety-three, plus five percent, that would have been have subjected to the reimbursement

charge had they moved in a double stack train. This number shall be adjusted annually by an appropriate index reflecting economic growth in New England, and as set forth in the master agreement.

(H) Before expending funds authorized for state participation in accomplishing vertical clearance improvements on the fully funded lines and the partnership lines, the secretary is authorized and directed to enter into "master agreements" with participating railroads. Each master agreement shall establish all provisions necessary to accomplish the objectives of this section, including:

(*i*) the procedures to accomplish clearance improvements in such a manner so as to prevent one participating railroad from securing a competitive advantage over another participating railroad as a result of the commonwealth's timing of the clearance improvements;

(*ii*) terms and conditions which shall be included in force account agreements for work to be performed by the railroads and reimbursed by the commonwealth;

(*iii*) terms and conditions to require that the participating railroads shall protect the utility of the commonwealth's investment in double stack container freight clearances for a period of not less than twenty years, including such provisions as may be required to provide for reimbursement to the commonwealth for the full value of the improvements by the participating railroad in the event of a default of this provision;

(*iv*) terms and conditions for payment of the participating railroads' contribution, including but not limited to remedies in the event a participating railroad defaults in its payment obligation, including an agreement enforceable by the commonwealth and the participating railroads that a defaulting railroad shall not operate any railroad equipment which utilizes the clearance improvements built in whole or in part with state funds until the default has been cured;

(*v*) a legal and binding commitment by the appropriate participating railroads to pay the reimbursement charge;

(*vi*) terms and conditions for payment of the reimbursement charge, including audit and reporting procedures for the enforcement thereof by the commonwealth and the participating railroads;

(*vii*) terms and conditions for financial disclosures demonstrating the participating railroads' ability to pay the required share of costs, which may include the posting of a performance bond for clearance improvements at certain structures;

(*viii*) necessary agreements among the participating railroads; and

(*ix*) necessary agreements among state agencies and authorities required to accomplish the objectives of this act, including, without limitation, consultation and agreement between the department and the Massachusetts water resources authority ensuring that the design and construction of vertical clearance improvements on that section of the Massachusetts double stack network that includes the Conrail line easterly from the eastern line of the city of Worcester to the existing intermodal facility at Beacon Park Yard in the city of Boston will not directly or indirectly, interfere with the design and construction of the Framingham extension relief sewer in the Conrail right-of-way in Framingham and Natick

by said authority or will in any manner delay said authority's execution of the Framingham extension relief sewer project in compliance with the terms and conditions of the administrative order issued by the United States environmental protection agency on June second, nineteen hundred and ninety-four; and

(*x*) with respect to Conrail only, a legal and binding commitment that Conrail will not abandon any rail lines within the commonwealth which as of January first, nineteen hundred and ninety-five, Conrail owned or operated under rights from the commonwealth or the Massachusetts Bay Transportation Authority, for a period of fifteen years from the date of completion of vertical clearance improvement on its lines.

Each master agreement shall also give the executive office, or its designee, the right to inspect, examine, and audit all financial books, records and accounts of the participating railroads relating to the project. Participating railroads shall maintain and make available such additional financial, accounting and operational records relating to the master agreement as may be required to enable the executive office to comply with the reporting requirements of any governmental entity having regulatory or financial oversight of the executive office of transportation and construction's rail activity.

The secretary shall file with the joint committee on transportation the master agreement entered into with each participating railroad and shall report to the committee no later than the last Wednesday of December of each year on the status of the Massachusetts double stack network, including, but not limited to a list of participating railroads, the timetable for completion of the improved clearances, the amount expended by each participating railroad and by the commonwealth for the implementation of the Massachusetts double stack network, and any significant changes to the master agreements.

(I) A railroad company's decision to defer clearance improvements during the five-year period during which the funds authorized herein may be expended, or to not participate in the clearance improvement program, shall not cause another participating railroad to be deemed to (*a*) have received an unfair subsidy from the public investment in clearance improvements or (*b*) have a competitive advantage over such non-participating or participating railroad.

(J) The secretary is hereby authorized and directed, subject to the approval of the secretary of administration and finance, to reimburse the department of highways, the Massachusetts Bay Transportation Authority, and any other political subdivision of the commonwealth for expenses incurred in meeting the objectives of this section, from funds made available pursuant to item 6000-7967 in section two A of this act. The executive office of transportation and construction and the department of highways and the Massachusetts Bay Transportation Authority shall apply for and accept any federal funds available for improvements to said department's or said authority's assets for the purposes of this act.

Sections disapproved: Section 23.

The remainder of the bill was approved by the Governor February 26, 1996.

Chapter 29. AN ACT PROVIDING FOR THE EXTENSION OF THE TERM OF AN ACTING TOWN ADMINISTRATOR IN THE TOWN OF EASTHAMPTON.

Be it enacted, etc., as follows:

SECTION 1. Section 4-3 (b) of the charter of the town of Easthampton, which is on file in the office of the archivist of the commonwealth, as required by section twelve of chapter forty-three B of the General Laws, is hereby amended by adding the following sentence:- The term of acting town administrator may be extended through subsequent three-month extensions by a unanimous vote of the board of selectmen.

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

Approved February 26, 1996.

Chapter 30. AN ACT RELATIVE TO RECALL ELECTIONS IN THE TOWN OF PROVINCETOWN.

Be it enacted, etc., as follows:

SECTION 1. The charter of the town of Provincetown which is on file in the office of the archivist of the commonwealth, as provided in section twelve of chapter forty-three B of the General Laws, is hereby amended by striking out section 10-1-6 and inserting in place thereof the following section:-

Section 10-1-6. The board of selectmen shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign his office within five days thereafter, order an election to be held on a date fixed by them not less than seventy-five nor more than eighty-five days after the date of the town clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within one hundred days after the date of such certificate, the selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in such office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section. Candidates to fill a vacancy shall be nominated in the same manner as for an annual election.

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

Approved February 26, 1996.

Chapter 31. AN ACT EXTENDING CERTAIN BOND AUTHORIZATIONS OF THE COMMONWEALTH.

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. To provide for certain proposed capital projects and the continuation of other capital projects already in progress, the items set forth in section two C of this act, are hereby authorized to continue, subject to the conditions set out in the original authorizations and any amendments thereto, and subject to the provisions of law regulating the disbursement of public funds.

NO SECTION 2, 2A, 2B.

SECTION 2C. For the purpose of making available for expenditure certain balances of authorizations which would otherwise revert on February twenty-eighth, nineteen hundred and ninety-six, the expiration dates of the items listed in this section are hereby extended through June thirtieth, nineteen hundred and ninety-seven.

0121-7890	1102-7873	1102-8873	1102-9897
0330-7872	1102-7881	1102-8874	1102-9898
0330-7884	1102-7882	1102-8875	1102-9899
0330-8890	1102-7883	1102-8877	1410-7890
0330-8891	1102-7885	1102-8878	2000-8830
0332-8811	1102-7886	1102-8880	2000-8840
0332-8812	1102-7887	1102-8881	2000-8842
0431-8811	1102-7888	1102-8883	2000-8846
0431-8833	1102-7891	1102-8888	2000-8882
1100-1560	1102-7892	1102-8889	2000-8883
1100-1561	1102-7893	1102-8890	2000-8884
1100-7850	1102-7894	1102-8891	2000-8885
1100-8860	1102-7896	1102-8892	2000-8887
1100-8880	1102-7897	1102-8893	2000-8888
1101-7890	1102-8791	1102-8894	2000-8889
1101-7892	1102-8792	1102-8895	2000-9841
1102-0890	1102-8801	1102-8897	2100-7871
1102-6896	1102-8804	1102-8899	2100-7890
1102-7840	1102-8812	1102-9802	2120-7871
1102-7841	1102-8813	1102-9841	2120-7873
1102-7842	1102-8814	1102-9845	2120-7875
1102-7843	1102-8819	1102-9880	2120-7880
1102-7844	1102-8822	1102-9881	2120-7882
1102-7845	1102-8841	1102-9882	2120-7885
1102-7846	1102-8847	1102-9884	2120-7886
1102-7848	1102-8860	1102-9890	2120-7887
1102-7849	1102-8861	1102-9891	2120-7892
1102-7870	1102-8862	1102-9892	2120-8805
1102-7871	1102-8869	1102-9893	2120-8812
1102-7872	1102-8872	1102-9896	2120-8825

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2120-8848	2250-7874	2440-7849	2490-0010
2120-8861	2250-8820	2440-7875	2490-0012
2120-8885	2250-8822	2440-7879	2490-0014
2120-9841	2250-8823	2440-7881	2490-0015
2120-9842	2250-8844	2440-7882	2490-0016
2120-9843	2250-8860	2440-7890	2511-8885
2120-9845	2250-8863	2440-7891	2681-9029
2120-9847	2250-8864	2440-7892	2685-9050
2120-9920	2250-8865	2440-7893	3722-7870
2121-8881	2250-8881	2440-7894	3722-7871
2121-8882	2260-8830	2440-7895	3722-8841
2121-8883	2260-8840	2440-7896	3722-8842
2121-8884	2260-8880	2440-7897	3722-8843
2121-8885	2260-9881	2440-7898	3722-8844
2121-8886	2260-9882	2440-8795	3722-8845
2121-8887	2260-9883	2440-8798	3722-8846
2121-8888	2260-9884	2440-8802	3722-8861
2121-8889	2260-9885	2440-8813	3722-8862
2121-9881	2260-9886	2440-8819	3722-8863
2121-9882	2270-8771	2440-8843	3722-8864
2121-9883	2270-8772	2440-8848	3722-8865
2121-9884	2270-8791	2440-8873	3722-8866
2121-9885	2300-8840	2440-8886	3722-8870
2121-9886	2300-8881	2440-8887	3722-8871
2121-9887	2310-7880	2440-8888	3722-8872
2122-8846	2310-7891	2440-8889	3722-8873
2130-8771	2310-7892	2440-8891	3722-8874
2150-7873	2320-7880	2440-9812	3722-8875
2150-7874	2320-8840	2440-9843	3722-8879
2150-7880	2320-8843	2440-9844	3722-9015
2150-7890	2320-8881	2440-9845	3722-9030
2150-7891	2320-9880	2440-9846	3722-9301
2150-8831	2350-7880	2440-9848	3724-9001
2200-7880	2410-7872	2441-8840	4000-7880
2200-7883	2410-8802	2444-7872	4000-7890
2200-7884	2420-7880	2444-8812	4000-8840
2200-7888	2420-7881	2444-8842	4000-8860
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2240-8801	2420-7884	2449-7370	4010-8831
2240-8820	2420-8901	2449-8754	4043-8870
2240-8860	2440-7846	2449-8755	4180-7880
2250-1001	2440-7848	2490-0009	4180-7881

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7518-7890	8200-8842	8400-9102	9300-3902
7518-7892	8312-7880	8700-7892	9300-3905
8000-8841	8312-7892	8800-7890	9300-3909
8100-9101	8350-7881	8800-7891	
8100-9102	8400-9101	9200-8870	

SECTION 3. This act shall take effect as of February twenty-eighth, nineteen hundred and ninety-six.

Approved February 29, 1996.

Chapter 32. AN ACT AUTHORIZING AND DIRECTING THE STATE BOARD OF RETIREMENT TO GRANT CREDITABLE SERVICE TO FRANCIS G. MAC DONALD, JR., A FORMER POLICE OFFICER.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize and direct the state board of retirement to grant creditable service to Francis G. MacDonald, Jr., a former police officer, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary and in order to promote the public good, the state retirement board is hereby authorized and directed to grant to Francis G. MacDonald, Jr., a former police officer of the metropolitan district commission and the department of state police, creditable service from November eighth, nineteen hundred and eighty-six to October twenty-third, nineteen hundred and ninety-two, inclusive, in conformity with the decision of the Massachusetts Appeals Court, Docket No. 91-P-1049, with an ordinary disability retirement allowance calculated in accordance with subdivision (3) of section twenty-six of chapter thirty-two of the General Laws.

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 November 15, 1995, and in concurrence by the House of Representatives on February 14, 1996, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 33. AN ACT RELATIVE TO CERTAIN EMPLOYEES OF MALDEN MILLS INDUSTRIES, INC.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for emergency assistance benefits to certain employees of Malden Mills Industries, Inc. who are unemployed as a result of the recent fire at Malden Mills, 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:

Item 9081-0396 of section 2 of chapter 294 of the acts of 1995 is hereby amended by striking out the wording and inserting in place thereof the following:-

For a reserve for special, nonrecurring payments to certain employees of Malden Mills Industries, Inc. and other businesses that suffered substantial physical damage or were destroyed as a result of the fire at said Malden Mills Industries, Inc. occurring on December eleventh, nineteen hundred and ninety-five; provided, that notwithstanding the provisions of any general or special law to the contrary, any employee of said Malden Mills Industries, Inc. or such other business who, as a direct result of the fire at said Malden Mills Industries, Inc. during said week, is unemployed during the week ending December sixteenth, nineteen hundred and ninety-five and suffers a loss of wages for said week or any of the subsequent four weeks or is required by the provisions of chapter one hundred and fifty-one A of the General Laws to serve, within one hundred and twenty days of said fire, a waiting period during a claim for unemployment benefits, shall be eligible to receive an emergency assistance benefit in the amount of three hundred dollars; provided, further, that the employee has filed a claim for such assistance in such manner and at such time or times as the commissioner of the department of employment and training shall prescribe; and provided, further, that said commissioner shall seek from the United States Secretary of Labor a waiver of the said waiting period or reimbursement from federal funds for the cost of said emergency assistance benefits Commonwealth Economic Development Fund.....100.0%

Approved March 7, 1996.

Chapter 34. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND 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 bonds and notes to carry out the purposes of certain acts passed by the general court, 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 any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section two of chapter ninety-five of the acts of nineteen hundred and ninety-five, shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-five, as recommended by the governor in a message to the general court dated September twenty-fifth, nineteen hundred and ninety-five, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 2. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under subsection (*c*) of section eleven of chapter one hundred and two of the acts of nineteen hundred and ninety-five, shall be issued for a term not to exceed twenty years, as recommended by the governor in a message to the general court dated September twenty-fifth, nineteen hundred and ninety-five in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 3. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under subsection (*c*) of section eleven of chapter one hundred and two of the acts of nineteen hundred and ninety-five, shall be issued and may be renewed one or more times not exceeding three years, as recommended by the governor in a message to the general court dated September twenty-fifth, nineteen hundred and ninety-five, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 4. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under subsection (*b*) of section fifteen of chapter one hundred and two of the acts of nineteen hundred and ninety-five, shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated September twenty-fifth, nineteen hundred and ninety-five, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 5. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under subsection (*c*) of section fifteen of chapter one hundred and two of the acts of nineteen hundred and ninety-five, shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes

whether original or renewal, shall be no later than June thirtieth, two thousand, as recommended by the governor in a message to the general court dated September twenty-fifth, nineteen hundred and ninety-five, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

Approved March 13, 1996.

Chapter 35. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND 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 certain bonds and notes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health, safety and convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter two hundred seventy-seven of the acts of nineteen hundred and ninety-five, shall be issued for a term not to exceed five years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and five, as recommended by the governor in a message to the general court dated February twenty-ninth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 2. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four of chapter two hundred seventy-seven of the acts of nineteen hundred and ninety-five, shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand two, as recommended by the governor in a message to the general court dated February twenty-ninth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 3. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section five of chapter two hundred seventy-seven of the acts of nineteen hundred and ninety-five, shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty, as recommended by the governor in a message to the general court dated February twenty-ninth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 4. Notwithstanding any provision of law to the contrary, the notes which

the state treasurer is authorized to issue under section six of chapter two hundred seventy-seven of the acts of nineteen hundred and ninety-five, shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and two, as recommended by the governor in a message to the general court dated February twenty-ninth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 5. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section seven of chapter two hundred seventy-seven of the acts of nineteen hundred and ninety-five, shall be issued for a term not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and ten, as recommended by the governor in a message to the general court dated February twenty-ninth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 6. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section eight of chapter two hundred seventy-seven of the acts of nineteen hundred and ninety-five, shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and two, as recommended by the governor in a message to the general court dated February twenty-ninth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 7. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section nine of chapter two hundred seventy-seven of the acts of nineteen hundred and ninety-five, shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty, as recommended by the governor in a message to the general court dated February twenty-ninth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 8. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section ten of chapter two hundred seventy-seven of the acts of nineteen hundred and ninety-five, shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and two, as recommended by the governor in a message to the general court dated February twenty-ninth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 9. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter twelve of the acts of nineteen hundred and ninety-six, shall be issued for a term not to exceed twenty years; pro-

vided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated February twenty-ninth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 10. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four of chapter twelve of the acts of nineteen hundred and ninety-six, shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and one, as recommended by the governor in a message to the general court dated February twenty-ninth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 11. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter fifteen of the acts of nineteen hundred and ninety-six, shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated February twenty-ninth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

SECTION 12. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four of chapter fifteen of the acts of nineteen hundred and ninety-six, shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and one, as recommended by the governor in a message to the general court dated February twenty-ninth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

Approved March 13, 1996.

Chapter 36. AN ACT RELATIVE TO INSURANCE AND RETIREMENT BENEFITS IN THE TOWN OF ABINGTON.

Be it enacted, etc., as follows:

Notwithstanding the provisions of chapters thirty-two and thirty-two B of the General Laws or any other general or special law to the contrary, the town of Abington, at an annual or special town meeting by majority vote, is hereby authorized to exempt the publicly elected officials of said town, who receive a nominal stipend not in excess of one thousand dollars from said town, from receiving health and insurance benefits and retirement benefits pur-

suant to said chapters thirty-two and thirty-two B.

Approved March 14, 1996.

Chapter 37. AN ACT RELATIVE TO THE SPECIAL COMMISSION ON PUBLIC FINANCING OF POLITICAL CAMPAIGNS.

Be it enacted, etc., as follows:

Chapter 43 of the acts of 1994 is hereby amended by striking out section 48, as amended by section 16 of chapter 292 of the acts of 1994, and inserting in place thereof the following section:-

Section 48. There is hereby established a special commission to consist of three members of the senate, one of whom shall be the chairman of the joint committee on election laws or his designee, one of whom shall be the chairman of the senate committee on ways and means or his designee, and one of whom shall be the senate minority leader or his designee, and three members of the house of representatives, one of whom shall be the chairman of the joint committee on election laws or his designee, one of whom shall be the chairman of the house committee on ways and means or his designee, and one whom shall be the house minority leader or his designee, the governor or his designee, the state secretary or his designee, the attorney general or his designee, the state treasurer or his designee, the state auditor or his designee, the director of campaign and political finance or his designee who shall serve as chairman, the deputy director of campaign and political finance or his designee, the commissioner of revenue or his designee, the comptroller or his designee, three persons to be appointed by the speaker of the house of representatives, three persons to be appointed by the president of the senate, and three persons to be appointed by the governor, for the purpose of making an investigation and study relative to additional or full public financing of political campaigns and the implementation of the current public financing system in the commonwealth.

Said commission shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerks of the senate and the house of representatives on or before the third Wednesday of May, nineteen hundred and ninety-six.

Emergency Letter: March 14, 1996 @ 2:52P.M. Approved March 14, 1996.

Chapter 38. AN ACT RELATIVE TO THE CARE OF TREES IN THE CITY OF MEDFORD.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the city of Medford is hereby authorized to plant and trim trees on private ways.

Approved March 14, 1996.

Chapter 39. AN ACT PROHIBITING THE DISCLOSURE OF THE NAMES AND TELEPHONE NUMBERS OF CERTAIN LAW ENFORCEMENT PERSONNEL AND OTHERS.

Be it enacted, etc., as follows:

SECTION 1. Section 10 of chapter 66 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following paragraph:-

The home address and home telephone number of law enforcement, judicial, prosecutorial, department of youth services, correctional and any other public safety and criminal justice system personnel shall not be public records in the custody of the employers of such personnel and shall not be disclosed; provided, however, that such information may be disclosed to an employee organization under chapter one hundred and fifty E or to a criminal justice agency as defined in section one hundred and sixty-seven of chapter six. The name and home address and telephone number of a family member of any such personnel shall not be public records in the custody of the employers of the foregoing persons and shall not be disclosed. The home address and telephone number, or place of employment or education of victims of adjudicated crimes and of persons providing or training in family planning services and the name and home address and telephone number, or place of employment or education of a family member of any of the foregoing shall not be public records in the custody of a government agency which maintains records identifying such persons as falling within such categories and shall not be disclosed.

SECTION 2. Section 3 of chapter 268B of the General Laws, as so appearing, is hereby amended by inserting after the word "reports;", in line 18, the following words:- provided, however, that the commission shall be authorized, in its discretion, to exempt from public disclosure those portions of a statement of financial interest filed pursuant to section five which contain the home address of the filer; and provided, further, that.

Approved March 14, 1996.

Chapter 40. AN ACT RELATIVE TO THE ABOLISHMENT OF THE POSITIONS OF CEMETERY COMMISSIONERS AND THE POSITION OF TREE WARDEN IN THE TOWN OF NORTHFIELD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter forty-one of the General Laws or any other general or special law or charter provision to the contrary, the positions of cemetery commissioners in the town of Northfield are hereby abolished and the powers and duties conferred and imposed upon cemetery commissioners shall be exercised and performed by the superintendent of the highway department of said town or such other person who may be from time to time in charge of said highway department.

SECTION 2. Notwithstanding the provisions of chapter forty-one of the General Laws or any other general or special law or charter provision to the contrary, the position of tree warden in the town of Northfield is hereby abolished and the powers and duties conferred and imposed upon such tree warden shall be exercised and performed by the superintendent of the highway department of said town or such other person who may be from time to time in charge of said highway department.

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

Approved March 14, 1996.

Chapter 41. AN ACT RELATIVE TO THE SALE OF KOSHER WINE ON SUNDAYS.

Be it enacted, etc., as follows:

SECTION 1. Section 6 of chapter 136 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "selling", in line 63, the following words:- of kosher wine or the selling.

SECTION 2. Section 33 of chapter 138 of the General Laws, as so appearing, is hereby amended by inserting after the word "holidays", in line 33, the following words:- ; provided, further, that a licensee who is a natural person who observes Saturday as the Sabbath by closing his place of business from sundown Friday to sundown Saturday, and who sells or delivers kosher meat or fish pursuant to clause (23) of section six of chapter one hundred and thirty-six, may sell or deliver on Sundays kosher wine, which has been labeled and certified as such.

Emergency Letter: March 19, 1996 @ 9:39 A.M. Approved March 15, 1996.

Chapter 42. AN ACT DISSOLVING THE ERVING WATER DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. The board of the Erving Water District, established by chapter one hundred and seventy-two of the Special Acts of nineteen hundred and eighteen, is hereby authorized and directed to transfer and convey the real and personal assets of the district to the town of Erving. Said town shall thereupon assume all obligations, duties, indebtedness

and liabilities of the Erving Water District. Employees of the Erving Water District, on the effective date of this act and upon their transfer to the town of Erving, shall not lose any employment benefits accrued as of the date of said transfer nor shall any such benefits be reduced.

SECTION 2. Upon completion of the conveyance authorized by section one by the board of the Erving Water District, said district shall be dissolved.

Approved March 15, 1996.

Chapter 43. AN ACT RELATIVE TO ELIGIBILITY FOR PAROLE.

Be it enacted, etc., as follows:

Section 133A of chapter 127 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 24, the word "three" and inserting in place thereof the following word:- five.

Approved March 19, 1996.

Chapter 44. AN ACT RELATIVE TO CONTRIBUTIONS TO POLITICAL ACTION COMMITTEES BY WIRE TRANSFER.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 9 of chapter 55 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "check", in line 13, the following words:- or by direct deposit in accordance with section nine A.

SECTION 2. Said chapter 55 is hereby further amended by inserting after section 9 the following section:-

Section 9A. A political action committee may accept contributions of money from individual contributors by direct deposit of funds into the committee's bank account by wire transfer or other electronic means; provided, however, that said contributor provides the political action committee with a true copy of the signed authorization card provided by the contributor to said contributor's bank or other financial institution. Said authorization card shall include (1) the name and residential address of the contributor, (2) the occupation and employer or employers of any contributor whose authorization card authorizes a contribution of two hundred dollars or more or periodic contributions which in the aggregate exceed or may exceed two hundred dollars or more within any one calendar year, and (3) the amount and payment period, if any, of each contribution. In addition, the authorization card shall include a statement that the contributor's authorization may be revoked by the contributor at any time by written notice from the contributor to the contributor's bank or other financial

institution.

SECTION 3. The eleventh paragraph of section 18 of said chapter 55, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 398, the word "and",- and by striking out, in line 401, the word "funds." and inserting in place thereof the following:- funds; and

(15) in the event of a dissolution of a political action committee, a statement that the political action committee has not received contributions pursuant to section nine A or, if it has received such contributions, a statement that the political action committee has given sixty days written notice of its intended dissolution to any contributor and said contributor's bank or other financial institution currently making contributions pursuant to said section nine A.

Approved March 21, 1996.

Chapter 45. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR NINETEEN HUNDRED AND NINETY-SIX TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year nineteen hundred and ninety-six, the sums set forth in section two are hereby appropriated for the several purposes and subject to the conditions specified herein or in said appropriations acts, and subject to the provisions of law regulating the disbursement of public funds, for the fiscal year ending June thirtieth, nineteen hundred and ninety-six. The sums so appropriated shall be in addition to any amounts available for the purpose.

SECTION 2.

SECRETARY OF STATE.

Secretary of State.

0521-0000 ..... $250,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Department of Personnel Administration.

1108-1000 ..... $750,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Department of Environmental Management.

2100-3010 ..... $158,855

Metropolitan District Commission.

2440-0010 ..... $553,907

2440-2000 ..... $1,988,572
2440-5000 ..... $103,024

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Department of Highways.

6010-0001 ..... $433,656
6030-7201 ..... $33,587,327
6030-7221 ..... $6,183,619

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Criminal Justice Training Council.

8200-0200 ..... $250,000

Merit Rating Board.

8400-0100 ..... $1,850,000

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 the general appropriation act or other appropriations acts for the fiscal year ending June thirtieth, nineteen hundred and ninety-six. The sums so appropriated shall be in addition to any amounts available for said purposes.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves.

1599-3801 For the payment of municipal stabilization local aid to cities and towns to mitigate the budgetary impact of the extraordinary snow and ice removal costs associated with the severe winter of fiscal year nineteen hundred and ninety-six; provided, that funds shall be distributed to cities and towns in accordance with the schedule included in section fourteen of this act; provided further, that, notwithstanding the provisions of any general or special law to the contrary, receipt of 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 $21,000,000

Local Aid Fund 100.0%

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Department of Police.

8100-0900 For the costs associated with a new state police class; provided, that the department shall seek maximum federal reimbursement under the federal COPS program, so-called $380,000

Highway Fund 88.2%

Local Aid Fund 9.5%

General Fund 2.3%

SECTION 3. The first paragraph of section 1E of chapter 15 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following two sentences:- A person affiliated with an independent institution of higher education shall be eligible for membership on said board. No member of said board shall be found to be in violation of section six of chapter two hundred and sixty-eight A for conduct which involves his participation, as a member of said board, in a particular matter before said board which may affect the financial interest of an independent institution of higher education with which he is affiliated; provided, however, that said member, his immediate family or partner has no personal and direct financial interest in said particular matter; and provided, further, that such affiliation is disclosed to said board and recorded in the minutes of the board.

SECTION 4. Section 31D of chapter 44 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

Every city or town shall annually, not later than September fifteenth, report to the division of local services of the department of revenue the total amounts appropriated and expended, including any funding or reimbursements received from the commonwealth, for snow and ice removal in the fiscal year ending on the preceding June thirtieth.

SECTION 5. The definition of "School committee" in section 1 of chapter 133 of the acts of 1989 is hereby amended by adding the following sentence:- For the purposes of section one E of chapter fifteen of the General Laws, the term school committee shall be construed to mean the school committee of said city of Chelsea and shall not mean the university or any of its officers, trustees, employees and agents.

SECTION 6. Section 221 of chapter 379 of the acts of 1992 is hereby amended by striking out the last sentence, as amended by section 195 of chapter 60 of the acts of 1994, and inserting in place thereof the following sentence:- The chief justice for administration and management shall submit said plan or report to the supreme judicial court, the governor, the joint committee on the judiciary and the house and senate committees on ways and means on or before December thirty-first, nineteen hundred and ninety-six.

SECTION 7. Section 305 of chapter 38 of the acts of 1995 is hereby amended by striking out the word "approved", inserted by section 71 of chapter 120 of the acts of 1995, and inserting in place thereof the following word:- operated.

SECTION 8. The first paragraph of section 13 of chapter 102 of the acts of 1995, as appearing in section 1 of chapter 273 of the acts of 1995, is hereby amended by adding the following paragraph:-

(*d*) Allocation of cost associated with airport access improvements:

(*i*) evaluate and determine the appropriate allocation of benefit accruing to the Massachusetts Port Authority from improved access to Logan airport; said determination shall consider the value of improvements to both the direct connection to the Massachusetts Turnpike and the improved connection to Route 1A in the east Boston section of the city of Boston; provided, however, that said evaluation shall include an analysis quantifying the benefits to said airport from these access improvements; and provided further, that this analysis shall include, but not be limited to, a determination of how said access improvements facilitate increased vehicle capacity entering and departing airport property, contribute to reduced travel time, alleviate traffic congestion, and facilitate the expansion and other modernization improvements of said airport;

(*ii*) identify all revenue sources available to the Massachusetts Port Authority; provided, however, that for each revenue source identified the operating entity within the Massachusetts Port Authority responsible for generating each individual revenue source also be identified; provided, further, that for each such revenue source those subject to restrictions contained in federal aviation law be identified along with details of the specific restrictions; and provided, further, that for those revenues subject to restrictions contained in federal aviation law all permitted uses of said revenues be identified;

(*iii*) identify any other restrictions on individual revenue sources that are not governed by federal aviation law; provided, however, that particular attention should be given to revenues generated in connection with parking facilities operated by the Massachusetts Port Authority; and

(*iv*) establish an amount and terms of contribution from the Massachusetts Port Authority to the commonwealth towards the cost of highway and interchange improvements that benefit access to said airport; provided, however, that said contribution shall be commensurate with the benefit of improved access to said airport; and provided, further, that the amount of contribution established by this paragraph shall be in addition to the amounts established in paragraph (*a*).

The joint feasibility study authorized by this act shall treat any revenue attributable to an increase in toll rates on the Tobin Memorial Bridge which exceeds revenue necessary to offset costs of said bridge as available for use in financing the general operating costs of transportation infrastructure described in clause (*ii*) of paragraph (*b*) of this section; provided, however, that in no instance shall such excess toll revenue be available to finance any capital contribution of the Massachusetts Port Authority required by this act or resulting from the joint feasibility study authorized by this act.

The executive office of transportation and construction, the Massachusetts Port Authority, and the Massachusetts Turnpike Authority shall all be full and equal partners in this portion of the study, but an agreement of a majority of said participants shall be required before submission of this portion of the feasibility study. The results of the study concerning items contained in this paragraph, and the items contained in paragraph (*a*) that relate to benefits received by the Massachusetts Port Authority from improved airport access, shall be submitted to the house and senate committees on ways and means and the joint committee on transportation not later than June twenty-eighth, nineteen hundred and ninety-six.

SECTION 9. Section 2A of chapter 120 of the acts of 1995 is hereby amended by striking out item 1599-6500 and inserting in place thereof the following item:-

1599-6500 For the cost of relocating the registry of motor vehicles and the merit rating board to temporary space pending repairs to the space occupied by said agencies in the building located in the vicinity of Ruggles station, including the cost of storage, moving, and necessary renovations to the state office building located at one hundred Nashua street in the city of Boston; provided, however, that the registrar of motor vehicles shall take all available actions to obtain full compensation, reimbursement, and damages from the owners of the building formerly rented to and occupied by the registry of motor vehicles and the merit rating board in the vicinity of Ruggles station, for any breach of the lease or of any other duty owed to said agencies, including, but not limited to, if deemed necessary or appropriate, requesting the attorney general to commence litigation to obtain such compensation, reimbursement, and damages; provided, further, that the secretary of administration and finance shall submit quarterly spending plans to the house and senate committees on ways and means which detail all expenditures made from this item; provided, further, that an amount not to exceed three hundred and fifty thousand dollars may be charged to this item for personnel costs which are solely attributable to the relocation of the registry of motor vehicles and the merit rating board to temporary space; and provided further, that no other personnel costs shall be charged to this item; and provided, further, that said secretary of administration and finance is authorized to transfer funds from this item to items 8400-0001 and 8400-0100 of section two of chapter thirty-eight of the acts of nineteen hundred and ninety-five for the purposes authorized herein subject to an allocation plan which said secretary shall file in advance with said house and senate committees on ways and means $10,000,000

SECTION 10. Notwithstanding the provisions of any general or special law to the contrary, every city or town shall report within thirty days of the effective date of this act to the division of local services of the department of revenue and the house and senate committees on ways and means the total amounts appropriated and expended, including any funding or reimbursements received from the commonwealth, for each fiscal year during the period of fiscal year nineteen hundred and ninety-three through nineteen hundred and ninety-five, inclusive; provided, however, that said division of local services shall certify the accuracy of the information provided by cities and towns; provided, further, that notwithstanding the provisions of item 1599-3801 of section two A or any other general or special law to the contrary, any city or town which is due reimbursement from said item shall

not receive such reimbursement until such time as said city or town meets the reporting requirements of this section.

SECTION 11. (*a*) Notwithstanding the provisions of any general or special law or regulation or bulletin to the contrary, including the provisions of section four of chapter seven of the General Laws, the metropolitan district commission, the department of environmental management and the department of mental retardation are hereby exempted from the provisions of administrative bulletin 93-1 sections IV, V, and VIII.I. Said exemption shall expire on June thirtieth, nineteen hundred and ninety-seven.

(*b*) The state comptroller is hereby authorized and directed to convene a task force which shall study the current motor vehicle leasing chargeback system employed by the office of vehicle management. Said task force shall include the director of the office of vehicle management, or his designee, the commissioner of the department of environmental management, or his designee, the commissioner of the metropolitan district commission, or his designee, and the commissioner of the department of mental retardation, or his designee. Said task force shall examine whether the current vehicle chargeback system offers sufficient management flexibility to office of vehicle management client agencies in the leasing of vehicles and any potential reforms to the current vehicle chargeback system which will result in savings to the commonwealth or said client agencies. Said study shall also take into account the experience of those agencies exempted from said chargeback system under the provisions of subsection (*a*). The report of said study shall be filed with the budget bureau and the house and senate committees on ways and means not later than March first, nineteen hundred and ninety-seven.

SECTION 12. 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 expend any remaining balance from fiscal year nineteen hundred and ninety-five from the Low Income Home Energy Assistance Program to meet the fiscal year nineteen hundred and ninety-six requirements of said program.

SECTION 13. Notwithstanding the provisions of any general or special law to the contrary, no gas or electric company shall shut off gas or electric service before April fifteenth, nineteen hundred and ninety-six to a residential customer whose household receives assistance from the Low Income Home Energy Assistance Program because of an inability to pay an overdue charge, when such gas or electric service is used to provide heat or operate the heating system of the customer's unit or building. Regulations promulgated by the department of public utilities pursuant to section one hundred and twenty-four F of chapter one hundred and sixty-four of the General Laws shall apply to this section. Any violation of this section shall be subject to the penalties provided for in section one hundred and twenty-four I of said chapter one hundred and sixty-four. The attorney general or a person aggrieved by a violation of any of the provisions of this section may enforce such provisions by commencing an action in the superior court.

SECTION 14. Notwithstanding the provisions of any general or special law to the contrary, the funds appropriated in item 1599-3801 of section two A of this act shall be distributed according to the schedule listed below:

MUNICIPALITY	AMOUNT
ABINGTON	45,775
ACTON	53,661
ACUSHNET	37,546
ADAMS	41,459
AGAWAM	85,579
ALFORD	4,467
AMESBURY	48,212
AMHERST	147,556
ANDOVER	100,977
ARLINGTON	106,611
ASHBURNHAM	29,132
ASHBY	19,008
ASHFIELD	18,450
ASHLAND	35,489
ATHOL	62,157
ATTLEBORO	149,666
AUBURN	55,162
AVON	15,783
AYER	21,224
BARNSTABLE	143,542
BARRE	35,417
BECKET	14,723
BEDFORD	45,064
BELCHERTOWN	51,295
BELLINGHAM	46,665
BELMONT	54,402
BERKLEY	20,151
BERLIN	13,604
BERNARDSTON	13,876
BEVERLY	111,254
BILLERICA	117,997
BLACKSTONE	31,068
BLANDFORD	16,386
BOLTON	17,916
BOSTON	1,700,818
BOURNE	49,379
BOXBOROUGH	12,503
BOXFORD	27,263
BOYLSTON	15,291
BRAINTREE	101,899
BREWSTER	21,891

BRIDGEWATER	79,279
BRIMFIELD	21,280
BROCKTON	340,998
BROOKFIELD	16,796
BROOKLINE	108,233
BUCKLAND	14,052
BURLINGTON	72,945
CAMBRIDGE	246,095
CANTON	57,091
CARLISLE	16,370
CARVER	43,120
CHARLEMONT	12,578
CHARLTON	53,497
CHATHAM	20,566
CHELMSFORD	103,948
CHELSEA	100,227
CHESHIRE	18,134
CHESTER	15,942
CHESTERFIELD	14,350
CHICOPEE	197,345
CHILMARK	3,762
CLARKSBURG	8,473
CLINTON	47,762
COHASSET	17,664
COLRAIN	21,853
CONCORD	51,623
CONWAY	17,438
CUMMINGTON	12,586
DALTON	27,082
DANVERS	74,295
DARTMOUTH	93,393
DEDHAM	64,420
DEERFIELD	29,808
DENNIS	45,472
DIGHTON	24,302
DOUGLAS	29,630
DOVER	16,402
DRACUT	91,816
DUDLEY	43,702
DUNSTABLE	11,978
DUXBURY	39,703
EAST BRIDGEWATER	32,551

EAST BROOKFIELD	8,678
EAST LONGMEADOW	50,298
EASTHAM	14,814
EASTHAMPTON	59,400
EASTON	64,488
EDGARTOWN	12,826
EGREMONT	9,773
ERVING	5,685
ESSEX	10,921
EVERETT	83,472
FAIRHAVEN	54,436
FALL RIVER	385,976
FALMOUTH	83,408
FITCHBURG	169,131
FLORIDA	10,351
FOXBOROUGH	47,401
FRAMINGHAM	195,373
FRANKLIN	73,506
FREETOWN	33,151
GARDNER	90,230
GAY HEAD	2,003
GEORGETOWN	23,547
GILL	12,950
GLOUCESTER	74,906
GOSHEN	7,271
GOSNOLD	521
GRAFTON	48,841
GRANBY	26,014
GRANVILLE	17,709
GREAT BARRINGTON	33,637
GREENFIELD	76,946
GROTON	33,801
GROVELAND	19,528
HADLEY	23,780
HALIFAX	25,800
HAMILTON	22,257
HAMPDEN	21,137
HANCOCK	6,179
HANOVER	38,530
HANSON	31,448
HARDWICK	25,648
HARVARD	47,743

HARWICH	39,900
HATFIELD	17,900
HAVERHILL	189,227
HAWLEY	10,656
HEATH	13,404
HINGHAM	56,572
HINSDALE	12,112
HOLBROOK	34,625
HOLDEN	55,729
HOLLAND	11,382
HOLLISTON	42,280
HOLYOKE	177,698
HOPEDALE	19,734
HOPKINTON	33,218
HUBBARDSTON	25,300
HUDSON	59,056
HULL	32,225
HUNTINGTON	14,218
IPSWICH	37,334
KINGSTON	33,458
LAKEVILLE	27,541
LANCASTER	30,037
LANESBOROUGH	16,223
LAWRENCE	354,895
LEE	23,500
LEICESTER	45,988
LENOX	21,706
LEOMINSTER	138,063
LEVERETT	10,998
LEXINGTON	73,162
LEYDEN	9,465
LINCOLN	22,457
LITTLETON	26,473
LONGMEADOW	46,413
LOWELL	385,137
LUDLOW	69,165
LUNENBURG	38,592
LYNN	296,488
LYNNFIELD	30,749
MALDEN	172,321
MANCHESTER	11,883
MANSFIELD	53,086

MARBLEHEAD	44,137
MARION	10,744
MARLBOROUGH	99,255
MARSHFIELD	60,691
MASHPEE	36,281
MATTAPOISETT	17,052
MAYNARD	32,913
MEDFIELD	34,336
MEDFORD	152,398
MEDWAY	35,067
MELROSE	74,689
MENDON	17,750
MERRIMAC	20,016
METHUEN	133,575
MIDDLEBOROUGH	77,782
MIDDLEFIELD	9,362
MIDDLETON	18,189
MILFORD	81,688
MILLBURY	45,174
MILLIS	28,316
MILLVILLE	10,609
MILTON	67,855
MONROE	3,900
MONSON	42,739
MONTAGUE	43,617
MONTEREY	11,356
MONTGOMERY	8,320
MOUNT WASHINGTON	4,126
NAHANT	9,379
NANTUCKET	36,612
NATICK	85,053
NEEDHAM	72,425
NEW ASHFORD	2,725
NEW BEDFORD	404,013
NEW BRAINTREE	13,318
NEW MARLBOROUGH	20,382
NEW SALEM	10,072
NEWBURY	21,318
NEWBURYPORT	48,413
NEWTON	198,846
NORFOLK	33,455
NORTH ADAMS	76,029

NORTH ANDOVER	71,617
NORTH ATTLEBOROUGH	81,862
NORTH BROOKFIELD	28,536
NORTH READING	36,746
NORTHAMPTON	106,275
NORTHBOROUGH	39,668
NORTHBRIDGE	50,416
NORTHFIELD	21,688
NORTON	53,031
NORWELL	32,643
NORWOOD	85,655
OAK BLUFFS	10,667
OAKHAM	13,073
ORANGE	43,801
ORLEANS	18,969
OTIS	10,608
OXFORD	55,817
PALMER	52,821
PAXTON	16,597
PEABODY	120,212
PELHAM	7,773
PEMBROKE	43,113
PEPPERELL	40,939
PERU	9,440
PETERSHAM	16,056
PHILLIPSTON	13,155
PITTSFIELD	176,468
PLAINFIELD	11,714
PLAINVILLE	24,041
PLYMOUTH	129,621
PLYMPTON	12,124
PRINCETON	23,658
PROVINCETOWN	8,598
QUINCY	245,183
RANDOLPH	94,559
RAYNHAM	35,901
READING	61,123
REHOBOTH	42,692
REVERE	130,577
RICHMOND	11,237
ROCHESTER	19,917
ROCKLAND	52,035

ROCKPORT	18,764
ROWE	8,446
ROWLEY	18,449
ROYALSTON	18,455
RUSSELL	9,345
RUTLAND	27,149
SALEM	101,287
SALISBURY	19,714
SANDISFIELD	19,297
SANDWICH	46,843
SAUGUS	68,301
SAVOY	12,731
SCITUATE	48,726
SEEKONK	44,983
SHARON	51,000
SHEFFIELD	23,791
SHELBURNE	15,768
SHERBORN	15,952
SHIRLEY	28,102
SHREWSBURY	75,272
SHUTESBURY	10,119
SOMERSET	47,667
SOMERVILLE	223,283
SOUTH HADLEY	58,992
SOUTHAMPTON	24,379
SOUTHBOROUGH	25,379
SOUTHBRIDGE	70,674
SOUTHWICK	32,282
SPENCER	54,501
SPRINGFIELD	644,568
STERLING	32,512
STOCKBRIDGE	12,805
STONEHAM	60,291
STOUGHTON	88,572
STOW	19,509
STURBRIDGE	35,026
SUDBURY	46,350
SUNDERLAND	16,572
SUTTON	34,570
SWAMPSCOTT	30,185
SWANSEA	54,713
TAUNTON	182,157

TEMPLETON	35,226
TEWKSBURY	89,211
TISBURY	7,824
TOLLAND	9,339
TOPSFIELD	20,873
TOWNSEND	40,869
TRURO	10,057
TYNGSBOROUGH	33,146
TYRINGHAM	6,059
UPTON	22,047
UXBRIDGE	45,549
WAKEFIELD	70,966
WALES	9,507
WALPOLE	62,592
WALTHAM	169,382
WARE	46,454
WAREHAM	65,240
WARREN	27,023
WARWICK	14,321
WASHINGTON	10,763
WATERTOWN	83,637
WAYLAND	37,748
WEBSTER	58,638
WELLESLEY	66,953
WELLFLEET	14,838
WENDELL	13,068
WENHAM	12,793
WEST BOYLSTON	24,687
WEST BRIDGEWATER	25,839
WEST BROOKFIELD	19,329
WEST NEWBURY	15,211
WEST SPRINGFIELD	89,487
WEST STOCKBRIDGE	10,265
WEST TISBURY	4,661
WESTBOROUGH	53,718
WESTFIELD	141,726
WESTFORD	59,150
WESTHAMPTON	12,828
WESTMINSTER	31,786
WESTON	30,710
WESTPORT	50,766
WESTWOOD	39,663

WEYMOUTH	161,034
WHATELY	9,449
WHITMAN	47,736
WILBRAHAM	43,328
WILLIAMSBURG	14,863
WILLIAMSTOWN	29,415
WILMINGTON	60,569
WINCHENDON	47,614
WINCHESTER	47,513
WINDSOR	16,518
WINTHROP	51,176
WOBURN	108,263
WORCESTER	658,502
WORTHINGTON	15,434
WRENTHAM	33,571
YARMOUTH	66,219

SECTION 15. This act shall take effect upon its passage.

Sections disapproved: Sections 8 and 11.

The remainder of the bill was approved by the Governor March 21, 1996.

Chapter 46. AN ACT RELATIVE TO THE WHITMAN HANSON REGIONAL SCHOOL DISTRICT.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section fourteen C of chapter seventy-one of the General Laws or any other general or special law to the contrary, the Whitman Hanson Regional School District is hereby authorized to lease property for a term in excess of twenty years.

Approved March 22, 1996.

Chapter 47. AN ACT ESTABLISHING A LIABILITY INSURANCE FUND IN THE TOWN OF ROCKPORT.

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 Rockport 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 Rockport Liability Insurance Fund. Any interest earned on the amount appropriated to said fund shall be added to and become part of said fund.

The trust fund agent who shall be the town treasurer, shall be the custodian and administrator of said fund.

Said trust fund agent shall pay from the amount in said fund including the interest thereon, for properly authorized settlements of claims against the said town and to cover the costs of defending said town against such claims including without limitation the costs of employing legal counsel, court costs and filing fees. Said trust fund agent shall, subject to appropriation, pay from the amount of the fund, including the interest thereon, such amounts as the board of selectmen of said town shall determine are necessary to effect insurance to protect said town against some or all of such claims.

SECTION 2. Upon recommendation of the board of selectmen and approval of the town meeting of said town, the fund established in section one may be combined with the funds established pursuant to sections thirteen and thirteen A of chapter forty of the General Laws and such resulting fund may be used for all purposes set forth in said sections thirteen and thirteen A; provided, however, that no monies from the combined fund shall be used to restore municipal buildings damaged or destroyed by fire. Upon recommendation of the board of selectmen, regulations and guidelines concerning disbursements from the combined fund may be established.

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

Approved March 22, 1996.

Chapter 48. AN ACT AUTHORIZING THE TOWN OF NAHANT TO BORROW MONEY TO FUND CERTAIN PAYMENTS.

Be it enacted, etc., as follows:

SECTION 1. The town of Nahant is hereby authorized to borrow from time to time such sums of money not exceeding, in the aggregate, one hundred and forty-seven thousand dollars as may be necessary to fund payments the town is required or agrees to make under its contract with the Lynn water and sewer commission as a result of capital improvements to the wastewater treatment facility of said commission and related facilities; and may issue bonds or notes therefor. Such bonds or notes shall bear on their face, the words Town of Nahant Wastewater Treatment Facility Loan, Act of 1996. Each authorized issue shall constitute a separate loan and each such loan shall be payable within twenty years from its date. The town may also issue temporary notes in anticipation of such borrowing pursuant to section seventeen of chapter forty-four of the General Laws. Bonds and notes may be issued hereunder by the town treasurer with the approval of the board of selectmen and the proceeds thereof may be expended without further authorization or appropriation by the town.

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

Approved March 22, 1996.

Chapter 49. AN ACT RELATIVE TO THE CHESTNUT HILL HISTORIC DISTRICT IN THE CITY OF NEWTON.

Be it enacted, etc., as follows:

SECTION 1. The city of Newton is hereby authorized to adopt an ordinance concerning the Chestnut Hill Historic District which includes within the definition of "exterior architectural features" such portion of the exterior of a building or structure as is open to view from a private way as well as from a public street, public way, public park or public body of water.

Notwithstanding the foregoing, the Chestnut Hill historic district commission may make only non-binding recommendations regarding changes to the exterior architectural features open to view from a private way of properties located on Essex road and from Nos. 147 through 256 Chestnut Hill road, with the following exceptions where such decisions of the commission shall be fully binding in the ordinary course:

(*a*) demolition of a building or structure so long as such demolition occurs after such property ceases to be legally or beneficially owned by the owner of record as of the effective date of the ordinance amendment effecting this act;

(*b*) any lot created by subdivision of such properties where its required frontage lies on a way whose properties are not then subject to such limited commission review;

(*c*) any property where the legal or beneficial owner of record files with the city clerk a certificate indicating irrevocable consent on behalf of such owner and of successor owners to submit to the jurisdiction of the historic district commission and to be bound by its decisions, subject to any statutory rights of appeal;

(*d*) all of such properties on Essex road or on the portion of Chestnut Hill road identified above, if at any time not less than seventy-two and one-half percent of the total number of owner-occupied properties on the specific road under consideration have been made the subject of a filing described in clause (*c*), at which time the limits on commission review established by the above provisions shall lapse and shall not be reestablished for such specific road. It shall also be sufficient for such lapse to occur if the owner-occupants of all but four of the owner-occupied properties on the specific road under consideration have made the filing described in clause (*c*).

No owner of any property claiming the benefit of this exemption shall have standing as an aggrieved person for the purpose of appealing any decision of the district commission concerning property other than his own, other than a decision relating to changes to architectural features visible from a public way.

The limited commission review herein established shall not affect the district commission's authority to regulate exterior architectural features open to view from a public street, way, park or body of water, even if such features are located on property containing exterior architectural features subject to such limited review, nor shall it affect the commission's authority under sections 22-90 et seq., and 22-44 of the Newton revised ordinances 1989, relating to landmark preservation and the demolition of structures, respectively.

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

Approved March 22, 1996.

Chapter 50. AN ACT RELATIVE TO APPROPRIATIONS FOR THE FISCAL YEAR NINETEEN HUNDRED AND NINETY-SIX.

Be it enacted, etc., as follows:

SECTION 1. Item 0411-2000 in section 2 of chapter 38 of the acts of 1995, as amended by section 7 of chapter 243 of the acts of 1995, is hereby further amended by striking out the wording and inserting in place thereof the following:-

For a reserve to implement a reorganization of the several executive offices; provided, however, that no more than three million nine hundred and twenty-eight thousand eight hundred and forty-three dollars shall be expended or allocated from this item until a reorganization plan for said executive offices pursuant to Article LXXXVII of the Amendments to the Constitution of the Commonwealth is submitted to the general court; and provided, further, that the governor shall submit to the general court with said reorganization plan a schedule which details the planned distribution of the funds appropriated herein.

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

Approved March 22, 1996.

Chapter 51. AN ACT FURTHER DEFINING SECURITY INTEREST.

Be it enacted, etc., as follows:

SECTION 1. Chapter 90D of the General Laws is hereby amended by inserting after section 21, as appearing in the 1994 Official Edition, the following section:-

Section 21A. In the case of motor vehicles or trailers, notwithstanding any other provision of law to the contrary, a transaction does not create a sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

SECTION 2. Section 1-201 of chapter 106 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out subsection (37) and inserting in place thereof the following subsection:-

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under the provisions of section 2-401 is limited in effect to a reservation of a "security interest". The term also includes any interest of a buyer of accounts or chattel paper which is subject to Article 9.

The special property interest of a buyer of goods on identification of those goods to a contract for sale under section 2-401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with said Article 9. Unless a consignment is intended as security, reservation of title thereunder is not a "security interest", but a consignment in any event is subject to the provisions on consignment sales of section 2-326.

Whether a transaction creates a lease or "security interest" is determined by the facts of each case; however, a transaction creates a "security interest" if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and:

(a) the original term of the lease is equal to or greater than the remaining economic life of the goods,

(b) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods,

(c) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement, or

(d) the lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

A transaction does not create a "security interest" because it provides that:

(a) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or greater than the fair market value of the goods at the time the lease is entered into,

(b) the lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods,

(c) the lessee has an option to renew the lease or to become the owner of the goods,

(d) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed, or

(e) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

For purposes of this subsection:

(a) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;

(b) "Reasonably predictable" and "remaining economic life of the goods" are to be

determined with reference to the facts and circumstances at the time the transaction is entered into; and

(c) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

Approved March 25, 1996.

Chapter 52. AN ACT RELATIVE TO THE ESTABLISHMENT OF AN ENTERPRISE FUND BY THE SHELBURNE FALLS FIRE DISTRICT.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the Shelburne Falls fire district is hereby authorized to establish a separate account to be known as the Emergency Medical Services Enterprise Fund, hereinafter referred to as the Enterprise. Such account shall be maintained by the treasurer of said district and all receipts, revenues and funds from any source derived from all activities of the Enterprise shall be deposited in such separate account. The treasurer may invest the funds in such separate account in the manner authorized by sections fifty-five and fifty-five A of chapter forty-four of the General Laws. Any interest earned thereon shall be credited to and become part of such separate account. The books and records of the Enterprise shall be maintained in accordance with generally accepted accounting principles and in accordance with the requirements of section thirty-eight of said chapter forty-four.

No later than one hundred and twenty days prior to the beginning of each fiscal year, an estimate of the income for the ensuing fiscal year and a proposed line item budget of the Enterprise shall be submitted to the board of commissioners. Said board shall act upon the budget in the same manner as all other budgets.

The board shall include in its tax levy for the fiscal year the amount appropriated for the total expenses of the Enterprise and an estimate of the income to be derived by the operations of the Enterprise. If the estimated income is less than the total appropriation, the difference shall be added to the tax levy and raised by taxation. If the estimated income is more than the total appropriation, the excess shall be appropriated to a separate reserve fund and used for capital expenditures of the Enterprise, subject to appropriation, or to reduce user charges if authorized by the board. If during a fiscal year the Enterprise incurs a loss, such loss shall be included in the succeeding fiscal year's budget.

If during a fiscal year the Enterprise produces a surplus, such surplus shall be kept in such separate reserve fund and used for the purposes provided therefor in this act.

Approved March 28, 1996.

Chapter 53. AN ACT RELATIVE TO THE DESTRUCTION OF FARM PROPERTY.

Be it enacted, etc., as follows:

Chapter 242 of the General Laws is hereby amended by inserting after section 7 the following section:-

Section 7A. Any person who, without permission, willfully enters the agricultural or horticultural land of another, including, but not limited to, an orchard, garden, nursery, cranberry bog, field, or vineyard, and carries away, takes, steals, mutilates, destroys, damages, causes to be damaged, or cuts any tree, shrub, fruit, berry, vegetable, grain, grass, hay, vine, plant, flower, or any other agricultural commodity defined pursuant to section one A of chapter one hundred and twenty-eight shall be liable to the owner of said land in tort for three times the amount of the damages assessed therefor.

Approved March 29, 1996.

Chapter 54. AN ACT AUTHORIZING THE SOUTH HADLEY HOUSING AUTHORITY TO MAKE A CERTAIN PAYMENT.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the South Hadley housing authority is hereby authorized to make a payment to Lawler Construction Company in an amount not to exceed thirty-five thousand dollars for the demolition and dumping fees in connection with the damage to the Cowan block in the town of South Hadley.

Approved March 29, 1996.

Chapter 55. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO LEASE TO THE TOWN OF GREENFIELD A CERTAIN PARCEL OF LAND LOCATED IN THE TOWN OF GREENFIELD.

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 lease to the town of Greenfield a certain parcel of land located in the town of Greenfield, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of sections forty F½, forty H and

forty I of chapter seven of the General Laws, the commissioner of the division of capital planning and operations is hereby authorized to lease to the town of Greenfield, and notwithstanding any general or special law to the contrary, the town of Greenfield is hereby authorized to lease from the commonwealth, for a term of ninety-nine years, for consideration as described in section three of this act, a certain parcel of land with the buildings and improvements situated thereon in said town of Greenfield. Said parcel is shown on a deed recorded with the Franklin county registry of deeds in Book 1191, Page 215. The parcel of land with the buildings and improvements thereon shall be leased for municipal purposes as a youth/community center consistent with any conditions determined by the commissioner of the division of capital planning and operations to be appropriate, which conditions shall be included in said lease.

SECTION 2. The parcel of land, buildings or other improvements described in section one shall be used by the town of Greenfield for municipal purposes as a youth/community center, and in the event said parcel of land, buildings or other improvements ceases to be used at any time for said purposes or if such land, buildings or improvements are used for any other purposes during the term of the lease, said lease shall be terminated by notice to be given by the commissioner of the division of capital planning and operations.

SECTION 3. The consideration for the lease by the commonwealth to the town of Greenfield, authorized in section one of this act, shall be a conveyance by the town of Greenfield of an easement and a right of way into the Leyden Wildlife Management Area in Leyden, as more particularly described below, to be granted to the commonwealth, acting by and through the division of capital planning and operations, for use by the division of fisheries and wildlife. The area over which the easement and right of way to be conveyed by the town of Greenfield is located and is described as follows:

Beginning at a point on the north side of Oak Hill road along the centerline of a intermittent stream that crosses Oak Hill Road, thence S 28E, 50' to a point on the north of Oak Hill road being the beginning of the centerline of a 25' wide Right of Way going from Oak Hill road to the Leyden Wildlife Management Area, thence N 38E, 106' to a point along the center line, thence N45E, 128' to a point along the centerline, thence N 57 E, 95' to a point along the centerline, thence N 36 E, 82' to a point along the centerline, thence N17E, 27' to a point along the centerline, on the boundary line between the Leyden Wildlife Management Area and the inhabitants of Greenfield.

The parking/signage area begins at/on the centerline of the 25' wide Right of Way, thence N 38 E, 39' to a point, thence S 52 E, 30' to a point, thence S 23 W, 43' to a point, thence S 19 E, 20' to a point, thence S 71 W, 20' to a point, thence N 19 W, 56' along the north side of the Oak Hill Road to the point of beginning.

The consideration for said lease by the commonwealth shall include the value of certain improvements and renovations to be made to the property described in section one by the town of Greenfield; provided, however, that said improvements and renovations shall be agreed upon by the commonwealth and the town of Greenfield and shall be completed within three years after the execution of the lease. If said improvements and renovations are

not completed within three years, the lease shall be terminated by notice to be given by the commissioner of the division of capital planning and operations.

Fifteen years from the date of execution of the lease, in the event that said lease remains in force and effect, the town of Greenfield and the commissioner of the division of capital planning and operations shall negotiate and agree upon a rental amount that shall be paid by the town of Greenfield for the remainder of the lease term.

SECTION 4. The town of Greenfield shall be responsible for any costs for appraisals, surveys and other expenses relating to the lease of the property and the conveyance of the easement and right of way authorized herein, and for any costs and expenses of any nature and kind for the property's use, development, maintenance, operation, improvement or renovation.

SECTION 5. Any consideration paid by the town of Greenfield pursuant to section three shall be deposited in the General Fund of the commonwealth.

Approved March 29, 1996.

Chapter 56. AN ACT RELATIVE TO THE LICENSING OF PRIVATE DETECTIVES.

Be it enacted, etc., as follows:

SECTION 1. The second paragraph of section 23 of chapter 147 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out paragraph 8 and inserting in place thereof the following paragraph:-

8. An insurance adjuster or investigator while acting in such capacity as an employee.

SECTION 2. Said second paragraph of said section 23 of said chapter 147, as so appearing, is hereby further amended by adding the following paragraph:-

12. Individuals who are independently and currently licensed by the commonwealth in a profession or field of expertise, whereby they are exclusively utilized and confined in conducting an investigation to that profession or field of expertise, inasmuch as the context and extent of their inquiry and investigation does not exceed the particular area of their profession or field of expertise in which they are independently licensed within the commonwealth.

Approved April 4, 1996.

Chapter 57. AN ACT REORGANIZING THE GOVERNOR'S CABINET.

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. Section 17A of chapter 6 of the General Laws, as appearing in the 1994 official edition, is amended by striking the section and inserting in place thereof the following:-

Section 17A. There is hereby established a cabinet, which shall serve directly under the governor. The cabinet shall consist of the secretary of administration, the secretary of environmental affairs, the secretary of family services, the secretary of elder affairs, the secretary of public safety, the secretary of public property, and such other offices of the executive department as the governor may from time to time designate.

SECTION 2. Section 2 of chapter 6A of the General Laws, as appearing in the 1994 official edition, is amended by striking the section and inserting in place thereof the following:-

Section 2. There are hereby established the following executive offices, each of which shall serve directly under the governor:- environmental affairs, family services, elder affairs, public safety, and public property.

SECTION 3. Section eight of said chapter six A of the General Laws, as so appearing, is hereby repealed.

SECTION 4. Section nine of said chapter six A of the General Laws, as so appearing, is hereby repealed.

SECTION 5. Section 16 of said chapter 6A of the General Laws, as so appearing, is hereby amended by striking the word "human" in lines 2, 42 and 45 and inserting in place thereof the word:- family.

SECTION 6. Section seventeen of said chapter six A of the General Laws, as so appearing, is hereby repealed.

SECTION 7. Section seventeen B of said chapter six A of the General Laws, as so appearing, is hereby repealed.

SECTION 8. Section 19 of said chapter 6A of the General Laws, as so appearing, is hereby amended by striking the words "transportation and construction" in lines 2 and 13 and inserting in place thereof the words:- public property.

SECTION 9. Section 3 of chapter fifteen A of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 10. The provisions of this act shall become effective on July first, nineteen hundred and ninety-six.

The foregoing was filed by the Governor with the General Court on January 23, 1996. 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.

Chapter 58. AN ACT TO ELIMINATE UNNECESSARY BOARDS, COMMISSIONS AND POSITIONS FROM MASSACHUSETTS STATE GOVERNMENT.

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. Section 6 of chapter 6 of the General Laws, as appearing in the 1994 official edition, is hereby amended by striking out the words "a stenographer, an assistant to the stenographer" in lines 2 and 3.

SECTION 2. Section 6A of said chapter 6 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 3. Section 17 of said chapter 6 of the General Laws, as so appearing, is further amended by striking out the words "the consumers' council" in line 15.

SECTION 4. Said section 17 of said chapter 6 of the General Laws, as so appearing, is further amended by striking out the words "the advisory council on home and family" in lines 18 and 19.

SECTION 5. Section one hundred and fifteen of said chapter six of the General Laws, as so appearing, is hereby repealed.

SECTION 6. Sections one hundred and fifty-one, one hundred and fifty-two and one hundred and fifty-three of said chapter six of the General Laws, as so appearing, are hereby repealed.

SECTION 7. Section one hundred and sixty-six A of said chapter six of the General Laws, as so appearing, is hereby repealed.

SECTION 8. Section eight of chapter six B of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 9. Section thirty-seven A of chapter seven of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 10. Section fifty-nine of chapter fifteen of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 11. Section six of chapter eighteen of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 12. Section nine of chapter nineteen of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 13. Section nine of chapter nineteen B of the General Laws, as appearing in the 1994 official edition and as amended by section eight of chapter five hundred and ninety-nine of the acts of one thousand nine hundred and eighty-six, is hereby repealed.

SECTION 14. Section eleven of said chapter nineteen B of the General Laws, as so appearing, is hereby repealed.

SECTION 15. Sections sixteen and seventeen of chapter twenty-one C of the General Laws, as appearing in the 1994 official edition, are hereby repealed.

SECTION 16. Section four of chapter twenty-one D of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 17. Section eleven E of chapter twenty-three of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 18. Section eleven G of said chapter twenty-three, as so appearing, is amended by striking out the words "and with the advice and guidance of the apprenticeship council," in line 2 and the words "with the approval of the apprenticeship council," in line 3 and the words "of the apprenticeship council and" in line 8.

SECTION 19. Section five of chapter twenty-three B of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 20. Section three of chapter twenty-seven of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 21. Section six A of chapter twenty-eight A of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 22. Sections three and four of chapter forty E of the General Laws, as appearing in the 1994 official edition, are hereby repealed.

SECTION 23. Chapter forty K of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 24. Section one hundred and twenty-two of chapter ninety-four of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 25. Section one hundred and twenty-three of chapter ninety-four, as so appearing, is hereby repealed.

SECTION 26. Section nineteen of chapter one hundred and twenty-eight A of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 27. Section fifty of chapter one hundred and thirty-two of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 28. Sections seventy-one H, seventy-one I, seventy-one J, seventy-one K, seventy-one L, seventy-one M and seventy-one N of chapter one hundred and forty-three of the General Laws, as appearing in the 1994 official edition, are hereby repealed.

SECTION 29. Section seventeen of chapter one hundred and fifty-one D of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 30. Section 17 of chapter 176H of the General Laws, as appearing in the 1994 official edition, is hereby amended by striking out the second paragraph in lines 9 through 13.

SECTION 31. Section eighteen of said chapter one hundred and seventy-six H of the General Laws, as so appearing, is hereby repealed.

SECTION 32. Section nine of chapter one hundred and seventy-eight A of the General Laws, as appearing in the 1994 official edition, is hereby repealed.

SECTION 33. Chapter eight hundred and forty-three of the acts of nineteen hundred and sixty-nine is hereby repealed.

SECTION 34. Section fifty-four(B) of chapter three hundred and sixty-seven of the acts of nineteen hundred and seventy-eight is hereby repealed.

SECTION 35. Section fifty-six of chapter three hundred and ninety-three of the acts

of nineteen hundred and seventy-nine is hereby repealed.

SECTION 36. Section four of chapter five hundred and forty-seven of the acts of nineteen hundred and eighty is hereby repealed.

SECTION 37. Section five of chapter five hundred and forty of the acts of nineteen hundred and eighty is hereby repealed.

SECTION 38. Chapter seven hundred and thirty-eight of the acts nineteen hundred and eighty-one is hereby repealed.

SECTION 39. Section twenty-two of chapter two hundred and forty-one of the acts of nineteen hundred and eighty-two is hereby repealed.

SECTION 40. Section thirty-nine of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three is hereby repealed.

SECTION 41. Section two of chapter one hundred and ninety-two of the acts of nineteen hundred and eighty-four is hereby repealed.

SECTION 42. Section eight of chapter two hundred and seventy-six of the acts of nineteen hundred and eighty-four is hereby repealed.

SECTION 43. Section four of chapter ninety-five of the acts of nineteen hundred and eighty-five is hereby repealed.

SECTION 44. Section fifty-seven of chapter one hundred and forty of the acts of nineteen hundred and eighty-five is hereby repealed.

SECTION 45. Section fifty-eight of chapter one hundred and forty of the acts of nineteen hundred and eighty-five is hereby repealed.

SECTION 46. Section sixty-nine of chapter one hundred and forty of the acts of nineteen hundred and eighty-five is hereby repealed.

SECTION 47. Section seventy-one of chapter one hundred and forty of the acts of nineteen hundred and eighty-five is hereby repealed.

SECTION 48. Section twenty-seven of chapter one hundred and eighty-eight of the acts of nineteen hundred and eighty-five is hereby repealed.

SECTION 49. Section twenty-seven(A) of chapter one hundred and eighty-eight of the acts of nineteen hundred and eighty-five is hereby repealed.

SECTION 50. Section nineteen of chapter five hundred and seventy-four of the acts of nineteen hundred and eighty-five is hereby repealed.

SECTION 51. Section twelve of chapter five hundred and eighty of the acts of nineteen hundred and eighty-five is hereby repealed.

SECTION 52. Section eight of chapter seven hundred and twenty-eight of the acts of nineteen hundred and eighty-five is hereby repealed.

SECTION 53. Section nineteen of chapter seven hundred and ninety-nine of the acts of nineteen hundred and eighty-five is hereby repealed.

SECTION 54. Section fifty-three of chapter two hundred and six of the acts of nineteen hundred and eighty-six is hereby repealed.

SECTION 55. Section sixty-three of chapter two hundred and six of the acts of nineteen hundred and eighty-six is hereby repealed.

SECTION 56. Section seventy-one of chapter two hundred and six of the acts of

nineteen hundred and eighty-six is hereby repealed.

SECTION 57. Section one hundred and five of chapter one hundred and ninety-nine of the acts of nineteen hundred and eighty-seven is hereby repealed.

SECTION 58. Section one hundred and thirteen of chapter one hundred and ninety-nine of the acts of nineteen hundred and eighty-seven is hereby repealed.

SECTION 59. Section twenty-eight of chapter three hundred and three of the acts of nineteen hundred and eighty-seven is hereby repealed.

SECTION 60. Section seven of chapter five hundred and sixty-four of the acts of nineteen hundred and eighty-seven is hereby repealed.

SECTION 61. Section forty-six of chapter five hundred and eighty-four of the acts of nineteen hundred and eighty-seven is hereby repealed.

SECTION 62. Section four of chapter one of the acts of nineteen hundred and eighty-eight is hereby repealed.

SECTION 63. Section ninety of chapter one hundred and sixty-four of the acts of nineteen hundred and eighty-eight is hereby repealed.

SECTION 64. Section ninety-one of chapter one hundred and sixty-four of the acts of nineteen hundred and eighty-eight is hereby repealed.

SECTION 65. Section sixty-seven of chapter two hundred and seventy-three of the acts of nineteen hundred and eighty-eight is hereby repealed.

SECTION 66. Section sixty-nine of chapter two hundred and seventy-three of the acts nineteen hundred and eighty-eight is hereby repealed.

SECTION 67. Section one hundred and eleven of chapter two hundred and forty of the acts of nineteen hundred and eighty-nine is hereby repealed.

SECTION 68. Section one hundred and twelve of chapter two hundred and forty of the acts of nineteen hundred and eighty-nine is hereby repealed.

SECTION 69. Section one hundred and thirteen of chapter two hundred and forty of the acts of nineteen hundred and eighty-nine is hereby repealed.

SECTION 70. Paragraph five of section forty-two of chapter one hundred and fifty of the acts of nineteen hundred and ninety is hereby repealed.

SECTION 71. Section sixty-six of chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one is hereby repealed.

SECTION 72. Section two hundred and sixty-nine of chapter one hundred and thirty-eight of the acts nineteen hundred and ninety-one is hereby repealed.

SECTION 73. Section one of chapter four hundred and fifty-two of the acts of nineteen hundred and ninety-one is hereby repealed.

SECTION 74. Section thirty of chapter twenty-six of the acts of nineteen hundred and ninety-two is hereby repealed.

SECTION 75. Section seventy of chapter seventy-one of the acts of nineteen hundred and ninety-three is hereby repealed.

SECTION 76. Section seventy-four of chapter seventy-one of the acts of nineteen hundred and ninety-three is hereby repealed.

SECTION 77. Section ninety-three of chapter seventy-one of the acts of nineteen

hundred and ninety-three is hereby repealed.

SECTION 78. Section one hundred and two of chapter seventy-one of the acts of nineteen hundred and ninety-three is hereby repealed.

SECTION 79. Section four of chapter two hundred and seventy-four of the acts of nineteen hundred and ninety-four is hereby repealed.

SECTION 80. Chapter thirteen of the resolves of nineteen hundred and seventy-seven is hereby repealed.

SECTION 81. Chapter twelve of the resolves of nineteen hundred and seventy-eight is hereby repealed.

SECTION 82. Chapter ten of the resolves of nineteen hundred and seventy-nine is hereby repealed.

SECTION 83. Chapter twelve of the resolves of nineteen hundred and seventy-nine is hereby repealed.

SECTION 84. Chapter twenty-five of the resolves of nineteen hundred and seventy-nine is hereby repealed.

SECTION 85. Chapter four of the resolves of nineteen hundred and eighty-one is hereby repealed.

SECTION 86. Chapter six of the resolves of nineteen hundred and eighty-one is hereby repealed.

SECTION 87. Chapter seven of the resolves of nineteen hundred and eighty-one is hereby repealed.

SECTION 88. Chapter five of the resolves of nineteen hundred and eighty-two is hereby repealed.

SECTION 89. Chapter eleven of the resolves of nineteen hundred and eighty-two is hereby repealed.

SECTION 90. Chapter twelve of the resolves of nineteen hundred and eighty-two is hereby repealed.

SECTION 91. Chapter six of the resolves of nineteen hundred and eighty-three is hereby repealed.

SECTION 92. Chapter two of the resolves of nineteen hundred and eighty-four is hereby repealed.

SECTION 93. Chapter ten of the resolves of nineteen hundred and eighty-four is hereby repealed.

SECTION 94. Chapter eleven of the resolves of nineteen hundred and eighty-four is hereby repealed.

SECTION 95. Chapter twelve of the resolves of nineteen hundred and eighty-four is hereby repealed.

SECTION 96. Chapter fourteen of the resolves of nineteen hundred and eighty-four is hereby repealed.

SECTION 97. Chapter two of the resolves of nineteen hundred eighty-five is hereby repealed.

SECTION 98. Chapter five of the resolves of nineteen hundred and eighty-five is

hereby repealed.

SECTION 99. Chapter nine of the resolves of nineteen hundred and eighty-five is hereby repealed.

SECTION 100. Chapter fourteen of the resolves of nineteen hundred and eighty-five is hereby repealed.

SECTION 101. Chapter seven of the resolves of nineteen hundred and eighty-six is hereby repealed.

SECTION 102. Chapter ten of the resolves of nineteen hundred and eighty-six is hereby repealed.

SECTION 103. Chapter three of the resolves of nineteen hundred and eighty-seven is hereby repealed.

SECTION 104. Chapter four of the resolves of nineteen hundred and eighty-nine is hereby repealed.

SECTION 105. Sections 1 through 26, and sections 28 through 104, of this Act shall be effective July 1, 1996. Section 27 of this Act shall be effective July 1, 1997.

The foregoing was filed by the Governor with the General Court on January 23, 1996. 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.

Chapter 59. AN ACT DESIGNATING THE RIVERWALK ON THE GROUNDS OF THE LOWELL HERITAGE STATE PARK AS THE SCOTT FINNERAL MEMORIAL RIVERWALK.

Be it enacted, etc., as follows:

The riverwalk located on the grounds of Lowell Heritage State Park in the city of Lowell shall be designated and known as the Scott Finneral Memorial Riverwalk. The department of environmental management shall erect a suitable marker bearing such designation in compliance with the standards of said department.

Approved April 5, 1996.

Chapter 60. AN ACT FURTHER DEFINING CABLE TELEVISION SYSTEMS.

Be it enacted, etc., as follows:

SECTION 1. Section 22 of chapter 166A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "units", in line 20, the following words:- or a manufactured housing community, as defined in section thirty-two F of chapter one hundred and forty.

SECTION 2. Said section 22 of said chapter 166A, as so appearing, is hereby further amended by inserting after the word "tenants", in line 21, the following words:- or manufactured home owners or occupants.

SECTION 3. Said section 22 of said chapter 166A, as so appearing, is hereby further amended by striking out the sixth paragraph and inserting in place thereof the following paragraph:-

No person owning, leasing, controlling or managing a multiple dwelling unit or units, or a manufactured housing community, as defined in section thirty-two F of chapter one hundred and forty, shall prohibit or otherwise prevent an operator from entering such buildings or manufactured homes for the purpose of constructing, installing or servicing CATV system facilities if one or more tenants or occupants of a multiple dwelling unit or units, or one or more owners or occupants of a manufactured home or homes, have requested such CATV services. A cable television operator shall not make an installation in an individual dwelling unit or manufactured home unless permission has been given by the tenant occupying such unit or the owner or occupant of such manufactured home.

Approved April 5, 1996.

Chapter 61. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF GEORGETOWN.

Be it enacted, etc., as follows:

SECTION 1. Any holder of an elected office in the town of Georgetown may be recalled therefrom by the registered voters of said town as herein provided.

SECTION 2. Any four hundred registered voters of the town 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 such recall. Upon certification of the required signatures, the town clerk shall thereupon deliver to the first named voter on the affidavit copies of petition blanks addressed to the selectmen demanding such recall, copies of which printed forms he shall keep available. Said blanks shall be issued by the town clerk with his signature and official seal attached thereto. They shall be dated, shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought and the grounds of recall as stated in the affidavit and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. The recall petition shall be returned and filed with the town clerk within twenty-one days after the filing of the affidavit and shall have been signed by at least twenty-five percent of the registered voters of the town 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. The town clerk shall, within seventy-two hours of receipt thereof, submit the petition to the registrars of voters in the town, and said registrars shall forthwith certify thereon the number of signatures which are names of registered voters of the town.

SECTION 3. If the petition shall be found and certified by the town clerk to be sufficient, he shall submit the same with his certificate to the selectmen without delay and the selectmen shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled. If such officer does not resign within five days thereafter, the selectmen shall order an election to be held on a date fixed by them not less than sixty days 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 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 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 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 he 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 he is recalled, he shall be deemed removed upon the qualifications of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

SECTION 6. Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer)

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (x), may vote for either of said propositions. Under the proposition shall appear the word "Candidates" and 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 then the candidate receiving the highest number of votes shall be declared elected. If a majority of votes cast on the question is in the negative, then 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 subjected to a recall election and not recalled thereby, until at least six months after the election at which his recall was submitted to the voters of the town has elapsed.

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 April 5, 1996.

Chapter 62. AN ACT AUTHORIZING THE CITY OF BOSTON TO GRANT A PENSION TO TERRANCE D. JONES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary and in order to promote the public good, the State-Boston retirement board is hereby authorized and directed to retire Terrance D. Jones, a firefighter of the city of Boston who, as a result of injuries sustained while in the performance of his duties is totally and permanently incapacitated for further service as a firefighter.

The annual amount of pension payable to Terrance D. Jones under this act shall be fixed in the amount equal to the regular rate of compensation which would have been paid to him had he continued in service as a firefighter in said city at the grade held by him at the time of his retirement.

On the effective date of this act all amounts standing to the credit of Terrance D. Jones in the annuity savings fund of the retirement system of said city shall be paid to him.

SECTION 2. The provisions of section one hundred of chapter forty-one of the General Laws shall continue to apply to Terrance D. Jones relative to his indemnification by the city of Boston for any hospital, medical and related expenses which may be incurred by him after the date of his retirement as a result of the aforementioned incapacity.

SECTION 3. Upon the death of Terrance D. Jones, if he leaves a wife surviving him, and as long as she remains unmarried, the city shall pay her an annual annuity equal to the sum of three-fourths of the amount of the pension payable to him at the time of his death, and four hundred and fifty dollars for each child of Terrance D. Jones for such time as such child is either under eighteen years of age, or totally physically or mentally incapacitated from working. If the spouse of Terrance D. Jones remarries, the city shall pay her in lieu of the aforementioned annuity, an annual annuity of five hundred and twenty-five dollars for each child of Terrance D. Jones for such time as such child is residing with her and is either under eighteen years of age or totally physically or mentally incapacitated from working.

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

Approved April 12, 1996.

Chapter 63. AN ACT AUTHORIZING THE CITY OF BOSTON TO GRANT A PENSION TO DARRELL B. JOHNSON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary and in order to promote the public good, the State-Boston retirement board is hereby authorized and directed to retire Darrell B. Johnson, a firefighter of the city of Boston who, as a result of injuries sustained while in the performance of his duties is totally and permanently incapacitated for further service as a firefighter.

The annual amount of pension payable to Darrell B. Johnson under this act shall be

fixed in the amount equal to the regular rate of compensation which would have been paid to him had he continued in service as a firefighter in said city at the grade held by him at the time of his retirement.

On the effective date of this act all amounts standing to the credit of Darrell B. Johnson in the annuity savings fund of the retirement system of said city shall be paid to him.

SECTION 2. The provisions of section one hundred of chapter forty-one of the General Laws shall continue to apply to Darrell B. Johnson relative to his indemnification by the city of Boston for any hospital, medical and related expenses which may be incurred by him after the date of his retirement as a result of the aforementioned incapacity.

SECTION 3. Upon the death of Darrell B. Johnson, if he leaves a wife surviving him, and as long as she remains unmarried, the city shall pay her an annual annuity equal to the sum of three-fourths of the amount of the pension payable to him at the time of his death, and four hundred and fifty dollars for each child of Darrell B. Johnson for such time as such child is either under eighteen years of age, or totally physically or mentally incapacitated from working. If the spouse of Darrell B. Johnson remarries, the city shall pay her in lieu of the aforementioned annuity, an annual annuity of five hundred and twenty-five dollars for each child of Darrell B. Johnson for such time as such child is residing with her and is either under eighteen years of age or totally physically or mentally incapacitated from working.

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

Approved April 12, 1996.

Chapter 64. AN ACT BROADENING THE POLICE POWERS OF PAROLE OFFICERS.

Be it enacted, etc., as follows:

SECTION 1. Section 127 of chapter 127 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 17, the word "and".

SECTION 2. Said section 127 of said chapter 127, as so appearing, is hereby further amended by inserting after the word "duties", in line 21, the following words:- ; (4) on the premises of parole board facilities, which facilities shall include locations where the board is conducting a hearing or other board business; (5) including applying for and executing search warrants in the course of an investigation of parole violations, and upon complaint on oath that such special state police officer has probable cause to believe that the parolee, for whom a current parole arrest warrant is outstanding, is concealed within a house, place, vessel anywhere within the commonwealth or territorial waters thereof or vehicle of another; (6) including, after such applying for and executing search warrants in the course of an investigation of parole violations after notifying the appropriate local police department or the state police and upon complaint on oath that such special state police officer has probable cause to believe that stolen or embezzled property or property obtained by false pretenses,

property which has been used as the means of committing a crime, property which has been concealed to prevent a crime from being discovered or property which is unlawfully possessed or kept or concealed for an unlawful purpose is in the possession or control of a parolee; and (7) including applying for and executing search warrants in the course of an investigation of parole violations, and upon complaint on oath that such special state police officer reasonably believes that evidence of a parole violation is concealed on such parolee's person or under such parolee's exclusive control. Whenever evidence of a crime has been discovered by such special state police officer, the appropriate local police department or state police shall be notified immediately.

Approved April 18, 1996.

Chapter 65. AN ACT RELATIVE TO UTILITY COLLECTION PROCEDURES IN THE TOWN OF NORTHBRIDGE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Northbridge, its officers, employees, and agents, shall not shut off the flow of water, nor discontinue sanitary sewer services to a residential building in which the occupant thereof is not the customer of record of said town's water or sanitary sewer service, without first providing adequate notice to the occupant of each affected dwelling unit in a manner prescribed by regulation of the department of public works of said town. Such notice shall contain the following information:

(*a*) the amount due and payable for such water or sanitary sewer service;

(*b*) the date on or after which such service will be shut off, such date to be not less than fifteen nor more than thirty days, as determined by said department, after the day on which such notice is first given;

(*c*) the date on which such notice is given; and

(*d*) the right of the occupant of such building to pay the amount due or such portion thereof as may be prescribed by regulation of said department to avoid a cessation of service and to recover the amounts so paid from the person to whom they would otherwise pay their rent.

An employee of said department or a police officer of the town may, at a reasonable time, enter the common hallways of such building to post or deliver notice pursuant to this section. Any person who removes, interferes or tampers with such notice shall be punished by a fine of not more than twenty-five dollars. Any such violation may be enforced by noncriminal disposition pursuant to section twenty-one D of chapter forty of the General Laws.

At any time after the date such notice is given, an occupant of a dwelling unit within any such building may pay to the town the amount due or such portion thereof as is mutually agreed upon by the occupant and the department of public works. If no such agreement is

reached, said department shall make a final determination of the amount of said portion, in order to avoid cessation of service. If such final determination by said department is not made prior to the date on which service otherwise would have been terminated, such service shall be continued for a period not to exceed fifteen days, during which time said department shall render its final determination. If such amount is received after service has been shut off, service shall be restored as soon as practicable.

SECTION 2. Any such occupant who has paid all or any portion of the amount due the town for water or sanitary sewer services in accordance with section one may subsequently recover the amount paid, either by deducting such amount from any rent or payment on account of taxes or operating expenses then or thereafter due from such occupant to the person to whom he would otherwise pay his rent or by obtaining reimbursement from the person to whom he last paid rent. The department of public works shall, upon receiving any such payment, notify the person liable for service as stated in the notice of the amounts paid by any occupant pursuant to the provisions of this act.

A waiver of any of the provisions of this act in a lease or other rental agreement shall be void and unenforceable. The provisions of section eighteen of chapter one hundred and eighty-six and section two A of chapter two hundred and thirty-nine of the General Laws shall apply to any reprisal against an occupant for exercising his rights pursuant to this section.

The department of public works may establish, from time to time, rules and regulations consistent with this act as may be necessary for its implementation.

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

Approved April 18, 1996.

Chapter 66. AN ACT RELATIVE TO CERTAIN STUDENT ACTIVITY ACCOUNTS.

Be it enacted, etc., as follows:

Section 47 of chapter 71 of the General Laws is hereby amended by adding the following three paragraphs:-

Notwithstanding the provisions of the preceding paragraph or section fifty-three of chapter forty-four, the school committee of a city, town or district may authorize a school principal to receive money in connection with the conduct of certain student activities and to deposit such money, with the municipal or regional school district treasurer, into an interest bearing bank account, hereinafter referred to as the Student Activity Agency Account, duly established by vote of the school committee to be used for the express purpose of conducting student activities. Interest earned by such Student Activity Agency Account shall be retained by the fund and the school committee shall determine for what purpose such earnings may be used. In addition to such Student Activity Agency Account, the school committee may authorize the municipal or regional school district treasurer to establish a

checking account, hereinafter referred to as the Student Activity Checking Account, to be operated and controlled by a school principal and from which funds may be expended exclusively for student activity purposes for the student activities authorized by the school committee. Such account shall be used for expenditures only and funds received for student activities may not be deposited directly into such account.

The school committee shall vote to set the maximum balance that may be on deposit in such Student Activity Checking Account. The principal designated to operate and control such Student Activity Checking Account shall give bond to the municipality or district in such amount as the treasurer shall determine to secure the principal's faithful performance of his duties in connection with such account. To the extent that the funds are available in such Student Activity Agency Account, funds up to the maximum balance set by the school committee shall be transferred from the Student Activity Agency Account through the warrant process to initially fund such Student Activity Checking Account.

Periodically, to the extent that funds are available in such Student Activity Agency Account, the municipal or regional school district treasurer shall reimburse such Student Activity Checking Account, through the warrant process, to restore the limit set by the school committee. The principal shall adhere to such administrative procedures as the municipal or regional school district treasurer or accountant may prescribe. There shall be an annual audit of the student activity funds which shall be conducted in accordance with procedures as agreed upon between the school committee and the auditor based upon guidelines issued by the department of education.

Approved April 18, 1996.

Chapter 67. AN ACT RELATIVE TO AGING SERVICES ACCESS POINTS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 19A of the General Laws is hereby amended by inserting after section 4A, as appearing in the 1994 Official Edition, the following section:-

Section 4B. The department shall be responsible for management of the home care program established in section four, and pursuant to the terms of an interagency service agreement entered into by the department with the division of medical assistance, for the management of clinical screening, service authorization activities and case management for medicaid community-based long term care made available to eligible elderly persons pursuant to the provisions of chapter one hundred and eighteen E and regulations promulgated thereunder; provided that the programs and activities authorized by this section shall be administered and coordinated in accordance with the single state agency requirement under 42 CFR Part 431 and other applicable requirements of Title XIX of the federal Social Security Act, or its successor title. The primary goal of said coordinated system of care shall be to assist elders maintain residence in the community consistent with their clinical and psycho-social needs and in the most cost-effective manner possible. As used in this section,

the word medicaid shall mean medical care and assistance provided to eligible persons pursuant to the provisions of said chapter one hundred and eighteen E and said Title XIX or its successor title and the word division shall mean the division of medical assistance established by section sixteen A of chapter six A. The words community long term care shall mean those medicaid services mutually agreed to by the department and the division.

Said coordinated system of care shall be administered in accordance with said interagency service agreement by agencies under contract with the department, which shall be called aging services access points, and are hereinafter referred to as ASAPs. ASAPs shall be designated by the department and may be operated by one or more nonprofit agencies, one or more home care providers as defined in clause (c) of the third paragraph of section four, a combination of said home care corporations acting jointly, or by a state agency. Pursuant to said interagency service agreement and the terms of said contracts, ASAPs shall coordinate services on behalf of medicaid eligible elders; provided, however, that the division shall maintain exclusive responsibility for determining the financial or categorical eligibility of elders for medicaid and for the establishment of rates and methods of payment for medicaid services delivered pursuant to this section. Administrative payments to ASAPs for medicaid-funded functions, including, but not limited, to screenings, assessments, case management and coordination of care, shall be established by the division and shall not be subject to the jurisdiction of the rate setting commission. Administrative payments for home care-funded services under section four shall be established by the department. The division may develop a capitation system of payment for services in which ASAPs shall be at financial risk for any medicaid services that they authorize and purchase on behalf of an eligible that exceed the amount of said capitation payments.

Said interagency service agreement shall establish performance and outcome goals for medicaid and home care-related functions of ASAPs and may establish such goals for any other responsibilities contracted to ASAPs for managing said coordinated system. Continuation of the interagency service agreement authorized by this section shall be dependent on the achievement of said medicaid-related performance and outcome goals, as determined by the department.

ASAPs shall be responsible for: (1) providing information and referral services to all elders in the commonwealth; provided, however, that referrals for terminally ill elders shall include referral to a licensed and certified hospice for determination of eligibility, appropriateness and consumer interest in services; (2) conducting intake, comprehensive needs assessments, preadmission screening and clinical eligibility determinations for elders seeking institutional and community care services from medicaid or the home care program, which in the case of hospice clients, shall adhere to medicare and medicaid conditions of participation pursuant to 42CFR418 and 114.3CMR43.00; (3) developing a comprehensive service plan based on the needs of an elder, provided, however, that a medical plan of care for an elder be developed by a licensed or certified health provider; (4) arranging for, coordinating, authorizing and purchasing community long term care services called for in the comprehensive service plan; and (5) monitoring the outcomes of and making periodic adjustments to the service plan in consultation with service and health care providers. The

establishment of a comprehensive service plan for an elder shall not establish an entitlement to services for any eligible person for services beyond that established by law or beyond the amounts appropriated therefore.

ASAP responsibilities for medicaid-related functions shall be those established by said interagency service agreement. When renewing the annual terms of said interagency service agreement for the subsequent fiscal year, the division shall seek to promote continuity in the said coordinated system of care consistent with the intent of this section; provided that substantive changes to the terms and provisions of any such annual agreement, including changes to the functional responsibilities of ASAP's as defined in this section, shall be negotiated after the making of a written finding by the division that such changes are necessary as a result of changes in federally reimbursable services, rates of federal reimbursement rates or state fiscal demands or a written finding that the division is prepared to implement a more comprehensive, cost-effective and coordinated system of long term care than that established by this section. The written finding required by this paragraph shall be submitted to the department, the secretary of administration and finance and the joint committee on human services and elderly affairs.

ASAPs shall not provide direct service except for case management; information and referral; and protective services as defined in regulations of the home care program established at 651 CMR 3.00 et seq. and nutrition services established at 651 CMR 4.00 et seq. and the Older Americans Acts, as amended (42 USC 3021 et seq.). Except for the direct services provided by ASAPs pursuant to this section, no ASAP shall have a direct or indirect financial ownership interest in an entity that provides institutional or community long term care services on a compensated basis. The secretary may grant a waiver of the restrictions in this paragraph upon a finding that public necessity and convenience require such a waiver.

Overall management, administration, and oversight activities related to the screening and authorization of community long term care services and related case management services shall be the responsibility of the department as delegated by the division pursuant to the terms of said interagency service agreement. The department shall actively explore with the division and interested parties programmatic options that would decrease the reliance of nursing facilities on medicaid funding and shall promote increased residential and community long term care program options for elders needing long term care services. The department shall also explore future coordinated systems of service delivery options as identified in the coordinated aging, rehabilitation and disability services project.

SECTION 2. A medicaid long term care system subject to the provisions of chapter one hundred and eighteen E of the General Laws which, upon implementation, would be more comprehensive, cost effective and coordinated than the system of long term care established by section four B of chapter nineteen A of the General Laws shall not be implemented without sixty days prior notice to the general court.

Approved April 18, 1996.

Chapter 68. AN ACT AUTHORIZING THE EXCHANGE OF LAND BETWEEN THE TOWN OF DUXBURY AND THE OJALA TRUST.

Be it enacted, etc., as follows:

The town of Duxbury, acting by and through its board of selectmen, is hereby authorized to convey to Brian J. Ojala and Richard J. Ojala, trustees of the Ojala Trust, a certain portion of a parcel of land located in said town, containing approximately fifty-one hundredths acres shown on the assessor's map of said town as a portion of Lot 110-502-042, acquired for conservation purposes under the jurisdiction of the conservation commission. In consideration of said conveyance, said trustees of said Ojala Trust shall convey to the town of Duxbury a certain parcel of land containing approximately fifty-one hundredths acres shown on said assessor's map as Lot 110-057-000.

Approved April 22, 1996.

Chapter 69. AN ACT AUTHORIZING THE CITY OF CAMBRIDGE TO TRANSFER AND SELL CERTAIN WATER RESOURCE LAND IN THE CITY OF WALTHAM.

Be it enacted, etc., as follows:

SECTION 1. The city of Cambridge is hereby authorized to sell and transfer two parcels of land located in the city of Waltham now owned and held by said city of Cambridge for the public purpose of providing clean natural water resources.

Said parcels are shown as Lots A and B on a plan entitled "Plan of Land in Waltham, Massachusetts Showing Land Owned by the City of Cambridge to be Conveyed to Polaroid Corporation," Scale 1" = 80', dated July 17, 1995, prepared by Martinage Engineering Associates, Inc. Civil - Environmental Engineers and Land Surveyors.

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

Approved April 22, 1996.

Chapter 70. AN ACT RELATIVE TO THE PRONOUNCEMENT OF DEATH BY A PHYSICIAN ASSISTANT.

Be it enacted, etc., as follows:

SECTION 1. Section 9 of chapter 46 of the General Laws is hereby amended by adding the following paragraph:-

A registered physician assistant, after the death of a person who was a patient under the care of such physician assistant, may declare such person dead; provided, however, that said physician assistant first makes a reasonable effort to contact the attending 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 2. The chief medical examiner shall report to the house and senate committees on ways and means, within sixty days of the effective date of this act, a plan for the location of a satellite medical examiner's office to be located at the City Hospital campus of the University of Massachusetts Medical Center. The medical examiner shall also report to said committees recommendations to establish a next of kin notification sequence to allow for more than one individual to identify a deceased person in the event the immediate next of kin is unavailable.

Approved April 23, 1996.

Chapter 71. AN ACT AUTHORIZING CERTAIN PUBLIC EMPLOYEES CREDITABLE RETIREMENT SERVICE TIME FOR ACTIVE SERVICE IN THE ARMED FORCES.

Be it enacted, etc., as follows:

SECTION 1. Paragraph (g) of subdivision (2) of section 3 of chapter 32 of the General Laws is hereby amended by striking out *Group 4*, as amended by section 52 of chapter 38 of the acts of 1995, and inserting in place thereof the following:-

Group 4. - Division of law enforcement of the department of fisheries, wildlife and recreational vehicles; conservation officer of the city of Haverhill having duties similar to a law enforcement officer of the department of fisheries, wildlife and recreational vehicles; employees of the Massachusetts Port Authority at the General Edward Lawrence Logan International Airport, comprising permanent crash crewmen, fire control men, assistant fire control men; members of police and fire departments not classified in *Group 1*; any police officer of the Massachusetts Bay Transportation Authority; employees whose regular compensation is paid by the United States from funds allocated to the Massachusetts National Guard and who are regularly and permanently employed under the control of the military department of the commonwealth and whose duties in such employment require substantially all normal working hours and whose continued employment is based upon federal recognition in the Massachusetts National Guard; employees of a municipal gas or electric generating or distribution plant who are employed as linemen, electric switchboard operators, electric maintenance men, steam engineers, boiler operators, firemen, oilers, mechanical maintenance men, and supervisors of said employees 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; employees of the department of correction who are employ-

ed at any correctional institution or prison camp under the control of said department and who hold the position of correction officer, female correction officer, industrial instructor, recreation officer, assistant industrial shop manager, industrial shop manager, assistant to the supervisor of industries, supervisor of industries, senior correction officer, senior female correction officer, supervising correction officer, supervising female correction officer, prison camp officer, senior prison camp officer, supervising prison camp officer, assistant deputy superintendent; employees of the parole board who hold the position of parole officer or parole supervisor; chief of security for the University of Massachusetts medical school or supervising identification agent; employees who hold the position of state hospital steward in the department of correction; the sheriff, superintendent, assistant superintendent, assistant deputy superintendent and correction officers of county correctional facilities; district attorneys, assistant district attorneys who have been employed in such capacity for ten years or more; and the chief fire warden and district fire wardens in the executive office of environmental affairs.

SECTION 2. Paragraph (h) of subdivision (1) of section 4 of said chapter 32, as appearing in the 1994 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding the provisions of this chapter or any other general or special law, rule or regulation to the contrary, a member in service of a retirement system as defined in section one who is a veteran who served in the armed forces of the United States and who has completed ten or more years of membership service shall be entitled to credit for active service in the armed services of the United States; provided, however, that such active service shall not be credited until such member has paid into the annuity savings fund of such system, in one sum or in installments, upon such terms and conditions as the board may prescribe, makeup payments of an amount equal to the ten percent of the regular annual compensation of the member when said member entered the retirement system; and, provided further that such creditable service shall not be construed to include service for more than four years provided further, that such creditable service shall not be allowed for any period of active service for which said veteran has received credit pursuant to paragraph (h) of subsection (1) of section 4 of chapter thirty-two of the General Laws or for which said veteran receives a federal military pension. This act shall apply to Massachusetts National Guard and Active Reserve personnel, both former and present. Creditable service time, both enlisted and commissioned may be applied toward retirement on a ratio of five years guard service or five years active reserve service substitutable for each year of active service.

SECTION 3. For the retirement system of any political subdivision, the provisions of this act shall take effect on the effective date of this act by majority vote of the board of such system and by the local legislative body. For the purposes of this paragraph local legislative body shall mean a town meeting for a town system, the city council subject to the provisions of its charter for a city system, the county commissioners for a county system, the district members for a district system and the governing body of an authority for an authority system. Acceptance shall be deemed to have occurred upon the filing of a certification of

such vote with the commissioner.

Members in service of a retirement system eligible for said creditable service under this act shall make application for said creditable service within one hundred and eighty days of being notified by the retirement board of their eligibility after becoming vested in the retirement system, or for currently eligible members, within one hundred and eighty days of the acceptance of this act by the local legislative body.

Terms used in this act shall have the same meaning as those terms defined in section one of chapter thirty-two of the General Laws.

Approved April 25, 1996.

Chapter 72. AN ACT RELATIVE TO CHARTER SCHOOL ENROLLMENT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide immediately for the establishment of regional charter schools, 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 ninth paragraph of section 89 of chapter 71 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the fourth sentence the following sentence:- Notwithstanding the provisions of this paragraph, upon application by the board of trustees of a charter school or by the persons or entities seeking to establish a charter school, the secretary may amend or grant a charter designating such school a regional charter school; provided, however, that such regional charter school shall be exempt from the local preference provision of this paragraph; provided, further, that such regional charter school shall continue to grant a preference to siblings of currently enrolled students; and provided, further, that if the number of applicants remaining is greater than the number of spaces available, such regional charter school shall conduct a single lottery to determine which applicants shall be admitted.

Approved April 25, 1996.

Chapter 73. AN ACT RELATIVE TO PARKING FINES IN THE TOWN OF CHATHAM.

Be it enacted, etc., as follows:

Notwithstanding the limitations of section twenty A½ of chapter ninety of the General Laws or any other general or special law to the contrary relative to the fines imposed for certain parking violations, the town of Chatham, acting by and through its board of

selectmen, is hereby authorized to establish a schedule of fines for parking violations as follows: for a fine paid within twenty-one days, not more than twenty-five dollars; for a fine paid after twenty-one days but before the parking clerk reports nonpayment to the registrar of motor vehicles, not more than thirty dollars; for a fine paid thereafter, not more than thirty-five dollars; provided, however, that the issuance of any such parking violation shall be subject to all of the other provisions of said section twenty A½ of said chapter ninety.

The foregoing was laid before the Governor on the eleventh day of April, 1996 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.

Chapter 74. AN ACT RELATIVE TO BUILDING PERMITS.

Be it enacted, etc., as follows:

SECTION 1. Section 57 of chapter 40 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "suspend", in line 3, the following words:- a building permit, or.

SECTION 2. Said section 57 of said chapter 40, as so appearing, is hereby further amended by inserting after the word "charges", in line 6, the following words:- , including amounts assessed under the provisions of section twenty-one D.

Approved April 26, 1996.

Chapter 75. AN ACT RELATIVE TO PROFESSIONAL CORPORATIONS OF REGISTERED NURSES.

Be it enacted, etc., as follows:

Section 2 of chapter 156A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 11 and 12, the words "and acupuncturists" and inserting in place thereof the following words:- acupuncturists and registered nurses.

Approved April 29, 1996.

Chapter 76. AN ACT RELATIVE TO THE CHARTER OF THE CITY KNOWN AS THE TOWN OF METHUEN.

Be it enacted, etc., as follows:

SECTION 1. Section 9-10 of article 9 of the charter of the city known as the town

of Methuen which is on file in the office of the archivist of the commonwealth, as provided in section twelve of chapter forty-three B of the General Laws, is hereby amended by adding the following sentence:- Nothing in this section shall be construed as granting a right to such a hearing to a person who is a member of Local 3699, American Federation of State, County and Municipal Employees, AFL-CIO, Methuen Support Staff Employees Unit. Said member shall be governed by the disciplinary procedure of said Unit's collective bargaining agreement with the town of Methuen.

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

Approved April 29, 1996.

Chapter 77. AN ACT RELATIVE TO NOTIFICATION OF PRISONER TRANSFERS.

Be it enacted, etc., as follows:

Chapter 127 of the General Laws is hereby amended by inserting after section 38C the following section:-

Section 38D. At the request of any correction officer, guard or other employee of any jail, house of correction or correctional institution, the commissioner, sheriffs or their designees shall provide notice to such officer, guard or employee of any transfer between such facilities or similar facilities utilized by the commonwealth or any political subdivision within or without the commonwealth of a prisoner convicted of an offense against such officer, guard or employee.

Approved May 6, 1996.

Chapter 78. AN ACT RELATIVE TO THE ANNUAL OBSERVANCE OF GARDEN WEEK.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting the following section:-

Section 12WW. The governor shall annually issue a proclamation setting apart the week beginning with the first Sunday in June as Garden Week, in recognition of the benefits of gardening in preserving our traditional spirit of independence and individual initiative which instills in people a greater respect for the environment and our natural resources, and recommending that said week be observed in an appropriate manner by the people.

Emergency Letter: May 7, 1996 @ 10:58 A.M. Approved May 6, 1996.

Chapter 79. AN ACT RELATIVE TO ACCESS TO DEPARTMENT OF EMPLOYMENT SECURITY RECORDS BY THE MASSACHUSETTS PAROLE BOARD.

Be it enacted, etc., as follows:

Clause (4) of paragraph (c) of section 46 of chapter 151A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "probation", in line 26, the following words:- or parole.

Approved May 7, 1996.

Chapter 80. AN ACT FURTHER REGULATING GROUP HEALTH COVERAGE FOR CERTAIN PUBLIC EMPLOYEES.

Be it enacted, etc., as follows:

Chapter 32A of the General Laws is hereby amended by adding the following section:-

Section 20. No physician or other provider of services, who treats or provides services to an individual covered by hospital, surgical, medical or catastrophic illness coverage offered by the commission as an indemnity plan under section four, four A, ten B, twelve or fifteen, shall charge to or collect from any insured or other beneficiary any amount in excess of that amount of compensation determined or allowed for a particular service by the insurer or by the administrator. For purposes of this section the words insurer and administrator shall include any insurance carrier, nonprofit hospital or medical service corporation or third-party health care administrator operating within the scope of its license. Nothing in this section shall be construed to prevent the collection of any copayments or deductibles allowed for in the plan design.

Emergency Letter: May 13, 1996 @ 11:35 A.M. Approved May 10, 1996.

Chapter 81. AN ACT AUTHORIZING THE TOWN OF AMESBURY TO ESTABLISH A MUNICIPAL WATERWAYS IMPROVEMENT AND MAINTENANCE FUND.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section five G of chapter forty of the General Laws, the town of Amesbury is hereby authorized to establish a municipal waterways improvement and maintenance fund and is further authorized to collect one-half of all fees and fines which relate to lakes and waterways issued by the harbormaster and to deposit said proceeds with said fund, which shall be administered by the Waterways Commission.

Approved May 10, 1996.

Chapter 82. AN ACT AUTHORIZING THE CITY OF NEWTON TO SELL A CERTAIN PARCEL OF LAND AND THE BUILDINGS THEREON.

Be it enacted, etc., as follows:

SECTION 1. The mayor of the city of Newton is hereby authorized to negotiate a contract for sale and to sell the city of Newton public works water yard property located in said city to the Newton Boys and Girls Club Corporation hereinafter referred to as the club for use as a facility to carry out the club's civic purposes of providing behavior guidance and promoting the health, social, educational, vocational and character development of the youth of said city, which negotiation and sale 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 May 13, 1996.

Chapter 83. AN ACT RELATIVE TO THE ZONING OF CERTAIN LAND IN THE TOWN OF AMHERST.

Be it enacted, etc., as follows:

SECTION 1. As used in this act the following words shall have the following meanings:-

"Dwelling unit", the residential structure owned by the leasehold owner and located on a portion of the fee owner's land pursuant to the terms of the recorded ground lease.

"Fee owner", the owner of the undivided fee simple title to the real estate subject to separate leasehold interests owned by those holding leasehold interests.

"Leasehold", the leasehold interest in that portion of the fee owner's individual fee simple title on which the leasehold owner's dwelling unit is located.

"Leasehold owner", the owner of the dwelling unit pursuant to the terms of the recorded ground lease.

SECTION 2. Notwithstanding the provisions of chapter forty A of the General Laws or any other general or special law or sections 6.10, 6.11, 6.13, 6.14, 6.15, 6.16, 6.17 or 6.18 of the town of Amherst zoning By-Laws to the contrary and notwithstanding the absence of or deficiency in street frontage, area, front set back, side set back, rear yard set back and notwithstanding the degree such leaseholds exceed the maximum building coverage and lot coverage all as otherwise required by state or local law, the fee owner of the individual fee simple interest in the land underlying leaseholds 1, 2, 3, 4, 18, 19, 20, 21, 22, 23, 24, 24A, 28, 29, 30, 31, 32, 33 and 34 as shown on a plan of land entitled "Plan Showing Leaseholds in Stage II Phase I at Amherst Field, Amherst, Massachusetts prepared for Amherst Land Trust" dated August 26, 1976, recorded in the Hampshire county registry of deeds and attached to a document recorded in said registry at Book 1909, Page 1, all being located within the Neighborhood Residence Zoning District ("RN") and being included within Parcels 2-1 through 19-1 on Zoning Map 18C may convey the fee simple title to said lease-

holds to the leasehold owners of the dwelling units situated thereon or, upon the expiration of a period equal to the remaining term of the lease, to any other person.

SECTION 3. Upon the effective date of this act, a dwelling unit and the underlying leasehold land as defined in the recorded lease shall become lawful nonconforming lots and shall thereafter be subject to all provisions of state and local law governing existing nonconforming lots within the zoning district.

SECTION 4. Upon any such sale, title to the dwelling unit and title to the underlying parcel of leasehold land on which it is located shall merge into fee simple title to the nonconforming lot which may thereafter be sold by such owner and successors in interest.

SECTION 5. Any leasehold interest not extinguished by purchase under the foregoing sections shall continue unaffected by the conversion of the underlying parcel of land from a divided fee simple title to an undivided fee simple title and the leasehold owner shall continue to have the right to maintain a dwelling unit thereon for the period equal to the remaining term of the lease and, upon expiration of any such period, and if no sale has been consummated with the leasehold owner, there shall be a merger of title in the dwelling unit and the underlying parcel of leasehold land and the fee owner of the nonconforming lot and successors in interest may sell as a lawful nonconforming lot.

Approved May 13, 1996.

Chapter 84. AN ACT FURTHER REGULATING THE PUBLIC EMPLOYEE RETIREMENT LAWS.

Be it enacted, etc., as follows:

Paragraph (b) of subdivision (2) of section 23 of chapter 32 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

The board of each such system shall invest and reinvest the funds of such system, to the extent not required for current disbursements, in the PRIT Fund pursuant to subdivision (8) of section twenty-two, in the PRIT Fund by purchasing shares of said fund as provided for in the trust agreement adopted by the PRIM board pursuant to subdivision (2A) or as follows:.

Approved May 15, 1996.

Chapter 85. AN ACT FURTHER REGULATING CERTAIN AGRICULTURAL MARKETING AND ANIMAL HEALTH.

Be it enacted, etc., as follows:

SECTION 1. Section 109 of chapter 94 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 8, the word "ninety" and inserting in place thereof the following word:- sixty.

SECTION 2. Section 44 of chapter 129 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- No person shall import into the commonwealth any equine animal without a certificate relative to such animal from a laboratory approved by the United States Department of Agriculture, dated within one year from the time of such importation certifying a negative test for infectious equine anemia by a method approved by the United States Department of Agriculture for detecting said disease.

SECTION 3. Section 44A of said chapter 129, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "an agar gel immunodiffusion test, commonly known as the Coggins test, for" and inserting in place thereof the following words:- a test approved by the United States Department of Agriculture for the detection of.

Approved May 15, 1996.

Chapter 86. AN ACT RELATIVE TO THE TRIAL OF CERTAIN SEX CRIMES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately expedite the trial of certain sex crimes against children, 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 is hereby amended by inserting after section 16E the following section:-

Section 16F. In any criminal proceeding involving an alleged sex crime perpetrated upon a minor child, or in which a minor child is expected to testify as a witness to a sex crime, the court shall, in order to minimize stress on such child, take action to expedite trial and give precedence to the case over any other case; provided, however, that nothing in this section shall be construed to mean that trial shall be expedited if it is not in the best interests of the child.

When a motion or a request for a continuance is made the prosecutor shall file an impact statement which specifies whether the commonwealth agrees to the request for continuance, whether the child or the child's representative agrees to such request, and the effect, if any, the granting of the continuance will have on the child. In ruling on any motion or request for continuance or other delay, the court shall consider and give weight to any possible adverse impact that a delay or continuance may have on the child. Prior to issuing an order on a motion for continuance or delay, the court shall make written findings of fact concerning the impact on the child of continuing or delaying the case.

Approved May 17, 1996.

Chapter 87. AN ACT RELATIVE TO BICYCLE AND PEDESTRIAN ACCESS IN CONSTRUCTION OF PUBLIC WAYS.

Be it enacted, etc., as follows:

Chapter 90E of the General Laws is hereby amended by inserting after section 2, as appearing in the 1994 Official Edition, the following section:-

Section 2A. The commissioner shall make all reasonable provisions for the accommodation of bicycle and pedestrian traffic in the planning, design, and construction, reconstruction or maintenance of any project undertaken by the department. Such provisions that are unreasonable shall include, but not be limited to, those which the commissioner, after appropriate review by the bicycle program coordinator, determines would be contrary to acceptable standards of public safety, degrade environmental quality or conflict with existing rights of way.

Approved May 20, 1996.

Chapter 88. AN ACT FACILITATING PROCEDURES FOR GRANTS OF LOCATION IN METROPOLITAN DISTRICT COMMISSION PROPERTY.

Be it enacted, etc., as follows:

Section 43 of chapter 92 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The commission in consultation with the department of public utilities may grant locations to street railways or electric railroads within the boulevards and reservations in its care and control, and may also grant upon, under, along or across such boulevards and reservations such locations as shall be found by order of the commission after public hearing to be required by public convenience and necessity for poles, wires, cables or pipes for the transmission of electricity for light, heat, or power or for the distribution of gas or for the transmission of intelligence by electricity.

Approved May 20, 1996.

Chapter 89. AN ACT RELATIVE TO RESIDENT INSURANCE AGENTS.

Be it enacted, etc., as follows:

The first paragraph of section 157 of chapter 175 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following sentence:- A facsimile of a signature of any such resident agent imprinted on any property or casualty insurance policy issued by mail, computer modem or facsimile machine, so-called, shall have the same validity as a written signature.

Approved May 20, 1996.

Chapter 90. AN ACT AUTHORIZING CERTAIN STRUCTURES TO BE EXEMPTED FROM CERTAIN HARBOR LINES ALONG THE MERRIMACK RIVER IN THE CITY OF HAVERHILL.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of sections fourteen and thirty-four of chapter ninety-one of the General Laws or any other general or special law to the contrary, the department of environmental protection is hereby authorized to grant, deny or condition a license to the Crescent Yacht Club in the city of Haverhill to place, maintain and repair a floating barge, to be known as the Crescent Yacht Club Floating Dock, secured by piles, to be located in whole or in part beyond the harbor line in the vicinity of the downtown Haverhill area near the Ralph T. Basiliere bridge, such harbor line having been established in prior acts, including chapter five hundred and six of the acts of nineteen hundred and fourteen; provided, however, that no license issued by the department of environmental protection for the Crescent Yacht Club Floating Dock shall be for a term longer than ninety-nine years, but this shall not restrict the ability of said department to issue successive licenses for such floating barge. Said Crescent Yacht Club Floating Dock shall be restricted in size to a maximum of six and one-half feet wide and two hundred feet long, and shall be connected to the existing wharf by such other connecting docks as may be necessary. Nothing in this section shall be construed as exempting said project from all substantive and procedural requirements of said chapter ninety-one and regulations promulgated thereunder, other than the exception permitted herein from the harbor line requirements of said sections fourteen and thirty-four of said chapter ninety-one.

SECTION 2. The approximate location of the exception to the harbor lines hereby established shall be shown on a plan entitled, "The Establishment of Exceptions to the Harbor Lines at Crescent Yacht Club", and bearing the effective date of this act. A final plan showing the specific location of said project shall be incorporated in the waterways license to be issued subsequent to said effective date. Both plans shall be prepared for the department of environmental protection, maintained by and in said department, and made available for public inspection.

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

Approved May 20, 1996.

Chapter 91. AN ACT RELATIVE TO THE TOWN ADMINISTRATION OF THE TOWN OF STONEHAM.

Be it enacted, etc., as follows:

Section 10 of chapter 26 of the acts of 1981 is hereby amended by striking out subsection (*a*), as amended by chapter 16 of the acts of 1983, and inserting in place thereof the following subsection:-

(*a*) The town administrator shall supervise and direct all departments, commissions,

boards and offices, excluding elected officials, departments and staff under elected officials, election officers, registrars of voters, boards appointed by the board of selectmen, the finance and advisory board, the town counsel and the town accountant.

Approved May 20, 1996.

Chapter 92. AN ACT FURTHER REGULATING STATE POLICE TRAINING CLASS APPOINTMENTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate state police training class appointments, 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 166 of the acts of 1995 is hereby amended by striking out, in line 9, the words "one hundred and eighty" and inserting in place thereof the words:- three hundred and sixty.

Approved May 20, 1996.

Chapter 93. AN ACT RELATIVE TO INSURANCE REDLINING.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately further regulate certain insurance practices, 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 18¾ of chapter 6A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following paragraph:-

(8) To develop and implement, no later than July first, nineteen hundred and ninety-seven, a program to compile and annually publish statistics and information concerning the incidence each year of residential structural fires and crimes against property, including, but not limited to, arson. Such statistics shall be compiled on a geographic basis according to postal zip codes. All state and municipal fire and police authorities shall cooperate with the secretary in the collection and recording of such data. The secretary shall annually file a report of such statistics, together with his analysis of any trends discerned from the same, with the clerk of the senate and the clerk of the house of representatives, who shall forward copies to the joint committees on insurance, the judiciary and public safety, the house and senate committees on ways and means, the attorney general

and the commissioner of insurance, who shall forward copies to the joint underwriting association, formed pursuant to the provisions of chapter one hundred and seventy-five C, and to the insurance fraud bureau, formed pursuant to the provisions of chapter three hundred and thirty-eight of the acts of nineteen hundred and ninety.

SECTION 2. Section 5 of chapter 174A of the General Laws, as so appearing, is hereby amended by inserting after the word "available.", in line 19, the following sentence:- In considering catastrophe hazards with respect to homeowners insurance rates, the commissioner shall consider catastrophe reinsurance and factors relating thereto.

SECTION 3. Chapter 175 of the General Laws is hereby amended by inserting after section 4, as so appearing, the following three sections:-

Section 4A. Every admitted insurer writing homeowners insurance in the commonwealth, in accordance with the provisions of section four, and the joint underwriting association, formed pursuant to the provisions of chapter one hundred and seventy-five C shall furnish for examination and inspection by the commissioner of insurance, in accordance with section five of chapter one hundred and seventy-five C, to the owners, tenants and condominium, separately, forms of homeowners insurance written since January first, nineteen hundred and ninety-four, by standard statistical territories approved by the commissioner, a statistical report of its homeowners insurance experience showing the following data: written premiums; earned premiums; incurred losses, including loss adjustment expenses; loss ratio; number of incurred claims; and number of exposures.

As of July first, nineteen hundred and ninety-seven, or such later reasonable date as the commissioner may order after a hearing, but not later than July first, nineteen hundred and ninety-eight, the twenty-five admitted insurers with the largest homeowners market share in the commonwealth and the joint underwriting association, formed pursuant to the provisions of chapter one hundred and seventy-five C, shall furnish such data as provided in the preceding paragraph on the basis of the postal zip codes of credit-eligible territories, under the plan authorized by section four of chapter one hundred and seventy-five C, of all other postal zip codes in the city of Boston and such other postal zip codes as may be designated by the commissioner.

All data reports shall be formatted and produced in accordance with the National Association of Insurance Commissioners statistical handbook. Compliance with the requirements of this section shall be effected through statistical agents approved by the commissioner to act on behalf of the reporting insurers. In setting the effective date for data reporting in accordance with the preceding paragraph, the commissioner shall consider the practical ability of each statistical agent to so collect and report such data with an acceptable level of statistical credibility.

Access to such confidential data shall be granted by the commissioner to the attorney general, to the extent he so requests, for law enforcement purposes, and to the chairmen of the joint committee on insurance; provided, however, that the attorney general and the chairmen of the joint committee on insurance shall hold and keep such data confidential. All information reported pursuant to this section shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the commissioner, attorney gen-

eral, chairmen of the joint committee on insurance, or any other person, without the prior written consent of the insurer to which it pertains, except by the insurer; provided, however, that if the commissioner, after giving the insurer and its affiliates who would be affected thereby, as well as the person or organization making the request, notice and the opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be served by the publication thereof. In the event that the commissioner determines that such publication is appropriate, he may publish all or part of such data in such manner as he deems appropriate. Such hearing shall be held according to the adjudicatory procedures in chapter thirty A of the General Laws.

As of October first, nineteen hundred and ninety-six, and annually thereafter, the commissioner shall report to the general court concerning the current state of the homeowners insurance market in the commonwealth, both voluntary and residual market, and the conclusions reached by the commissioner based upon his most recent examination and inspection of the industry premium and loss data. Each such annual report shall be filed with the clerks of the senate and house of representatives who shall forward the same to the joint committee on insurance, the house and senate committees on ways and means and the attorney general. Such report shall be made available to the public by the commissioner. Said report shall summarize on an aggregate industry basis, by standard statistical territory and, when available, by zip code, broken down between voluntary and residual markets, the data concerning premiums and losses on homeowners insurance disclosed by the reporting insurers. Further, said report shall substantively analyze: the causes of loss and any trends discerned from the data by the commissioner; the respective market shares and levels of rate subsidies of the residual market policies written by the joint underwriting association, formed pursuant to the provisions of chapter one hundred and seventy-five C, compared to the voluntary homeowners insurance market; the availability and affordability of homeowners insurance in those territories whose association market share equals or exceeds four percent, with particular attention to credit-eligible territories; and the impact of such rate subsidies of the residual market policies written by said association upon the availability of homeowners insurance in the voluntary insurance market.

Each such annual report shall further examine the availability of homeowners insurance through the admitted insurers and the joint underwriting association, formed pursuant to the provisions of chapter one hundred and seventy-five C, in coastal municipalities, as well as the extent to which direct losses to residences caused by wind affect such availability. Said report may also contain any recommendations of the commissioner concerning legislation or other suggestions relative to the homeowners insurance market, loss control or disaster mitigation in the commonwealth.

Premium, loss and other data of individual insurers collected and examined by the commissioner shall not be specifically identified in said report; provided however that the commissioner shall, in an appendix, profile, separately for the twenty-five admitted insurers with the largest homeowners market share in the commonwealth based upon statewide written premium and, for the joint underwriting association, formed pursuant to the provisions of chapter one hundred and seventy-five C, the gross number of exposures, can-

cellations and non-renewals that each insured under homeowners insurance forms during the relevant time period covered by the data examined and inspected by the commissioner, in each such postal zip code or standard statistical territory for which data was collected and examined by the commissioner pursuant to this section. The commissioner's report shall also include an appendix which tabulates the industry aggregate number of homeowners policy non-renewals and cancellations effected during such relevant time period as reported to the commissioner pursuant to the provisions of section four B of chapter one hundred and seventy-five.

Section 4B. The commissioner, each year, shall direct and cause the twenty-five admitted insurers with the largest homeowners market share in the commonwealth, based upon statewide written premium and the joint underwriting association, formed pursuant to the provisions of chapter one hundred and seventy-five C, to submit directly for his inspection and examination a tabulation and report, for each postal zip code within credit-eligible territories, as defined by chapter one hundred and seventy-five C, of all other postal zip codes in the city of Boston, and such other postal zip codes as may be designated by the commissioner of insurance, of the number of effected cancellations and number of effected non-renewals of homeowners policies covering properties within such zip codes; provided, however, that the personal privacy of policyholders shall be preserved and all tabulations furnished pursuant hereto shall be deemed materials described in subclause (c) of clause Twenty-sixth of section seven of chapter four.

Section 4C. No insurer licensed to write and engaged in the writing of homeowners insurance in this commonwealth nor the joint underwriting association, formed pursuant to the provisions of chapter one hundred and seventy-five C, shall take into consideration when deciding whether to provide, renew, or cancel homeowners insurance the race, color, religious creed, national origin, sex, age, ancestry, sexual orientation, children, marital status, veteran status, the receipt of public assistance or disability of the applicant or insured. Nothing herein shall preempt any existing remedy provided by law for any action that constitutes a violation of this section.

SECTION 4. Section 99B of said chapter 175, as so appearing, is hereby amended by adding the following paragraph:-

The commissioner shall approve for use within the commonwealth, if filed by a rating organization licensed under chapter one hundred and seventy-four A on behalf of its members and subscribers or filed independently by any company licensed to write such insurance under authority of subclause (g) of section fifty-one, clause (g) of section fifty-four or section fifty-four E, any form of policy of homeowners multi-peril insurance which is to be issued to insure an owner-occupied condominium unit or dwelling structure of four or fewer units, or a tenant in such a condominium or dwelling structure, and which:

(a) contains a loss settlement clause which provides coverage for property loss to the extent of the actual cash value of the damage to the insured unit or structure; or

(b) contains a loss settlement clause which provides coverage for property loss on the basis of like-kind-and-quality replacement cost; or

(c) contains, in accordance with clause Twelfth A of section ninety-nine

(1) a loss settlement clause which provides functional replacement or repair cost coverage;

(2) which otherwise limits an insurer's liability for property loss to the tax assessment value of the insured unit or structure; or

(3) which otherwise requires actual cash value loss settlement calculations to be based upon the fair market value of the insured unit or structure, net of land value, without consideration of replacement cost less accrued depreciation due to physical deterioration and functional and economic obsolescence; provided, however, such policy forms shall not be issued or renewed when the market value of the unit or structure proposed to be insured is less than the total amount of mortgage liens outstanding upon such unit or structure at the time of policy issuance or renewal.

The commissioner shall compose and require, as a condition of approval of any alternative loss settlement clause pursuant to clause (c), appropriate consumer disclosure forms to be used by companies issuing such policy forms in the commonwealth. Policy forms approved under this section need not correspond to the standard fire insurance policy set forth in section ninety-nine, but shall, except for the loss settlement provisions of any such approved policy, assure to the policyholders and claimants protection no less favorable than such policyholders would be entitled to under section ninety-nine and shall otherwise conform to the substantive requirements of that section.

SECTION 5. The first paragraph of section 193P of said chapter 175, as so appearing, is hereby amended by striking out the last sentence.

SECTION 6. Section 1 of chapter 175C of the General Laws, as so appearing, is hereby amended by striking out the definition of "Facility", "Association", and "Basic property insurance" and inserting in place thereof the following four definitions:-

"Association", the joint underwriting association described in section four.

"Basic property insurance", insurance against direct loss to property as defined and limited in the standard fire policy and extended coverage endorsement thereon, filed with and accepted by the commissioner, and insurance against direct loss to such property from the perils of vandalism and malicious mischief and homeowners coverages, including the scheduled personal property endorsement and such other coverages as the commissioner after public hearing shall determine or the Secretary of the United States Department of Housing and Urban Development shall designate by rule made in accordance with the provisions of the Urban Property Protection and Reinsurance Act of 1968 (Public Law 90-448) but shall not include insurance on automobile or manufacturing risks except such classes of manufacturing risks as may, after proper hearing, be designated by the commissioner.

"Territory", one of the standard statistical territories approved by the commissioner.

"Credit eligible territory", any territory of the commonwealth in which at least twenty percent of the homeowners premium averaged over the most recent three calendar years was written by the association.

SECTION 7. Section two of said chapter one hundred and seventy-five C is hereby repealed.

SECTION 8. Said chapter 175C is hereby further amended by striking out section 3, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 3. No insurance company shall direct any agent or other producer not to solicit business through the association; no insurance agent shall direct any other agent in his employ or any broker or other producer not to solicit business through the association; and no agent, broker or other producer shall be penalized in any way by an insurance company or employer producer for submitting applications to the association.

No insurance agent or broker licensed to sell basic property insurance shall be allowed to refuse a request for inspection from an eligible applicant for basic property insurance unless such applicant is:

(a) Then indebted to any agent, broker or company for coverage requested;

(b) Then unwilling to make satisfactory payment arrangements for the coverage requested.

Agents and brokers submitting applications to the association shall be compensated by commissions upon the original issuance of coverage, each installment payment if any, and each renewal thereof and shall be entitled to no other compensation.

Commissions to licensed insurance agents and brokers from the association established in accordance with the provisions of this chapter shall be set by the commissioner from time to time at such percentage of the average commission rate customarily paid by those insurance companies who customarily compensate agents by commissions, as the commissioner, after appropriate hearing, shall find to be sufficiently attractive to encourage agents and brokers to actively seek out risks and to assist property owners to obtain coverage while at the same time leaving a further incentive to the agent or broker to place such business through his customary markets when he finds that it is practicable.

SECTION 9. Said chapter 175C is hereby further amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. (a) All insurers licensed to write and engaged in writing in this commonwealth, on a direct basis, basic property insurance or any component thereof in multi-peril policies, shall cooperate in organizing a joint underwriting association which shall provide basic property insurance to eligible applicants who are otherwise unable to obtain such coverage in the voluntary market. Every such insurer shall be a member of the association and remain a member as a condition of its authority to transact such insurance within the commonwealth.

(b) Such association shall be authorized to inspect properties, issue policies, collect premiums and accept payment in installments under plans approved by the commissioner consistent with plans offered by voluntary market insurers, adjust claims and pay losses on behalf of its members, employ officers, agents and other employees, enter into contracts, sue and be sued in its own name and take all other actions necessary or appropriate to carry out its functions hereunder.

(c) The association shall submit to the commissioner a proposed plan of operation,

consistent with the purposes of this chapter, to provide for the prompt and efficient provision of basic property insurance to eligible applicants who meet reasonable underwriting standards and are otherwise unable to obtain coverage from insurers in the voluntary market. Such plan of operation shall provide for economical, fair and nondiscriminatory administration including, but not limited to, provisions for preliminary assessment of all members for initial expenses necessary to commence operations, establishment of necessary facilities, management of the association, assessment of members to defray losses and expenses, commissions, reasonable underwriting standards and limits of liability, purchase of reinsurance and procedures for determining amounts of insurance to be provided.

(d) The plan of operation shall be subject to approval by the commissioner and shall take effect ten days after having been approved by him. If the commissioner disapproves the proposed plan of operation, the association shall, within thirty days, submit for review an appropriately revised plan of operation and, if the association fails to submit such a plan or if the revised plan is also disapproved by the commissioner, the commissioner shall promulgate a plan of operation consistent with this section. The association may, on its own initiative or at the request of the commissioner, amend the plan of operation, subject to approval by the commissioner.

(e) (1) All members of the association shall participate in its writing, expenses, profits and losses in the proportion that the premiums written by each such member for basic property insurance, as defined in section one, bear to the aggregate premiums for such insurance written in the commonwealth by all members of the association; provided, however, that premiums for insurance on automobile and manufacturing risks shall be excluded from the plan and that portion of the premiums attributable to the operation of the association during the preceding calendar year. Such participation by each insurer in the association shall be determined annually on the basis of such premiums written during the preceding calendar year as disclosed in the annual statements and other reports filed by the insurer with the commissioner.

(2) The participation of each member of the association writing personal lines coverage shall be adjusted based on the homeowners premiums written by such a member in any credit-eligible territory in accordance with the following clauses:

(i) The participation ratio of each member writing personal lines insurance shall be recalculated, in accordance with the procedures set forth in subparagraph (1) but subtracting the premium written by members of the association writing only commercial lines insurance from the aggregate premiums written in the commonwealth by all members of the association.

(ii) The participation ratio of each member writing personal lines insurance as recalculated in clause (i) shall be multiplied by the sum of the total premium written by the association in the commonwealth and the total industry homeowners premium written in credit-eligible territories, as defined in this chapter.

(iii) In determining the total industry homeowners premium written in credit-eligible territories, premium written in the territory in which the association's homeowners insurance market share is largest shall be weighted at one. The weight assigned to premium written

in other credit-eligible territories shall be calculated by determining the ratio expressed as a decimal, between the percentage market share of the homeowners premium written by the association in such territory and the percentage market share of homeowners premium written by the association in the territory in which the association's market share is the largest, and then rounding such ratio to the nearest tenth. All such calculations shall be based on an average of the premiums written in the three most recent calendar years. Weights calculated in accordance with this clause shall be adjusted whenever a territory becomes or ceases to be credit-eligible, or every three years if no adjustment has been made in the two preceding years.

(iv) The product of the multiplication described in clause (ii) of this subsection shall be reduced by subtracting therefrom the homeowners premium written by each member in any credit-eligible territory adjusted in accordance with the weights set forth in clause (iii).

(v) The result of the calculation described in clause (iv) shall be divided by the total premium written by the association in the commonwealth. The resulting ratio shall be the adjusted participation ratio for the member.

(vi) The adjusted participation ratio of those members whose participation ratio is calculated as provided in this subparagraph shall apply to that portion of the writings, expenses, profits and losses of the association not recovered by applying the participation ratios of the remaining members of the association as calculated, as provided in subparagraph (1).

(3) On or before November first, nineteen hundred and ninety-eight, the association shall file an amendment of the credit system applicable to homeowners insurance, as set forth in section four, for approval by the commissioner, who shall approve such a credit system effective on or before January first, nineteen hundred and ninety-nine, so as to award credits based upon homeowners premiums written in postal zip codes, rather than territories. The revised credit plan shall identify any credit-eligible zip codes by the percentage of the total homeowners premium written in such zip codes by the association, shall require a higher market share penetration by the association than set for credit-eligible territories, shall provide that the percentage of the statewide homeowners premium written by the association in such credit-eligible zip codes does not exceed the percentage of such premium written by the association in territories which are credit-eligible in nineteen hundred and ninety-seven and shall set forth the appropriate weights for such zip codes in accordance with the provisions applicable to weighting premium in credit-eligible territories.

(4) The participation of any member of the association writing personal lines insurance shall be further adjusted if such member has written homeowners insurance during the preceding calendar year, hereafter called the "base year", on property that was insured by the association in the year immediately preceding such base year and which is located in any coastal territory in which the rate of increase in the market share of the association has exceeded sixty percent in the base year and in the preceding calendar year. The participation of such a member shall be adjusted by reducing the amount of premium written by such member in subparagraph (1) by twenty percent of the total homeowners insurance premiums written by the member on property described in this clause. Such adjustment shall not apply

to any insurance written on property that was insured by the member or any affiliate or subsidiary member in either of the two years preceding the base year.

(f) The association shall be governed by a board of eighteen directors, who shall serve without compensation, ten to be elected annually by the members of the association by cumulative voting, and two representatives of associations of insurance agents and brokers doing business in the commonwealth and six public representatives not affiliated with the insurance industry to be appointed annually by the commissioner of insurance. Cumulative voting by members shall be permitted at all such elections.

SECTION 10. Section 5 of said chapter 175C, as so appearing, is hereby amended by striking out, in lines 1 and 4, the words "facility or", each time they appear.

SECTION 11. Said section 5 of said chapter 175C, as so appearing, is hereby further amended by adding the following two paragraphs:-

The association shall be authorized to make rate filings in accordance with the provisions of chapter one hundred and seventy-four A and chapter one hundred and seventy-five A; provided, however, that any such filing shall be subject to the prior approval of the commissioner, after proper notice and hearing, subject to the adjudicatory procedures of chapter thirty A; and, provided further, that in reviewing the rates for the association, the commissioner shall give consideration, in addition to all other relevant factors, to the loss experience of insurers in the voluntary market, as well as the experience of the association and to the intent of this chapter to make basic property insurance available at reasonable cost to eligible applicants in territories in which the market share of the association equals or exceeds four percent during the three most recent calendar years.

The commissioner shall approve all rates for the association for homeowners insurance in territories in which the market share based on written premium of the association averages less than four percent during the three most recent calendar years if the commissioner finds that the proposed rates for such territories comply with the requirements of the General Laws; provided, however, that the commissioner may disapprove any such rate upon a finding that it exceeds a rate equal to the ninetieth percentile of the rates then in use in such territory by the ten insurers with the largest market shares of homeowners insurance written in the commonwealth on a statewide basis. The commissioner shall approve all rates for the association for homeowners insurance in territories in which the market share based on written premium of the association equals or exceeds four percent on average during the three most recent calendar years only if the commissioner finds that (a) the proposed rates for the association for such territories comply with the requirements of the General Laws and (b) no rate for any such territory in any calendar year increases over the lowest rate for that product charged by the association during the prior calendar year in such territory by more than the overall statewide average percentage increase in rates charged from December thirty-first of the year preceding the prior calendar year to December thirty-first of such prior calendar year for homeowners insurance by the ten insurers with the largest market shares of such insurance written in the commonwealth on a statewide basis. Whenever the average market share of the association during the most recent three years shall reach a level which equals or exceeds four percent in a given terri-

tory, the association shall analyze the rates of companies in such territory and shall file a report with the commissioner who shall, in turn, either re-certify the current rate or approve a revised rate for such territory filed by the association which bears a relationship to the rates in the voluntary market in such territory which is consistent with the average relationship between the rates charged by the association in all territories in which it has a similar market share and the rates in the voluntary market in those territories. As used in this paragraph, the term "homeowners insurance" shall apply only to the types of products sold by the association on the effective date of this section. All other types of homeowners products subsequently sold by the association shall have a rate based on a factor approved by the commissioner that reflects the relative value of the coverage provided by such types of products to those for which rates have been approved by the commissioner as hereinbefore described.

SECTION 12. Section 6 of said chapter 175C, as so appearing, is hereby amended by striking out, in line 2, the words "the facility".

SECTION 13. Said section 6 of said chapter 175C, as so appearing, is hereby further amended by striking out, in line 4, the word "facility".

SECTION 14. Said section 6 of said chapter 175C, as so appearing, is hereby further amended by striking out, in line 10, the words "the facility and".

SECTION 15. Section 7 of said chapter 175C, as so appearing, is hereby amended by striking out, in line 1, the words "denial by the facility, or the".

SECTION 16. Said chapter 175C, as so appearing, is hereby further amended by adding the following section:-

Section 9. The association established pursuant to the provisions of this chapter shall prepare and submit to the commissioner of insurance a market assistance plan to assist applicants to obtain homeowners insurance in the voluntary market. All members of the association may, but shall not be required to, participate in the plan. The plan shall be approved by the commissioner if he finds that it is consistent with the purposes of this chapter and will assist applicants in obtaining insurance in the voluntary market.

The plan shall provide that, upon request, any applicant or licensed broker on behalf of such applicant who contacts the plan shall be directed to an insurer which has elected to participate in the plan and shall be advised of an appropriate means to contact such insurer. Upon being contacted by the applicant or broker, the participating insurer shall evaluate the insurance risk posed by such application and may accept or decline to underwrite the insurance coverage. An insurer which declines to underwrite such coverage shall have the duty of informing the applicant and his broker of the process for obtaining coverage from the association.

The association shall publicize the availability of the plan to insurance consumers and brokers in credit-eligible territories and all other areas in which the association believes that the availability of homeowners insurance is particularly constrained due to exposure to hurricanes or other catastrophic natural disasters.

SECTION 17. The Massachusetts Property Insurance Underwriting Association, as presently organized and approved by the commissioner, shall be deemed to have been

organized under section four of chapter one hundred and seventy-five C of the General Laws and shall have all powers and duties as set forth therein; provided, however, that the provisions of subparagraphs (1) and (4) of paragraph (e) of said section four shall be effective for policy years beginning January first, nineteen hundred and ninety-six.

SECTION 18. On or before December thirty-first, nineteen hundred and ninety-six, the joint underwriting association, established by chapter one hundred and seventy-five C of the General Laws, shall file with the speaker of the house of representatives, the president of the senate, the attorney general and the commissioner of insurance a report that analyzes the causes of insurance losses in urban areas of the commonwealth. Said report shall identify factors affecting such losses that are more prevalent in such areas than elsewhere in the commonwealth. Said report shall include recommendations to city governments, insurers and insureds as to how such losses can be mitigated and shall include any proposed legislation which would assist in such mitigation. In preparing this report the association shall consult with representatives of city governments and with interested residents of the affected communities.

Approved May 20, 1996.

Chapter 94. AN ACT RELATIVE TO THE IMPLEMENTATION OF THE LOTTERY GAME CALLED KENO.

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

Be it enacted, etc., as follows:

SECTION 1. Section three hundred and eighty-seven of chapter one hundred and ten of the acts of nineteen hundred and ninety-three is hereby repealed.

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

SECTION 3. Chapter 10 of the General Laws is hereby amended by inserting after section 27 the following section:-

Section 27A. (a) The lottery commission is hereby authorized and directed to implement the game known as Keno. 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 twenty-seven of chapter ten or under section twelve of chapter one hundred

and thirty-eight; provided, however, 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 herein.

(b) No license to operate the game known as Keno shall be made available to any licensee licensed under section twenty-seven other than licenses granted pursuant to the provisions of this subsection; provided, however, that this subsection shall not authorize the revocation of any license granted before January first, nineteen hundred and ninety-six. A license to operate Keno shall be granted by the chairman of the commission or his designee to any licensee licensed pursuant to section twenty-seven; provided, however, that such licensee does not owe a financial obligation to the commonwealth and has not been convicted of a felony; and provided, further, that not less than twenty-one days before issuing any such license to operate Keno, said chairman of said commission or his designee shall send notification by certified mail to the mayor or the board of selectmen, whichever is applicable, of the municipality in which such facility to be licensed to operate Keno is so located and shall publish, in a newspaper of general circulation in the area including the municipality where said Keno licensee will operate, notice that an application for such license has been filed with said commission. Said notice shall include the name and business address of said Keno license applicant; the address wherein said Keno licensee will operate; the licensee's estimated weekly traffic; the licensee's current number of cashier positions that sell lottery commission products; the percentage of floor space that is currently devoted to lottery sales; the amount of revenue generated by the sale of lottery products at the site; the percentage of gross revenue directly derived from the sale of lottery products; the amount of net income that the commission estimates would be derived from the sale of Keno products at the site; and the percentage of floor space that will be devoted to Keno sales. No such license shall be issued by said chairman of said commission or his designee to which the local licensing authority, as defined pursuant to section one of chapter one hundred and thirty-eight, has objected in writing as a result of an official action of said authority, except after a hearing under chapter thirty A and unless said chairman of said commission or his designee thereafter determines in writing, after considering all relevant circumstances, that such license is in the public interest and approves in writing the issuance of such license to operate Keno, notwithstanding the objection of the local licensing authority.

(c) For the purposes of this subsection, "Keno growth revenues" shall be defined as the difference in the amount of net revenues generated by the Keno game in each fiscal year beginning on July first, nineteen hundred and ninety-six, and thereafter minus the amount of net revenues generated by the Keno game in the fiscal year beginning on July first, nineteen hundred and ninety-five, which shall be known as the base year. "Net revenues" shall be defined as revenues less prizes, sales agent expenses, and allocated administrative expenses incurred relative to Keno operations. In the fiscal year beginning on July first, nineteen hundred and ninety-six, and in every fiscal year thereafter, said Keno growth revenues shall be distributed through the lottery aid formula to only those municipalities which have a facility for which a Keno license has been approved by said commission and

to those municipalities which do not have located within it either a licensee licensed under section twenty-seven of chapter ten or a licensee licensed under section twelve of chapter one hundred and thirty-eight. If the license of a Keno licensee is revoked or suspended by the commission or voluntarily terminated by the licensee thereby causing no Keno licensee to be located in a municipality and the commission subsequently does not approve a new Keno license in that municipality, said municipality shall, as of the date of such Keno license revocation, suspension, or voluntary termination, no longer receive pursuant to the lottery aid disbursement formula or otherwise any Keno growth revenues generated by Keno licensees for whom a license has been approved by said commission; provided, however, that such municipality shall receive an amount of Keno growth revenues for that particular fiscal year that represents the proportion of the annual distribution from July first to the quarter of the fiscal year in which such license revocation, suspension, or voluntary termination occurred; provided, further, that if such a municipality without a Keno licensee due to suspension, revocation, or voluntary termination then regains a Keno licensee the lottery aid distribution under the provisions of this section for that particular fiscal year shall then include a proportion calculated starting in the quarter of the fiscal year in which the Keno licensee newly commences operations to the end of said fiscal year. After the fiscal year beginning on July first, nineteen hundred and ninety-six, if a municipality has a Keno licensee or licensees for a full fiscal year and subsequently loses such licensee or licensees thereby causing no Keno licensee to be located in such municipality, such municipality shall receive in the subsequent fiscal years in which it has no Keno licensee an amount of Keno growth revenues equal to the amount it received for the last fiscal year in which the Keno licensee was located for the full fiscal year; provided, however, that if such a municipality without a Keno licensee then regains a Keno licensee, the base year for calculating subsequent Keno growth revenues to be distributed to such a municipality shall be the last fiscal year in which a Keno licensee was located in such municipality for the full fiscal year.

(d) Notwithstanding the provisions of section two of chapter thirty A, no rule or regulation relating to the game known as Keno shall be promulgated by the commission as an emergency regulation, as defined by said section two of said chapter thirty A, without a public hearing.

SECTION 4. This act shall take effect as of January first, nineteen hundred and ninety-six.

Approved May 20, 1996.

Chapter 95. AN ACT PROVIDING FOR ASSOCIATE MEMBERS ON THE CONSERVATION COMMISSION OF THE TOWN OF STONEHAM.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section eight C of chapter forty of the General Laws, the board of selectmen of the town of Stoneham are hereby authorized to appoint two

associate members to the conservation commission for terms not to exceed three years. Said associate members may be designated by the chairman of 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.

Approved May 20, 1996.

Chapter 96. AN ACT FURTHER REGULATING THE APPOINTMENT OF INSPECTORS OF BUILDINGS, BUILDING COMMISSIONERS AND LOCAL INSPECTORS.

Be it enacted, etc., as follows:

Section 3 of chapter 143 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "design", in lines 35 and 47, in each instance, the following words:- or any combination of education and experience which would confer equivalent knowledge and ability, as determined by the board.

Approved May 23, 1996.

Chapter 97. AN ACT EXEMPTING MUNICIPAL LIGHT PLANTS AND MUNICIPAL GAS PLANTS FROM CERTAIN REVIEWS AND APPROVALS.

Be it enacted, etc., as follows:

SECTION 1. Section 69I of chapter 164 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 5, the words "shall, individually or jointly with others," and inserting in place thereof the following words:- , except municipal corporations authorized to operate a municipal lighting plant under the provisions of sections thirty-four to thirty-six, inclusive, shall.

SECTION 2. Said section 69I of said chapter 164, as so appearing, is hereby further amended by striking out, in line 11, the words "shall individually or jointly with others" and inserting in place thereof the following words:- , except municipal corporations authorized to operate a municipal gas plant under the provisions of sections thirty-four to thirty-six, inclusive, shall.

Approved May 23, 1996.

Chapter 98. AN ACT PROTECTING THE RIGHTS OF THE MENTALLY RETARDED CITIZENS.

Be it enacted, etc., as follows:

Chapter 175 of the General Laws is hereby amended by striking out section 120A, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 120A. No insurer authorized to issue policies upon the lives of persons in the commonwealth may refuse, for the sole reason of mental retardation, to issue a policy of individual life insurance on the life of any person residing in the commonwealth who has reached the age of three years, if there is no other insurance in force or pending consideration on the life of such person. Insurer as used in this section shall include every life insurance company as defined in section one hundred and eighteen and every fraternal benefit society as defined in section one of chapter one hundred and seventy-six.

Approved May 23, 1996.

Chapter 99. AN ACT RELATIVE TO THE CLASSIFICATION OF PROFESSIONAL TEACHER STATUS.

Be it enacted, etc., as follows:

The first paragraph of section 41 of chapter 71 of the General Laws, as amended by section 3 of chapter 209 of the acts of 1995, is hereby further amended by striking out the first and second sentences and inserting in place thereof the following sentence:- For the purposes of this section, a teacher, school librarian, school adjustment counselor, school social worker or school psychologist who has served in the public schools of a school district for the three previous consecutive school years shall be considered a teacher, and shall be entitled to professional teacher status as provided in section forty-two.

Approved May 23, 1996.

Chapter 100. AN ACT RELATIVE TO AUTHORIZING THE TOWN OF NATICK TO NEGOTIATE A CERTAIN CONTRACT.

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 board of selectmen of the town of Natick is hereby authorized to negotiate a contract for the acquisition by said town of Lot 329 of map 44 of the assessors' map of said town owned now or formerly by Charles Christie, trustee of Glenridge Realty Trust, and to acquire said land on behalf of said town upon such terms as the board of selectmen shall determine. A portion of the consideration

from the town for such acquisition shall be the transfer of the ownership by said town of Lots 388C, 388E and 388F and a portion of Lot 388D of the assessors' map 43 of said town owned land presently used for public works purposes to Charles Christie, trustee of Glenridge Realty Trust.

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

Approved May 23, 1996.

Chapter 101. AN ACT VALIDATING CERTAIN PROCEEDINGS OF THE NARRAGANSETT REGIONAL SCHOOL DISTRICT AND ITS MEMBER TOWNS.

Be it enacted, etc., as follows:

SECTION 1. The proceedings taken by the Narragansett regional school district school committee authorizing the incurring of debt in the amount of twenty million six hundred and three thousand two hundred and fifty dollars for reconstructing, adding to, equipping, remodeling or making extraordinary repairs to the Narragansett regional high school and the proceedings taken by the member towns of Phillipston and Templeton at their respective special town elections held on January twenty-second, nineteen hundred and ninety-six and at their respective special town meetings held on January twenty-third, nineteen hundred and ninety-six are hereby ratified, validated and confirmed, and shall be deemed to authorize and approve the incurring of such debt by the Narragansett regional school district under the provisions of clause (d) of section sixteen of chapter seventy-one of the General Laws and for the exemption of each member town's share of the amounts required to pay the debt so incurred from the provisions of section twenty-one C of chapter fifty-nine of the General Laws, notwithstanding any defect or omission in the form or content of said proceedings.

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

Approved May 23, 1996.

Chapter 102. 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-six; provided, however, that all such notes shall be payable by June thirtieth two thousand and one, as recommended by the governor, in a message to the general court dated October twentieth, nineteen hundred and ninety-five in accordance with Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts.

Approved May 23, 1996.

Chapter 103. AN ACT PROHIBITING CERTAIN CREDIT CARD PRACTICES INVOLVING PROVIDERS OF TRAVEL SERVICES.

Be it enacted, etc., as follows:

Chapter 93 of the General Laws is hereby amended by inserting after section 48A the following section:-

Section 48B. For the purpose of this section, the following words shall, unless the context indicates otherwise, have the following meanings:-

"Provider of travel services", any person, firm or corporation engaged in the business of furnishing travel, transportation or vacation services; provided, however, that this term shall not include a travel agent.

"Travel agent", any person, firm, corporation, partnership or association, other than a common carrier or employee of a common carrier who is:

(a) an officially appointed agent of a common carrier or a member of a cruise line association and who operates exclusively as an agent for cruise lines in the sale of cruise travel products or services; or

(b) a legal agent for a provider of travel services who sells or offers for sale, travel, transportation or vacation arrangements.

Whenever any consumer elects to use a credit card to obtain travel services, and the services of a travel agent are engaged by the provider of travel services, a provider of travel services may not impose a surcharge on or reduce the commission paid to such travel agent; provided, however, that this provision shall not apply to air carriers.

Failure to comply with the provisions of this section shall constitute an unfair or deceptive act or practice under the provisions of chapter ninety-three A.

Approved May 24, 1996.

Chapter 104. AN ACT FURTHER REGULATING THE DISTRIBUTION OF CERTAIN COSMETIC SAMPLES.

Be it enacted, etc., as follows:

Chapter 111 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following section:-

Section 216. All fragrance advertising inserts contained in a newspaper, magazine, mailing, or other periodically printed material shall contain only microencapsulated oils. Glue tabs or binders shall be used to prevent premature activation of the fragrance advertising insert. Fragrance advertising insert shall mean a printed piece with encapsulated fragrance applied to it which is activated by opening a flap or removing an overlying ply of paper. Paperstocks employed in the manufacture of fragrance advertising inserts shall have a maximum porosity of twenty Sheffield units or one hundred and seventy-two Gurley Hill units.

Any person who distributes fragrance advertising inserts in violation of this section shall be guilty of an infraction and shall, if convicted, be subject to a fine of one hundred dollars for each such distribution. The fine shall apply to each mass mailing or distribution and to each mass publication of a magazine or newspaper in violation of this section. The fine shall not apply, however, to each individual letter, magazine, newspaper or fragrance advertising insert so distributed.

Approved May 24, 1996.

Chapter 105. AN ACT RELATIVE TO THE BOUNDARIES OF THE CHERRY VALLEY AND ROCHDALE WATER DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Chapter three hundred and eighty-one of the acts of nineteen hundred and ten is hereby repealed.

SECTION 2. The inhabitants of the towns of Leicester and Oxford liable to taxation in towns, and residing within the territory enclosed by the following boundary lines to wit:

Beginning at a point at the intersection of the Leicester, Auburn and Oxford Town Lines; thence, northeasterly along the Leicester and Auburn Town line 1590 feet to a point; thence, northerly a distance approximately 2,750 +/- feet to a point on the south side of Stafford Street, being station 139 + 00 of the 1936 county layout; thence, northerly in the same direction as the last course, 230.00 feet to a point; thence, southwesterly 1820 +/- feet at a right angle from the last course, to a line parallel with and 350 feet distant and eastward from the east side of the 1963 layout of Route 56; thence, northerly 5020 +/- feet by this line running parallel and 350 foot distance from the east line of Route 56 to a point where the line intersects the property line of Assessors Lot 7, Block F, Map 37A said point being 350 feet distance and east the east line of the 1963 layout of Route 56; thence, northeasterly 113 +/- feet to the property corner of Assessor Lots 8, 10 & 11 on said Map; thence, southeasterly

98.14 feet to the corner of said Lot 11; thence, northeasterly 161.00 feet to the south side of King Street; thence, southeasterly along King Street 295 +/- feet; thence, northeasterly across King Street 40 +/- feet to the southeast corner of Assessors Lot 14, Block A, Map 37A, northeasterly along said lot 150.00 feet to the rear corner; thence, northwesterly 388.14 feet along the rear lot line of Assessor Lots 14 through 11 of said Map and Block to Assessors Lot 9 of said Map and Block A; thence, northerly on said lot line two courses 80 +/- feet and 268.00 feet to the rear lot corner; thence, northwesterly by two courses along said lot; 280.00 feet and 124.1 feet to the lot corner; thence, northwesterly to the point of tangency located at Station 102 + 76.13 of the east side of the 1963 Route 56 layout; thence, northerly along Route 56 a distance of 623.87 feet to a point, northwesterly along Route 56, 226.56 feet to a point of curvature; thence, northwesterly along the curve in Route 56, 146.71 feet to a point of tangency at Station 110 + 69.77; thence, northwesterly along Route 56 a distance of 52 feet; thence, southwesterly 62 +/- feet across Route 56 to the intersection of the west side of Route 56 and the lot corner of Assessors Lots 8.14 and 1, Block B; thence, southwesterly 221.03 feet along said Lot 1 and Lot 2 to Assessors Lot 5, Block B, Map 37A; thence, along said Lot 5 southeasterly 52.50 feet to the lot corner; thence, southwesterly 306.00 feet along lots 5, 7 and 8 to Assessors Lot 3, Block C, Map 37A; thence, southeasterly 90.00 feet to the corner of Lot 3 and lot 8.12; thence, southwesterly 438.32 feet along Lots 8.12, 8.11 and 8.1, Block B, Assessors Map 37A, to Lot 8.3, Block B, Assessors Map 37A; thence, southeasterly along said Lot 8.3, 44.58 feet to Lot 9; thence, northeasterly 100.00 feet to a point and then southwesterly 137.86 feet to the north line of King Street; thence, southwesterly 52.10 feet in the same direction as the last course across King Street to the south side of the 33 feet layout of King Street; thence, southwest 264 +/- feet to the northeast property corner of Assessors Lot 1, Block E, Map 37A; thence, southerly 120 +/- feet along said Lot 1 to the northerly line of the Cherry Valley & Rochdale easement; thence, southwesterly along said easement 965 +/- feet to the east side of the 1963 layout of Pleasant Street; thence, southerly along Pleasant Street 980 +/- feet to the northwest property corner of Lot 1, Block B, Assessors Map 43; thence, westerly 2040 +/- feet to the south side of Green Street at a point where the centerline of the Town Meadow Brook flows beneath Green Street; thence southerly 2580 +/- feet to the south side of River Street at the northwest corner of Lot 4, Block D, Assessors Map 43; thence southerly 1965 +/- feet to the south side of Charlton Street at the northwest corner of Lot 8, Block A, Assessors Map 47; thence, southeasterly 3995 +/- feet to a point on the Leicester/Oxford Town Line where it intersects with the rear (west boundary) property line of Assessors Lot 5, Block C, Map 47B; thence, easterly 5030 +/- feet along the Town Line to the point of beginning marked with a granite corner monument at the Leicester, Oxford and Auburn Town corner.

A second (2nd) area beginning at the intersection of the south side of the 1937 state layout of Stafford Street with the Leicester Town and Worcester City Line, thence, southeast 351 +/- feet to the south lot line of Lot 4.1, Block G, Assessor Map 34B; thence, two courses: southwest 36 feet along said Lot 4.1 to Lot 2 and southwest 346 feet along Lot 2 to the southwest lot corner of Lot 2, Block G, Assessor Map 34B; thence, northwest 49 feet to the northeast corner of 14, Block G, Assessor Map 34B at the west side of Cemetery

Road; thence, southeast 219 feet along Cemetery Road to the southeast corner of said Lot 14 and then southwest 252 feet along the south boundary of said Lot 14 to the east boundary of Lot 11, Block F, Assessor Map 34B; thence, southeast 181 feet along said Lot 11 to a point; thence, southwest 212 feet to the southeast corner of Lot 10, Block F, Assessor Map 34B; thence, southwest 164.02 feet along said Lot 10 to the southwest corner of said Lot 10; thence, northwest 432.32 feet to the south side of the 1937 sate layout of Stafford Street; thence, northwest 60.00 feet to the north side of Stafford Street; thence, southwesterly 172 +/- feet along the curve of Stafford Street to the southwest property corner of Lot 11, Block A, Assessor Map 34A; thence, northerly 742.70 feet along Lot 11 and Lot 12, Block A, Assessor Map 34A to the northwest corner of said Lot 12; thence, southeast 65 feet to Lot 2, Block A said point also being the south corner of Lot 6, Block A, Assessor Map 33; thence, northwest 1729 +/- feet along Lot 6 to the southwest corner of Lot 8, Block J, Assessor Map 33A; thence, southwest 2900 +/- feet to the east side of Auburn Street at the northwest corner of Lot 5, Block A, Assessor Map 33; thence, westerly 4000 +/- feet to the east side of Henshaw Street at the southwest corner of Lot 1, Block C, Assessor Map 24; thence, westerly along the same direction as the last course 33 +/- feet to the west side of Henshaw Street; thence, northerly 2345 +/- feet to a point where the prolongation of the north side of Willow Street intersects with the west side of Henshaw Street; thence, northeasterly 270 +/- feet across Henshaw Street and continuing along the north side of Willow Street to the southwest corner of Lot 7.1, Block D, Assessor Map 24A; thence, northerly 542.40 feet to the south side of Roosevelt Street at the northwest corner of Lot 7, Block D, Assessor Map 24A; thence, easterly 242 +/- feet along Roosevelt Street across Harding Street to the east side of Harding Street at the corner of Lot 13, Block A, Assessor Map 24A; thence, northeast 731.88 feet along said Lot 13 and Harding Street then along Lot 34 to the northwest corner of Lot 34, Block A, Assessor Map 24A; thence, southeast 562.39 feet along Lots 34, 35 and 36 to the common corner of Lots 36, 37, 59 and 62, Block A, Assessor Map 24A: thence, northeast in a straight line 330 +/- feet to the intersection of the east side of Main Street and the north side of Maple Street; thence, northeast 660 +/- feet in a straight line to the intersection of the north side of Oak Street and the west side of Grand View Avenue; thence, easterly 136 feet to the southeast corner of Lot 24, Block B, Assessor Map 21B, said point also being on the west boundary of Lot 7, Block C, Assessor Map 21; thence, four courses along Lot 7: northwest 320 +/- feet, northwest 326.53 feet, northeast 38.75 feet and 101.53 feet to the southeast corner of Lot 10, Block B, Assessor Map 21B; thence, northwest 713.9 feet along Lot 10 to the southeast corner of Lot 9, Block B, Assessor Map 21B; thence, southwest 171.49 feet to the southwest corner of said Lot 9; thence, northwest 247.03 feet along said Lot 9 to the south side of Waite Street; thence, northwest 40 feet to the north side of Waite Street; thence, southwest 95 +/- feet along the north side of Waite Street to the southwest corner of Lot 38, Block A, Assessor Map 21A; thence, northwest 123 +/- feet along said Lot 38 to Waite Pond; thence, easterly 479 +/- feet along the edge of Waite Pond to the northwest corner of Lot 43, Block A, Assessor Map 21A; thence, southeast 232 feet along the north property line of Lot 43 to the west side of Chapel Street; thence, easterly 40 +/- feet to the east side of Chapel

Street at the center of a brook running between Waite Pond and City Pond; thence, northerly 65 +/- feet along Chapel Street then Pine Avenue to the northwest property corner of Lot 9, Block A, Assessor Map 22: thence, southeasterly 1081 +/- feet along said Lot 9 to the eastern most property corner of said Lot 9 and on the west boundary of Lot 1, Block A, Assessor Map 22B; thence, northeast in a straight line 875 +/- feet to the east side of Woodland Road at the intersection of the north side of Marion Avenue; thence, southeast in a straight line 3440 +/- feet to the Worcester City and Leicester Town Line; thence, southeast along the Town Line 6690 +/- feet to the point of beginning; being the intersection at the Town Line with the south side of the 1937 State layout of Stafford Street.

A third (3rd) area beginning at the intersection of the east side of Peter Salem Road and the south side of Pitcairn Avenue; thence, northeast 366.9 feet along Pitcairn Avenue and Lot 7, Block E, Assessor Map 31A to the southeast corner of said Lot 7; thence, northeast 907.25 feet in a straight line to the southeast corner of Lot 3, Block D, Assessor Map 31A, also being the northwest corner of Lot 12 of Block B and said Map; thence, northwest 820.66 feet to the northeast corner of Lot 21, Block B, Assessor Map 31A; thence, southwest 855.15 feet to a point 200.00 feet west of Peter Salem Road; thence, southeast along a line that is parallel to and westward of the west side of Peter Salem Road 305.00 feet to the northwest property corner of Lot 1, Block A, Assessor Map 31A; thence, southeast 295.14 feet along the rear property line of Lots 1, 2 and 3 to an angle point; thence, southeast 691.51 feet along a line that is parallel to 200 feet westward of the west side of Peter Salem Road; thence, northeast 240 feet to the point of beginning.

A fourth (4th) area beginning at a point where the Leicester and Oxford Town Line intersects with the western normal edge of the French River; thence, southwesterly along the Oxford Town Line 2,100 +/- to a point where the rear lot line of Lot #1, Block A, Assessors Map 2A intersects the Town Line; thence, southerly along said rear lot line 70 +/- feet to Lot #2 of said Block and Map; thence, westerly 104 +/- feet to Lot #1, Block C, Assessors Map 1; thence, southerly along said lots 244 feet to a corner; thence, northeasterly along said lot 117.7 feet to Lot #3, Block A, Assessors Map 2A; thence southerly along Lot #3 180.6 feet to Lot #1, Block C, Assessors Map 1; thence, northeasterly 182.8 feet to the west sideline of Pleasant Street; thence, northeasterly across Pleasant Street to the east side of said street and southwest corner of Lot #1; thence, southerly along Pleasant Street 1713.3 feet to the northwest property corner of Lot #2, Block A, Assessors Map 2, thence, northeasterly along Lot #2, 250 feet to the northeast corner of Lot #2; thence, two courses southerly along Lot #2, 233.3 and 150 feet along Lot #3 to the corner of Lot #1; thence, southwesterly 250 feet along Lot #3 to Pleasant Street; thence, southerly along Pleasant Street 740.24 feet to the point of curvature in Pleasant Street with a radius of 60.00 feet; thence, along the curve in Pleasant Street for said radius and a length of 74.73 feet to the point of tangency; thence, easterly along the north side of Pleasant Street 881.78 feet to the southeasterly property corner of Lot #1.1, Block A, Assessors Map 2; thence, northwesterly along Lot #1, 274.30 feet to the corner of Lot #2, Block A, Assessors Map 2B; thence, northerly 200.98 feet along said Lot #2 to Lot #5, Block A, Assessors Map 2B; thence, southwesterly 149.40 feet along Lot #5 to Lot #1, Block A, Assessors Map 2; thence, northeasterly 412.84 feet along said

Lot #5 to Lot #7, Block A, Assessors Map 2B; thence, northeasterly 150 feet along said Lot #7 to Lot #1, Block A, Assessors Map 2; thence, northeasterly 1016.92 feet in a straight line to an angle point on the south side of Mill Street at the intersection of the 1963 layout of Route 56; thence, southeasterly 121.87 feet across Route 56 to the east side of Route 56 where it intersects the south side of Cominsville Road and the northwest property corner of Lot 12, Block B, Assessors Map 2B; thence, southeast 388 feet along Mill Street (old Route 56) and Lot #12 to Lot #11, Block B, Assessors Map 2B; thence, easterly 46 feet along Lot #11 to the high water line of Thayer Pond a.k.a. Comins Pond; thence southerly along the normal edge of said pond 325 +/- feet to where it meets the French River; thence southerly along the normal west edge of the French River 1570 +/- feet to the Massachusetts Turnpike (Route 90) thence; northeasterly along the curve of Route 90 with a radius of 10,460 feet for a distance of 136 +/- feet; thence, southeasterly along Route 90 a distance of 50.00 feet to a point; thence, northeasterly 874.15 feet to a point; thence, southeast along Rte. 90 a distance of 40.00 feet to Lot #3, Block F, Assessors Map 2; thence, northerly along Lot #3 to Lot #1, Block F, Assessors Map 2; thence, northeast 155.76 feet along Lot #3, to a point; thence, northerly two courses along said Lot #1: 219.78 feet to a point and 209.46 feet to Lot #2.10, Block F, Assessors Map 2, thence; southwest along Lot #2.10, 89.32 feet to Lot #1, Block F, Assessors Map 1; thence, northerly along Lot 1, 373.94 feet to an angle point at Lot #1 and Lot #2.11; thence, northeasterly along Lot #2.11 and 2.1, a distance of 446.82 feet to the west sideline of Cominsville Road; thence, southeasterly along Cominsville Road three courses: 124.58 feet, 255.60 feet, and 168.55 feet to a point of tangency of a curve in Cominsville Road with a radius of 250.0 feet; thence, easterly along said curve a length of 141.38 feet to a point at a compound curve; thence along a curve in Cominsville Road with a radius of 340.00 feet an arc distance of 48.19 feet to the Auburn Town Line; thence, northwest 215 +/- feet along the Auburn Town Line to the Providence and Worcester Railroad; thence, northwesterly along the curve in said railroad 780 +/- feet to Assessors Lot 3, Block C, Map 2; thence, southwest along said Lot 149 feet to Assessors Lot 3, Block D, Map 2B; thence, northwest in a straight line 325.60 feet along said Lot 3 to Lot 3, Block C, Map 2; thence, northwest in the same direction as the last course 40.0 feet, to Lot 2, Block D, Assessors Map 2B; thence, northwest in the same direction as the last course 273.35 feet along said Lot 2 then Lot 1 to a point; thence, southwest 309.10 feet along said Lot 3 to the east normal edge of the French River; thence, northwesterly along the east edge of said river 100 +/- feet to Lot 1, Block C, Assessors Map 2; thence, northwesterly 290 +/- feet along said Lot 1 to the 1963 layout of Route 56; thence, westerly 126 +/- feet across Route 56 to a point where the westerly side of Route 56 intersects with the normal west edge of the French River; thence, northerly along the west edge of said river 1,325 +/- feet to the point of beginning.

A fifth (5th) area beginning at a point on the north side of Stafford Street where it intersects the Leicester and Oxford Town Line; thence, westerly along the Town Line 1250 +/- feet to the northwest corner of Lot #3, Block A, Assessors Map 1; thence, southerly along Lot #3, 1,035.89 feet to the north side of Stafford Street; thence southwest along the north side of Stafford Street 175 +/- feet to a point opposite the northeast corner

of lot #10, Block B, Assessors Map 1; thence, southeasterly across Stafford Street 50.00 +/- feet to the south side of Stafford Street at the northeast corner of Lot #10, Block B, Assessors Map 1; thence, southeasterly 747 feet along Lot #10, to the Providence Worcester Railroad; thence, northeasterly along the north line of said railroad 2,284 +/- feet to the Leicester Town Line; thence, west along the Town Line 358.09 feet to the point of beginning, shall constitute the Cherry Valley and Rochdale Water District, a water district and body corporate for the purpose of supplying themselves with water for the extinguishing of fires and for domestic, manufacturing and other purposes; with power to establish hydrants, and to relocate and discontinue the same, and to take or acquire property by purchase or otherwise, and to hold the same for the purposes mentioned in this act; and to prosecute and defend in all actions relating to the property and affairs of the district.

SECTION 3. For the purposes aforesaid, the district, acting by and through its board of water commissioners hereinafter provided for, may contract with any municipality acting through its water department, or with any water company, or with any water district, for whatever water it may require, authority to furnish same being hereby granted. The district may take or acquire by purchase, or otherwise, water bodies, land, water and water rights connected with such water bodies or lands and any springs and streams percolating through the land or into the water bodies, for the purpose of increasing the water supply and protecting the quality of new and existing water sources. The district may also take or acquire easements, restrictions and reservations to protect the water quality and negotiate options and rights of first refusal to assist in the development or protection of new or existing water supplies.

SECTION 4. All contracts entered into between the towns of Leicester and Oxford and the district for installation and maintenance of new and existing hydrants in the district shall be upon such terms as the parties thereto may agree upon.

SECTION 5. The district may also take or acquire by purchase or otherwise, and hold all lands, rights of way, and easements necessary for laying, constructing and maintaining aqueducts, reservoirs, storage basins, dams and such other works as may be deemed necessary or proper for collecting, purifying, storing, discharging, conducting and distributing water within the district; and may erect upon the land thus taken and held, proper dams, buildings, fixtures and other structures, and may make excavations, procure and operate machinery, and provide such other means and equipment as may be necessary for the establishment and maintenance of complete and effective water works; and may construct and lay down conduits, pipes and other works under or over any lands, water courses, railroads, railways, or other public or private ways, and along any such ways in such manner as not unnecessarily to obstruct the same; and for the purpose of constructing, maintaining and repairing such conduits, pipes and other works, and for all proper purposes of this act. The district may dig up any such lands, and, subject to the direction of the selectmen of the towns in which such ways are situated, may enter upon and dig up any such ways in such manner as to cause the least hindrance to public travel thereon; provided, however, that no source of water supply and no lands necessary for preserving the quality of such water shall be taken or used without first obtaining the advice and approval of the

Massachusetts department of environmental protection if required by the General Laws or any regulations promulgated under the General Laws, or any successor agency, and that the situation of all dams, reservoirs and wells to be used as sources of water supply under this act shall be subject to the approval of the department. The district shall not enter upon, construct or lay any conduits, pipes 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 case of failure so to agree, as may be approved by the board of railroad commissioners.

SECTION 6. In taking of any lands, rights of way, waters, water rights, water sources or easements, as aforesaid, otherwise than by purchase, the district shall comply with all applicable provisions of the General Laws.

SECTION 7. The district may make such contracts with individuals, corporations, other water districts, water companies, and municipalities for transmitting water as may be agreed upon, and may extend its pipes for that purpose, subject to approval of the governing boards of the municipalities, districts, companies and corporations. New service connections shall be limited to areas within the towns of Leicester and Oxford and, if located outside of the district boundaries set forth in section two, shall conform to the procedure and criteria set forth in section fifteen. All existing contracts of the district shall remain in full force and effect and shall not be effected by the passage of this act.

SECTION 8. Meetings of the district shall be called by warrant of the commissioners at the time stated in the warrant, or on petition of ten or more legal voters addressed to the commissioners within thirty days of receipt of certification. The clerk of the district shall give notice of the meeting by posting copies of the warrant in three or more public places in the district and by delivering copies to the town clerks of Leicester and Oxford, seven days at least before the time of the meeting. At all district meetings the district clerk shall preside until a moderator is chosen. The meeting may then proceed to act on the articles contained in the warrant.

SECTION 9. The board of water commissioners shall consist of three persons, each to hold office for a term of three years, one to be elected by ballot at every annual district meeting. There shall at all times be one resident from the Cherry Valley service area, the Rochdale/Oxford service area, and the Greenville service area, all service areas as shown on a map entitled "District Boundaries, Cherry Valley & Rochdale Water District in Leicester and Oxford, MA, May 18, 1995" prepared by Bruce Saluk & Associates, Inc. on file at the district office. However, the commissioners elected at the nineteen hundred and ninety-four annual district meeting from Greenville and the nineteen hundred and ninety-five annual meeting from Cherry Valley shall continue to hold office until the expiration of their terms, notwithstanding the reconfiguration of their service areas. All the authority granted to the district by this act, and not otherwise specifically provided for, shall be vested in the board of water commissioners, who shall be subject however to such instructions, rules and regulations as the district has previously or may impose by its vote. A majority of the board of water commissioners shall constitute a quorum for the transaction of business. Any vacancy occurring in the board of water commissions from any cause may be filled for the

remainder of the unexpired term by the district at any legal meeting called for the purpose. No money shall be drawn from the district treasury except by a written order of a majority of the board of water commissioners. The board of water commissioners shall annually make a full report to the district in writing of their doings and expenditures. The district shall also, at a legal meeting called for the purpose, elect by ballot a district clerk and a treasurer, to hold office for the term of one year and until their successors are chosen and qualified. There shall at all times be one resident from each of the Rochdale, Greenville and Cherry Valley service areas, as delineated on a map of the district prepared by Bruce Saluk & Associates dated April 10, 1995, serve as a water commissioner.

SECTION 10. For the purpose of paying the necessary expenses and liabilities incurred under the provisions of this act, the district may issue from time to time bonds or notes in accordance with the General Laws.

SECTION 11. The district shall raise annually by taxation a sum which, with the income derived from the sale of water, shall be sufficient to pay the current annual expenses of operating its water works and the interest accruing on any bonds or notes issued by the district, together with such payments of the principal thereof as may be required under the provisions of this act. The district is further authorized by a majority vote of its voters, present and voting at a legal meeting called for the purpose, to raise by taxation any sum of money for the purpose of enlarging, repairing, maintaining, or extending its water works or of providing additional equipment and fixtures connected therewith.

SECTION 12. Whenever a tax is duly voted by the district for the purpose of this act, the district clerk shall deliver a certified copy of the vote to the assessors of the towns of Leicester and Oxford, who shall assess the same in the manner in which town taxes are required by law to be assessed; provided, that no estate shall be subject to any tax assessed on account of the system of water supply under this act, if, in the judgment of the board of water commissioners hereinbefore provided for, after a hearing, due notice of which shall have been given, such estate is so situated that it can either receive no aid in the extinguishment of fire from the system of water supply, or is so situated that the buildings thereon, or the buildings that might be constructed thereon could not be supplied with water from the system in any ordinary or reasonable manner; but all other estates in the district shall be deemed to be benefitted and shall be subject to the tax. A certified list of the estates exempt from taxation under the provisions of this section shall annually be sent by the board of water commissioners to the assessors, at the same time at which the district clerk shall send a certified copy of the vote as aforesaid. The assessment shall be committed to tax collectors for the towns of Leicester and Oxford, who shall collect the tax in the manner provided 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 taxes when overdue in the manner in which interest is authorized to be collected on town taxes.

SECTION 13. The by-laws of the district in effect at the time of the passage of this act shall remain in full force and effect upon the passage of this act. The district may adopt new by-laws or amend its existing by-laws by vote of a majority of its voters present and

voting at a district meeting. The district's rules and regulations for the management of its waterworks in effect prior to the adoption of this act shall remain in full force and effect upon the passage of this act. The district may adopt new regulations for the management of its waterworks or amend its existing regulations upon the majority vote of the board of water commissioners. The district may choose other officers not provided for in this act as the board of water commissioners, by majority vote, shall deem necessary and proper.

SECTION 14. Whoever wilfully or wantonly corrupts, pollutes or diverts any water taken under this act, or wilfully or wantonly injures any dam, reservoir, aqueduct, conduit, pipe or other property owned or used by the district for the purpose of this act, shall forfeit and pay to the district three times the amount of damages assessed therefor, and shall also be subject to such penalties as may be provided in the General Laws, as in effect from time to time.

SECTION 15. Upon a petition in writing addressed to the board of water commissioners requesting that certain real estate, accurately described therein, located in the towns of Leicester or Oxford and abutting on the boundaries of the district and not otherwise served by a public water supply, be included within the boundaries of the district, and signed by the owners of such real estate, or a major portion of such real estate, the board of 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 the 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 clerks of Leicester and Oxford and with the state secretary an attested copy of the petition and vote; and thereupon the real estate shall become and be part of the district and shall be holden under this act in the same manner and to the same extent as the real estate described in section two. Notwithstanding the forgoing, the board of water commissioners shall have no obligation to call a meeting unless the petitioner can first demonstrate to the board of water commissioners that the real estate can be supplied by the district in an ordinary and reasonable manner without adverse impact on the district's existing distribution system, and that sufficient water supply exists to supply the real estate.

Petitioners seeking entry into the district shall bear all costs associated with the annexation, including but not limited to: permit and connection fees, engineering and legal costs, installation of pipes and other equipment, and alterations to the existing distribution system necessitated by the annexation. The applicant must also comply with all rules and regulations governing annexations as may be promulgated by the board of water commissioners, from time to time.

SECTION 16. The powers conferred upon the district by the following special acts of the general court, insofar as they confer power upon the district which the district would not otherwise hold under the provisions of this act, the General Laws or otherwise, are hereby retained; otherwise they are hereby repealed, it being the explicit intention of this section that provisions of any special acts retained which limit or restrict a power conferred or the manner in which it is to be exercised be repealed and that the powers so conferred are to be exercised in accordance with the terms of this act:

Chapter one hundred and fifty-two of the acts of nineteen hundred and eleven, chap-

ter sixty-eight of the acts of nineteen hundred and twenty-five, chapter seventy-one of the acts of nineteen hundred and thirty-nine, chapter one hundred and ninety-eight of the acts of nineteen hundred and forty-seven, chapter four hundred and thirty-seven of the acts of nineteen hundred and forty-nine and chapter one hundred and twelve of the acts of nineteen hundred and fifty-four.

SECTION 17. This act shall take effect upon its passage.

Approved May 29, 1996.

Chapter 106. AN ACT PROVIDING FOR THE RETAIL PURCHASE OF ELECTRICITY IN THE TOWN OF BRAINTREE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Braintree is hereby authorized to permit the retail purchase of electricity within said town from an entity other than the Braintree electric light department by a vote of its town meeting.

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

Approved May 30, 1996.

Chapter 107. AN ACT VALIDATING A CERTAIN VOTE PASSED BY THE TOWN OF COHASSET.

Be it enacted, etc., as follows:

SECTION 1. The vote passed by the voters of the town of Cohasset at the election held on April sixth, nineteen hundred and ninety-six to exempt from the provisions of section twenty-one C of chapter fifty-nine of the General Laws the amounts required to pay for the bonds to be issued in order to finance planning, designing and constructing an elementary school on land owned by the town off Sohier street and known as "Deer Hill" is hereby ratified, validated and confirmed, notwithstanding any defect or omission in the calling of said election as it relates to said vote.

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

Approved May 31, 1996.

Chapter 108. AN ACT AUTHORIZING THE TOWN OF SWAMPSCOTT TO BORROW MONEY TO FUND CERTAIN PAYMENTS.

Be it enacted, etc., as follows:

SECTION 1. The town of Swampscott is hereby authorized to borrow from time to time such sums of money as may be necessary to fund payments the town is required or agrees to make under its contract with the Lynn water and sewer commission as a result of capital improvements to the wastewater treatment facility of said commission and related facilities and may issue bonds or notes therefor. Such bonds or notes shall bear on their face, the words Town of Swampscott Wastewater Treatment Facility Loan, Act of 1996. Each authorized issue shall constitute a separate loan and each such loan shall be payable within twenty years from its date. The town may also issue temporary notes in anticipation of such borrowing pursuant to section seventeen of chapter forty-four of the General Laws. Bonds and notes may be issued hereunder by the town treasurer with the approval of the board of selectmen and the proceeds thereof may be expended without further authorization or appropriation by the town. Indebtedness incurred under this act shall not be included in determining the limit of indebtedness of the town under section ten of said chapter forty-four; but except as provided herein, shall otherwise be subject to the provisions of said chapter forty-four.

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

Approved June 4, 1996.

Chapter 109. AN ACT AUTHORIZING THE ISSUANCE OF FARMER LICENSE PLATES TO PERSONS ENGAGED IN AQUACULTURE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the issuance of farmer motor vehicle plates to persons engaged in aquaculture, 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 90 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the definition of "Farmer" and inserting in place thereof the following definition:-

"Farmer", a person substantially engaged in the occupation of farming which shall include, but not be limited to, farming in all its branches, the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or

lumbering operations, performed by a farmer engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations including, but not limited to, preparations for market, delivery to storage or to market or to carriers for transportation to market.

Approved June 4, 1996.

Chapter 110. AN ACT DESIGNATING A PORTION OF THOMPSON ROAD IN THE TOWN OF WEBSTER AS STASIA CZERNICKI MEMORIAL WAY.

Be it enacted, etc., as follows:

The portion of Thompson road in the town of Webster extending from the intersection of the southerly end of East Main street and the northerly end of Thompson road to the intersection of Hillside avenue and Thompson road shall be designated and known as Stasia Czernicki memorial way. The department of highways is hereby directed to erect suitable markers bearing said designation in accordance with the standards of said department.

Approved June 4, 1996.

Chapter 111. AN ACT RELATIVE TO THE SALE OF COMPRESSED NATURAL GAS FOR USE AS MOTOR VEHICLE FUEL.

Be it enacted, etc., as follows:

Chapter 164 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after section 94 the following section:-

Section 94½. (a) Notwithstanding the provisions of section ninety-four or any other law to the contrary, the rates and terms for the sale of compressed natural gas by a fueling station for use as a motor vehicle fuel shall not be subject to regulation by the department; provided, however, that any gas company which sells compressed natural gas for use as a motor vehicle fuel shall keep separate records, books, and accounts of such unregulated sales which are sufficient to allow the department to allocate costs and revenues; and provided, further, that such gas company's sale of compressed natural gas for use as a motor vehicle fuel and its investment in related infrastructure shall not reduce the availability or increase the cost of natural gas to said company's customers who purchase natural gas for use other than as a motor vehicle fuel.

Approved June 5, 1996.

Chapter 112. AN ACT AUTHORIZING THE CITY OF SPRINGFIELD TO PAY OR PROVIDE FOR CERTAIN COSTS RELATED TO THE OPERATIONS, SALE, TRANSFER, OR CLOSURE OF SPRINGFIELD MUNICIPAL HOSPITAL.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law, city charter provision or local ordinance to the contrary, the city of Springfield is hereby authorized to borrow, upon the order of the mayor, and with the approval of the city council, which approval shall not be subject to the provisions of section twenty-three of chapter forty-three of the General Laws, at one time or from time to time, and as provided for herein, such sums as the commissioner of revenue shall approve as related to the sale, transfer, or closure of the Springfield Municipal Hospital or deficits deriving from the operation thereof, but in no event in an amount in the aggregate in excess of thirty million dollars, and to issue therefor bonds or notes of said city of Springfield. Upon the order of the mayor, and approval of the city council, and as approved by the commissioner of revenue, the proceeds of such bonds or notes shall be used to pay costs, expenses or liabilities, or to defray deficits, relating to or deriving directly or indirectly from the operations, sale, transfer or closure of the Springfield Municipal Hospital.

Bonds or notes issued under authority of this act shall 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 city of Springfield. 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. Notwithstanding the provisions of section five of said chapter forty-four A or any other general or special law to the contrary, 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 six.

The maturities of each issue of bonds or notes authorized under authority of this act, including any refunding bonds, may, if approved by the city 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 is practicable in the opinion of the officers authorized to issue said bonds or notes, or in the alternative, in accordance with a schedule providing for a more rapid amortization of principal.

SECTION 2. To the extent that the city of Springfield has not issued bonds or notes in the full amount authorized under section one, the city, by order of the mayor and with the approval of the city council, and with the approval of the commissioner of revenue, and subject to such terms, conditions, and requirements as said commissioner may impose, may capitalize such sums as said commissioner approves as expenses, liabilities or deficits resulting directly or indirectly from the operations, transfer, sale or closure of the Springfield Municipal Hospital, hereinafter an amortization amount, and fund such amortization amount over a term not to exceed two years. In no event shall any amortization authorized pursuant to the authority of this section extend beyond June thirtieth, nineteen hundred and ninety-

eight. An amortization amount approved by said commissioner as authorized herein shall be funded by the city in annual installments as amounts to be raised pursuant to such schedule as said commissioner shall require or by the issuance of bonds or notes pursuant to the authority of section one, or by a combination of both. Amounts to be raised in each fiscal year under authority of this section shall be determined and certified by said commissioner and amortization in any fiscal year shall be permissible only to the extent that said commissioner determines and approves with respect to each year that such amortization is necessary and appropriate to achieving and maintaining fiscal stability in said city of Springfield.

SECTION 3. Indebtedness incurred under the provisions of this act shall not be included in determining the statutory limit of indebtedness of the city of Springfield 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.

Amounts raised to pay indebtedness incurred under authority of section one or to fund amortization amounts pursuant to the provisions of section two shall be subject to the provisions of section twenty-one C of chapter fifty-nine of the General Laws.

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, upon the order of the mayor, with the approval of the city council, and with the approval of the commissioner of revenue, and without further appropriation, the proceeds from the transfer or sale of the real estate, personal property, accounts receivable or other assets of the Springfield Municipal Hospital shall be used to pay costs, expenses or liabilities, or to defray deficits, relating to or deriving directly or indirectly from the operations, sale, transfer or closure of said Springfield Municipal Hospital.

SECTION 5. In any year during which bonds or notes authorized under the provisions of this act remain outstanding, or any amortization amounts determined pursuant to the authority of this act remain unfunded, the commissioner of revenue shall not certify the annual tax rate of the city of Springfield until an audit report for the preceding fiscal year has been received and accepted by said commissioner. Such audit report shall be prepared by a certified public accountant in accordance with generally accepted auditing standards and include accompanying financial statements.

In any year during which bonds or notes authorized under the provisions of this act remain outstanding, or any amortization amounts determined pursuant to the authority of this act remain unfunded, the city shall submit to said commissioner quarterly reports presenting a budget to actual comparison of revenues and expenditures. Such written reports shall be submitted within thirty days of the conclusion of each fiscal quarter and shall be in such form and include such information and detail as said commissioner may prescribe.

In any year during which bonds or notes authorized under the provisions of this act remain outstanding, or any amortization amounts determined pursuant to the authority of this act remain unfunded, the city shall not issue any bond, note or other form of indebtedness without written notification to, and the approval of said commissioner.

Upon the city demonstrating to the commissioner of revenue evidence of the city

achieving a balanced budget for three consecutive fiscal years, the city shall not be required to notify or seek the approval of said commissioner before the issuance of any bond, note or other form of indebtedness.

SECTION 6. This act shall take effect upon its passage.

Approved June 5, 1996.

Chapter 113. AN ACT PROVIDING FOR AN ACCELERATED TRANSPORTATION DEVELOPMENT AND IMPROVEMENT PROGRAM FOR THE COMMONWEALTH.

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

Be it enacted, etc., as follows:

SECTION 1. To partially provide for a program of transportation development and improvements in anticipation of additional sums to be appropriated subsequent to this act, the sums set forth in sections two and two A, for the several purposes and subject to the conditions specified in this act, are hereby made available, subject to the provisions of law regulating the disbursement of public funds and approval thereof.

SECTION 2.

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Massachusetts Highway Department.

6033-1961 For projects, pursuant to the provisions of sections six and seven, on the interstate federal aid highway system; provided, that said sum may be expended for the costs of said projects including, but not limited to, the non-participating portions of such projects and the costs of engineering and other services essential to such projects, rendered by department employees or by consultants; provided further, that amounts expended for department employees may include the salary and salary related expenses of such employees to the extent that they work on or in support of such projects, provided that such expenses are federally reimbursed; provided further, that notwithstanding the provisions of any general or special law to the contrary, or any other provision of this act, the department shall not enter into any obligations for projects which are eligible to receive federal funds pursuant to the authority granted under this act unless state matching funds exist which have been specifically authorized and

are sufficient to fund the corresponding state portion of the federal commitment to fund such obligation; provided further, the department shall only enter into obligations for said project pursuant to the authority granted in this act based upon a prior commitment of federal funds and the availability of corresponding state funding authorized and appropriated for such use by the general court for the class and category of project for which such obligation applies; provided further, that the funds authorized herein shall be expended in accordance with the most recently published statewide transportation improvement program; and provided further, that the commissioner of the department of highways 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 $87,275,000

6033-1962 For projects, pursuant to the provisions of sections six and seven of this act, for federal aid projects and for non-participating portions of such projects; provided, that sums provided herein may be expended for the costs of said projects including, but not limited to, the costs of engineering and other services essential to such projects, rendered by department employees or by consultants; provided further, amounts expended for department employees may include the salary and salary related expenses of such employees to the extent that they work on or in support of such projects; provided further, that such expenses are federally reimbursed; provided further, that notwithstanding the provisions of any general or special law to the contrary, or any other provision of this act, the department shall not enter into any obligations for projects which are eligible to receive federal funds pursuant to the authority granted under this act unless state matching funds exist which have been specifically authorized and are sufficient to fund the corresponding state portion of the federal commitment to fund such obligation; provided further, the department shall only enter into obligations for said projects pursuant to the authority granted in this act based upon a prior commitment of federal funds and the availability of corresponding state funding authorized and appropriated for such use by the general court for the class and category of project for which such obligation applies; and provided further that the funds authorized herein shall be expended in accordance with the most recently published statewide transportation improvement program; and provided further, that the commissioner of the de-

partment of highways 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 $389,750,000

SECTION 2A.

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Massachusetts Highway Department.

6033-1963 For the construction of, repair of or improvement to non-federally aided roadway projects and for the non-participating portion of federally aided projects pursuant to section seven; provided, that the costs of professional personnel, directly and exclusively involved in the construction, planning, engineering 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; and, provided further, that the funds authorized herein shall solely be used to fund projects on the statewide program $146,725,000

6033-1967 For the design, reconstruction and improvement, including the testing, removal and encapsulation of lead-based paint, to highway bridges and other bridges, pursuant to section seven; provided, that the costs of professional personnel, directly and exclusively involved in the construction, planning, engineering 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; provided further, that the commissioner 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; and provided further, that the department is authorized and directed to pursue federal participation for projects authorized herein wherever applicable; and, provided further, that the funds authorized herein shall solely be used to fund projects on the statewide program $51,883,750

6033-1969 For construction and reconstruction of town and county ways pursuant to sections nine and fifteen of this act $300,000,000

SECTION 3. To meet a portion of the expenditures necessary in carrying out the provisions of section two, the state treasurer shall, upon request of the governor, issue and

sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of one hundred million one hundred fifteen thousand five hundred dollars to be in addition to those bonds previously authorized for projects and programs which are eligible to receive federal funding and which authorizations remain uncommitted or unobligated on the effective date of this act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Highway Improvement Loan Act of 1996 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 of Massachusetts; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand twenty-one. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer pursuant to this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section two O of chapter twenty-nine of the General Laws; provided, further, that in deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account (*i*) generally prevailing financial market conditions, (*ii*) the impact of each approach on the overall capital financing plans and needs of the commonwealth, (*iii*) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally recognized credit rating agency to the bonds proposed to be issued, and (*iv*) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section two O. All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan Act of 1996 and shall be issued for a maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand twenty-one. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in section two O of said chapter twenty-nine. Special obligation bonds issued pursuant to this section shall be special obligations of the commonwealth payable solely in accordance with the provisions of said section two O of said chapter twenty-nine.

SECTION 4. To meet the expenditures necessary in carrying out the provisions of section two A, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of four hundred ninety-eight million six hundred eight thousand seven hundred fifty dollars, to be in addition to those bonds previously authorized, for projects and programs which remain uncommitted or unobligated on the effective date of this act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Highway Improvement Loan Act of 1996 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 of Massachusetts; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand twenty-one. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer pursuant to this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section two O of chapter twenty-nine of the General Laws; provided, however, that in deciding whether to request the issuance of particular bonds as special obligations, the governor shall take into account (*i*) generally prevailing financial market conditions, (*ii*) the impact of each approach on the overall capital financing plans and needs of the commonwealth, (*iii*) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally recognized credit rating agency to the bonds proposed to be issued, and (*iv*) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section two O. All special obligation bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan Act of 1996 and shall be issued for a maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth of Massachusetts; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand twenty-one. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section two O of said chapter twenty-nine. Special obligation bonds issued pursuant to this section shall be special obligations of the commonwealth payable solely in accordance with the provisions of said section two O of said chapter twenty-nine.

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 three and four 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 of Massachusetts, but the final maturities of the notes, whether original or renewal, shall not be later than June thirtieth, two thousand and one. Notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided, however, that the state treasurer may determine to issue any notes as special obligations pursuant to section two O of chapter twenty-nine of the General Laws if the notes, or renewals thereof, are to be paid from the proceeds of special obligation bonds to be issued pursuant to said section two O. All payments on account of principal on the notes allocable to the Federal Highway Construction Program Fund shall be repaid from said fund.

SECTION 6. The department of highways, hereinafter called the department, is hereby authorized and directed to expend the sums authorized in section two for the following purposes:

Projects for the laying out, construction, reconstruction, resurfacing, relocation or necessary or beneficial improvement of highways, bridges, bicycle paths or facilities, on-street bicycle projects and sidewalks, telecommunications, parking facilities, auto-restricted zones, scenic easements, grade crossing eliminations and alterations of other crossings, traffic safety devices on state highways and on roads constructed under the provisions of section thirty-four of chapter ninety of the General Laws, highway or mass transportation studies including, but not limited to, traffic, environmental or parking studies, the establishment of school zones in accordance with section two of chapter eighty-five, improvements on routes not designated as state highways without assumption of maintenance responsibilities and, law to the contrary, projects to alleviate contamination of public and private water supplies caused by the department's storage and use of snow removal chemicals which are necessary for the purposes of highway safety, and for the relocation of persons or businesses, or replacement of dwellings or structures including, but not limited to, the provision of last resort housing under federal law and such functional replacement of structures in public ownership as may be necessary for the foregoing purposes and for relocation benefits to the extent necessary to satisfy the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act, 42 USC 4601 et seq., PL 90-646, and to sell any structure the title to which has been acquired for highway purposes. When dwellings or other structures are removed, in furtherance of any of the foregoing projects, the excavations or cellar holes remaining shall be filled in and brought to grade within one month after such removal. In planning projects funded by section two, consideration shall be made to accommodate and incorporate provisions to facilitate the use of bicycles and walking as a means of transportation; provided, however, that nothing herein shall give rise to enforceable legal rights in any party or a cause of action or an enforceable entitlement as to the projects provided herein; and provided, further, that nothing stated herein shall be construed as to giving rise to such enforceable legal rights in any party or a cause of action or an such enforceable entitlement as to the projects provided herein.

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

Notwithstanding the provisions of sections thirty-eight C, forty A and forty B of chapter seven of the General Laws, the department shall have jurisdiction over the selection of designers performing design services in connection with the ventilation of buildings, utility facilities and toll booths to be constructed as part of the Central Artery/Third Harbor Tunnel Project, and shall construct, control, supervise or contract said structures; provided, however, that no construction or contractual agreement for construction shall begin prior to

the review and approval of the inspector general of the commonwealth. The inspector general shall file with the house and senate committees on ways and means and the joint committee on transportation all notices of approval for projects undertaken pursuant to the provisions of this paragraph.

In addition to the foregoing, the department is further authorized:

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

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

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

In carrying out the provisions of this section, the department may enter into contracts or agreements with a city to mitigate the impacts of projects undertaken pursuant to this act and to undertake additional transportation measures within such city, and may enter into such contracts or agreements with other state, local or regional public agencies, authorities, or political subdivisions as may be necessary to implement such city agreements. Cities and other state, local or regional public agencies, authorities or political subdivisions are hereby granted the authority to enter into such contracts or agreements with the department. In relation to such agreements the department is hereby authorized to and may advance to such agencies or authorities without prior expenditure by such agencies or authorities, monies necessary to carry out such agreements; provided however, that the department certifies to the comptroller the amount so advanced; and, provided further, that all monies not expended under such agreement shall be credited to the account of the department from which it was advanced.

SECTION 7. In carrying out the provisions of sections two and two A, the department of highways may enter into such contracts or agreements as are appropriate with other state, local or regional public agencies or authorities. In relation to such agreements between the department and other state agencies or authorities, the department is hereby authorized to advance monies to such agencies or authorities, without prior expenditure by such agencies or authorities, and such agencies and authorities are hereby authorized to accept monies necessary to carry out such agreements; provided, however, that the department shall certify to the comptroller the amounts so advanced; provided, further, that such agreements shall contain provisions satisfactory to the department for the accounting of such monies as expended by said agency or authority; and provided, further, that all monies not expended under such agreement shall be credited to the account of the department from which they were advanced. The department shall report to the house and senate committees on ways and means any transfers completed pursuant to the provisions of this section.

SECTION 8. All sums expended either pursuant to this act or for which reimbursement is made under this act, for the purpose of acquiring, constructing, or altering public transportation passenger vehicles or facilities shall be expended in accordance with the provisions of 42 USC 12141 to 42 USC 12150, inclusive.

SECTION 9. The funds appropriated in item 6033-1969 of section two A of this act are hereby made available and shall be in addition to those funds appropriated in paragraph (*d*) of section three of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three, paragraph (*d*) of section three of chapter eight hundred and eleven of the acts of nineteen hundred and eighty-five, paragraph (*c*) of section three of chapter fifteen of the acts of nineteen hundred and eighty-eight, section ten of chapter two hundred and eight of the acts of nineteen hundred and eighty-eight, paragraph (*c*) of section three of chapter thirty-three of the acts of nineteen hundred and ninety-one and item 6010-3950 of section two A of chapter eighty-five of the acts of nineteen hundred and ninety-four for projects for construction and reconstruction of town and county ways as described in subclause (*a*) of clause (2) of the second paragraph of section thirty-four of chapter ninety of the General Laws; provided, however, that each city or town shall certify to the department that the city or town has expended all of the sums apportioned to the city or town under the provisions of said paragraph (*d*) of said section three of said chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three, said paragraph (*d*) of said section three of said chapter eight hundred and eleven, said paragraph (*c*) of said section three of said chapter fifteen, said section ten of said chapter two hundred and eight; said paragraph (*c*) of said section three of said chapter thirty-three and said item 6010-3950 of said section two A of said chapter eighty-five or that said city or town has remaining a sum of money which by itself is insufficient to finance a proposed project; provided further, that a city or town shall comply with procedures established by the department; provided further, that any such city or town is hereby authorized to appropriate for such projects amounts not in excess of the amounts provided to such city or town under this section; provided further, that such appropriation shall be considered as an available fund upon the approval of the commissioner of revenue pursuant to section twenty-three of chapter fifty-nine of the General Laws; provided further, that the commonwealth shall reimburse such city or town under this section within thirty days after receipt by the department of a request for reimbursement from such city or town, such request to include certification by such city or town that actual expenses have been incurred on projects eligible for reimbursement under this section, and the work has been completed to its satisfaction according to the specifications of such project and in compliance with applicable law; provided further, that the department may enter into agreements with cities and towns to provide engineering and other services essential to the development of projects and if the department agrees to provide such services, amounts charged for department employees may include the salary and salary related expenses of such employees to the extent that they work on or in support of such projects; provided further, that funds provided herein may be expended for the entire cost of any project eligible under the provisions of said chapter ninety; and, provided further, that the funds provided herein may be expended for transportation enhancement projects as

described in the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, and for the repair, replacement or removal of underground municipal public works fuel tanks.

SECTION 10. Subclause (*a*) of clause (2) of the second paragraph of section 34 of chapter 90 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first and second sentences and inserting in place thereof the following two sentences:- For expenditure, under the direction of said department, for maintaining, repairing, improving and constructing town and county ways and bridges, sidewalks adjacent to such ways and bridges, bikeways and other projects eligible for funding as a transportation enhancement project as described in the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, salt storage sheds, bikeways and public use off-street parking facilities related to mass transportation, for engineering services and expenses related to highway transportation enhancement and mass transportation purposes, for care, repair, storage, replacement, purchase and long-term leasing of road building machinery, equipment and tools, for the erection and maintenance of direction signs and warning signs and for necessary or beneficial improvements to unpaved town and county ways together with any money which any town or county may appropriate for such purposes to be used on the same ways, sheds, bikeways, bridges, machinery, equipment, tools and facilities. Such ways, sheds, bikeways, bridges, machinery, equipment, tools and facilities shall remain town or county ways, sheds, bikeways, bridges, machinery, equipment, tools and facilities.

SECTION 11. Notwithstanding the provisions of any general or special law to the contrary, the department of highways, hereinafter referred to as the department, is hereby authorized and directed to take all necessary actions to secure federal highway or mass transportation assistance which is or may become available to the department including, but not limited to, actions authorized under or in compliance with the provision of Title 23 of the United States Code and section one hundred and forty-five of the Surface Transportation and Uniform Relocation Assistance Act of 1982, PL 97-424, the Surface Transportation and Uniform Relocation Act of 1987, PL 10-17, the Intermodal Surface Transportation Efficiency Act of 1991, PL 102-240, and actions such as filing applications for federal assistance, supervising the expenditure of funds under federal grants or other assistance agreements and making any determinations and certifications necessary or appropriate to the foregoing. If any federal law, administrative regulation or practice requires any action relating to such federal assistance to be taken by any department, agency or other instrumentality of the commonwealth other than the department of highways, such other department, agency or instrumentality is hereby authorized and directed to take such action.

In furtherance of the foregoing purposes, the department, as appropriate, shall apply for and accept any federal funds available for projects authorized in section two and such federal funds, when received, shall be credited to the Federal Highway Construction Program Fund. To meet a portion of the expenditures authorized by section two, there is hereby appropriated to the Federal Highway Construction Program Fund a sum of three hundred seventy-six million nine hundred nine thousand five hundred dollars which shall be

expended, subject to the limitations contained in Article LXXVIII of the Amendments to the Constitution of the Commonwealth of Massachusetts and which shall be in addition to the amounts appropriated in section one of chapter fifteen of the acts of nineteen hundred and eighty-eight, section one of chapter thirty-three of the acts of nineteen hundred and ninety-one, section two of chapter one hundred and two of the acts of nineteen hundred and ninety-four and section two of chapter two hundred and seventy-three of the acts of nineteen hundred and ninety-four.

SECTION 12. The provisions of section sixty-one and sections sixty-two A to sixty-two H, inclusive, of chapter thirty of the General Laws and chapter ninety-one of the General Laws and section forty of chapter one hundred and thirty-one of the General Laws shall not apply to bridge projects of the department authorized under this act for the repair, reconstruction, replacement or demolition of existing state highway bridges and other bridges, including the immediate roadway approaches necessary to connect such bridges to the existing adjacent highway system, in which the design is substantially the functional equivalent of, and in similar alignment to, the structure to be reconstructed or replaced; provided, however, that notwithstanding the foregoing, the provisions of said section sixty-one and sections sixty-two A to sixty-two H, inclusive, of said chapter thirty, said chapter ninety-one and said section forty of said chapter one hundred and thirty-one shall apply to any portions of the bridge and roadway approaches to the crossing of the Charles River for the Central Artery/Tunnel Project; provided, further, that in the case of any state highway or other bridge crossing over a railroad right-of-way or railroad tracks, the department shall seek the opinion of any railroad company, railway company, or its assigns operating on such track of a necessary clearance between such track and the state highway bridge, but such clearance shall be at the discretion of the department; provided, further, that the department, its agents or contractors may enter upon any right-of-way, land or premises of a railroad company or railway company or its assigns for such purposes as the department may deem necessary or convenient to carry out the provisions of this act; provided, further, that if a flagman is needed to carry out the provisions of this act, that railroad company, railway company, or its assigns shall provide such flagman. For the purposes of this section and item 6033-1967 of section two A, the word bridge shall include any structure spanning and providing passage over water, railroad right-of-way, public or private way other vehicular facility or other area.

SECTION 13. The department of highways, hereinafter referred to as the department, may provide functional replacement of real property in public ownership whenever the department has acquired such property in whole or in part under the provisions of this act or such property is significantly and adversely affected as a result of the acquisition of property for a highway or highway-related project and whenever the department determines such functional replacement is necessary and in the public interest. For purposes of this section, the words functional replacement shall mean the replacement, pursuant to the provisions of chapter seven of the General Laws including sections forty F and forty F½, requiring authorization of the general court prior to disposition of real property, including either land or facilities thereon, or both, which provide equivalent utility

and the words real property in public ownership shall mean any and all present and future interest in land, including rights of use, now existing or hereafter arising, held by an agency, authority, board, bureau, commission, department, division or other unit, body, instrumentality or political subdivision of the commonwealth. This section shall not constitute authorization by the general court as required by said chapter seven.

Whenever the department determines it is necessary that any utility or utility facility, as defined under federal law, be relocated because of construction of a project which is to be reimbursed federally in whole or in part, then such facility shall be relocated by the department or by the owner thereof in accordance with an order from the department; provided, however, that the commonwealth may reimburse the owner of such utility or utility facility for the cost of relocation; provided, further, that any relocation of facilities carried out under this section which is not performed by employees of the owner shall be subject to the provisions of section twenty-seven of chapter one hundred and forty-nine of the General Laws.

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

SECTION 14. No payment in excess of one hundred and seventy-five thousand dollars by way of purchase of real estate or any interest therein shall be made by the department of highways and no settlement in excess of one hundred and seventy-five thousand dollars or in excess of the amount recommended by the real estate review board established by section six of chapter seven hundred and eighteen of the acts of nineteen hundred and fifty-six shall be made out of court for damages recoverable under chapter seventy-nine of the General Laws, by reason of a purchase or taking under this act. Each recommendation of the real estate review board shall be in writing and shall be accompanied by a written statement of the reasons for such recommendation.

No settlement by reason of taking under this act in excess of one hundred seventy-five thousand dollars or in excess of the recommendation of the real estate review board shall be made by agreement of the parties during or after trial except with the written approval of the court; provided, however, that the settlements in excess of the recommendation of the board may be made without such approval if the settlement does not exceed the amount of any verdict or finding which has been rendered, together with interest and costs.

SECTION 15. Notwithstanding the provisions of any general or special law to the contrary, the funds authorized in item 6033-1969 of section two A of this act shall be distributed according to the schedule listed below:

MUNICIPALITY	AMOUNT
ABINGTON	561,262
ACTON	982,080

MUNICIPALITY	AMOUNT
ACUSHNET	477,614
ADAMS	492,341
AGAWAM	1,034,624
ALFORD	122,716
AMESBURY	649,326
AMHERST	1,155,619
ANDOVER	2,035,009
ARLINGTON	1,293,522
ASHBURNHAM	522,195
ASHBY	371,741
ASHFIELD	464,469
ASHLAND	527,999
ATHOL	831,779
ATTLEBORO	2,008,452
AUBURN	925,202
AVON	308,903
AYER	388,789
BARNSTABLE	3,189,426
BARRE	700,156
BECKET	392,156
BEDFORD	944,879
BELCHERTOWN	872,445
BELLINGHAM	717,030
BELMONT	852,472
BERKLEY	353,038
BERLIN	303,535
BERNARDSTON	298,881
BEVERLY	1,532,724
BILLERICA	1,598,434
BLACKSTONE	373,519
BLANDFORD	422,342
BOLTON	429,318
BOSTON	22,227,945
BOURNE	926,781
BOXBOROUGH	255,693
BOXFORD	611,045
BOYLSTON	306,091
BRAINTREE	1,660,410
BREWSTER	443,205
BRIDGEWATER	948,421
BRIMFIELD	450,439

MUNICIPALITY	AMOUNT
BROCKTON	3,005,404
BROOKFIELD	272,786
BROOKLINE	1,525,774
BUCKLAND	297,530
BURLINGTON	1,387,365
CAMBRIDGE	4,047,678
CANTON	1,065,302
CARLISLE	367,326
CARVER	576,817
CHARLEMONT	297,659
CHARLTON	921,408
CHATHAM	522,624
CHELMSFORD	1,622,114
CHELSEA	813,201
CHESHIRE	319,070
CHESTER	392,645
CHESTERFIELD	366,778
CHICOPEE	1,900,317
CHILMARK	105,850
CLARKSBURG	113,761
CLINTON	524,216
COHASSET	333,723
COLRAIN	538,095
CONCORD	1,071,095
CONWAY	438,167
CUMMINGTON	329,592
DALTON	372,785
DANVERS	1,366,728
DARTMOUTH	1,669,401
DEDHAM	1,004,859
DEERFIELD	632,447
DENNIS	1,076,606
DIGHTON	432,415
DOUGLAS	540,510
DOVER	383,213
DRACUT	1,104,174
DUDLEY	648,189
DUNSTABLE	257,799
DUXBURY	724,755
EAST BRIDGEWATER	351,228
EAST BROOKFIELD	152,835

MUNICIPALITY	AMOUNT
EAST LONGMEADOW	923,497
EASTHAM	361,895
EASTHAMPTON	741,025
EASTON	907,317
EDGARTOWN	346,340
EGREMONT	253,636
ERVING	133,103
ESSEX	215,356
EVERETT	923,158
FAIRHAVEN	779,340
FALL RIVER	3,266,834
FALMOUTH	1,817,876
FITCHBURG	1,856,457
FLORIDA	267,081
FOXBOROUGH	795,585
FRAMINGHAM	2,784,667
FRANKLIN	1,123,758
FREETOWN	561,339
GARDNER	998,745
GAY HEAD	56,723
GEORGETOWN	399,259
GILL	283,751
GLOUCESTER	1,070,342
GOSHEN	178,226
GOSNOLD	14,650
GRAFTON	727,924
GRANBY	441,313
GRANVILLE	440,537
GREAT BARRINGTON	677,698
GREENFIELD	1,077,140
GROTON	643,137
GROVELAND	299,664
HADLEY	544,117
HALIFAX	354,854
HAMILTON	380,692
HAMPDEN	385,594
HANCOCK	162,555
HANOVER	675,717
HANSON	432,637
HARDWICK	602,499
HARVARD	566,979

MUNICIPALITY	AMOUNT
HARWICH	963,979
HATFIELD	389,324
HAVERHILL	2,180,693
HAWLEY	293,753
HEATH	346,990
HINGHAM	1,071,449
HINSDALE	254,660
HOLBROOK	398,072
HOLDEN	923,820
HOLLAND	251,859
HOLLISTON	703,989
HOLYOKE	1,748,196
HOPEDALE	252,518
HOPKINTON	661,790
HUBBARDSTON	563,506
HUDSON	871,729
HULL	457,600
HUNTINGTON	271,475
IPSWICH	658,053
KINGSTON	587,731
LAKEVILLE	489,501
LANCASTER	486,077
LANESBOROUGH	357,475
LAWRENCE	1,915,682
LEE	454,932
LEICESTER	668,934
LENOX	473,170
LEOMINSTER	1,753,680
LEVERETT	240,405
LEXINGTON	1,425,561
LEYDEN	240,091
LINCOLN	434,346
LITTLETON	529,437
LONGMEADOW	794,097
LOWELL	2,889,337
LUDLOW	924,481
LUNENBURG	668,798
LYNN	2,396,738
LYNNFIELD	559,038
MALDEN	1,525,090
MANCHESTER	241,821

MUNICIPALITY	AMOUNT
MANSFIELD	843,598
MARBLEHEAD	737,552
MARION	216,948
MARLBOROUGH	1,528,433
MARSHFIELD	909,599
MASHPEE	892,838
MATTAPOISETT	337,012
MAYNARD	454,095
MEDFIELD	637,138
MEDFORD	1,579,452
MEDWAY	565,583
MELROSE	879,246
MENDON	333,331
MERRIMAC	272,742
METHUEN	1,637,044
MIDDLEBOROUGH	1,246,924
MIDDLEFIELD	253,598
MIDDLETON	385,164
MILFORD	1,120,905
MILLBURY	617,709
MILLIS	450,208
MILLVILLE	158,130
MILTON	950,547
MONROE	109,236
MONSON	771,831
MONTAGUE	791,102
MONTEREY	314,163
MONTGOMERY	206,739
MOUNT WASHINGTON	116,502
NAHANT	147,242
NANTUCKET	1,014,056
NATICK	1,410,761
NEEDHAM	1,398,551
NEW ASHFORD	72,986
NEW BEDFORD	3,515,123
NEW BRAINTREE	334,244
NEW MARLBOROUGH	565,355
NEW SALEM	257,129
NEWBURY	408,868
NEWBURYPORT	761,686
NEWTON	3,586,644

MUNICIPALITY	AMOUNT
NORFOLK	517,409
NORTH ADAMS	653,485
NORTH ANDOVER	1,201,525
NORTH ATTLEBOROUGH	1,096,353
NORTH BROOKFIELD	513,733
NORTH READING	624,982
NORTHAMPTON	1,591,353
NORTHBOROUGH	695,662
NORTHBRIDGE	584,428
NORTHFIELD	475,522
NORTON	728,622
NORWELL	671,114
NORWOOD	1,402,587
OAK BLUFFS	274,008
OAKHAM	299,733
ORANGE	654,642
ORLEANS	466,988
OTIS	290,733
OXFORD	761,064
PALMER	822,553
PAXTON	290,838
PEABODY	1,432,348
PELHAM	158,383
PEMBROKE	575,550
PEPPERELL	615,188
PERU	222,533
PETERSHAM	420,881
PHILLIPSTON	309,244
PITTSFIELD	2,234,780
PLAINFIELD	318,074
PLAINVILLE	383,894
PLYMOUTH	1,956,842
PLYMPTON	247,818
PRINCETON	549,007
PROVINCETOWN	189,328
QUINCY	2,940,105
RANDOLPH	1,112,629
RAYNHAM	608,111
READING	875,668
REHOBOTH	873,367
REVERE	1,154,149

MUNICIPALITY	AMOUNT
RICHMOND	277,979
ROCHESTER	419,949
ROCKLAND	633,136
ROCKPORT	324,988
ROWE	238,779
ROWLEY	335,113
ROYALSTON	469,027
RUSSELL	176,120
RUTLAND	486,110
SALEM	1,204,877
SALISBURY	327,121
SANDISFIELD	540,789
SANDWICH	848,932
SAUGUS	964,319
SAVOY	328,018
SCITUATE	866,984
SEEKONK	859,666
SHARON	904,473
SHEFFIELD	596,269
SHELBURNE	363,387
SHERBORN	374,652
SHIRLEY	384,084
SHREWSBURY	1,215,826
SHUTESBURY	221,979
SOMERSET	799,165
SOMERVILLE	1,722,077
SOUTH HADLEY	757,799
SOUTHAMPTON	479,248
SOUTHBOROUGH	556,754
SOUTHBRIDGE	787,533
SOUTHWICK	524,786
SPENCER	801,409
SPRINGFIELD	5,707,127
STERLING	654,427
STOCKBRIDGE	326,673
STONEHAM	787,149
STOUGHTON	1,185,250
STOW	377,695
STURBRIDGE	664,638
SUDBURY	969,205
SUNDERLAND	291,973

MUNICIPALITY	AMOUNT
SUTTON	674,837
SWAMPSCOTT	423,489
SWANSEA	877,494
TAUNTON	2,024,560
TEMPLETON	537,228
TEWKSBURY	1,343,843
TISBURY	187,061
TOLLAND	264,644
TOPSFIELD	422,963
TOWNSEND	660,916
TRURO	276,495
TYNGSBOROUGH	516,998
TYRINGHAM	169,029
UPTON	447,096
UXBRIDGE	711,554
WAKEFIELD	1,034,265
WALES	174,560
WALPOLE	1,068,821
WALTHAM	2,602,033
WARE	702,454
WAREHAM	1,044,839
WARREN	493,871
WARWICK	375,388
WASHINGTON	282,277
WATERTOWN	1,165,589
WAYLAND	791,097
WEBSTER	720,399
WELLESLEY	1,355,988
WELLFLEET	399,112
WENDELL	322,568
WENHAM	222,522
WEST BOYLSTON	435,125
WEST BRIDGEWATER	524,339
WEST BROOKFIELD	378,574
WEST NEWBURY	318,624
WEST SPRINGFIELD	1,335,625
WEST STOCKBRIDGE	255,366
WEST TISBURY	115,156
WESTBOROUGH	1,120,876
WESTFIELD	1,808,618
WESTFORD	1,099,538

MUNICIPALITY	AMOUNT
WESTHAMPTON	307,878
WESTMINSTER	650,175
WESTON	715,378
WESTPORT	1,000,255
WESTWOOD	822,901
WEYMOUTH	1,791,352
WHATELY	223,116
WHITMAN	517,777
WILBRAHAM	769,474
WILLIAMSBURG	308,805
WILLIAMSTOWN	502,070
WILMINGTON	1,154,243
WINCHENDON	721,162
WINCHESTER	829,338
WINDSOR	441,369
WINTHROP	483,434
WOBURN	1,859,773
WORCESTER	6,919,416
WORTHINGTON	392,773
WRENTHAM	554,160
YARMOUTH	1,377,428.

Approved June 7, 1996.

Chapter 114. AN ACT DESIGNATING A PORTION OF STATE HIGHWAY ROUTE 2 AS THE GATEWAY TO THE MOHAWK TRAIL.

Be it enacted, etc., as follows:

That portion of the state highway known as Route 2 beginning in the town of Shirley and extending westerly through the town of Orange shall be known and designated as the Gateway to the Mohawk Trail. The department of highways shall erect and maintain a suitable marker bearing said designation.

Approved June 7, 1996.

Chapter 115. AN ACT RELATIVE TO THE MASSACHUSETTS CREDIT UNION SHARE INSURANCE CORPORATION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide excess insurance of shares and deposits in federally chartered

credit unions whose main office is located 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 1A of chapter 294 of the acts of 1961, inserted by section 1 of chapter 278 of the acts of 1982, is hereby amended by striking out the definitions of "Excess member" and "Excess shares and deposits" and inserting in place thereof the following five definitions:-

"Commissioner", the commissioner of banks.

"Corporation", the Massachusetts Credit Union Share Insurance Corporation established by chapter two hundred and ninety-four of the acts of nineteen hundred and sixty-one.

"Excess member", an inactive member or a federally chartered credit union whose excess shares and deposits, as hereinafter defined, shall become insured by the corporation pursuant to this chapter.

"Excess shares and deposits", the portion of the shares and deposits in any insured credit union in excess of those sums insured by the National Credit Union Share Insurance Fund or any successor thereto.

"Federally chartered credit union", a credit union chartered under the laws of the United States whose main office is located in the commonwealth.

SECTION 2. Said section 1A of said chapter 294 is hereby further amended by adding the following definition:-

"State chartered credit union", a credit union chartered under the laws of the commonwealth.

SECTION 3. Said chapter 294 is hereby further amended by striking out section 6B, as most recently amended by section 5 of chapter 237 of the acts of 1987, and inserting in place thereof the following section:-

Section 6B. Termination of Membership.- Insurance of a member by the corporation may be terminated by the directors of the corporation, with the approval of the commissioner, after a hearing to be held before the commissioner and a committee of said directors upon at least fifteen days prior notice, in the following circumstances:

(*a*) if a regular or excess member shall have failed to pay any assessment lawfully required under this act within fifteen days after notice from the treasurer of the corporation that such payment is overdue;

(*b*) if a regular or excess member has conducted its business in an unsafe or unsound manner, or has knowingly or negligently permitted any of its officers or agents to violate any provision of any law or regulation to which such member is subject;

(*c*) if the primary insurance coverage of an excess member has been terminated for cause by the National Credit Union Share Insurance Fund;

(*d*) if an excess member fails to cure a breach of the terms of its contract of insurance

with the corporation;

(*e*) if an excess member fails to provide examination or financial reports to the corporation pursuant to paragraphs (*d*) and (*e*) of section six D or if an excess member fails to submit to examination by the commissioner pursuant to paragraph (*f*) of said section six D; or

(*f*) as otherwise provided in said section six D.

After termination of insurance pursuant to the provisions of this section, insurance for excess shares and deposits, other than term shares and deposits, to the extent insured on the date of termination, less any amounts thereafter withdrawn which reduce the amount of excess shares and deposits covered by the corporation on the date of termination, shall continue for a period of one year commencing with the date of termination. After such termination of insurance, term shares and deposits, to the extent insured on the date of termination, less any amounts thereafter withdrawn which reduce the amount of excess shares and deposits covered by the corporation on the date of termination, shall continue to be insured for the duration of their term. No shares issued by or deposits received by the excess member after the date of termination shall be insured to any extent by the corporation. Subsequent to the date of termination, the excess member shall in all other respects, including, without limitation, the payment of required assessments or fees, be subject to the duties and obligations of an excess member under the provisions of this chapter, applicable laws and regulations or the contract of insurance between the excess member and the corporation for the duration of such continuing insurance coverage period. If the excess member is liquidated or dissolved during the period such continuing insurance is provided by the corporation, the corporation shall have the same rights, remedies and powers with respect to the excess member, its members and the National Credit Union Administration, as if the excess member's insurance had not been terminated prior to such liquidation or dissolution.

In the event of termination of insurance as a result of the provisions of paragraph (*c*), the provisions of the preceding paragraph relating to shares and deposits other than term shares and deposits shall apply to an excess member and its excess shares and deposits only if, and to the same extent that, similar coverage is provided by the excess member's primary insurer.

In the event of termination of insurance of a regular or excess member, the commissioner may order such member to give such notice to its shareholders and depositors as he may require. In the event of the failure to give such required notice, the commissioner is authorized to give such notice in such manner as he may determine and, for such purpose, such member shall provide a list of all names and addresses of its depositors and shareholders to the commissioner.

SECTION 4. Said chapter 294 is hereby further amended by striking out section 6D, as most recently amended by section 7 of said chapter 237, and inserting in place thereof the following section:-

Section 6D. Excess Insurance of Excess Members.- The excess shares and deposits of excess members deposited in the main office or any branch office thereof located within

the commonwealth shall be insured in full by the corporation, subject to the following conditions and limitations:

(*a*) Any applicant for excess membership shall first give notice in writing to the corporation of its intention to become such member and shall submit such financial statements and other information concerning its assets, liabilities and affairs as the commissioner and the corporation may require. Applications for excess membership shall be governed by the provisions of section six A. Any such application must be approved by the directors of the corporation and the commissioner; provided, however, that if the applicant is then insured by the National Credit Union Share Insurance Fund, the National Credit Union Administration's certification of its sound and safe condition may be submitted in lieu of approval by the commissioner.

(*b*) An excess member which is a federally chartered credit union may have its excess shares and deposits insured only to the same extent as is permitted for an excess member which is a state chartered credit union subject to the maximum share and deposit limitations applicable to state chartered credit unions under section thirty of chapter one hundred and seventy-one of the General Laws.

(*c*) An excess member shall enter into a contract of insurance with the corporation which shall be approved by the commissioner. Such contract of insurance shall contain provisions regarding the terms, conditions and fee and assessment structure under which excess insurance coverage may be issued, maintained, renewed or terminated. Upon the withdrawal of a regular member to excess membership, the corporation shall retain all assessments theretofore paid to it pursuant to sections seven and eight. Excess members which have withdrawn from regular membership shall be entitled to receive a proportionate share of any dividends declared pursuant to the provisions of paragraph (*d*) of said section seven. Fees and assessments shall be determined by the directors with the approval of the commissioner, shall be added to and become part of the Share Insurance Fund and shall be available for distribution in the event of dissolution or liquidation of the corporation, in the manner and to the extent provided in section ten.

(*d*) An excess member shall, at least semi-annually, file with the corporation financial reports in such form and containing such information as the corporation and the commissioner may require. The corporation may also require such further information and reports from excess members as it deems necessary. Financial reports shall contain a certification by the president, treasurer or other officer designated by the board of directors of the reporting excess member, that the reports are true and correct to the best of the certifier's knowledge and belief.

(*e*) Unless prohibited by applicable law or regulations, a member which is a federally chartered credit union shall, in addition to paragraph (*d*), be required and shall agree, to provide to the corporation copies of examination reports and other reports and information regarding such credit union made by and for any appropriate federal banking regulatory authority.

(*f*) An excess member which is a federally chartered credit union shall be subject, and shall agree, to supervision and examination by the commissioner and shall be subject

to the provisions of section two of chapter one hundred and sixty-seven of the General Laws. The commissioner, in his sole discretion, periodically shall examine the affairs of an excess member which is a federally chartered credit union to evaluate the level of risk of loss such excess member's financial condition may pose to the corporation. The costs of such examination shall be borne by such federally chartered credit union and shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven of the General Laws. Upon examination, the commissioner may take such directions, recommendations and orders to an excess member which is a federally chartered credit union as he deems expedient to the same extent as provided by section three of said chapter one hundred and sixty-seven. Nothing contained herein shall limit an excess member which is a federally chartered credit union from the exercise of any powers authorized for a federally chartered credit union pursuant to and in conformance with the Federal Credit Union Act, or applicable rules and regulations promulgated thereunder, or pursuant to other applicable federal laws and regulations.

(*g*) An excess member which is a federally chartered credit union shall obtain the approval of the corporation and the commissioner prior to its merger or consolidation with, or the purchase of the assets and the assumption of the share and deposit liabilities of a banking institution as defined by section one of chapter one hundred and sixty-seven A of the General Laws or a credit union chartered by the commonwealth, the United States or another state. Failure to obtain such approvals shall result in an automatic termination of excess insurance under section six B.

(*h*) An excess member which is a federally chartered credit union shall obtain the approval of the corporation and the commissioner prior to its establishment of a branch office in any other state other than the commonwealth. Failure to obtain such approvals shall result in an automatic termination of excess insurance under said section six B.

(*i*) Upon payment by the corporation of any excess share or deposit insured by the corporation in any excess member, the corporation shall be subrogated to the rights of the person to whom such insurance was so paid to receive the same distribution from the proceeds of assets and claims of such excess member as would have been payable to such person on a claim for the portion of such person's share or deposit so paid by the corporation, subject to the rights of the National Credit Union Administration.

(*j*) Notwithstanding any other provisions hereof, if the National Credit Union Administration is at any time a depositor in any excess member, either directly or through any other governmental agency, the amounts deposited, directly or indirectly, by the National Credit Union Administration shall not be deemed insured to any extent by the corporation.

(*k*) Excess members of the corporation shall not have any of the rights and privileges of regular members except as expressly provided otherwise herein.

SECTION 5. Said chapter 294 is hereby further amended by adding the following section:-

Section 15. The directors of the corporation may make such rules and regulations, subject to the approval of the commissioner, as they deem necessary in order to carry out the

provisions of this chapter, and for purposes of this chapter the commissioner may confer and advise with the directors and may furnish them such information, records, statements and reports of examination or copies thereof, relating to any regular or excess member, as the directors may request.

SECTION 6. It is hereby declared that the Massachusetts Credit Union Share Insurance Corporation, established by chapter two hundred and ninety-four of the acts of nineteen hundred and sixty-one, is not an agency of the commonwealth. Nothing contained in said chapter two hundred and ninety-four, and nothing contained in this act, shall be construed to pledge the credit of the commonwealth for any of the past, current or future operations, obligations or liabilities of said Massachusetts Credit Union Share Insurance Corporation.

Approved June 7, 1996.

Chapter 116. AN ACT AUTHORIZING THE SCHOOL DEPARTMENTS OF THE CITIES AND TOWN OF SUFFOLK COUNTY TO BE OPEN FOR BUSINESS ON JUNE SEVENTEENTH, NINETEEN HUNDRED AND NINETY-SIX.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of sections twelve and thirteen of chapter one hundred and thirty-six and chapter seventy-one of the General Laws or any other general or special law to the contrary, the school departments of the cities and town of Suffolk county are hereby authorized to be open for business for all purposes, including the instruction of students in classrooms on Monday, June seventeenth, nineteen hundred and ninety-six.

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

Approved June 10, 1996.

Chapter 117. AN ACT RELATIVE TO THE REUSE OF CASKETS.

Be it enacted, etc., as follows:

SECTION 1. The fourth paragraph of section 84 of chapter 112 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out clause (i) and inserting in place thereof the following clause:-

(i) the resale or rental of any casket or part of any casket which has previously been used as a receptacle for, or in any connection with, the burial or other disposition of a dead human body, without the knowledge and consent of the consumer; provided, however, that any such casket or part of any such casket intended for reuse shall be equipped with a remov-

able liner and said removable liner shall be removed from said casket prior to reuse; provided, further, that the board shall promulgate and adopt rules and regulations concerning said reuse of caskets.

SECTION 2. The rules and regulations required to be promulgated and adopted by the board of registration in embalming and funeral directing, pursuant to section one of this act, shall be promulgated and adopted within one hundred and eighty days from the effective date of this act.

Approved June 12, 1996.

Chapter 118. AN ACT RELATIVE TO RECORD KEEPING BY CERTAIN LICENSEES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 140 of the General Laws is hereby amended by striking out section 97, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 97. The commissioner may prescribe from time to time such rules and regulations as he deems necessary and proper for carrying out the provisions of sections ninety-six to one hundred and fourteen, inclusive, relative to the business carried on by licensees and by loan companies and associations established by special charter including, but not limited to, the granting of licenses and the renewal thereof, the conduct of examinations and investigations and the keeping of records by a licensee. Such rules and regulations may contain such classifications, differentiations or other provisions and may provide for such adjustments and exceptions for a class of transactions as, in the judgment of said commissioner, are necessary or proper to carry out the provisions of said sections ninety-six to one hundred and fourteen, inclusive, to prevent circumvention or evasion thereof or to facilitate compliance therewith. Said commissioner shall, at least once a year and more often if he deems it necessary, examine the affairs of a licensee, company or associations and, for said purpose, shall have free access to the premises and all business records thereof. Said commissioner shall assess appropriate fees, as determined annually by the commissioner of administration pursuant to section three B of chapter seven, upon the said licensee, company or association established by special charter for any such examination, including expenses for necessary travel outside the commonwealth for the purpose of conducting such examinations. Said commissioner may cause a number of examinations of any such business records to be made by an accountant whom he may select and the cost of any such examination shall be paid by the person so examined.

A licensee, company or association established by special charter shall keep and use such business records in such form and at such location as said commissioner shall, by regulation, determine which shall enable said commissioner to ascertain the condition of the business of any such licensees, companies or associations and whether they are complying

with the provisions of sections ninety-six to one hundred and fourteen, inclusive, and any rules and regulations promulgated thereunder by said commissioner and any other law, rule or regulation applicable to the conduct of the business for which it is licensed under said sections ninety-six to one hundred and fourteen, inclusive. Such regulations may contain provisions for the suspension or revocation of licenses for violations thereof and for such records to be recorded, copied or reproduced by photographic, photostatic, microfilm, microcard, miniature photographic, electronic, including, but not limited to, optical imaging or other process which accurately reproduces or forms a durable medium for reproducing the original record or document or in any other form or manner authorized by said commissioner; provided, however, that nothing in this section shall be construed to permit any such licensee to destroy original records or documents. Each such licensee, company or association shall preserve all such business records for as long a period as said commissioner shall prescribe by regulation. Notwithstanding the provisions of any general or special law or the Massachusetts Rules of Civil Procedure to the contrary, service of a subpoena for business records upon a licensee, company or association, delivered to an office of such licensee, company or association located within the commonwealth, shall be deemed to have been served at the location, whether within or outside the commonwealth, where the original business records are kept or maintained.

SECTION 2. Said chapter 140 is hereby further amended by striking out section 98, as so appearing, and inserting in place thereof the following section:-

Section 98. Each person required by sections ninety-six to one hundred and fourteen, inclusive, to be under the supervision of the commissioner shall annually, on or before the fifteenth day of April, file a report with said commissioner containing such information as said commissioner may require concerning the business and operations during the preceding calendar year at each licensed place of business conducted by a licensee within the commonwealth. Any person neglecting to file such report or failing to amend such report within fifteen days after notice from said commissioner directing the same shall, unless such neglect or failure is due to justifiable cause and not due to wilful neglect, pay to the commonwealth fifty dollars for each day during which such neglect or failure continues.

SECTION 3. Chapter 255B of the General Laws is hereby amended by striking out section 3, as so appearing, and inserting in place thereof the following section:-

Section 3. The commissioner may prescribe from time to time such rules and regulations as he deems necessary and proper for carrying out the provisions of this chapter including, but not limited to, the granting of licenses and the renewal thereof, the conduct of examinations and investigations and the keeping of records by a licensee. Such rules and regulations may contain such classifications, differentiations or other provisions, and may provide for such adjustments and exceptions for a class of transactions as, in the judgment of said commissioner, are necessary or proper to carry out the purposes of this chapter to prevent circumvention or evasion thereof or to facilitate compliance therewith. Said commissioner may, when he deems it to be in the public interest, examine the affairs of a licensee and, for said purpose, shall have free access to the premises and all business records of such licensee, may require the attendance of and examine under oath any person and shall

have the power to compel the production of all such business records. Said commissioner shall assess appropriate fees, as determined annually by the commissioner of administration pursuant to section three B of chapter seven, upon the licensee for any such examination, including expenses for necessary travel outside the commonwealth for the purpose of conducting such examinations. Said commissioner of banks may cause a number of examinations of any such business records to be made by an accountant whom he may select and the cost of any such examination shall be paid by the licensee whose records are so examined.

A licensee shall keep and use such business records in such form and at such location as said commissioner shall, by regulation, determine which shall enable said commissioner to determine whether such licensee is complying with the provisions of this chapter and any applicable rules and regulations and any other law, rule or regulation applicable to the conduct of the business for which it is licensed under this chapter. Such regulations may contain provisions for the suspension or revocation of licenses for violations hereof and for such records to be recorded, copied or reproduced by photographic, photostatic, microfilm, microcard, miniature photographic, electronic, including, but not limited to, optical imaging or other process which accurately reproduces or forms a durable medium for reproducing the original record or document or in any other form or manner authorized by the commissioner; provided, however, that nothing in this section shall be construed to permit any such licensee to destroy original records or documents. Each such licensee shall preserve all such business records for as long a period as said commissioner shall prescribe by regulation. Notwithstanding the provisions of any general or special law or the Massachusetts Rules of Civil Procedure to the contrary, service of a subpoena for business records upon a licensee, delivered to an office of such licensee located within the commonwealth, shall be deemed to have been served at the location, whether within or outside the commonwealth, where such original business records and documents are kept or maintained.

Each licensee shall annually, on or before April fifteenth, file a report with said commissioner containing such information as said commissioner may require concerning its business and operations during the preceding calendar year at each licensed place of business conducted by a licensee within the commonwealth. Any licensee neglecting to file such annual report or failing to amend the same within fifteen days after notice from the commissioner directing the same shall, unless such neglect or failure is due to justifiable cause and not to wilful neglect, pay to the commonwealth fifty dollars for each day during which such neglect or failure continues.

SECTION 4. Chapter 255C of the General Laws is hereby amended by striking out sections 6 and 7, as so appearing, and inserting in place thereof the following section:-

Section 6. The commissioner may prescribe from time to time such rules and regulations as he deems necessary and proper for carrying out the provisions of this chapter including, but not limited to, the granting of licenses and the renewal thereof, the conduct of examinations and investigations and the keeping of records by a licensee. Such rules ad regulations may contain such classifications, differentiations or other provisions and may provide for such adjustments and exceptions for a class of transactions as, in the judgment

of said commissioner, are necessary and proper to carry out the purposes of this chapter, to prevent circumvention or evasion thereof or to facilitate compliance therewith. Said commissioner may, when he deems it to be in the public interest, examine the affairs of a licensee and, for said purpose, shall have free access to the premises and all business records of such licensee, may require the attendance of and examine under oath any person and shall have the power to compel the production of all such business records. Said commissioner shall assess appropriate fees, as determined annually by the commissioner of administration pursuant to section three B of chapter seven, upon the licensee for any such examination, including expenses for necessary travel outside the commonwealth for the purpose of conducting such examinations. Said commissioner may cause a number of examinations of any such business records to be made by an accountant whom he may select and the cost of any such examination shall be paid by the licensee whose records are so examined.

All reports of examinations and investigations and all correspondence and memoranda concerning or arising out of such examinations and investigations, including any duly authenticated copy or copies thereof in the possession of a licensee or the division of banks and loan agencies shall be confidential communications and shall not be made public unless said commissioner determines it to be in the public interest, in which event he may publish or authorize the publication of a copy of any such report or other material referred to in this section or any part thereof in such manner and to such extent as he may deem proper. A violation of this chapter shall also be a violation of chapter ninety-three A.

A licensee shall keep and use such business records in such form and at such location as said commissioner shall, by regulation, determine which shall enable said commissioner to determine whether such licensee is complying with the provisions of this chapter and any rules or regulations promulgated hereunder by said commissioner and any other law, rule or regulation applicable to the conduct of the business for which it is licensed under this chapter. Such regulations may contain provisions for the suspension or revocation of licenses for violations hereof and for such records to be recorded, copied or reproduced by photographic, photostatic, microfilm, microcard, miniature photographic, electronic, including, but not limited to, optical imaging or other process which accurately reproduces or forms a durable medium for reproducing the original record or document or in any other form or manner authorized by said commissioner; provided, however, that nothing in this section shall be construed to permit any such licensee to destroy original records or documents. Each such licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by regulation. Notwithstanding the provisions of any general or special law or the Massachusetts Rules of Civil Procedure to the contrary, service of a subpoena for business records upon a licensee, delivered to an office of such licensee located within the commonwealth, shall be deemed to have been served at the location, whether within or outside the commonwealth, where the original records or documents are kept or maintained.

Each licensee shall annually, on or before April fifteenth, file a report with said commissioner containing such information as said commissioner may require concerning the business and operations during the preceding calendar year at each licensed place of business

conducted by a licensee within the commonwealth. Any licensee neglecting to file such annual report or failing to amend the same within fifteen days of notice from said commissioner directing the same shall, unless such neglect or failure is due to justifiable cause and not to wilful neglect, pay to the commonwealth fifty dollars for each day during which such neglect or failure continues.

SECTION 5. Section ten of said chapter two hundred and fifty-five C is hereby repealed.

SECTION 6. Chapter 255D of the General Laws is hereby amended by striking out section 3, as so appearing, and inserting in place thereof the following section:-

Section 3. The commissioner may prescribe from time to time such rules and regulations as he deems necessary and proper for carrying out the provisions of this chapter including, but not limited to, the granting of licenses and the renewal thereof, the conduct of examinations and investigations and the keeping of records by a licensee. Such rules and regulations may contain such classifications, differentiations or other provisions and may provide for such adjustments and exceptions for a class of transactions as in the judgment of said commissioner are necessary and proper to carry out the provisions of this chapter, to prevent circumvention or evasion thereof or to facilitate compliance therewith. Said commissioner may, whenever he deems it to be in the public interest, examine the affairs of a licensee and, for said purpose, shall have free access to the premises and all business records of such licensee, may require the attendance of and examine under oath any person and shall have the power to compel the production of all such business records. Said commissioner shall assess appropriate fees, as determined annually by the commissioner of administration pursuant to section three B of chapter seven, upon the licensee for any such examination, including expenses for necessary travel outside the commonwealth for the purpose of conducting such examinations. Said commissioner of banks may cause a number of examinations of any such business records to be made by an accountant whom he may select and the cost of any such examination shall be paid by the licensee whose records are so examined.

A licensee shall keep and use such business records, in such form and at such location as said commissioner shall, by regulation, determine, which shall enable the commissioner to determine whether such licensee is complying with the provisions of this chapter and any rules or regulations promulgated hereunder by said commissioner and any other law, rule or regulation applicable to the conduct of the business for which it is licensed under this chapter. Such regulations may contain provisions for the suspension or revocation of licenses for violations hereof and for such records to be recorded, copied or reproduced by photographic, photostatic, microfilm, microcard, miniature photographic, electronic, including, but not limited to, optical imaging, or other process which accurately reproduces or forms a durable medium for reproducing the original record or document or in any other form, or manner authorized by the commissioner; provided, however, that nothing in this section shall be construed to permit any such licensee to destroy original records or documents. Each such licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by regulation. Notwithstanding the provisions of any

general or special law or the Massachusetts Rules of Civil Procedure to the contrary, service of a subpoena for business records upon a licensee, delivered to an office of such licensee located within the commonwealth, shall be deemed to have been service at the location, whether within or outside the commonwealth, where the original business records or documents are kept or maintained.

Each licensee shall annually, on or before April fifteenth, file a report with the commissioner containing such information as said commissioner may require concerning the business and operations during the preceding calendar year at each licensed place of business conducted by a licensee within the commonwealth. Any licensee neglecting to make such annual report or failing to amend the same within fifteen days of notice from the commissioner directing the same shall, unless such neglect or failure is due to justifiable cause and not due to wilful neglect, pay to the commonwealth fifty dollars for each day during which such neglect or failure continues.

SECTION 7. Chapter 255E of the General Laws is hereby amended by striking out section 8, as so appearing, and inserting in place thereof the following section:-

Section 8. Each licensee shall annually, on or before the fifteenth day of April, file a report with the commissioner containing such information as said commissioner may require concerning the business and operations during the preceding calendar year at each licensed place of business conducted by a licensee in the commonwealth. A licensee neglecting to file such report or failing to amend the same within fifteen days of notice from said commissioner directing the same shall, unless such neglect or failure is due to justifiable cause and not due to wilful neglect, pay to the commonwealth fifty dollars for each day during which such neglect or failure continues.

A licensee shall keep and use such business records in such form and at such location as said commissioner shall, by regulation, determine, which shall enable said commissioner to determine whether such licensee is complying with the provisions of this chapter and any rules or regulations promulgated hereunder by said commissioner and any other law, rule or regulation applicable to the conduct of the business for which it is licensed under this chapter. Such regulations may contain provisions for the suspension or revocation of licenses for violations hereof and for such records to be recorded, copied or reproduced by photographic, photostatic, microfilm, microcard, miniature photographic, electronic, including, but not limited to, optical imaging, or other process which accurately reproduces or forms a durable medium for reproducing the original record or document or in any other form or manner authorized by the commissioner; provided, however, that nothing in this section shall be construed to permit any such licensee to destroy original records or documents. Each such licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by regulation. Notwithstanding the provisions of any general or special law or the Massachusetts Rules of Civil Procedure to the contrary, service of a subpoena for business records upon a licensee, delivered to an office of such licensee located within the commonwealth shall be deemed to have been served at the location, whether within or outside the commonwealth, where the original business records or documents are kept or maintained.

Each licensee shall, when directed by said commissioner, permit said commissioner or his duly authorized representative to inspect its relevant records and evidence of compliance with the provisions of this chapter or any rule or regulation issued hereunder and with any other law, rule or regulation applicable to the conduct of the business for which it is licensed under this chapter. For the purposes of such inspection, said commissioner or his representative shall have access to the offices and place of business, books, accounts, papers, records and files of all such licensees. Said commissioner, and any person designated by him, may require the attendance and testimony of any person whom he deems necessary relative to the conduct and operation of such business. The total cost for any such inspection, which shall be paid by the licensee within thirty days after the receipt of an invoice therefor, shall be in accordance with fees determined annually by the commissioner of administration pursuant to section three B of chapter seven, including expenses for necessary travel outside the commonwealth for the purposes of conducting such inspections.

Approved June 14, 1996.

Chapter 119. AN ACT FURTHER REGULATING MOTOR VEHICLE DAMAGE REPAIR SHOPS.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 100A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 11, the word "one" and inserting in place thereof the following word:- three.

SECTION 2. Section 4 of said chapter 100A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "for one year from the date of its issuance, may be renewed" and inserting in place thereof the following words:- until June first of the third year after issuance, may thereafter be renewed for a three year period.

SECTION 3. Section 10 of said chapter 100A, as so appearing, is hereby amended by adding the following paragraph:-

In addition to any other penalties provided herein, whenever the director determines that a person who is required to be registered hereunder has failed to so register, the director may serve a stop work order on said person, requiring the cessation of all business operations. Such order shall take effect five days after the date of service upon such person. Any person who is aggrieved by the imposition of a stop work order shall have five days from the date of service to appeal such order, and shall thereafter be granted a hearing by the director within five days of receipt of appeal. If the director finds at the hearing that the person was required to be registered, and failed to register, the stop work order shall be effective immediately on the conclusion of the hearing, and shall remain in effect until the person becomes properly registered. Any law enforcement agency in the commonwealth shall, at the request of the director, render any assistance necessary to carry out the provisions of this paragraph, including but not limited to preventing any employee or other

person from remaining at the place of business after a stop work order has taken effect.

SECTION 4. Notwithstanding the provisions of sections one and two, for all registered motor vehicle repair shops with registrations that become renewable within one year after the effective date of this act, the director shall renew one-third of approved applications until June first of the first calendar year after renewal and shall charge a registration fee of one hundred dollars therefor, the director shall renew one-third of approved applications until June first of the second calendar year after renewal and shall charge a registration fee in the amount of two hundred dollars therefor, and the director shall renew one-third of approved applications until June first of the third calendar year after renewal and shall charge a registration fee in the amount of three hundred dollars therefor.

SECTION 5. Subsection (a) of section 20D of chapter 90D of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The vehicle identification number of every vehicle for which an application is submitted shall be inspected by an inspector at a location designated by the registrar. In addition, of the vehicles presented for such inspection, a certain number may be selected for inspection of the vehicle's major component parts which have been repaired or replaced as part of the rebuilding process to determine that the vehicle's parts have not been removed, falsified, altered, defaced, destroyed, or tampered with, and that the vehicle information contained in the application and supporting documents is true and correct. The selection of vehicles to undergo said major component part inspection shall be on a random basis, in accordance with criteria and procedures established by the registrar by regulation, which may be changed from time to time as the registrar deems necessary. The inspector may examine the identification number of each part that has been repaired or replaced as a part of the rebuilding process, in addition to the vehicle identification number, and may compare said numbers to the vehicle identification numbers and identification numbers of parts entered into any state, regional, or national computer network that records the vehicle identification numbers of stolen motor vehicles and the identification numbers of stolen parts. Nothing in this section shall establish a presumption, that a part has been removed, falsified, altered, defaced, destroyed, or tampered with by a person submitting a vehicle for inspection, if such part fails to contain a required identification label. The major component inspection shall not be for the purpose of checking road worthiness or the safety condition of the vehicle. No liability shall be imposed on the registrar or the commonwealth or its agents or employees with respect to any act or omission related to said inspection. A person aggrieved by an adverse report issued under this section by a vehicle inspector, may file a written request for reconsideration of the inspector's report with the registrar, within thirty days of receiving a written copy of said report. The registrar shall assign the request for review to a hearing officer, who shall schedule a hearing to be held within thirty days of the date of the request, at a place of the registrar's choosing. The hearing officer may continue the hearing and may remove said hearing to a more appropriate place if necessary. The hearing officer may affirm or overrule the decision of the inspector. A final decision by the hearing officer shall be rendered within fifteen days of the closing of the final date of

hearing.

Approved June 18, 1996.

Chapter 120. AN ACT RELATIVE TO COMMISSION SALES CONTRACTS.

Be it enacted, etc., as follows:

SECTION 1. Section 7 of chapter 104 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 11, the words "an individual" and inserting in place thereof the following words:- a person.

SECTION 2. Said section 7 of said chapter 104, as so appearing, is hereby further amended by inserting after the word "orders", in line 12, the following words:- in the commonwealth.

SECTION 3. Said section 7 of said chapter 104, as so appearing, is hereby further amended by striking out, in line 18, the words "by either" and inserting in place thereof the following words:- whether by expiration of a contract,.

SECTION 4. Said chapter 104 is hereby further amended by striking out sections 8 and 9, as so appearing, and inserting in place thereof the following two sections:-

Section 8. The terms of the contract between a principal and a sales representative shall determine when a commission shall be due. If the time when such commission shall be due is not specified in a contract, the past practices between the parties shall control or, if there are no such past practices, the custom and usage prevalent in the commonwealth for the business that is the subject of the relationship between the parties shall control. All commissions that are due at the time of termination of a contract between a sales representative and principal shall be paid within fourteen days after the date of termination. Commissions that become due after the termination date shall be paid within fourteen days after the date on which the commissions became due.

Section 9. A principal who wilfully or knowingly fails to comply with provisions relating to the prompt payment of commissions set forth in section eight shall be liable to the sales representative in a civil action for the principal amount of the commissions owed and for an additional sum up to three times the amount of commissions and for reasonable attorney's fees and court costs. A principal who is not a resident of the commonwealth and who enters into a contract subject to the provisions of sections seven to nine shall be deemed to be doing business in the commonwealth for purposes of the exercise of personal jurisdiction over such principal. No provision of sections seven to nine may be waived, whether by express waiver or by an attempt to make a contract or agreement subject to the laws of another jurisdiction. A waiver of any provision of sections seven to nine shall be void.

Approved June 18, 1996.

Chapter 121. AN ACT AUTHORIZING AND DIRECTING THE STATE BOARD OF RETIREMENT TO GRANT CREDITABLE SERVICE TO EDWARD F. RYAN, JR.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize and direct the state board of retirement to grant creditable service to Edward F. Ryan, Jr., 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 to the contrary, the state retirement board is hereby authorized and directed to grant Edward F. Ryan, Jr., a former employee of the department of mental retardation, one hundred and sixty days of additional creditable service and to adjust his superannuation retirement benefits accordingly, such adjustment to be effective on the date of his retirement.

Approved June 18, 1996.

Chapter 122. AN ACT AUTHORIZING THE COMMISSIONER OF PUBLIC WORKS OF THE CITY OF NEWTON TO ACT UPON CERTAIN UNDERGROUND UTILITY PETITIONS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section twenty-two of chapter one hundred and sixty-six of the General Laws or any other general or special law to the contrary, the commissioner of public works of the city of Newton shall have the powers and duties under said section to grant orders and act upon petitions for the construction of underground lateral wires and conduits within a public way from an existing pole to private property and to take such action without notice or hearing; provided, however, that all other provisions of said chapter one hundred and sixty-six shall govern such petitions.

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

Approved June 18, 1996.

Chapter 123. AN ACT AUTHORIZING THE TOWN OF WESTON TO PAY A CERTAIN UNPAID BILL.

Be it enacted, etc., as follows:

SECTION 1. The town treasurer of the town of Weston is hereby authorized to pay from available funds to Assabet Sand and Gravel Company, Inc., the sum of seventeen thousand two hundred and thirty-two dollars and eighty-seven cents for certain materials

delivered to said town, notwithstanding the failure of said town to comply with the appropriate provisions of law relative to competitive bidding in the awarding of said contract.

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

Approved June 18, 1996.

Chapter 124. AN ACT ALLOWING ETHEL KAMIEN TO PURCHASE CREDITABLE SERVICE FROM THE STATE BOARD OF RETIREMENT.

Be it enacted, etc., as follows:

Notwithstanding the provisions of subsection (3) of section three of chapter thirty-two of the General Laws or any other general or special law or rule to the contrary, Ethel Kamien, a former and retired employee of the university of Massachusetts at Lowell, shall be allowed to purchase as creditable service the period of August twenty-seventh, nineteen hundred and sixty-one through February first, nineteen hundred and sixty-two, for the purposes of determining her superannuation retirement allowance pursuant to the provisions of paragraph (*a*) of subdivision (2) of section five of said chapter thirty-two. Eligibility for said creditable service shall be conditioned upon payment to the state employees' retirement system of an amount equal to the contribution she would have otherwise owed for said period of creditable service together with regular interest thereon. Such repayment shall be made in one sum or in installments as the state retirement board shall prescribe; provided, however, that said Ethel Kamien shall thereupon receive such increased allowance together with an amount equal to the difference between the allowance said Ethel Kamien actually received from the date of retirement to the date of recalculation and the amount of the allowance which said Ethel Kamien would have received had such recalculated allowance been paid to said Ethel Kamien from the date of retirement.

Approved June 18, 1996.

Chapter 125. AN ACT AUTHORIZING THE TOWN OF HOLLISTON TO DEDUCT PAYROLL CONTRIBUTIONS FROM EMPLOYEES FOR THE HOLLISTON EDUCATION FOUNDATION.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter one hundred and eighty of the General Laws or any other general or special law to the contrary, deductions on payroll schedules may be made from the salary of any employee of the town of Holliston of any amount which such employee may specify in writing to the treasurer/collector of said town

of Holliston for the payment of a contribution to the Holliston Education Foundation. Any such authorization may be withdrawn by the employee by giving at least thirty days written notice of such withdrawal to said treasurer/collector. Said treasurer/collector shall deduct from the salary of such employee such amount of contributions as may be certified to said treasurer/collector on the payroll and transmit the sum so deducted to said foundation; provided, however, that said treasurer/collector is satisfied by such evidence as he may require that the treasurer of said foundation has given said foundation a bond for the faithful performance of his duties, in a sum and with such surety or sureties as are satisfactory to said treasurer/collector.

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

Approved June 18, 1996.

Chapter 126. AN ACT PROVIDING GROUP INSURANCE BENEFITS FOR CERTAIN SURVIVING SPOUSES OF DECEASED EMPLOYEES OR RETIRED EMPLOYEES IN THE TOWN OF WILMINGTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter thirty-two B of the General Laws, the town of Wilmington shall be deemed to have accepted section nine D½ of said chapter thirty-two B. To the limited extent that the town has made contributions to group health insurance under said chapter thirty-two B for surviving spouses of deceased employees or retired employees of the town of Wilmington, prior to the effective date of this act, such payments shall be deemed to have been made in compliance with said chapter thirty-two B and as if the town had accepted section nine D or nine D½, as the case may be.

SECTION 2. Notwithstanding the provisions of chapter thirty-two B of the General Laws or any other general or special law to the contrary, the town of Wilmington is hereby authorized and directed to pay Mary Fuller, widow of former police officer George Fuller, the sum of seven thousand seven hundred sixty-one dollars and twenty-five cents to settle a claim and to satisfy any moral obligation of the town for group insurance premium contributions said Mary Fuller might otherwise have received from the town had she applied for such group insurance benefits prior to March, nineteen hundred and ninety-four; provided, however, that said Mary Fuller shall execute a written release to the town of Wilmington for any claims she may have relating to group health insurance benefits prior to the receipt of any such payment.

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

Approved June 18, 1996.

Chapter 127. AN ACT AUTHORIZING THE CITY OF MALDEN TO USE CERTAIN PARK LAND FOR SCHOOL PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The city of Malden is hereby authorized to use a certain parcel of land conveyed to said city for park and playground purposes for the construction, maintenance and use of schools and educational facilities, facilities for athletic, sports and community programs and activities, and for general recreational uses. Said parcel is shown on the city of Malden Assessor's Map 117, Block 72800, parcel 815.

SECTION 2. The change in use of said portion of said park is contingent upon suitable replacement park land being provided as approved by the secretary of environmental affairs and the National Park Service.

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

Approved June 18, 1996.

Chapter 128. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR NINETEEN HUNDRED AND NINETY-SIX TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year nineteen hundred and ninety-six and for certain other activities and projects in said fiscal year the sums set forth in section two are hereby appropriated from the General Fund unless specifically designated otherwise herein or in said appropriation acts, for the several purposes and subject to the conditions specified for said items herein or in said appropriation acts and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June thirtieth, nineteen hundred and ninety-six, or for such period as may otherwise be specified. The sums appropriated herein shall be in addition, unless otherwise specified, to the amounts previously appropriated and made available for the purposes of said items.

SECTION 2.

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Metropolitan District Commission.

2440-2000	.....	$1,141,242

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Department of Youth Services.

4200-0010	.....	$134,078
4237-1010	.....	$213,000
4238-1000	.....	$749,000

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Department of Highways.

6010-0001 ..... $1,395,310

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Department of Correction.

8900-0001 ..... $7,514,219

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

Approved June 18, 1996.

Chapter 129. AN ACT RELATIVE TO REVOLVING CREDIT AGREEMENTS.

Be it enacted, etc., as follows:

SECTION 1. Section 114B of chapter 140 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the fourth paragraph.

SECTION 2. Section 20 of chapter 140D of the General Laws, as so appearing, is hereby amended by striking out, in lines 18 to 22, inclusive, the words "; and provided, further, that the finance charge applicable to said balance for any cycle may not be computed on any new sale reflected for the first time in the account during the cycle on any extension of credit made pursuant to chapter two hundred and fifty-five D".

SECTION 3. Section 27 of chapter 255D of the General Laws, as so appearing, is hereby amended by striking out, in line 59, the words "excluding purchases".

Approved June 25, 1996.

Chapter 130. AN ACT REGULATING STATE CONTRACTS WITH COMPANIES DOING BUSINESS WITH OR IN BURMA (MYANMAR).

Be it enacted, etc., as follows:

SECTION 1. Chapter 7 of the General Laws is hereby amended by inserting after section 22F, as appearing in the 1994 Official Edition, the following seven sections:-

Section 22G. For the purposes of sections twenty-two H to twenty-two M, inclusive, the following words shall, unless the context indicates otherwise, have the following meanings:-

"Comparable low bid or offer", a responsive and responsible bid or offer which is no more than ten percent greater than the lowest bid or offer submitted for goods or a service.

"Distribution agreement", an agreement to guarantee a contract for the supply of goods or a service.

"Doing business with Burma (Myanmar)",

(a) having a principal place of business, place of incorporation or its corporate headquarters in Burma (Myanmar) or having any operations, leases, franchises, majority-owned subsidiaries, distribution agreements, or any other similar agreements in Burma (Myanmar), or being the majority-owned subsidiary, licensee or franchise of such a person;

(b) providing financial services to the government of Burma (Myanmar), including providing direct loans, underwriting government securities, providing any consulting advice or assistance, providing brokerage services, acting as a trustee or escrow agent, or otherwise acting as an agent pursuant to a contractual agreement;

(c) promoting the importation or sale of gems, timber, oil, gas or other related products, commerce in which is largely controlled by the government of Burma (Myanmar), from Burma (Myanmar);

(d) providing any goods or services to the government of Burma (Myanmar).

"Essential", necessary in order that an agency or authority may perform its mission, there being no substitute, to avoid irreparable harm to agency or authority programs.

"Franchise", authorization by a person to sell his products.

"Government of Burma (Myanmar)", any public or quasi-public entity operating within Burma (Myanmar), including, but not limited to, municipal, provincial, national or other governmental and military bodies, including all departments and agencies of such bodies, public utilities, public facilities, or any national corporation in which Burma (Myanmar) has a financial interest or operational responsibilities.

"License", permission granted by a person to another, or to the government of Burma (Myanmar), to exercise a certain privilege or to carry on a particular business.

"Majority-owned subsidiary", a company that is at least fifty-one percent owned by another company.

"Person", any individual and any partnership, firm, association, corporation, or other entity, or their subsidiaries.

"Secretary", the secretary of administration and finance.

"State agency", all awarding authorities of the commonwealth, including, but not limited to, all executive offices, agencies, departments, commissions, and public institutions of higher education, and any office, department or division of the judiciary.

"State authority", shall include, but not be limited to the: Bay State Skills Corporation, centers of excellence, Community Economic Development Assistance Corporation, Community Development Finance Corporation, Government Land Bank, Massachusetts Bay Transportation Authority, Massachusetts Business Development Corporation, Massachusetts Capital Resource Company, Massachusetts Convention Center Authority, Massachusetts Corporation for Educational Telecommunications, Massachusetts educational loan authority, Massachusetts Health and Educational Facilities Authority, Massachusetts Higher Education Assistance Corporation, Massachusetts Housing Finance Agency, Massachusetts Horse Racing Authority, Massachusetts Industrial Finance Agency, Massachusetts Industrial Service Program, Massachusetts Legal Assistance Corporation,

Massachusetts Port Authority, Massachusetts Product Development Corporation, Massachusetts Technology Development Corporation, Massachusetts Technology Park Corporation, Massachusetts Turnpike Authority, Massachusetts Water Resources Authority, Nantucket Land Bank, New England Loan Marketing Corporation, pension reserves investment management board, State College Building Authority, Southeastern Massachusetts University Building Authority, Thrift Institutions Fund for Economic Development, University of Lowell Building Authority, University of Massachusetts Building Authority, victim and witness board, and the Woods Hole, Martha's Vineyard, and Nantucket Steamship Authority.

Section 22H. (a) Except as otherwise provided in this section, a state agency, a state authority, the house of representatives or the state senate may not procure goods or services from any person listed on the restricted purchase list maintained by the secretary, or who is determined through affidavit or through other reliable methods to meet the criteria for so being listed.

(b) A state agency, a state authority, the house of representatives or the state senate may procure goods or services from a person who is on or who is so determined to meet the criteria of the restricted purchase list only after certifying in writing to the secretary or, in the case of a state authority, to the chief operating officer that:

(1) the procurement is essential; and

(2) compliance with paragraph (a) would eliminate the only bid or offer, or would result in inadequate competition.

(c) In any solicitation, a state agency, a state authority, the house of representatives or the senate shall provide ample notice of the requirements of this section. Prior to reviewing responses to bid documents for any procurements, or, if there are none, prior to entering into any contractual arrangement, the awarding authority shall obtain from such person seeking a contract a statement, under the pains and penalties of perjury, from an authorized representative of such person seeking a contract, on a form to be provided by the awarding authority, declaring the nature and extent to which said person is engaging in activities which would subject said person to inclusion on the restricted purchase list.

(d) In any procurement that includes bidders or offerors who are on or meet the criteria of the restricted purchase list, the awarding authority may award the contract to a person who is on or who meets the criteria of the restricted purchase list only if there is no comparable low bid or offer by a person who is not on the restricted purchase list.

(e) A person with operations in Burma (Myanmar) for the sole purpose of reporting the news, or solely for the purpose of providing goods or services for the provision of international telecommunications shall not be subject to the provisions of sections twenty-two G to twenty-two M, inclusive.

Section 22I. Notwithstanding the provisions of section twenty-two H, a state agency may purchase medical supplies intended to preserve or prolong life or to cure, prevent, or ameliorate diseases, including hospital, nutritional, diagnostic, pharmaceutical and non-prescription products specifically manufactured to satisfy identified health care needs, or for which there is no medical substitute. The determination of whether no medical substi-

tute exists shall be made by the state agency requiring the supply, pursuant to general standards of good medical and professional practice. The state agency shall give notice to the state purchasing agent in writing, certifying compliance with this exemption, said notice and certification being sufficient to allow the purchase of medical supplies under this exemption.

To the extent that a person doing business in Burma (Myanmar) is providing only medical supplies, as described hereinabove, to persons in Burma (Myanmar), then the supply of goods or equipment to the commonwealth by said person shall also be exempt from the preference requirements of these regulations. This exemption from the preference requirements shall not apply in any case in which the nature of any person's business dealings in Burma (Myanmar) include both medical and non-medical supplies.

Any person from whom a procurement would be restricted under this section shall not supply goods or services to any state agency, state authority, the house of representatives or senate under any other provision of this chapter, or any other general or special law.

Section 22J. (a) The secretary shall establish and maintain a restricted purchase list. The restricted purchase list shall contain the names of all persons currently doing business with Burma (Myanmar).

(b) In establishing the restricted purchase list, the secretary shall consult United Nations reports, resources of the Investor Responsibility Research Center and the Associates to Develop Democratic Burma, and other reliable sources. The secretary shall also place the name of any person who, in the statement described in section twenty-two H, declared that he meets the criteria for being so listed.

(c) The restricted purchase list shall be updated at least once every three months.

(d) The secretary shall provide the lists to all state agencies and state authorities and to the house of representatives and to the senate.

Section 22K. The secretary is hereby authorized and directed to promulgate regulations to assure the timely and effective implementation of sections twenty-two G to twenty-two M, inclusive.

Section 22L. Any contract entered into in violation of sections twenty-two G to twenty-two M, inclusive, shall be void.

Section 22M. Annually on or before January first, the secretary shall file a report with the clerks of the senate and the house of representatives detailing compliance with sections twenty-two G to twenty-two M, inclusive.

SECTION 2. Subsection (a) of section 40F½ of said chapter 7, as appearing in the 1994 Official Edition, is hereby amended by adding the following paragraph:-

It shall be the policy of the commonwealth that the commissioner shall not sell, rent, or dispose of any real property including but not limited to granting the right to lay, construct, maintain, or operate pipelines through, over, across, or under land, water, park, reservation or highway of the commonwealth, its agencies or its political subdivisions, to any person doing business in or with Burma (Myanmar). The commissioner may sell, rent, or dispose of said property or grant said rights to said person only after certifying in writing to the speaker of the house of representatives and president of the senate that such action is

essential to protect the health and safety of the public.

SECTION 3. The provisions of this act shall apply to contracts entered into after the effective date of this act. Any existing contract shall remain in full force and effect and not be subject to the provisions of this act until such time as the renewal of the contractual agreement.

Approved June 25, 1996.

Chapter 131. AN ACT RELATIVE TO A CERTAIN SCHOLARSHIP FUND IN THE TOWN OF ARLINGTON.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 405 of the acts of 1983 is hereby amended by striking out, in lines 8 to 10, inclusive, the words "The Town of Arlington Scholarship Fund; the purpose of said fund being" and inserting in place thereof the following words:- the Arlington Citizens' Scholarship Foundation (ACSF); and establishing a fund.

SECTION 2. Section 6 of said chapter 405 is hereby amended by striking out, in line 2, the words "The Town of Arlington Scholarship Fund" and inserting in place thereof the following words:- the Arlington Citizens' Scholarship Foundation (ACSF).

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

Approved June 25, 1996.

Chapter 132. AN ACT RELATIVE TO THE BOARD OF SELECTMEN OF THE TOWN OF MIDDLEBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. Section 3 of chapter 592 of the acts of 1920, as amended by section 1 of chapter 3 of the acts of 1982, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- The selectmen shall also act as surveyors of highways of the town with all the powers and duties conferred or imposed by law upon surveyors of highways.

SECTION 2. Said section 3 of said chapter 592 is hereby further amended by adding the following paragraph:-

The board of selectmen are hereby authorized to appoint one or more fish wardens qualified to act as such, who shall be sworn to the faithful discharge of their duty in enforcing the provisions of law regarding fishing in the town.

Approved June 25, 1996.

Chapter 133. AN ACT AUTHORIZING THE TOWN OF DARTMOUTH TO TRANSFER CONTROL OF CERTAIN CONSERVATION LAND.

Be it enacted, etc., as follows:

The town of Dartmouth, voting by and through its board of selectmen, is hereby authorized to transfer care, custody and control of a certain parcel of land in said town, presently under the care, custody and control of the conservation commission to the park board to be used for park and recreation purposes. Said parcel is shown as a one acre portion of Lot 60, Plat 209 of the assessors map of said town of Dartmouth.

Approved June 25, 1996.

Chapter 134. AN ACT RELATIVE TO THE RESPONSIBILITIES OF PRINCIPALS.

Be it enacted, etc., as follows:

SECTION 1. Section 47A of chapter 71 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The superintendent may contract to employ athletic coaches hired under the provisions of section fifty-nine B for periods not in excess of three years.

SECTION 2. Section 59B of said chapter 71, as so appearing, is hereby amended by inserting after the word "teachers", in line 10, the following words:- , athletic coaches.

Approved June 25, 1996.

Chapter 135. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF SHREWSBURY AS THE AMSAN JOHN W. "JAY" BURKHARDT, JR., UNITED STATES NAVY, MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge located on state highway Route 140 over Interstate highway Route 290 in the town of Shrewsbury shall be designated and known as the AMSAN John W. "Jay" Burkhardt, Jr., United States Navy, Memorial Bridge, in honor of AMSAN John W. Burkhardt, Jr. who died in the service of his country as a member of the United States Navy. 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 June 25, 1996.

Chapter 136. AN ACT EXEMPTING THE POSITION OF TOWN ACCOUNTANT IN THE TOWN OF BILLERICA FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of town accountant 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 June 25, 1996.

Chapter 137. AN ACT AUTHORIZING THE CITY OF BROCKTON TO CONVEY CERTAIN PROPERTY.

Be it enacted, etc., as follows:

SECTION 1. The city of Brockton, acting by and through its city council, is hereby authorized to convey a certain parcel of land with the building thereon to The Boys and Girls Club of Brockton, Inc. to be used to provide educational and recreational services to persons under the age of eighteen years for one dollar. Said parcel is more particularly described in a deed from the commonwealth to the city of Brockton recorded at the Plymouth county registry of deeds, Book 9319, Page 301.

SECTION 2. No deed conveying by and on behalf of the city of Brockton the property described in section one shall be valid unless such deed provides that said property be used for the purposes described in said section one.

SECTION 3. Title to the aforesaid parcel of land shall revert to the city of Brockton, without consideration, if the property is not used for the purposes stated therein.

SECTION 4. The commonwealth hereby releases any right, title, interest or estate it may hold in the aforesaid property, referred to in section one.

Approved June 25, 1996.

Chapter 138. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT AN EASEMENT INTEREST IN CERTAIN LAND LOCATED IN THE CITY OF NEW BEDFORD.

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 an easement in a certain parcel of land located in the city of New Bedford, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed for fair market value an easement interest in a certain vacant portion of a large parcel of land located in the city of New Bedford, presently under the control of the department of mental health to the New England Telephone Company, subject to the requirements of sections two to eight, inclusive, and to such additional terms and conditions as the commissioner may prescribe, said easement is being shown on a plan entitled "Easement Plan Prepared for New England Telephone Company, Maple Street, New Bedford, MA Scale: 1"-30', dated August 31, 1994, Eagle Surveying & Engineering, Inc., Sandwich, MA.", which shall be recorded with the registry of deeds in the county of Bristol at the time of said conveyance.

SECTION 2. The consideration paid by the New England Telephone Company for said easement shall be the full and fair market value of the easement determined by an independent appraisal, for its use as described herein. The inspector general shall review and approve said appraisal and said review shall include an examination 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 chairmen of the joint committee on state administration in accordance with section eight.

SECTION 3. No such deed or instrument conveying by or on behalf of the commonwealth said easement described in section one shall be valid unless such deed provides that said easement shall be used solely for the purpose of providing telecommunications services to the area.

SECTION 4. In the event said parcel of land ceases to be used at any time for the purposes described in section three, said parcel of land shall revert to the care and control of the division of capital planning and operations and any further disposition of said parcel of land shall be subject to sections forty E to forty J, inclusive, of chapter seven of the General Laws.

SECTION 5. The New England Telephone Company shall assume the costs of appraisals, surveys and any other expenses deemed necessary by the commissioner of the division of capital planning and operations for the granting of said easement.

SECTION 6. The easement conveyed herein shall be confined to the perimeter area of the vacant portion of the parcel of land described in section one of this act.

SECTION 7. The consideration paid pursuant to section two shall be deposited in the General Fund of the commonwealth.

SECTION 8. The commissioner of the division of capital planning and operations shall, thirty days before the execution of any agreement authorized by this act, or any subsequent amendment thereof, submit the agreement, instrument or amendments thereto and a report thereon to the inspector general for his review and comment. The inspector shall issue his review and comment within fifteen days of receipt of any agreement or amendment. Said commissioner shall submit the agreement, instrument 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 chairmen on the joint committee on state administration at least fifteen days prior to execution.

Approved June 25, 1996.

Chapter 139. AN ACT AUTHORIZING THE CITY OF TAUNTON TO CONVEY A CERTAIN PARCEL OF LAND.

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 Taunton is hereby authorized to give, grant and convey to the Weir Economic Industrial Revitalization Corp., a corporation organized under the laws of the commonwealth, a certain parcel of land located in said city, acquired for non-payment of taxes, more particularly described as follows:

Beginning at the junction of Staples Court with West Water Street thence by said street northeasterly about 83 feet; thence by land now or formerly of M. J. Martin N. 40 degrees 37' W. 67.10 feet; thence by said Martin land, and in prolongation of same, N. 37 degrees 34' W. 80.26 feet more or less to land now or formerly of the Narragansett Milling Company; thence by said Milling Company land S. 49 degrees 23' W. 97.27 feet, more or less to Staples Court; thence by said Court S. 40 degrees 37' E. 147.25 feet to the point of beginning.

Said property shall be utilized by said Weir Economic Industrial Revitalization Corp. as it deems appropriate for the purpose of revitalizing the Weir District, so-called, in said city of Taunton. Said Weir Economic Industrial Revitalization Corp. shall pay to said city the unpaid taxes due on the property and expenses incurred by the building department of said city as a condition precedent to the conveyance authorized herein.

Approved June 25, 1996.

Chapter 140. AN ACT RELATIVE TO THE BUDGETS OF REGIONAL SCHOOL DISTRICTS.

Be it enacted, etc., as follows:

Section 16 of chapter 71 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "first", in line 100, the following words:- ; provided, further, that a superintendent may, with the approval of a majority of the member communities, submit said budget for approval following the notification of the annual local aid distribution, so-called.

Approved June 28, 1996.

Chapter 141. AN ACT RELATIVE TO TENANT MEMBERS OF HOUSING AUTHORITIES.

Be it enacted, etc., as follows:

The second paragraph of section 6 of chapter 121B of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- A member of a housing authority appointed as a tenant, in accordance with the provisions of section five, who ceases to be a tenant in a building owned and operated by or on behalf of the local housing authority shall be removed upon the date of such change by operation of law.

Approved June 28, 1996.

Chapter 142. AN ACT RELATIVE TO THE MAXIMUM TERM OF CERTAIN SERIAL LOANS ISSUED BY CITIES, TOWNS, AND DISTRICTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately increase the term of certain serial loans, 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 7 of chapter 44 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out clauses (21) and (22) and inserting in place thereof the following two clauses:-

(21) For the cost of architectural services for plans and specifications for any proposed building for which a city, town or district is authorized to borrow, or for the cost of architectural services for plans and specifications for additions to buildings owned by a city, town, or district where such additions increase the floor space of said buildings, five years if issued before any other debt relating to said buildings or additions is authorized, otherwise the period fixed by law for such other debt relating to said building or additions; provided, however, that at the time the loan is issued the city, town or district owns the land on which the proposed building or additions would be constructed.

(22) For the cost of engineering or architectural services for plans and specifications for any project not defined in clause (21) for which a city, town or district is authorized to borrow, five years if issued before any other debt relating to said project is authorized, otherwise the period fixed by law for such other debt relating to said project.

Approved June 28, 1996.

Chapter 143. AN ACT ESTABLISHING A COMMUNITY HOUSING CORPORATION IN THE TOWN OF ACTON.

Be it enacted, etc., as follows:

SECTION 1. There is hereby established a nonprofit housing corporation which shall be known as the Acton Community Housing Corporation and shall be subject to the supervision of the board of selectmen of the town of Acton. The board of directors of said corporation shall consist of not less than five members who shall be appointed by the board of selectmen for staggered three-year terms as designated by said board of selectmen, such appointments to be made annually by said board of selectmen on or before June thirtieth. Members of said board of directors shall serve until their successors are appointed and qualified. Continuing members may act despite a vacancy in said board of directors and, for this purpose, shall be deemed to constitute a full board of directors. Any vacancy in said board of directors, however occurring, may be filled by the board of selectmen for the unexpired portion of the term.

Said board of directors shall exercise its powers and perform its duties for the purpose of investigating and implementing alternatives for the provision of and to provide for affordable housing for persons of low, moderate and middle income and other persons whose needs may be identified from time to time in said town. The powers and duties of said board as set forth herein are intended to be alternative and supplemental to and not in limitation of, the powers and duties of the Acton Housing Authority established pursuant to chapter one hundred and twenty-one B of the General Laws. The liability of said board and its members shall be limited to the same extent as the liability of a public employer and public employees as are limited by law.

SECTION 2. The board of directors of the Acton Community Housing Corporation shall have the powers and privileges conferred by the provisions of clauses (*a*) to (*i*), inclusive, and clause (*k*) of section nine of chapter one hundred and fifty-six B of the General Laws, and the following powers; provided, however, that no such power shall be exercised either in a manner inconsistent with this act or with any general or special law or to carry on any activity which is not in furtherance of the purposes set forth in this act:

(*a*) to adopt, amend and repeal rules for the regulation and conduct of its business including, but not limited to, the call and conduct of its meetings, the number of members which shall constitute a quorum and the mode of voting by proxy;

(*b*) to elect a chairman and vice-chairman, each of whom shall be members of said board, and a secretary and a treasurer, who need not be members of said board and who may be the same person. The treasurer shall give bond for the faithful performance of his duties in such form and such amount as approved and fixed by the board of selectmen. The cost of such bond shall be paid from funds of said board of directors. The chairman and, in his absence, the vice-chairman shall chair meetings of said board. The secretary shall be the custodian of all books, documents and papers filed with said board and of the minute book or journal of said board;

(*c*) with the approval of the board of selectmen, to make and execute all contracts and all other instruments necessary or convenient for the exercise of its powers and func-

tions, subject to the approval of the town counsel of the town of Acton as to form;

(*d*) with the approval of the board of selectmen, to acquire or lease, by purchase or otherwise, and to own, hold and use on such terms and conditions and in such a manner as it may deem proper and to exchange, grant options on, sell, transfer, convey, assign, lease, pledge, mortgage, encumber, grant liens on and security interests in or to otherwise dispose of, on such terms and conditions as it may deem proper, real, personal or mixed real and personal property or any interest, easement or rights therein and any assets or revenues of the board of directors, as may be necessary or appropriate to carry out its purposes;

(*e*) with the approval of the board of selectmen, to enter into agreements or other transactions with the commonwealth or any political subdivision or public instrumentality thereof, the United States government or any federal, state or other governmental agency;

(*f*) with the approval of the board of selectmen, to enter into contracts or agreements with, and to employ from time to time, contractors, architects, engineers, consultants, attorneys, accountants, construction, financial and other experts, superintendents, managers and such other agents and employees as may be necessary in its judgment and to fix their compensation;

(*g*) with the approval of the board of selectmen, to receive and hold funds appropriated by the town and other funds, property, labor and other things of value from any source, public or private, by gift, grant, bequest, loan or otherwise, either absolutely or in trust, and to expend or utilize the same on behalf of the corporation for any of its purposes or to act as an agent or conduit in administering or disbursing funds or financial or other aid from any source; provided, however, that all revenues collected or received by the board of directors in connection with its activities, investments or transactions shall be expended only with approval of the board of selectmen of the town of Acton;

(*h*) to appear in its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;

(*i*) to procure insurance against any loss in connection with the property or activities of said board, in such amounts and from such insurers as it may deem necessary or desirable and, with the approval of the board of selectmen, to indemnify its members or agents if and to the extent specified from time to time in the by-laws of the corporation and subject to and in the manner provided by section six of chapter one hundred and eighty of the General Laws;

(*j*) to formulate and, with the approval of the board of selectmen, to carry out or monitor plans for projects involving the acquisition or operation of housing facilities of any kind or nature, and to construct, reconstruct, renovate, expand, extend, improve, repair, remodel, equip, furnish, maintain, manage and operate such facilities;

(*k*) with the approval of the board of selectmen, to fix and revise from time to time and to charge and collect rates, fees, rentals and other charges and sales prices for or in connection with the use, occupancy or other disposition of any housing facility or other property or portion thereof under its ownership or control;

(*l*) with the approval of the board of selectmen, to establish, impose, grant or amend, by deed, lease or any other means or method and to hold the benefit of, monitor, exercise and

enforce lawful restrictions on the rental, sale, resale, use or occupancy of housing facilities or other property under its ownership or control, or other facilities or property designated by the selectmen of the town or restrictions with respect to the income of owners, tenants or occupants of such housing facilities or other property, or options and rights of first refusal with respect to such facilities or property and to waive, release or discharge any such options, rights or restrictions;

(*m*) with the approval of the board of selectmen, to enter into, perform or monitor agreements or other transactions with contractors, developers, brokers or other real estate professionals or any other person relating to the provisions of affordable housing for persons of low and moderate income in the town;

(*n*) to do any and all things necessary or convenient to carry out its purposes and exercise the powers conferred by this act; provided, however, that said board of directors may delegate to any committee or member of said board any action which said board is empowered to do or make or which said board shall have power to conduct by itself;

(*o*) no contract or agreement to purchase or accept as a gift, any right, interest or title to real property, shall be entered into until a site inspection has been made and a report received from a qualified person regarding the presence of hazardous materials or substances, as defined in chapter twenty-one E of the General Laws on or at the property.

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, the income, assets and activities of Acton Community Housing Corporation shall be exempt from all taxes and assessments and said board shall not be subject to any provisions of chapter sixty-three of the General Laws or to any taxes based upon or measured by property or income, imposed by the commonwealth or by any political subdivision thereof. Said board is hereby authorized and empowered to enter into agreements with the assessor of the town of Acton and with the approval of the board of selectmen, wherein said board shall undertake to make to the town annual payments in lieu of taxes in connection with any real property acquired and owned by said corporation, the amounts of such payments to be reasonable sums stipulated in such agreement or agreements or determined in accordance with a reasonable formula so stipulated.

SECTION 4. The town of Acton may appropriate funds for carrying out, by said board, of the purposes as set forth herein. Any appropriation therefor may be raised by said town by taxation or otherwise. At least annually, the board of directors shall cause independent audits to be made of the books and records of said board, which annual audits shall be filed with the board of selectmen of said town.

SECTION 5. In the event that said board shall be dissolved in accordance with law at any time, all property and interests therein, and all assets and rights of said board existing at such time shall be transferred to the town of Acton by authority of this act, and title to all such property and all such rights shall vest in said town of Acton automatically without the need for further action or instrument and the town of Acton shall, to the maximum extent permitted by law and acting by and through its board of selectmen, assume, hold and exercise the powers and duties of the board of selectmen as set forth herein with respect to such property and rights so transferred to said town.

SECTION 6. This act shall take effect upon its passage.

Approved June 28, 1996.

Chapter 144. AN ACT REQUIRING SCHOOL BUS HEADLIGHTS TO BE ILLUMINATED WHILE SUCH BUS IS IN OPERATION.

Be it enacted, etc., as follows:

Clause (7) of section 7B of chapter 90 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the sixth sentence the following sentence:- The operator of a school bus shall cause its headlamps to be illuminated while such bus is in operation.

Approved June 28, 1996.

Chapter 145. AN ACT RELATIVE TO THE APPOINTMENT DATE OF TOWN COUNCIL EMPLOYEES OF THE CITY KNOWN AS THE TOWN OF METHUEN.

Be it enacted, etc., as follows:

SECTION 1. Section 2-8(a) of Article 2 of the charter of the city known as the town of Methuen which is on file in the office in 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 first sentence and inserting in place thereof the following sentence:- City Accountant - the town council shall, on or before January fifteenth in odd numbered years, elect, by ballot or otherwise, a city accountant to hold office for a term of two years and until his successor is qualified.

SECTION 2. Section 2-8(b) of said Article 2 of said charter is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Clerk of the Council - the town council shall, on or before January fifteenth in odd numbered years, elect, by ballot or otherwise, a clerk of the council to hold office for a term of two years or until his successor is qualified.

SECTION 3. Section 2-8(c) of said Article 2 of said charter is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- City Solicitor - the town council shall, on or before January fifteenth in odd numbered years, elect, by ballot or otherwise, a city solicitor to hold office for a term of two years and until his successor is qualified.

SECTION 4. The terms of office of the current incumbents in the offices referred to in sections one, two and three shall be extended until January fifteenth, nineteen hundred and ninety-nine.

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

Approved June 28, 1996.

Chapter 146. AN ACT RELATIVE TO A CERTAIN LIQUOR LICENSE IN THE TOWN OF BOLTON.

Be it enacted, etc., as follows:

SECTION 1. Chapter 386 of the acts of 1986 is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. Notwithstanding the vote of the town of Bolton cast at a previous biennial state election on the questions to have been placed on the ballot for the town for such election under the authority of section eleven of said chapter one hundred and thirty-eight or the additional subdivisions thereof provided by chapter seven hundred and six of the acts of nineteen hundred and sixty-seven and chapter eight hundred and fifty of the acts of nineteen hundred and sixty-nine, the state secretary shall cause the following question to be placed on the ballot for the town of Bolton at the state election to be held on November fourth, nineteen hundred and eighty-six and each subsequent biennial state election thereafter; provided, however, that if a majority of the votes cast in said town in answer to said question is in the affirmative in three successive biennial state elections, the state secretary shall no longer place the following question on said ballot:-

(G) Shall a restaurant license be granted in the town of Bolton to Rich House, Inc., for the sale of all alcoholic beverages, to be consumed on the premises?

If a majority of the votes cast in said town in answer to the above subdivision (G) is in the affirmative, said town shall, irrespective of the results of votes taken in answer to any other subdivision, be taken to authorize for each of the two calendar years next succeeding, the issuance of said restaurant license as defined and limited in section twelve of said chapter one hundred and thirty-eight, for the sale in said town of all alcoholic beverages to be consumed on the premises of Rich House, Inc. subject to all provisions of said chapter one hundred and thirty-eight except as herein otherwise provided.

Notwithstanding the foregoing, if a majority of the votes cast in said town is in the affirmative in three successive biennial state elections then said license shall be considered to be a permanent license; provided, however, that the licensing authority shall not approve the transfer of said license to any other person, organization or corporation; and, provided further, that the granting of said license shall reduce by one any increase in licenses granted due to census reapportionment under section seventeen of said chapter one hundred and thirty-eight.

SECTION 2. This act shall take effect as of September tenth, nineteen hundred and eighty-six.

Approved June 28, 1996.

Chapter 147. AN ACT ESTABLISHING THE CAMBRIDGE PUBLIC HEALTH COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. (*a*) It is hereby declared for the benefit of the people of the city of Cambridge and the commonwealth, in order that there be an increase in their welfare and an improvement in their living conditions, that a new public health care system should be established for the city of Cambridge that can meet the challenges of a rapidly changing health care environment and ensure the continuous delivery of quality health care to the residents of the city and other citizens of the commonwealth within the service area of the city's public health care facilities; that the new public health care system must be able to coordinate outreach, health education, prevention, outpatient, home care, emergency, inpatient, specialty, aftercare, rehabilitation, and long-term care services in order to create a comprehensive and integrated continuum of care with the goals of promoting the health and well-being of all in the system's service area, meeting the public health needs of the city of Cambridge and educating future physicians and caregivers; that a new public health commission should be created in the city of Cambridge as the successor to the city's department of health and hospitals in order to better administer, enhance and expand the public health services provided by the city; that the new public health system should be committed to the historic mission of the city's health care system, including the provision of excellent and accessible health care services to the community and programs that are responsive to the multicultural and multilingual composition of the service area and to the particular needs of specific populations, including the elderly, women and children, adolescents, cultural and linguistic minorities and people at high risk for health problems; and that the new public health care system should consist of a network of health care providers joining the city's traditional public health services and facilities with private hospitals or other health care providers, community health centers and other associated community-based organizations and providers.

(*b*) It is hereby further declared for the benefit of the people of the city of Cambridge and the commonwealth that the city be authorized to include in the new public health care system the facilities and operations of Somerville hospital; that such an affiliation would best provide for the maintenance and expansion of existing community health, primary care, specialty, emergency and inpatient services based upon shared philosophies regarding community-based services, preventive care, improving health status, increasing access by the underserved, collaboration with community agencies and city departments and developing services based on assessments of community needs; and that such an affiliation would maximize cost effectiveness, opportunities for future managed care contract growth and opportunities for participation with or in other regional health care systems, networks and payors.

(*c*) It is hereby further declared for the benefit of the people of the city of Cambridge and the commonwealth that the city should be empowered to provide for other possible future affiliations with a private, nonprofit hospitals or other health care providers.

SECTION 2. As used in this act, the following words shall, unless the context other-

wise requires, have the following meanings:-

"Bonds", bonds, notes and other obligations or evidences of indebtedness issued under the provisions of this act.

"Cambridge hospital network", The Cambridge Hospital Community Health Network, including The Cambridge Hospital and the Neville Manor Nursing Home located in the city and currently operated under the care and control of the department of health and hospitals, and all branches thereof heretofore or hereafter established, and all other hospital and health care facilities comprising the same or appurtenant thereto or facilities necessary or convenient for the operation thereof including, except as otherwise provided in this act, all interests in property, equipment, appurtenances, structures, facilities and other property, tangible or intangible, held by the city in connection with the ownership, maintenance and operation thereof, including the Cambridge Hospital Professional Services Corporation, Inc.

"City", the city of Cambridge.

"City commissioner", the commissioner of health and hospitals of the city of Cambridge.

"Commission", the Cambridge public health commission, established by section four or, if such commission shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the commission shall be given by law.

"Department", the department of health and hospitals of the city of Cambridge.

"Implementation date", a date determined by the city manager which shall be not earlier than July first, nineteen hundred and ninety-six nor later than December thirty-first, nineteen hundred and ninety-six.

"Revenues", all revenues, rates, fees, charges, rents and other receipts derived from the facilities and properties of the commission including, but not limited to, bond proceeds, proceeds of any grant or loan to the commission, investment earnings and the proceeds of insurance, condemnation, sale or other disposition of properties.

"Somerville hospital", a nonprofit charitable corporation organized and existing under the laws of the commonwealth, located in the city of Somerville, and all other hospital and health care facilities comprising the same or appurtenant thereto or necessary or convenient for the operation thereof, including, except as otherwise provided in this act, all interest in real and personal property, equipment, appurtenances, structures, facilities and other property, tangible or intangible, of such corporation.

SECTION 3. (*a*) Notwithstanding the provisions of any general or special law to the contrary, on and after the effective date of this act, the city, acting by the city commissioner with the approval of the city manager, is hereby authorized to execute, deliver and perform its obligations under one or more agreements with Somerville hospital and to take such other action as may be necessary and appropriate to provide for acquisition by the city, or through entities controlled by the city, of all or a portion of the operations, assets and liabilities of Somerville hospital, including all or any portion of the facilities thereof, wherever located. Upon acquisition, the operations, assets and liabilities of Somerville hospital shall be consolidated with those of the Cambridge hospital network, subject to sub-

section (*e*). All agreements between the city and Somerville hospital necessary or desirable to effect such acquisition and consolidation of operations shall be in such form and shall have such terms and conditions as the city commissioner, with the approval of the city manager, may determine to be in the best interest of the city. All actions taken by the city and its officers and employees to effectuate such acquisition and consolidation of operations prior to the effective date of this act are hereby ratified, validated and confirmed.

(*b*) In addition to the powers and rights granted to the city by the foregoing provisions of this section, at any time after the effective date of this act the city, acting by the city commissioner with the approval of the city manager, may enter into one or more agreements with Somerville hospital to provide for the management of all or any portion of the facilities and operations of Somerville hospital by the city acting through the department, on such terms and conditions and for such period as the city commissioner with the approval of the city manager shall determine to be in the best interests of the city.

(*c*) All agreements executed and delivered by the city pursuant to the authorizations contained in subsections (*a*) and (*b*), shall be assumed by and imposed upon the commission on the implementation date in accordance with section six.

(*d*) On and after the implementation date, all rights and powers granted to the city under subsections (*a*) and (*b*) shall be exercised only by the commission, except as otherwise provided by agreement between the city and the commission.

(*e*) The acquisition and consolidation of Somerville hospital by the city or the commission may be effected by any means authorized by this act, which shall include the designation of the city or the commission as the sole corporate member of Somerville hospital pursuant to chapter one hundred and eighty of the General Laws.

(*f*) Except as otherwise provided in this act, chapters thirty-one, thirty-two, thirty-two B, one hundred and fifty E and two hundred and sixty-eight A of the General Laws and all other provisions of law applicable to governmental entities but inapplicable to nonprofit corporations, shall not apply to the operations and employees of Somerville hospital upon acquisition or management thereof by the city or by the commission, for so long as Somerville hospital shall be constituted as a nonprofit corporation nor shall said chapters and provisions apply to any other nonprofit corporation owned or controlled by the commission. Notwithstanding the foregoing, upon the acquisition of Somerville hospital or the establishment or maintenance of any other nonprofit corporation owned or controlled by the commission, Somerville hospital and any other such corporation owned or controlled by the commission shall be liable in tort in accordance with and to the extent provided in chapter two hundred and fifty-eight of the General Laws.

(*g*) Notwithstanding the provisions of any general or special law to the contrary, passage of this act shall constitute a determination under section fifty-one of chapter one hundred and eleven of the General Laws that there is a need for the entity, together with its hospitals, clinics, health centers and operations, that results from any acquisition, merger or consolidation under this section. All licenses, approvals, permits, determinations, findings, awards, decisions, applications, reviews and processes applicable to the Cambridge hospital network shall, upon acquisition and consolidation of the facilities and operations of Somer-

ville hospital as provided in this section, be deemed applicable to the same extent to such facilities and operations of Somerville hospital. Any licenses, approvals, permits, determinations, findings, awards, decisions, applications, reviews or processes applicable to the facilities and operations of Somerville hospital acquired by the city shall be re-issued in the name of, or transferred to, the Cambridge hospital as soon as possible after request by the city or the commission.

SECTION 4. (*a*) There is hereby created in the city of Cambridge a body politic and corporate to be known as the Cambridge public health commission. The commission is hereby constituted a public instrumentality and the exercise by the commission of the powers conferred by this act shall be deemed and held to be the performance of an essential public function. The commission shall not be subject to the supervision of any other department, commission, board, bureau, agency or officer of the city except to the extent and in the manner provided by this act.

(*b*) The powers of the commission shall be exercised by or under the supervision of a board, hereinafter called the board or the commission board to consist of nineteen members, including the chief executive officer of the commission who shall serve ex officio. The members shall also include a representative of the medical staff and two city officers or employees, all appointed by the city manager. The remaining fifteen members of the initial commission board shall be members of the general public who shall be appointed by the city manager after consultation with the city health policy board; thereafter, the fifteen public members of the commission board shall be nominated by the commission board and appointed by the city manager, who may require that more than one nomination be submitted for a particular appointment. The commission board shall make a good faith effort to have its nominations be representative of the diversity of the community. At least ten of the fifteen public members shall be residents of the city of Cambridge. The city manager shall provide for staggered terms of one, two or three years for the fifteen public members so that, as nearly as possible, one-third of the terms shall expire annually; thereafter, each public member shall be appointed for a term of three years or, in the case of an appointment made to fill a vacancy, for the remainder of the unexpired term, and until a successor is appointed and qualified. Should the commission enter into an affiliation or merger with another entity, the city manager, upon recommendation of the commission board, may expand the board to a maximum of twenty-nine members. At all times, at least two-thirds of the public members of the board shall be Cambridge residents. The board shall establish a subcommittee which shall concern itself primarily with issues relating to public health services in the city and may establish such other subcommittees and advisory boards as it deems appropriate. Any member of the board may be removed at any time by the city manager for cause which shall include but not be limited to, not meeting their responsibilities to ensure that the commission adheres to its mission and purpose as set forth in subsection (*a*) of section one. The two members appointed in their capacity as city officers or employees may be removed by the city manager at any time and shall be removed upon termination of their employment by the city. The members of the board shall not be entitled to compensation for their services as such, but shall be reimbursed for actual and reasonable expenses necessarily incurred in the

performance of their duties.

(*c*) No vacancy in the membership of the board shall impair the right of a quorum to exercise the powers of the commission. A majority of the members of the board shall constitute a quorum and the affirmative vote of a majority of the members voting at a meeting at which a quorum is present shall be necessary for any action taken by vote of the board. The board shall annually elect one of its members as chairman and such other officers as it deems necessary. The provisions of sections twenty-three A to twenty-three C, inclusive, of chapter thirty-nine of the General Laws shall apply to meetings of the board and the provisions of section ten of chapter sixty-six of the General Laws relating to the availability of public records as defined in clause Twenty-sixth of section seven of chapter four of the General Laws shall apply to the commission; provided, however, that all writings and other records concerning the following shall not be deemed to be public records for the purposes of said section ten and executive sessions may be held to discuss or implement the following: peer review proceedings; credentialing; rates and charges; third-party payor contracts; medical records; and marketing strategies, strategic plans or other plans, analyses, evaluations, data or programs if disclosure is deemed by the board to be likely to give an unfair competitive or bargaining advantage to any person or entity. The commission shall not be deemed to be an agency for the purposes of chapter thirty A of the General Laws or a governmental body for the purposes of chapter two hundred and sixty-eight B of the General Laws.

(*d*) Except as provided in subsection (*f*) of section three, the provisions of chapter two hundred and sixty-eight A of the General Laws shall apply to board members, officers and employees of the commission and the commission shall be deemed to be a municipal agency for the purposes of said chapter two hundred and sixty-eight A; provided, however, that members of the board shall be deemed to be special municipal employees for the purposes of said chapter two hundred and sixty-eight A.

SECTION 5. (*a*) The board shall appoint, employ and determine the compensation, duties and conditions of employment of a chief executive officer, who may be removed at any time by the board, without prejudice to any contract rights. The chief executive officer shall administer the affairs of the commission including, without limiting the generality of the foregoing, matters relating to contracting, procurement, personnel and administration, under the supervision of the board, in accordance with such authorizations as the board may from time to time reasonably adopt and continue in force.

(*b*) The chief executive officer shall appoint and establish reasonable compensation, benefits and other terms of employment for other employees of the commission as he deems necessary, including management and professional personnel. Except as otherwise herein provided, employees of the commission shall serve at the pleasure of the chief executive officer, subject to the terms of any applicable collective bargaining agreements or contracts of employment.

(*c*) The commission may indemnify any present or past board member, officer, employee or agent of the commission against any liabilities, claims, costs and expenses, including legal expenses, in connection with any actual or threatened proceeding, including

any settlement thereof approved by the board, arising by reason of any act or omission within the scope of his duties for the commission; provided, however, that no indemnification shall be provided to a person concerning a matter as to which such person is finally adjudicated to have acted either (*i*) without a good faith belief that his conduct was in the best interests of the commission; or (*ii*) with reason to believe that his conduct was unlawful. Costs and expenses may be paid prior to a final disposition upon receipt of an undertaking, which the commission may accept without regard to the financial resources of the person indemnified; provided, however, that the person receiving the benefit of payments shall repay such payments if he shall be finally adjudicated not to be entitled to indemnification hereunder. The commission may purchase insurance on behalf of itself or any of its board members, officers, employees or agents against any liability arising out of such person's status as such, whether or not the commission would have the power to indemnify such person against such liability.

(*d*) Chapter thirty-one of the General Laws shall not apply to the officers, employees and other personnel of the commission, except as provided in subsection (*f*) of section six. Except as otherwise provided in this subsection or in subsection (*f*) of section three, chapter one hundred and fifty E of the General Laws shall apply to the commission, and for the purposes of said chapter one hundred and fifty E the commission shall be considered an "employer" or "public employer" as defined therein. The commission may designate a representative to act in the interest of the commission in labor relations matters with its employees. The commission shall have the authority to bargain collectively with labor organizations representing employees of the commission and to enter into agreements with such organizations relative to wages, salaries, hours, working conditions, health benefits, pension and retirement allowances and the submission of grievances and disputes to arbitration.

SECTION 6. (*a*) Notwithstanding any provision of this act to the contrary, except as otherwise expressly provided in this subsection, from the effective date of this act until the day preceding the implementation date the rights and powers granted by the provisions of this act to the commission shall be exercised by the department, acting by the city commissioner, with the approval of the city manager. Thirty days prior to the scheduled implementation date or as soon thereafter as the members of the commission board are appointed, the commission shall undertake the following: (*i*) to provide for the appointment of a chief executive officer and such additional staff as shall be necessary for the management and operation of the commission, after consideration of the employees of the department to be transferred to the commission as provided herein; (*ii*) to adopt its public health services budget for the fiscal year, or any portion thereof, commencing on the implementation date; and (*iii*) to provide for the transfer of the functions and employees of the department to be effective on the implementation date, as provided herein including, without limitation, the negotiation of any new collective bargaining agreements with such employees to be effective on or after the implementation date. Notwithstanding the provisions of any general or special law to the contrary, the rights and powers of the commission authorized by the provisions of this paragraph to be exercised by the commis-

sion prior to the implementation date, upon request of the commission to, and with the approval of, the city manager, may be exercised by the personnel of the department. All expenses of the commission incurred in the performance of the rights and powers provided in this subsection shall be borne by the city, provided that such expenses, or a budget therefor, shall have been first approved by the city manager. The city manager shall submit to the city council such supplementary appropriation orders for such expenses as he shall deem appropriate.

(*b*) Effective on the implementation date, the department is hereby abolished and all rights, powers, appropriations, obligations and immunities of the department under law or contract shall be transferred to and assumed by the commission. Without limiting the generality of the foregoing, on the implementation date the commission shall assume the general care and control of the Cambridge hospital network, including any facilities and operations of Somerville hospital acquired as provided in section three, except as otherwise provided herein. In addition to the other rights or powers granted to the commission by the provisions of this act, from and after the implementation date, unless and until the city exercises its rights under section fifteen, the commission shall have the powers and shall perform the duties from time to time conferred or imposed upon boards of health of cities in the commonwealth by general laws applicable to the city and the chief executive officer shall be deemed to be the city's commissioner of public health for all purposes under city ordinances and state law.

(*c*) On the implementation date, ownership, possession and control of the Cambridge hospital network and all other personal property under the care and custody of the department and all contracts, books, papers, records, and documents of whatever description pertaining to the Cambridge hospital network or otherwise to the affairs of the department on such date shall pass to and be vested in the commission without consideration or further evidence of transfer and shall thereafter be in the ownership, possession and control of the commission; provided, however, that the lease or transfer to the commission of real property now under the care and custody of the department shall be effected by agreement in accordance with the provisions of subsection (*c*) of section seven; and all debts, liabilities and other obligations of the city pertaining to or on account of the department shall be assumed by and imposed upon the commission including, without limitation, liabilities in tort and the obligations of the city to pay the interest and principal requirements on all bonds, notes and other evidences of indebtedness then outstanding or issued by the city at a later date in accordance with subsection (*m*) of section nine for purposes pertaining to the Cambridge hospital network; provided, however, that all such city bonds or notes shall remain general obligations of the city. Except as above provided, all actions and proceedings duly pending before, all actions and proceedings duly pending against, and all actions and proceedings duly begun by the department shall continue unabated and remain in full force and effect notwithstanding the passage of this act and the transfer of control contemplated hereby and may, at the discretion of the court, commission, board or other body having jurisdiction, be completed before, against or by the commission.

(*d*) All contracts, including leases, mortgages, obligations, benefits, rights and liabil-

ities of the city and the department which are transferred to the commission under any provision of this act, shall continue in full force and effect in accordance with law and, unless prohibited by federal law or by contract terms, shall be transferred to, assumed by and imposed upon the commission by operation of law. General city ordinances relating to zoning, land use and other matters including, but not limited to, any neighborhood conservation districts or landmarks designated by city ordinance, shall apply to the commission and its successors and assigns to the same extent as they would apply to any private hospital or health care provider and, for so long as the chief executive officer is deemed to be the city's commissioner of public health, all city ordinances relating to the duties and responsibilities of the commissioner of public health shall apply to the commission and to the chief executive officer to the extent they are not inconsistent with the provisions of this act. No other ordinances or regulations of the city in effect on the implementation date shall apply to the commission.

(*e*) On the implementation date, all unexpended balances of moneys in accounts of, for or on behalf of the department including, without limitation, accounts receivable, grants, public trusts, bequests, gifts and other funds pertaining to the Cambridge hospital network or any other property, right or operation of the department, each as determined by the treasurer of the city with the approval of the city manager, including moneys and investments, if any, held for the payment or security of interest and principal of then outstanding bonds, notes and other evidences of indebtedness of the city as provided in this section, but excluding money and investments held by or for the account of the city retirement board on account of accrued retirement benefits under chapter thirty-two of the General Laws for employees of the department, shall be deemed to be held in trust for and shall be transferred to the commission. Subsequent to such date, all moneys collected or received by the city from any source on account of the Cambridge hospital network and any other property, right or operation of the department transferred to the commission by operation of this act, as determined by the treasurer of the city, other than any such moneys properly allocable to a right, liability or obligation retained by the city under any provision of this act, shall be deemed to be held in trust for and shall be forthwith transferred and paid over to the commission.

(*f*) On the implementation date, every employee of the department shall become an employee of, and shall be transferred to, the commission without any loss of accrued rights to holidays, sick leave, vacations or other benefits of employment and, by such transfer except as otherwise provided, such employee's seniority, wages, salaries, hours, working conditions, health benefits, pensions and retirement allowances under law or contract shall not be impaired; provided, however, that thereafter each such employee shall perform his duties under the direction, control and supervision of the chief executive officer. Employees of the department who are tenured employees, as defined in section one of chapter thirty-one of the General Laws, on the day before the implementation date shall retain their existing rights under said chapter thirty-one during their period of employment in the same or a similar position by the commission; employees of the commission shall not otherwise be subject to said chapter thirty-one. Rights and obligations under collective bargaining agree-

ments with respect to employees transferred to the commission from the department shall be assumed by and imposed upon the commission and employees transferred to the commission who are subject to such agreements shall continue to be represented by the labor organizations that are parties to such agreements until such time as they elect to be otherwise represented in accordance with the provisions of chapter one hundred and fifty E of the General Laws. Employees transferred to the commission who are not represented by labor organizations as of the day before the implementation date shall not be accepted into bargaining units existing on that date, but they shall thereafter be afforded the right to representation pursuant to state or federal law, as the case may be. Immediately after organization of the commission on the implementation date, the commission and each labor organization representing employees who have transferred to the commission shall begin bargaining for a successor agreement to replace any such agreement between the city and the labor organization representing those transferred employees. Each existing collective bargaining agreement shall remain in effect for ninety days after the implementation date or until a new agreement is reached, whichever shall occur first. Notwithstanding the foregoing, no employee of the city who is hired by the commission subsequent to the implementation date shall be entitled to transfer to the commission any accrued or credited vacation, sick or personal time.

(*g*) Every employee of the department who immediately prior to being transferred to the commission, is a member of the Cambridge retirement system established under chapter thirty-two of the General Laws shall continue to be a member thereof and subject to the laws applicable thereto. No other employees of the commission shall have the right to become members of the Cambridge retirement system, except and to the extent that the commission, in its sole discretion, permits or requires any employees to become members of that system; employees who thus become members of the Cambridge retirement system shall be subject to the same laws, rules and regulations as city employees who are members of that system. The commission shall deduct from the wages of its employees who are members of the Cambridge retirement system and pay over to the Cambridge retirement board such sums as the city would deduct and pay over if such person were an employee of the city. The commission shall annually reimburse the city for its share of any amounts appropriated by the city under the provisions of chapter thirty-two of the General Laws for or on account of retirement allowances for employees of the commission, and for its share of any amounts appropriated by the city for administrative costs of the city retirement board, based on an allocation determined by such retirement board of the years of creditable service of such employees with the commission and with the city.

(*h*) Notwithstanding the provisions of chapter thirty-two of the General Laws or any other general or special law to the contrary, but subject to subsection (*g*), the commission may contract with any employee of the commission with respect to the establishment, continuation, maintenance and funding of any deferred compensation or other pension or retirement plan or program under state or federal law which has been maintained for such employee prior to his employment by the commission or which the commission thereafter agrees to maintain and, for such purpose, the commission may become a trustee or sponsor

of and may make contributions to any such plan or program. For purposes of this subsection, the word "employee" shall have the same meaning as "employee" as defined in section one of chapter thirty-two of the General Laws and shall also include consultants and independent contractors who are natural persons paid by the commission and whose duties require that their time be devoted to the service of the commission during regular business hours.

(*i*)(1) Notwithstanding the provisions of chapter thirty-two of the General Laws or any other general or special law to the contrary, the commission may, with the approval of the city manager of Cambridge, as of an effective date to be determined by the commission with the approval of the city manager of Cambridge, establish that employees of the commission who are members of the Cambridge retirement system and otherwise eligible for a superannuation retirement, who shall have filed a written application for superannuation retirement pursuant to section five of said chapter thirty-two no earlier than thirty days after such effective date, but no later than ninety days after such effective date, specifying a retirement date no later than one hundred and twenty days after such effective date, shall have their normal yearly amount of the retirement allowance as determined under paragraph (*a*) of subdivision (2) of section five of said chapter thirty-two computed according to the table contained in said paragraph (*a*) based upon the age of such member and his number of years and full months of creditable service at the time of his retirement increased, at the option of the employee, by up to three years of age or by up to three years of creditable service or by a combination of additional years of age and service the sum of which shall not be greater than three; provided that the commission, with the approval of the city manager of Cambridge, 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, however, that if participation is limited, the retirement of employees with the greatest creditable service so applying shall be approved before approval is given to employees with lesser creditable service.

(2) For the purposes of this section, words used herein shall have the same meaning as in chapter thirty-two of the General Laws 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 of the General Laws and shall be subject to the provisions of said chapter thirty-two.

(3) 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 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 consecutive or not, constituting his last three years of creditable service preceding retirement.

(4) The Cambridge retirement board shall prepare a funding schedule which shall reflect the costs and the actuarial liabilities attributable to the additional benefits payable under this section and said schedule shall be designed to reduce the Cambridge retirement

system's additional pension liability attributable to such costs and liabilities to zero on or before June thirtieth, two thousand and twelve; provided, however, that said retirement board shall triennially update such schedule until June thirtieth, two thousand and twelve. In each of the fiscal years until the actual liability determined under this section shall be reduced to zero, it shall be deemed an obligation of the commission to reimburse the city for such liability as shall be appropriated to the applicable pension reserve fund in such fiscal year in the amount required by the funding schedule and the updates thereto.

SECTION 7. (*a*) Not later than January fifteenth in each year, the commission shall prepare and file with the city manager and the city clerk an annual assessment of the public health needs of the city. The annual public health assessment shall include an evaluation of existing local, state and federal programs and services to address the public health needs of the city and the adequacy of funding sources available for such programs and services, an assessment of programs, services and other activities provided by private public health providers to address the public health needs of the city, including the performance of providers under contract with the commission in accordance with this act, and proposals by the commission to revise, enlarge or enhance its response to the public health needs of the city including new, expanded or revised programs or services to be provided by the commission or by public health providers under contract with it for the ensuing fiscal year.

(*b*) Subject to the limitations provided herein, the city and the commission shall enter into a contact for an initial period not to exceed seven years for the provision of public health services in accordance with the annual public health assessments provided pursuant to subsection (*a*). Said contract shall include projected funding for that period, commencing on the implementation date, to address the anticipated public health needs of the city and to contribute to the health care of city residents. The projected funding for that period will provide a budgetary framework for the city and the commission, with the actual funding amounts to be subject to annual appropriation by the city. The city shall reserve the right to terminate the contract if the commission does not adequately provide for the public health needs of the city or if the commission violates the terms of the contract. The contract may be amended, renewed or extended by agreement of the city and the commission.

(*c*) In addition to the authority granted elsewhere in this act and by other applicable laws, the commission and the city may enter into contracts from time to time to provide for one or more of the following: (*i*) the payment of sums appropriated pursuant to subsection (*b*); (*ii*) the payment of any other sums for health care or other services provided to the city; (*iii*) services to be provided by the city to or on behalf of the commission; (*iv*) indemnification by the commission to the city for claims associated with the establishment and operation of the commission and its health facilities; (*v*) the gift, grant, sale, conveyance, loan, license or lease by the city to the commission of any real property or any other assets, property or facilities useful in connection with the exercise by the commission of any of its powers under this act and not transferred pursuant to the authority granted in subsection (*c*) of section six; (*vi*) any such conveyance, transfer or other disposition of real property or other assets, property or facilities by the commission to the city; (*vii*) the payment by the commission of debt service on indebtedness issued by the city

on behalf of the commission; and (*viii*) such other matters as may be appropriate to accomplish the purposes hereof. No such contracts shall be subject to the provisions of chapter thirty B of the General Laws or any other law or ordinance requiring competitive bidding or other procurement or disposition procedures by either the city or the commission. Any such contracts shall include such terms and conditions, shall be for such consideration, if any, and shall have such terms of years, as the city and the commission may agree.

SECTION 8. (*a*) In addition to its other powers enumerated in this act, the commission shall have the following rights and powers:

(1) to adopt by-laws for the regulation of the affairs and the conduct of its business, and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(2) to adopt an official seal and alter the same at pleasure;

(3) to maintain an office at such places as it may determine;

(4) to establish its fiscal year, which shall otherwise be July first through June thirtieth;

(5) to receive, administer, expend and comply with the conditions and requirements respecting any gift, grant, donation or appropriation of any property or money;

(6) to receive and apply its revenues to the purpose of this act without appropriation or allotment by the city except as otherwise expressly provided herein and to invest any moneys of the commission or under its control in such investments as are legal investments for moneys of the commonwealth;

(7) to maintain, repair, operate and improve the Cambridge hospital network and all other public health facilities under its custody and control and to provide for the cost of the foregoing and its other activities and programs and project from its revenues, appropriations, grants, the proceeds of loans or from any other moneys legally available to the commission;

(8) to provide health care services, directly, by duly licensed health care providers or by contract;

(9) to mortgage, pledge or assign any real or personal property of the commission, subject to approval of the city manager to the extent required by clause (13), and any money, fees, charges, or other revenue of the commission and any proceeds derived by the commission from the sale of property, insurance or condemnation awards;

(10) to make application for, receive, accept and expend any private, federal, commonwealth or city loans or grants for or in aid of any program or operations of the commission or of any facilities or other property of the commission and to receive and accept contributions from any source of either money, property, labor or other things of value;

(11) to sue and be sued, to prosecute and defend actions relating to its properties and affairs and to be liable in tort as a public employer as defined in section one of chapter two hundred and fifty-eight of the General Laws; provided, however, that the commission shall not be authorized to become a debtor under the United States Bankruptcy Code;

(12) to appoint or employ personnel as provided herein and to engage legal, accounting, management, financial, medical, consulting and other professional services and

agents;

(13) to acquire by purchase, lease, gift or devise or to obtain options for the acquisition of any property or any interest therein, real or personal, improved or unimproved, tangible or intangible; to make contracts and agreements of all kinds including, but not limited to, contracts for the management of its hospital and public health facilities and for the provision to the commission of public health services and contracts for the sale, lease, as lessor or lessee, or purchase of real or personal property of any kind or description and to execute and deliver instruments necessary or convenient for carrying out any of its purposes; to provide, develop or participate in prepaid health care services, managed care programs and insurance programs and other alternative health care delivery programs, including programs involving the acceptance of capitated payments or premiums that include the assumption of financial and actuarial risk; to establish, develop or participate in health maintenance organizations or preferred provider organizations; and to acquire, create, be a voting member of, choose directors to serve on the boards of, share common officers and directors with, be a partner in or participate in or control, any venture, corporation, partnership or other organization, public or private, which the commission finds operates for purposes consistent with, and in furtherance of, the purposes of the commission, including a corporation organized under chapter one hundred and eighty of the General Laws in the manner specified in subsection (*e*) of section three; provided, however, that no contract or agreement for the management of all or substantially all of the operations of the Cambridge hospital network shall be effective without the prior approval of the city manager, and, in no case, shall any such contract or agreement be inconsistent with the mission of the commission as set forth in subsection (*a*) of section one or be inconsistent with the terms of this act; and, provided further, that the commission shall not mortgage, assign, pledge, sell or otherwise dispose of, or lease as lessor other than in the ordinary course of business, any of the real property transferred from the city to the commission with a value in excess of two hundred and fifty thousand dollars except upon the approval of the city manager and, if the value is in excess of one million dollars, the approval of the city council, unless a different value limitation is set by agreement between the city and the commission;

(14) to manage or to contract with the city, acting by the treasurer of the city with the approval of the city manager, for the management of public trusts, bequests and other endowment funds held by or on behalf of the commission for application to the operations of the Cambridge hospital network or any other corporate purpose of the commission;

(15) to adopt, amend and repeal reasonable health regulations not inconsistent with any public health regulation of the state department of public health or with any other provision of law and prescribe a reasonable fine for any violation of a health regulation promulgated hereunder; and

(16) consistent with the constitution and laws of the commonwealth, to exercise such other powers, including all powers pertaining to the department and to the properties under their custody and control held by the city on the effective date of this act not inconsistent herewith, as may be necessary or convenient for or incident to carrying out the foregoing powers and the accomplishment of the purposes of this act.

SECTION 9. (*a*) The commission may issue bonds or notes for any of its corporate purposes, including borrowing from the Health and Educational Facilities Authority established by chapter six hundred and fourteen of the acts of nineteen hundred and sixty-eight, which is hereby authorized to make loans to the commission. Except as otherwise provided in this act, the principal of, premium, if any, and interest on all bonds shall be payable solely from the particular funds provided therefor under the documents governing the issuance of the bonds and consistent with this act. The bonds shall be issued in such amounts as the commission may authorize. Bonds of each issue shall be dated, shall bear interest at such rate or rates, including rates variable from time to time as determined by such index, banker's loan rate, remarketing or index agent, or other method as may be determined by the commission and shall mature at such times as may be determined by the commission; provided, however, that no bond shall mature more than forty years from the date of issuance or beyond the expiration of the expected useful life of any facilities being financed by the bonds as determined by the commission. Bonds may be made redeemable before maturity at such prices and under such terms and conditions as may be fixed by the commission prior to the issuance of such bonds. The commission shall determine the form and details and the manner of execution of bonds. The commission may sell its bonds in such manner, either at public or private sale, for such price, at such rates of interest, or at such discount in lieu of interest, as the commission may determine.

(*b*) In addition to other lawful items, the costs to be financed by the issuance of bonds under this act may include interest during construction and for up to one year after completion of any revenue-producing facilities being financed as estimated by the commission, the cost of architectural, engineering, financial and legal services, plans, specifications, studies, expenses as may be necessary or incident to determining the feasibility or practicability of constructing such revenue-producing facilities, the financing of such construction and the placing of the facilities in operation and such other related expenses as may be determined by the commission.

(*c*) Any bonds issued under this act may be secured by a resolution or by a trust or security agreement between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the commonwealth, or by a trust or security agreement directly between the commission and the purchasers of the bonds and such resolution or trust or security agreement shall be in such form and executed in such manner as may be determined by the commission. Such trust or security agreement or resolution may pledge or assign, in whole or in part, the revenues held or to be received by the commission, including the revenues from any facilities already existing when the pledge or assignment is made, 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 commission, and the proceeds thereof. Such trust or security agreement or resolution may contain such provisions for protecting and enforcing the rights, security and remedies of the bondholders as may, in the discretion of the commission, be reasonable and proper and not in violation of law. Without limiting the generality of the foregoing, such agreement or resolution may include provisions defining defaults and pro-

viding for remedies in the event of default, which may include the acceleration of maturities, and covenants setting forth the duties of and limitations on the commission in relation to the custody, safeguarding, investment and application of moneys, the issue of additional or refunding bonds, the fixing, revision and collection of fees, charges and other revenues, the use of any surplus bond proceeds, the establishment of reserves, the construction and operation of facilities of the commission, and the making and amending of contracts relating to the bonds. It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of bonds, revenues or other moneys under a trust or security agreement or resolution and to furnish such indemnification or to pledge such securities and issue such letters or lines of credit or other credit facilities as may be required by the commission acting under this act. Any such trust or security agreement or resolution may set forth the rights and remedies of bondholders and of the trustees and may restrict the individual right of action by bondholders.

(*d*) Any bonds issued under authority of this act may be issued by the commission pursuant to lines of credit or other banking arrangement under such terms and conditions not inconsistent with this act, and under such agreements as the commission may determine to be in the best interests of the commission. Bonds so issued may also be secured, in whole or in part, by insurance or by letters or lines of credit or other credit or liquidity facilities issued to the commission by any bank, trust company or other financial institution, within or without the commonwealth, and the commission may pledge or assign any of its revenues as security for the reimbursement by the commission to the issuers of such issuance or letters or lines of credit or credit or liquidity facilities of any payments made thereunder.

(*e*) Any pledge of revenues, contract or other rights to receive revenues or the proceeds thereof made by the commission under this act shall be valid and binding and shall be deemed continuously perfected for the purposes of chapter one hundred and six of the General Laws from the time when the pledge is made; the revenues, moneys, rights and proceeds so pledged and then held or thereafter acquired or received by the commission shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act; and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the commission, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust or security agreement nor any other agreement by which a pledge is created need be filed or recorded except in the records of the commission and no filing need be made under said chapter one hundred and six.

(*f*) Any owner of a bond issued by the commission under the provisions of this act and any trustee under a trust or security agreement or resolution securing the same, except to the extent the rights herein given may be restricted by such agreement or resolution, may bring suit upon the bonds 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 commission, 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 or security agreement resolution and may enforce and compel the performance of all duties required by this act or by such agreement or resolution to be performed by the commission or by any officer of the commission.

(*g*) The commission may issue refunding bonds for the purpose of paying any of its bonds issued pursuant to this act at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at such times prior to the maturity or redemption of the refunding bonds as the commission may determine. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium on the bonds, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other expenses from the proceeds of such refunding bonds as may be required by a trust or security agreement or resolution securing the bonds. The authorization and issue of refunding bonds, the maturities and other details of such bonds, the security for the bonds, the rights of the holders of the bonds, and the rights, duties and obligations of the commission in respect to the same shall be governed by the provisions of this act relating to the issue of the bonds other than refunding bonds insofar as the same may be applicable.

(*h*) Bonds issued by the commission under this act shall not be deemed to be a debt or a pledge of the faith and credit of the commonwealth or of any city or town but shall be payable solely from the revenues of the commission. All bonds, notes and other evidences of indebtedness of the commission shall contain on the face thereof a statement to the effect that neither the commonwealth nor any city or town shall be obligated to pay the same and that neither the faith and credit nor the taxing power of the commonwealth or of any city or town is pledged to the payment of the principal of or interest on such bonds or notes.

(*i*) All moneys received pursuant to the provisions of this act, whether as proceeds from the issue of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act.

(*j*) Bonds issued under the provisions of 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, co-operative 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 bonds are hereby made securities which may properly and legally be deposited with and received by any state 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.

(*k*) Notwithstanding any of the provisions of this act or any recitals in any bonds issued under this chapter, all such bonds shall be deemed to be investment securities under chapter one hundred and six of the General Laws.

(*l*) Bonds may be issued under this act without obtaining the consent of the emergency finance board established under the provisions of chapter forty-nine of the acts

of nineteen hundred and thirty-three or of any department, division, commission, board, bureau or agency of the commonwealth or the city and without any other proceedings or the happening of any other conditions than those proceedings or conditions which are specifically required therefor by this act and the validity of and security for any bonds issued by the commission shall not be affected by the existence or nonexistence of any such consent or other proceedings or conditions.

(*m*) The city may authorize and incur indebtedness on behalf of the commission in accordance with chapter forty-four of the General Laws, including indebtedness authorized by an order of the city council passed on June seventh, nineteen hundred and ninety-three, as amended, for certain ambulatory care and parking facilities. The obligation of the city to pay interest and principal on indebtedness issued by the city shall be assumed by and imposed upon the commission unless otherwise provided by agreement as authorized by subsection (*c*) of section seven, but such indebtedness shall remain a general obligation of the city.

SECTION 10. The commission and all its revenues, income and real and personal property used solely by the commission in furtherance of the mission declared in section one shall be exempt from taxation and from betterments and special assessments and the commission shall not be required to pay any tax, excise or assessment to or for the commonwealth or any of its political subdivisions. Bonds issued by the commission and their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation by the commonwealth.

SECTION 11. (*a*) Subject to any limitations thereon or any approval required therefor under any other general or special law, the commission is hereby authorized to fix, revise, determine and collect fees, rates, rents and other charges for the services, programs and other activities provided by it or as a result of the operation of the properties under its custody and control. The fees, rates, rents and other charges established by the commission shall be so fixed and adjusted in respect of the aggregate thereof so as to provide revenues to the commission at least sufficient, together with all other moneys available to the commission, including all amounts appropriated to the commission as provided in this section, to pay or provide for all operating expenses of the commission and all debts and other obligations of the commission as the same becomes due, to create and maintain such reserves as may be reasonably required for its operations or to secure its debts and other obligations; and to pay or provide for all necessary repairs, replacements and renewals to the properties under its custody and control and any other amounts which the commission may be obligated to pay or provide for by law or contract.

(*b*) Any application, review or process in relation to or in furtherance of the purposes of or contemplated by this act heretofore filed or undertaken or any proceeding heretofore commenced or any determination, finding or award made by the city with the federal government, the department of public health or any other public corporation shall inure to and for the benefit of the commission to the same extent and in the same manner as if the commission had been a party to such application, review, process or proceeding from its inception and the commission shall be deemed to be a party thereto, to the extent not pro-

hibited by federal law. Any license, approval, permit, determination, finding, award or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application, review, process or proceeding shall inure to the benefit of and be binding upon the commission and shall be assigned and transferred by the city to the commission unless such assignment and transfer is prohibited by federal law.

(*c*) Notwithstanding the establishment of the commission, acquisition by the city or the commission of facilities and operations of Somerville hospital or establishment of Somerville hospital or any other entity as a subsidiary of the commission, the Cambridge hospital and any such subsidiary shall be deemed to retain the status and characteristics of a public service hospital as defined by 114.1 CMR 36.13(2)(j)(3), of a disproportionate share hospital as defined by 114.1 CMR 36.13(10) and of a public hospital for purposes of determining eligibility for and determination of all payments from all governmental units for the provision of general health supplies, care or rehabilitative services and accommodations, as those terms are defined in section thirty-one of chapter six A of the General Laws including, without limitation, for purposes of determining eligibility for payments to high public payer hospitals pursuant to 114.1 CMR 36.13(10)(a); disproportionate share adjustments for safety net providers pursuant to 114.1 CMR 36.13(10)(c); payments owed to or from the uncompensated care pool in accordance with regulations established pursuant to chapter one hundred and eighteen F of the General Laws; and entitlement to payment from and participation in medical assistance programs established under chapter one hundred and eighteen E of the General Laws.

SECTION 12. (*a*) The commission shall establish procedures for the procurement of services, supplies and materials to encourage fair and open competition and to obtain satisfactory prices thereon, but shall not be subject to general or special laws regulating the procurement of services, supplies and materials including, but not limited to, section thirty-nine M of chapter thirty of the General Laws, sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine of the General Laws, sections thirty-eight A½ to thirty-eight O, inclusive, of chapter seven of the General Laws and chapter thirty B of the General Laws; provided, however, that the provisions of sections twenty-six to twenty-seven F, inclusive, and section twenty-nine of chapter one hundred and forty-nine of the General Laws shall apply to all construction contracts procured by the commission.

(*b*) Notwithstanding the statutory provisions specified in subsection (*a*), or any other general or special law to the contrary, the city may employ alternative methods for procuring design and construction services for the development of its hospital network capital facility projects, including the negotiation of a construction management or design/build contract with the selected construction manager for the design and construction of the facilities upgrading project known as the Hospital Master Plan Project and as revised through the Memorandum of Understanding dated May fourteenth, nineteen hundred and ninety-three, as amended, its checkpoint reports and the order of the city council passed on June seventh, nineteen hundred and ninety-three, as amended.

SECTION 13. The commission shall at all times keep full and accurate accounts of its receipts, expenditures, disbursements, assets and liabilities, which shall be open to inspec-

tion by the city manager or any other duly appointed agent of the commonwealth or the city. The commission shall submit an annual report in writing concerning its operations to the city manager of the city and shall file a copy of such report with the city clerk within one hundred and twenty days following the close of its fiscal year unless otherwise agreed by the city and the commission. Such report for the fiscal year ending June thirtieth, nineteen hundred and ninety-seven, and for each fiscal year thereafter shall include financial statements relating to the operations and properties of the commission maintained in accordance with generally accepted accounting principles to the extent applicable and audited by an independent certified public accountant or firm of certified public accountants.

SECTION 14. Notwithstanding the provisions of subsection (*b*) of section six, the city shall retain the right to provide by ordinance for the designation of a new board of health or public health commissioner, who shall have the powers and perform the duties conferred or imposed by applicable general laws upon boards of health of cities, and in accordance with the terms of such ordinance. Any ordinance designating a new public health commissioner under this section may provide for reestablishment of a separate health policy board.

SECTION 15. Chapter one hundred and eight of the acts of nineteen hundred and forty-six is hereby repealed.

SECTION 16. Upon termination or dissolution of the commission, the title to all funds and other properties owned by it which remain after payment or the making of provision for payment of all obligations of the commission shall vest in the city.

SECTION 17. The provisions of this act shall be deemed to provide an exclusive, additional, alternative and complete method for the doing of the things authorized hereby and shall be deemed and construed to be supplemental and additional to, and not in derogation of, powers conferred upon the commission by law; provided, however, that insofar as the provisions of this act are inconsistent with the provisions of any general or special law, ordinance, administrative order or regulation or any limitation imposed by a corporate or municipal charter, the provisions of this act shall be controlling.

SECTION 18. This act, being necessary for the welfare of the city and its inhabitants, shall be liberally construed to effect the purposes hereof.

SECTION 19. This act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

SECTION 20. Section fifteen shall take effect as of the implementation date.

SECTION 21. This act shall take effect upon its passage.

Approved June 30, 1996.

Chapter 148. AN ACT RELATIVE TO THE AUTHORITY OF THE MAYOR OF THE CITY KNOWN AS THE TOWN OF METHUEN.

Be it enacted, etc., as follows:

SECTION 1. Section 3-3 of article 3 of the charter of the city known as the town of Methuen, which is on file in the office of the archivist of the commonwealth, as provided in section twelve of chapter forty-three B of the General Laws, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- All appointments of department heads, assistant department heads, division heads, police superior officers of the rank of sergeant and above, fire department superior officers of the rank of lieutenant and above, the conservation commission agent, and all boards and commissions shall be subject to confirmation by a majority vote of the full town council.

SECTION 2. Said article 3 of said charter is hereby further amended by adding the following section:-

Section 3-9. The terms of office of department heads of the town of Methuen shall be three years. The term department heads, as used herein, shall mean the fire chief, director of public works, veterans' service agent, town clerk, treasurer/tax collector, and the executive director of the council on aging and such other officers who may be designated as department heads under town ordinances.

SECTION 3. Section 4-1 of article 4 of said charter is hereby amended by striking out paragraph (*a*) and inserting in place thereof the following paragraph:-

(*a*) Composition. There shall be a school committee consisting of seven members, six of whom shall be nominated and elected at large, and the mayor who shall serve as the seventh member of the school committee. The mayor shall also serve as the chairman thereof with full power to vote. The school committee shall exercise control and management of the public schools of the town.

SECTION 4. A special election shall be held in the city known as the town of Methuen on a date set by the town council which shall be no later than November, nineteen hundred and ninety-six, and there shall be placed on the ballot to be used in said special election the following question:-

"Shall an act passed by the general court in the year nineteen hundred and ninety-six entitled 'An Act relative to the authority of the mayor of the city known as the town of Methuen' be accepted?" If a majority of the votes cast in answer to said question is in the affirmative, then this act shall take effect, but not otherwise.

SECTION 5. Section two shall take effect on January first, nineteen hundred and ninety-seven. Section three shall take effect on January first, nineteen hundred and ninety-eight and the terms of all department heads shall expire on December thirty-first, nineteen hundred and ninety-six. Section four shall take effect upon its passage.

The remainder of this act shall take effect only upon its acceptance by the voters of the town under the provisions of section four.

Approved June 30, 1996.

Chapter 149. AN ACT AUTHORIZING THE CONVEYANCE TO THE TOWN OF SOUTHBOROUGH OF A CERTAIN PARCEL OF LAND IN SAID TOWN TO BE USED FOR CEMETERY PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations, notwithstanding the provisions of section forty H of chapter seven of the General Laws, is hereby authorized to convey for consideration to the town of Southborough, a certain parcel of land to be used for cemetery purposes, said parcel being situated in said town of Southborough and currently under the care and control of the metropolitan district commission for public water supply protection purposes. Said parcel of land located on Middle road in said town is shown on the town of Southborough Assessor's Map 44 dated January 1, 1994 as Lot 5 and is bounded and described as follows:

Thence S 72° 34"' E, three hundred thirty-nine and twenty-one hundredths feet crossing said last mentioned highway and by the land of John Neary,

Thence N 19" 6 ¼° E, one hundred feet, by the land of said Neary to the land of Edgar Brigham,

Thence running by land of said Brigham by the following courses, N 70" 41¼° E one hundred seventy-five feet,

Thence S 49° 10 ¼' E, one hundred fifty-two and thirty-three one hundredths feet,

Thence S 45° 54 ¼' W, ninety-four and ninety-six one hundredths feet,

Thence S 4° 28 ¼' W, fifty-two and eighty-six one hundredths feet,

Thence S 20° 23¾' E, ninety and twenty-two one hundredths feet,

Thence S 24° 41¾' E, fifty-three and thirty-nine one hundredths feet,

Thence N 87° 39¾' E, eighty-two and fifty-seven one hundredths feet, to land of town of Southborough,

Thence running by land of Town of Southborough, by the following courses:

S 2° 56½' E, two hundred ninety-six and sixteen one hundredths feet,

Thence N 88° 13 ¼' W, fifteen and fifty-two one hundredths feet,

Thence S 35° 11 ¼' E, two hundred eighty-five and fifty-nine one hundredths feet,

Thence S 50° 3¾' E, one hundred nine and twenty-six one hundredths feet,

Thence S 58° 34½' E, one hundred ninety-eight and thirty-three one hundredths feet,

Thence N 79° 21 ¼' E, two hundred fifteen and ninety-five one hundredths feet by land of said Town of Southborough and crossing a highway leading from Southborough to Cordaville.

In consideration of said conveyance, said town of Southborough shall maintain a permanent two hundred-foot, no-alteration buffer zone, measured landward from the bank of the Sudbury Reservoir.

There shall be an independent appraisal for the use described herein of the fair market value of the property conveyed by the commonwealth to the town of Southborough and of the two hundred foot, no-alteration buffer zone offered by the town of Southborough as consideration. 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 chairmen of the joint committee on state administration in accordance with this act. If the consideration offered by the town of Southborough is less than the value of the property to be conveyed by the commonwealth, then the town of Southborough shall pay the amount of the difference between the two values to the commonwealth. 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 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 chairmen of the joint committee on state administration at least fifteen days prior to execution.

The plan for cemetery development shall be subject to approval by the department of environmental protection and to such conditions as may be required for the protection of the water supply by the metropolitan district commission.

SECTION 2. The town of Southborough shall pay all expenses associated with and any cost of appraisals, surveys and other expenses relating to the transfer of the land, and any cost and liabilities and expenses of any nature and kind for its ownership, maintenance or operation.

SECTION 3. In the event the parcel of land conveyed by section one of this act is not used for cemetery purposes or the conditions and restrictions to said conveyance are not fulfilled, title to all interests in said parcel of land shall revert to the commonwealth.

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

Approved June 30, 1996.

Chapter 150. AN ACT PROVIDING FOR THE ESTABLISHMENT OF A BEAUTIFICATION FUND IN THE TOWN OF BRAINTREE.

Be it enacted, etc., as follows:

SECTION 1. The town of Braintree is hereby authorized to establish and maintain a separate fund, which shall be designated and known as the Beautification Fund, for the purpose of funding beautification projects that improve the aesthetic appearance of the town. Said town is hereby authorized to raise and appropriate three hundred and fifty thousand dollars which shall be transferred to said account and any interest earned thereon shall be credited to said fund. The principal of said fund shall remain intact and any interest earned on said principal shall be used for purposes which enhance the aesthetic appearance of said town. Any expenditures from said fund shall require a majority vote of the board of selectmen.

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

Approved June 30, 1996.

Chapter 151. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR NINETEEN HUNDRED AND NINETY-SEVEN 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 and two B for the several purposes and subject to the conditions specified in said sections two, two B, and three are hereby appropriated from the General Fund unless specifically designated otherwise, subject to the provisions of law regulating the disbursement of public funds and the approval thereof, for the fiscal year ending June thirtieth, nineteen hundred and ninety-seven. The sums set forth as federal appropriation(s) in section two for the several purposes and subject to the conditions specified in said section 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 said section two 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-six and not included as part of an appropriation item in section two, are hereby made available for expenditure during fiscal year nineteen hundred ninety-seven, addition to any amount appropriated in section two.

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-seven 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 B. The comptroller is hereby authorized and directed to keep a distinct account of actual receipts from each such source by each such fund, to furnish the executive office for administration and finance and the house and senate committees on ways and means with quarterly statements comparing such receipts with the projected receipts set forth herein, and to include a full statement comparing such actual and projected receipts in the annual report for such fiscal year pursuant to section 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 1997 Revenue by Source and Budgetary Fund
(In Millions)

Source	All Funds	General Fund	Highway Fund	Local Aid Fund	Other Funds
Alcoholic Beverages	58.0	58.0	-	-	-
Commercial Banks	155.0	155.0	-	-	-
Savings Institutions	20.0	20.0	-	-	-
Cigarette	233.0	103.8	-	-	129.2
Corporations	950.0	570.0	-	380.0	-
Deeds	42.0	42.0	-	-	-
Estate/Inheritance	125.0	125.0	-	-	-
Income	6,772.5	3,792.1	-	2,709.0	271.4
Insurance	300.0	300.0	-	-	-
Motor Fuels	610.0	85.4	516.1	-	8.5
Utilities	100.0	100.0	-	-	-
Room Occupancy	74.0	48.1	-	-	25.9
Sales & Use: Regular	1,800.0	1,080.0	-	720.0	-
Sales & Use: Services	160.0	96.0	-	64.0	-
Sales & Use: Meals	380.0	228.0	-	152.0	-
Sales & Use: Motor Vehicles	370.0	222.0	-	148.0	-
Miscellaneous	1.0	1.0	-	-	-
Racing	12.0	12.0	-	-	-
Beano	3.5	3.5	-	-	-
Raffles/Bazaars	1.0	1.0	-	-	-
Division of Insurance	9.6	9.6	-	-	-
Total Consensus Taxes	12,176.6	7,052.5	516.1	4,173.0	435.0
Tax Revenue Initiatives	21.4	21.4	-	-	-
College Tuition Tax Deduction	-10.0	-6.0	-	-4.0	-
Total Taxes	12,188.0	7,067.9	516.1	4,169.0	435.0
Federal Reimbursements	2,974.6	2,967.6	4.0	-	3.3
Departmental Revenues	1,271.4	812.9	320.0	2.1	136.4
Transfers & Other Receipts	906.0	298.8	-	631.2	-24.0
Total for Budget	17,340.0	11,146.9	840.1	4,802.3	550.7

SECTION 1B. The comptroller is hereby authorized and directed to keep a distinct account of actual receipts of non-tax revenues by each department, board, commission or institution, to furnish the executive office for 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 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 1997 Unrestricted Non-Tax	FY 1997 Restricted Non-Tax	FY 1997 Total Non-Tax
Judiciary	63,309,454	0	63,309,454
District Attorneys	1,500	0	1,500
Executive	2,500	0	2,500
Secretary of State	41,815,100	30,000	41,845,100
Treasurer	444,925,414	484,180,000	929,105,414
Attorney General	8,997,144	0	8,997,144
State Ethics Commission	43,000	0	43,000
Inspector General	0	100,000	100,000
Non-tax Revenue Optimization	65,000,000	0	65,000,000
Office of Campaign and Political Finance	65,000	0	65,000
State Comptroller	2,450,087	0	2,450,087
Administration and Finance	192,871,959	13,251,251	206,123,210
Environmental Affairs	76,113,113	984,448	77,097,561
Health and Human Services	2,865,201,498	255,398,423	3,120,599,921
Transportation and Construction	8,089,309	27,345	8,116,654
Board of Library Commissioners	950	0	950
Department of Labor and Workforce Development	23,975,813	0	23,975,813
Division of Housing and Community Development	2,731,560	455,000	3,186,560
Consumer Affairs and Business Regulation	66,687,771	75,000	66,762,771
Department of Economic Development	522,175	0	522,175
Department of Education	151,900,594	397,100	152,297,694
Public Safety	354,215,022	25,375,847	379,191,869
Elder Affairs	370,000	3,000,000	3,370,000
Legislature	21,500	0	21,500
Total	4,369,310,463	783,274,414	5,152,584,877

Non-Tax Revenue Executive Office by Department Summary

Source	FY 1997 Unrestricted Non-Tax	FY 1997 Restricted Non-Tax	FY 1997 Total Non-Tax
Judiciary			
Supreme Judicial Court	1,179,455	-	1,179,455
Appeals Court	305,999	-	305,999
Trial Court	61,824,000	-	61,824,000
Total, Judiciary	63,309,454	-	63,309,454
District Attorneys	1,500	-	1,500
Executive	2,500	-	2,500
Secretary of State	41,815,100	30,000	41,845,100
Treasurer			
Office of the Treasurer	184,339,321	-	184,339,321
Lottery Commission	260,586,093	484,180,000	744,766,093
Total, Treasurer	444,925,414	484,180,000	929,105,414
Attorney General	8,997,144	-	8,997,144
State Ethics Commission	43,000	-	43,000
Inspector General	-	100,000	100,000
Non-tax Revenue Optimization	65,000,000	-	65,000,000
Office of Campaign and Political Finance	65,000	-	65,000
State Comptroller	2,450,087	-	2,450,087
Administration and Finance			
Office of the Secretary	298,603	-	298,603
Division of Fiscal Affairs	28,277,036	-	28,277,036
Department of Capital Planning and Operations	6,493,378	7,155,000	13,648,378
Public Employee Retirement Administration	50,000	-	50,000
Teachers' Retirement Board	1,672,839	-	1,672,839
Division of Administrative Law Appeals	50,000	-	50,000
Commission Against Discrimination	500	1,400,900	1,401,400

Source	FY 1997 Unrestricted Non-Tax	FY 1997 Restricted Non-Tax	FY 1997 Total Non-Tax
Department of Revenue	48,097,219	-	48,097,219
Appellate Tax Board	1,756,915	-	1,756,915
Division of Human Resources	105,560,642	1,230,000	106,790,642
Division of Operational Services	614,377	965,351	1,579,728
Division of Information Technology	450	2,500,000	2,500,450
Total, Administration & Finance	192,871,959	13,251,251	206,123,210
Environmental Affairs			
Office of the Secretary	505,253	200,000	705,253
Department of Environmental Management	7,494,972	75,000	7,569,972
Department of Environmental Protection	28,351,808	-	28,351,808
Division of Fisheries & Wildlife Law Enforcement	16,157,690	250,000	16,407,690
Metropolitan District Commission	17,905,627	459,448	18,365,075
Department of Food and Agriculture	5,697,763	-	5,697,763
Total, Environmental Affairs	76,113,113	984,448	77,097,561
Health and Human Services			
Office of the Secretary	63,540,835	4,611,784	68,152,619
Division of Health Care Financing and Policy	1,952,601,147	67,000,000	2,019,601,147
Massachusetts Commission for the Blind	2,920,566	75,000	2,995,566
Massachusetts Rehabilitation Commission	25,000	-	25,000
Commission for the Deaf and Hard of Hearing	28,800	45,000	73,800
Office for Children	631,850	-	631,850
Soldiers' Homes	11,126,132	220,000	11,346,132
Department of Youth Services	82,648	-	82,648
Department of Transitional Assistance	336,821,881	70,000,000	406,821,881
Department of Public Health	3,098,370	86,321,639	89,420,009
Department of Social Services	155,495,960	26,000,000	181,495,960
Department of Mental Health	53,505,206	125,000	53,630,206
Department of Mental Retardation	285,323,103	1,000,000	286,323,103
Total, Human & Community Services	2,865,201,498	255,398,423	3,120,599,921

Source	FY 1997 Unrestricted Non-Tax	FY 1997 Restricted Non-Tax	FY 1997 Total Non-Tax
Transportation and Construction			
Office of the Secretary	445,574	27,345	472,919
Massachusetts Aeronautics Commission	275,000	-	275,000
Highway Department	7,368,735	-	7,368,735
Total, Transportation and Construction	8,089,309	27,345	8,116,654
Board of Library Commissioners	950	-	950
Department of Labor and Workforce Development			
Department of Industrial Accidents	22,985,745	-	22,985,745
Board of Conciliation nd Arbitration	60,000	-	60,000
Department of Employment and Training	930,068	-	930,068
Total, Labor and Workforce Development	23,975,813	-	23,975,813
Division of Housing and Community Development	2,731,560	455,000	3,186,560
Consumer Affairs and Business Regulation			0
Office of the Director	2,000	-	2,000
Division of Banks	10,073,268	-	10,073,268
Division of Insurance	28,632,883	-	28,632,883
Division of Registration	8,893,752	-	8,893,752
Division of Standards	1,222,100	-	1,222,100
Department of Public Utilities	9,321,640	-	9,321,640
Energy Facilities Siting Commission	-	75,000	75,000
Alcoholic Beverages Control Commission	1,538,959	-	1,538,959
State Racing Commission	2,337,000	-	2,337,000
Community Antenna Television Commission	2,086,169	-	2,086,169
Board of Registration in Medicine	2,580,000	-	2,580,000
Total, Consumer Affairs & Business Regulation	66,687,771	75,000	66,762,771
Department of Economic Development			0
Department of Economic Development	80,000	-	80,000
Division of Energy Resources	442,175	-	442,175
Total, Department of Economic Development	522,175	-	522,175

Source	FY 1997 Unrestricted Non-Tax	FY 1997 Restricted Non-Tax	FY 1997 Total Non-Tax
Department of Education			
Department of Education	2,719,100		2,719,100
Board of Higher Education	54,464,770	397,100	54,861,870
University of Massachusetts System	94,716,724	-	94,716,724
Total, Department of Education	151,900,594	397,100	152,297,694
Public Safety			
Office of the Secretary	369,000	30,000	399,000
Office of the Chief Medical Examiner	207	-	207
Criminal History Systems Board	550,000	-	550,000
Board of Building Regulations	120,000	-	120,000
Architectural Access Board	15,000	-	15,000
Department of Police	458,352	15,200,000	15,658,352
Criminal Justice Training Council	102,491	-	102,491
Department of Public Safety	23,521,759	-	23,521,759
Massachusetts Firefighters' Academy	2,931,424	-	2,931,424
Registry of Motor Vehicles	322,469,090	5,800,000	328,269,090
Merit Rating Board	86,000	-	86,000
Military Division	1,000	185,000	186,000
Emergency Management Agency	657,669	-	657,669
Governor's Highway Safety Bureau	140,000	-	140,000
Department of Corrections	2,793,030	4,160,847	6,953,877
Total, Public Safety	354,215,022	25,375,847	379,191,869
Elder Affairs	370,000	3,000,000	3,370,000
Legislature	21,500	-	21,500
Total	4,369,310,463	783,274,414	5,152,584,877

SECTION 2.

JUDICIARY.

Notwithstanding the provisions of section one to the contrary, except as otherwise provided, items 0320-0001 to 0339-2100 are charged as follows:

Local Aid Fund 90.0%
General Fund 10.0%

Supreme Judicial Court.

0320-0001 For the office of the chief justice and the six associate justices. $788,058

0320-0003 For the operation of the supreme judicial court; provided, that twenty-four thousand eight hundred and seventeen dollars shall be expended for a paralegal/computer analyst position, so-called; provided further, that forty-six thousand five hundred dollars be made available for the judicial youth corporation program, so-called; and provided further, that the supreme judicial court shall not charge the trial court for any assessments, services, educational training, or costs of any kind $3,499,345

0320-0006 For the expenses of the Franklin county futures lab task force project, so-called $50,000

0320-0010 For the operation of the clerk's office of the supreme judicial court for Suffolk county $763,775

0321-0001 For operation of the commission on judicial conduct $225,000

0321-0100 For the services of the board of bar examiners $729,503

Committee for Public Counsel Services.

0321-1500 For the operation of the committee for public counsel services, as authorized by chapter two hundred and eleven D of the General Laws, including expenses for an audit and oversight unit; provided, that sixty-two thousand dollars shall be expended on a pilot process server unit, so-called; provided further, that one hundred sixty-two thousand two hundred and nineteen dollars shall be expended on salary adjustments for the non-public defender attorney staff and support staff of the committee $6,336,125

0321-1502 For the compensation to public counsel assigned cases under the provisions of subsection (a) of section six of chapter two hundred and eleven D of the General Laws, pursuant to section thirteen of chapter two hundred and eleven D of the General Laws, including compensation to the chief counsel, deputy chief counsels, and general counsel; provided, that six hundred sixty-one thousand dollars shall be expended on investigators and social workers of the

public defender division; provided further, that five hundred sixty-nine thousand dollars shall be expended on salary adjustments for public defenders $6,760,024

0321-1503 For the continuation of a children and family law pilot program in Hampden and Essex counties pursuant to section six hundred and fourteen of this act; provided, that thirty-four thousand dollars shall be expended on salary adjustments for the attorneys of said program $450,803

0321-1504 For the continuation of a youth advocacy program, so-called; provided, that twenty-five thousand dollars shall be expended on salary adjustments for the attorneys of said program $367,754

0321-1510 For the compensation to private counsel assigned to criminal cases 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 chapter two hundred and 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-seven only; provided further, 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; and provided further, that the rate of compensation for private counsel services provided for herein shall be adjusted so that said rate shall be equal to the rates of compensation established in item 0321-1513 of section two $34,230,000

0321-1512 For the compensation to private counsel assigned to family law and mental health cases 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 chapter two hundred and 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-seven 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; and provided further, that the rate of compensation for private counsel services provided for herein shall be adjusted so that said rate shall be equal to the rates of compensation established in item 0321-1513 ... $15,199,000

0321-1513 For the payment of compensation for private counsel services in addition to the amounts made available in items 0321-1510 and 0321-1512; provided, that the rate of compensation for superior court cases, {12S, c.112 cases, § 39F, c.119 cases and § 9, c.123A cases, and for other criminal cases, so-called, shall be thirty dollars per hour for in-court and out-of-court services; provided further, that the rate of compensation paid for other non-criminal cases, so-called, shall be thirty-nine dollars per hour for in-court and out-of-court services; provided further, that the rate of compensation paid for murder cases, shall be fifty-four dollars per hour for in-court and out-of-court services; and provided further, that the rates of compensation for private counsel services funded in items 0321-1510 and 0321-1512 shall equal the rates of compensation established herein $6,494,742

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 behalf 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 only be expended for services rendered in fiscal year nineteen hundred and ninety-seven $3,650,000

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 the first paragraph of section nine of chapter two hundred twenty-one A of the General Laws shall not apply to these programs; provided further, that said corporation may contract with any organization for the purpose of providing said representation $2,738,875

0321-1610 For the Massachusetts legal assistance corporation for the purpose of distributing funds for general operating costs of local and statewide civil legal services providers $3,800,000

0321-2000 For the operation 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 and twenty-one of the General Laws $344,101

0321-2100 For the Massachusetts correctional legal services committee..... $496,782

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 shall be made available for computerized legal research $1,180,800

0321-2206 For the social law library to operate the electronic law database project $250,000

Appeals Court.

0322-0100 For the appeals court, including the salaries, traveling allowances, and expenses of the chief justice and the thirteen associate justices and the expenses of the conference program, so-called; provided, that the salary of the administrative assistant to the justices of the appeals court shall be the same as the clerk of the appeals court $4,815,712

Trial Court.

0330-0101 For the salaries of the justices of the superior court department of the trial court; provided, that the chief justice for administration and management of the trial court shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within thirty days of said transfer $6,921,657

0330-0102 For the salaries of the justices of the district court department of the trial court; provided, that the chief justice for administration and management of the trial court shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within thirty days of said transfer $15,856,791

0330-0103 For the salaries of the justices of the probate and family court department of the trial court; provided, that ninety-five thousand seven hundred ten dollars shall be expended for an additional probate justice in the Bristol probate court; provided further, that the chief justice for administration and management of the trial court shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within thirty days of said transfer $4,038,190

0330-0104 For the salaries of the justices of the land court department of the trial court; provided, that the chief justice for administration and management of the trial court shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within thirty days of said transfer $386,820

0330-0105 For the salaries of the justices of the Boston municipal court; provided, that the chief justice for administration and management of the trial court shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within thirty days of said transfer $1,056,790

0330-0106 For the salaries of the justices of the housing court department of the trial court; provided, that the chief justice for administration and management of the trial court shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within thirty days of said transfer $578,239

0330-0107 For the salaries of the justices of the juvenile court department of the trial court; provided, that the chief justice for administration and management of the trial court shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within thirty days of said transfer $3,175,707

0330-0300 For the administration of the office of the chief justice for administration and management of the trial court, including the salary of the chief justice for administration and management; provided, however, that the supreme judicial court shall not charge the trial court for any assessments, services, education, training, or costs of any kind; provided further, that the chief justice for administration and management of the trial court shall study the staffing needs of each court in the trial court department and shall make such recommendations as he deems appropriate to adjust staffing levels to accommodate the workload in each court; provided further, that said chief justice shall not implement the recommendations resulting from said study prior to July first, nineteen hundred ninety-seven; and provided further, that said study shall be filed with the house and senate ways and means committees not later than February third, nineteen hundred ninety-seven $4,901,844

0330-0301 For the salary and expenses of the executive director and staff of the trial court office of community corrections $100,000

0330-0315 For the operation of the Suffolk county courts' community service program, so-called, to be supervised by the chief justice for administration and management $188,710

0330-0317 For the operation and expenses of the Massachusetts sentencing commission, pursuant to subsection (a) of section one of chapter four hundred and thirty-two of the acts of nineteen hundred and ninety-three $257,004

0330-0400 For the non-employee 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 for administration and management; provided, that contracting for non-employee assigned interpretive services and contracting with agencies or providers for assigned interpretive services shall not give rise to enforceable legal rights in any party or an enforceable entitlement to interpretive services; provided further, that nothing stated herein shall be construed as giving rise to such enforceable

legal rights or such enforceable entitlement; provided further, that in contracting for services to provide interpreters to persons who are deaf or hard of hearing, the trial court shall maximize the use of interpreter services provided by the Massachusetts commission for the deaf and hard of hearing whenever possible; provided, that not *less than one hundred thousand dollars shall be expended* for the training of personnel and the implementation of a changing lives through literature program, so-called; provided further, that not less than one hundred thousand dollars shall be provided for the Massachusetts general hospital research program on abused children; provided further, that not less than ninety thousand dollars shall be expended for a court interpreter pilot program in the superior court located in the city of Fall River and said court shall provide one court interpreter, one clerical support position and office space, if available, for said program; provided further, that one hundred and forty-six thousand and six hundred and eighty-eight dollars shall be *expended for the purpose of providing a community* services for women program in the district court of Southern Essex (Lynn); and provided further, that not less than eighty-five thousand dollars shall be expended for a partnership between the administrative office of the trial court and the university of Massachusetts for the development and implementation of a plan to increase the number of qualified, certified foreign language interpreters available for court interpretation services $14,580,298

0330-0410 For alternative dispute resolution services for the trial court; provided, that such services shall be made available to the extent possible in connection with child care, protection and custody proceedings in juvenile and probate courts; and provided further, that not less than thirty-five thousand dollars shall be expended for Framingham mediation services $85,000

0330-0420 For a substance abuse training program $50,000

0330-0600 For dental and optical health plan trust agreements $1,857,056

0330-1000 For trial court jury expenses $3,188,868

0330-2000 For the trial court law libraries; provided, that the chief justice for administration and management shall collaborate with the Massachusetts bar association, the Boston bar association, and law schools in the commonwealth in developing a voluntary library assistance program $1,636,966

0330-2002 For the maintenance, purchase and binding of trial court law library materials $1,977,854

0330-2010 For the costs associated with computerized legal research $218,294

0330-2020 For centralized law book purchases $442,580

0330-2200 For the rental of county court facilities, in accordance with section four of chapter twenty-nine A of the General Laws; provided, that all payments made hereunder shall be made pursuant to written agreements; provided further, that quarterly payments shall be made to counties equal to an amount which is at least ninety percent of the amount owed each quarter to such county in 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 made 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 justice for administration and management of the trial court and approved as accurate; provided further, that said cost data shall be filed with the house and senate committees on ways and means; provided further, that every county receiving said payments shall maintain such funds in a separate account which shall be used solely for the maintenance of the rented facilities; 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; and provided further, that no funds from this account shall be expended on trial court telecommunications costs or rental of private or municipal court facilities $14,382,074

Local Aid Fund 100.0%

0330-2201 For the purchase, maintenance, and leases of statewide telecommunications for the trial court; provided, that not less than two hundred fifty-five thousand dollars shall be expended for data lines for the warrant management system, so-called $2,689,777

0330-2202 For the payment of private and municipal court leases; provided, that not less than one hundred and fifty thousand dollars shall be expended for rental space for the Leominster district court; provided further, that not less than one hundred and eight thousand dollars shall be expended for rental space for the Norfolk county law library $3,914,101

0330-2205 For the costs associated with maintaining and operating courthouse facilities owned by the commonwealth $12,217,411

0330-2300 For the costs of witness fees $575,073

0330-2410 For the operation of the judicial training institute; provided, that not less than one hundred thousand dollars shall be expended for the training of court personnel on domestic violence issues $391,528

0330-2600 For the travel expenses of judicial personnel; provided, that the chief justice for administration and management of the trial court shall promulgate rules and regulations governing the selection of justices for travel outside of the commonwealth for the purpose of judicial training; provided further, that said rules and regulations shall give first priority to newly appointed justices for such training..... $911,552

0330-2700 For trial court printing expenses $1,425,485

0330-2800 For the cost of equipment maintenance and repairs $2,720,637

0330-3000 For equipment purchases and rentals; provided, that said purchases and rentals may be allocated by the chief justice for administration and management; provided further, that in purchasing said equipment, the chief justice for administration and management shall utilize vendors approved by the state purchasing agent for such equipment whenever the terms offered by said vendor are more favorable than those otherwise available $558,878

0330-3200 For the court security program, including personnel and expenses; provided, that four hundred twenty thousand dollars shall be expended for additional security guards; provided further, that four hundred twenty thousand dollars shall be expended for additional court officers; provided further, that said security guards and court officers may be available for assignment in accordance with juvenile court expansion pursuant to line item 0337-0003; provided further, that any court officer scheduled to work nineteen hundred and fifty hours, or more, in fiscal year nineteen hundred and ninety-six shall be considered a full-time court officer for fiscal year nineteen hundred and ninety-seven; and provided further, that all other per diem court officers shall be paid the daily rate in accordance with collective bargaining agreements ... $21,797,515

0330-3300 For the payment of office, administrative, and special expenses of the trial court, to be allocated by the chief justice for administration and management $536,032

0330-3700 For the court interpreters program; provided, that the chief justice for administration and management shall establish and direct a policy for the scheduling of court sessions in all court departments to cost-effectively utilize court language interpreters; provided further, that not less than thirty-seven thousand five hundred dollars shall be expended for compensation for one additional language interpreter $184,266

0330-4100 For a trial court vacancy pool and reserve; provided, that by March first, nineteen hundred and ninety-seven, the chief justice for administration and management shall submit a report to the house and senate committees on ways and means detailing all assignments and allocations; provided further, that one administrative secretary shall be funded from this item and assigned to the district court of northern Berkshire; and provided further, that the annualized cost of positions filled shall not exceed the amount appropriated herein $1,500,000

033 0-4303 For the chargeback costs of unemployment compensation, medicare tax, workers' compensation, universal health, and group insurance assessed against the employees and justices of the trial court $5,060,429

Superior Court Department.

0331-0100 For the administrative office of the superior court department; provided, that not more than seventy-five thousand dollars shall be expended for judicial education, including the semi-annual conferences, racial and gender bias orientation programs, and judicial induction ceremonies; provided further, that the chief justice of the superior court is hereby authorized and directed to expend an amount not to exceed forty thousand dollars to relocate the Plymouth county superior court probation office employees presently located at 32 Belmont street; provided further, that said relocation shall be contingent on finding suitable, accessible and available office space to accommodate said office employees subject to the approval of the chief justice of the department; and provided further, that the annualization for the rent and expenses for said office shall not exceed in any fiscal year the amount of said relocation. . . . $4,823,612

0331-0300 For medical malpractice tribunals established in accordance with the provisions of section sixty B of chapter two hundred and thirty-one of the General Laws $76,000

0331-0600 For the superior court probation services; provided, that one additional probation officer shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven; provided further, that said probation officer shall be assigned to the Franklin superior court by the office of the commissioner of probation $7,562,477

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; provided further, 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; and 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 $424,598

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; provided further, 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; and 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 $250,893

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; provided further, 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 two additional assistant clerk magistrate positions shall be appointed and funded from this item during fiscal year nineteen hundred ninety- seven.... $1,084,774

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; provided further, 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; and 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 $113,100

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; provided further, 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; and 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 $1,499,407

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; provided further, 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; and 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 $250,967

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; provided further, 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; and 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 one additional assistant clerk magistrate position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven.... $1,291,224

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; provided further, 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; and 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 $336,934

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; provided further, 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; and 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 $3,393,788

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; provided further, 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; and 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 $117,586

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; provided further, 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; and 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 $1,114,477

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; provided further, 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; and 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 $1,111,784

0331-3300 For the Suffolk superior civil court; provided, that eighty-six thousand five hundred dollars shall be expended for five additional procedure clerk I positions; provided further, that one hundred seventy-three thousand seven hundred ninety-three dollars shall be expended to fill three vacant assistant clerk positions; provided further, that said procedure and assistant clerks shall not be subject to section nine, clause (xxiii) (a) and (b) of chapter two hundred and eleven B of the General Laws; provided further, 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 for the management of the courthouse and shall have authority over all personnel employed by the superior court department; and 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	$3,234,966
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; provided further, 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 not 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 not 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	$1,975,882
0331-3404	For an education and community outreach pilot program to be administered in the Suffolk county superior criminal court	$96,844
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; provided further, 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; and 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	$1,451,357

District Court Department.

0332-0100	For the administrative office of the district court department, including a civil conciliation program	$1,276,344
0332-1100	For the first district court of Barnstable	$1,709,483
0332-1200	For the second district court of Barnstable (Orleans)	$925,093
0332-1203	For the third district court of Barnstable (Falmouth); provided, that one additional sessions clerk position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven	$895,785
0332-1300	For the district court of northern Berkshire (Adams, North Adams, Williamstown)	$588,055
0332-1400	For the district court of central Berkshire (Pittsfield)	$1,036,760
0332-1500	For the district court of southern Berkshire (Great Barrington, Lee)	$439,937
0332-1600	For the first district court of Bristol (Taunton); provided, that thirty-four thousand six hundred dollars shall be expended on two additional procedure clerk I positions	$1,292,666
0332-1700	For the second district court of Bristol (Fall River); provided, that two additional probation officer positions shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven; provided further, that said probation officers shall be assigned to said court by the commissioner of probation; and provided further, that one additional computer operator position and one additional administrative assistant II position and six additional procedure clerk II positions four of whom are to be in the office of the clerk and two of whom are to be in the office of probation shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven	$2,115,974
0332-1800	For the third district court of Bristol (New Bedford); provided, that not less than fifty-one thousand six hundred eleven dollars be expended for three procedure clerk I positions	$2,025,694
0332-1900	For the fourth district court of Bristol (Attleboro); provided, that one additional head administrative assistant position shall be appointed and funded from this item during fiscal	

year nineteen hundred ninety-seven; provided further, that one additional assistant clerk position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven $955,419

0332-2000 For the district court of Edgartown $332,056

0332-2100 For the first district court of Essex (Salem); provided, that two additional assistant clerk magistrate positions in the office of the clerk magistrate shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven $1,654,749

0332-2300 For the third district court of Essex (Ipswich) $244,570

0332-2400 For the central district court of northern Essex (Haverhill); provided, that two additional probation officer positions shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven; provided further, that said probation officers shall be assigned to said court by the commissioner of probation; and provided further, that one additional procedure clerk I position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven $1,465,663

0332-2500 For the district court of eastern Essex (Gloucester) $784,888

0332-2600 For the district court of Lawrence; provided, that eighty-five thousand dollars shall be expended for a "drug treatment on demand" drug offender program, so-called; provided further, that three additional probation officer positions shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven; provided further, that said probation officers shall be assigned to said court by the commissioner of probation; and provided further, that two additional procedure clerk I positions shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven $2,403,716

0332-2700 For the district court of southern Essex (Lynn), prior appropriation continued $2,377,969

0332-2800 For the district court of Newburyport $1,080,484

0332-2900 For the district court of Peabody $1,111,246

0332-3000 For the district court of Greenfield; provided, that two additional probation officer positions shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven; provided further, that said probation officers shall be assigned to said court by the commissioner of probation; and provided further, that one additional procedure clerk I position and one additional courtroom procedure clerk position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven $955,688

0332-3100 For the district court of Orange $395,008

0332-3200 For the district court of Chicopee $777,180

0332-3300 For the district court of Holyoke $846,350

0332-3400 For the district court of eastern Hampden (Palmer) $644,057

0332-3500 For the district court of Springfield; provided, that fifty thousand dollars shall be expended for an assistant clerk for the six-person jury session in said court for fiscal year nineteen hundred and ninety-seven $3,621,384

0332-3600 For the district court of western Hampden (Westfield) $716,685

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 further, that two additional probation officer positions shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven; provided further, that said probation officers shall be assigned to said court by the commissioner of probation; and provided further, that one additional courtroom procedure clerk position and one additional sessions clerk position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven $1,659,179

0332-3800 For the district court of eastern Hampshire (Ware) $514,240

0332-3900 For the district court of Lowell $2,974,275

0332-4000 For the district court of Somerville; provided, that one additional assistant clerk magistrate position shall be appointed and funded from this item during fiscal year nineteen hundred and ninety-seven $2,123,629

0332-4100 For the district court of Newton $910,088

0332-4200 For the district court of Marlborough $974,906

0332-4300 For the district court of Natick $787,082

0332-4400 For the district court of eastern Middlesex (Malden) $1,973,042

0332-4500 For the second district court of eastern Middlesex (Waltham).... $1,419,892

0332-4600 For the third district court of eastern Middlesex (Cambridge).... $3,119,528

0332-4700 For the fourth district court of eastern Middlesex (Woburn) $1,897,624

0332-4800 For the first district court of northern Middlesex (Ayer) $1,117,278

0332-4900 For the first district court of southern Middlesex (Framingham) $1,895,991

0332-5000 For the district court of central Middlesex (Concord) $1,134,727

0332-5100 For the district court of Nantucket $198,063

0332-5200 For the district court of northern Norfolk (Dedham) $1,832,672

0332-5300 For the district court of eastern Norfolk (Quincy); provided, that one additional chief court officer position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven; provided further, that one additional assistant clerk magistrate position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven $3,936,533

0332-5400 For the district court of western Norfolk (Wrentham) $1,265,706

0332-5500 For the district court of southern Norfolk (Stoughton); provided, that two additional probation officer positions shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven; provided further, that said probation officers shall be assigned to said court by the commissioner of probation; and provided further, that two additional procedure clerk I positions who shall work exclusively at the Stoughton court, shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven $1,462,967

0332-5600 For the municipal court of Brookline $795,790

0332-5700 For the district court of Brockton; provided, that two additional probation officer positions shall be appointed

and funded from this item during fiscal year nineteen hundred ninety-seven; provided further, that said probation officers shall be assigned to said court by the commissioner of probation; and provided further, that one additional head administrative assistant position and three additional session clerk positions and four additional procedure clerk I positions shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven $2,571,554

0332-5800 For the second district court of Plymouth (Hingham); provided, that one additional assistant clerk magistrate position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven $1,459,967

0332-5900 For the third district court of Plymouth (Plymouth) $1,581,343

0332-6000 For the fourth district court of Plymouth (Wareham) $1,319,381

0332-6100 For the district court of Brighton $1,043,044

0332-6200 For the district court of Charlestown; provided, that forty-five thousand dollars shall be expended for a chief court officer..... $744,758

0332-6300 For the district court of Chelsea; provided, that one additional assistant clerk magistrate position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven $1,731,754

0332-6400 For the district court of Dorchester $3,920,241

0332-6500 For the district court of East Boston $1,398,770

0332-6600 For the district court of Roxbury $3,607,464

0332-6700 For the district court of South Boston $927,075

0332-6800 For the district court of West Roxbury; provided, that two hundred thousand dollars shall be expended for five additional probation officers $1,866,708

0332-6900 For the central district court of Worcester; provided, that fifty-seven thousand nine hundred and thirty-two dollars shall be expended for one additional assistant clerk and twenty-seven thousand dollars shall be expended for one additional administrative assistant; provided further, that said assistant clerk and administrative assistant shall not be subject to section nine, clause (xxiii)(a) and (b) of chapter two hundred and eleven B of the General Laws $3,353,734

0332-7000 For the district court of Fitchburg $1,103,143

0332-7100 For the district court of Leominster; provided, that one additional assistant clerk magistrate position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven $725,436

0332-7200 For the district court of Winchendon $160,228

0332-7300 For the first district court of northern Worcester (Gardner); provided, that one additional assistant clerk magistrate position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven $906,183

0332-7400 For the first district court of eastern Worcester (Westborough)..... $934,907

0332-7500 For the second district court of eastern Worcester (Clinton) $459,530

0332-7600 For the first district court of southern Worcester (Dudley); provided, that one additional assistant clerk magistrate position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven $978,427

0332-7700 For the second district court of southern Worcester (Uxbridge) $552,406

0332-7800 For the third district court of southern Worcester (Milford) $874,541

0332-7900 For the district court of western Worcester (East Brookfield)..... $745,332

0332-8000 For the development of an early intervention project for domestic abusers at the Cambridge division of the district court department of the trial court of Massachusetts; provided, that said project is to be administered by a seven member executive board consisting of the first justice of the Cambridge court or his designee, the clerk of the Cambridge court or his designee, the chief probation officer of the Cambridge court or his designee, the Middlesex district attorney or his designee, the city manager of the city of Cambridge or his designee, the chief administrative justice of the trial court or his designee, and one person to be appointed by the governor; and provided further, that the employment conditions of the project director and the allocation of project funds shall be determined by the executive board $53,700

Probate and Family Court Department.

0333-0002 For the administrative office of the probate and family court department; provided, that not less than forty-eight thousand dollars shall be expended for a case manager who shall report directly to the chief justice of the probate and family court department; provided further, that said case manager shall assist said chief justice with the management of petitions to dispense with parental consent to adoption pursuant to chapter two hundred and ten, section three of the General Laws by coordinating department of social services and probate court actions related to such cases; provided further, that said case manager's duties shall include coordinating conferences and trials and monitoring paperwork and appointments with parties' counsel; provided further, that said case manager shall meet monthly with the department of social services and shall report quarterly to the house and senate committees on ways and means on the backlog of such cases in the probate court and the parties' progress made in said backlog each month; provided further, that six additional law clerk positions shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven, bringing the total number of law clerks to fourteen positions in fiscal year nineteen hundred ninety-seven; and provided further, that there will be one law clerk for each of the fourteen probate courts $1,061,323

0333-0100 For the Barnstable probate court; provided, that two additional probation officer positions shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven; provided further, that said probation officers shall be assigned to said court by the commissioner of probation; and provided further, that one additional procedure clerk I position and one clinical psychologist position shall be appointed and funded from this item during fiscal year nineteen hundred ninety- seven. $918,655

0333-0150 For the operation of a child and parents program in the Barnstable probate court; provided, that said item shall not be subject to section nine, clause (xxiii)(a) and (b) of chapter two hundred and eleven B of the General Laws $40,000

0333-0200 For the Berkshire probate court $593,506

0333-0300	For the Bristol probate court	$1,606,081
0333-0400	For the Dukes probate court	$176,939
0333-0500	For the Essex probate court	$1,936,924
0333-0600	For the Franklin probate court; provided, that two additional procedure clerk I positions and two secretary I positions shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven	$468,655
0333-0700	For the Hampden probate court; provided, that one hundred three thousand two hundred and forty-eight dollars shall be expended for six additional procedure clerk I positions	$2,040,598
0333-0711	For the Hampden probate court family services clinic	$50,000
0333-0800	For the Hampshire probate court; provided, that one additional sessions clerk position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven	$771,001
0333-0900	For the Middlesex probate court	$3,399,404
0333-0911	For the Middlesex probate court family services clinic	$215,742
0333-1000	For the Nantucket probate court	$140,506
0333-1100	For the Norfolk probate court	$2,312,594
0333-1111	For the Norfolk probate court family services clinic	$130,585
0333-1200	For the Plymouth probate court	$1,739,270
0333-1300	For the Suffolk probate court	$2,861,687
0333-1400	For the Worcester probate court	$1,928,792

Land Court Department.

0334-0001	For the operation of the land court	$2,366,232

Boston Municipal Court Department.

0335-0001	For the operation of the Boston municipal court	$6,693,705

Housing Court Department.

0336-0002	For the administrative office of the housing court department	$111,094
0336-0100	For the Boston housing court	$867,132
0336-0200	For the Hampden housing court	$457,459
0336-0300	For the Worcester housing court	$435,320

0336-0400 For the Southeastern housing court $631,321

0336-0500 For the Northeastern housing court $393,851

Juvenile Court Department.

0337-0002 For the administrative office of the juvenile court department..... $485,790

0337-0003 For the personnel and expenses associated with the expansion of the juvenile court, including Berkshire, Essex, Hampshire/Franklin, Hampden, Middlesex, Norfolk, Plymouth, Suffolk, Worcester and Nantucket/ Dukes counties; provided, that fifty thousand dollars shall be expended on the CASA program, so-called, in the Lawrence district court; provided further, that fifty thousand dollars shall be expended for the CASA program in the Worcester juvenile court; provided further, that fifty thousand dollars shall be expended for the CASA program in the Plymouth county juvenile court; provided further, that eighty thousand dollars shall be expended for the Franklin/Hampshire CASA program, including Northampton, Greenfield, Orange, and Ware district courts; provided further, that sixty-two thousand eight hundred twenty-two dollars shall be expended for a first assistant clerk of the Middlesex county juvenile court; and provided further, that said clerk shall not be subject to section nine, clause (xxiii) (a) and (b) of chapter two hundred and eleven B of the General Laws $11,821,128

0337-0100 For the Boston juvenile court $3,332,485

0337-0200 For the Bristol juvenile court $1,830,517

0337-0300 For the Springfield juvenile court; provided, that fifty thousand dollars shall be expended for the CASA program in the Springfield juvenile court $1,401,165

0337-0400 For the Worcester juvenile court $1,167,960

0337-0500 For the Barnstable county/town of Plymouth juvenile court; provided, that sixty-two thousand eight hundred and twenty-two dollars be expended for a first assistant clerk of the Barnstable county/town of Plymouth juvenile court; provided further, that said clerk shall not be subject to section nine, clause (xxiii)(a) and (b) of chapter two hun-

dred and eleven B of the General Laws; and provided further, that the annualized cost of such expenditures shall not exceed the amount appropriated herein $1,244,717

Office of the Commissioner of Probation.

0339-1001 For the office of the commissioner of probation; provided, that not less than fifty thousand dollars shall be expended for a juvenile probation officer at Dorchester district court for the Dorchester safe neighborhood initiative area; provided further, that not less than sixty-nine thousand two hundred fifty-six dollars to be expended to hire two additional probation officers for the Taunton district court.... $2,956,512

Office of the Jury Commissioner.

0339-2100 For the office of the jury commissioner, in accordance with chapter two hundred and thirty-four A of the General Laws; provided, that ninety-six thousand dollars shall be expended for two telephone schedulers, one data entry clerk, and one legal secretary $2,237,249

DISTRICT ATTORNEYS.

Suffolk District Attorney.

0340-0100 For the Suffolk district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than one hundred twenty-five thousand dollars shall be expended for a safe neighborhood initiative in Suffolk County, so-called; provided further, that not less than two hundred and seventy-eight thousand seven hundred and thirteen dollars shall be expended for a community based juvenile justice prosecution program to be administered and operated in the city of Boston and in Suffolk county for priority prosecution of serious juvenile offenders and intervention through coordination and cooperation with local law enforcement, schools, probation and court representatives, and where appropriate the department of social services, department of youth services, and department of mental health, pursuant to section six hundred and fifty-two of this act ... $12,253,581

Local Aid Fund 93.0%
Victim and Witness Assistance Fund 7.0%

Federal Appropriation

0340-0152 For the purposes of a federally funded grant entitled, Comprehensive Gang Initiative $100,000

Northern District Attorney.

0340-0200 For the Northern district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than three hundred forty-one thousand eight hundred and fifteen dollars shall be expended for a community based juvenile justice prosecution program to be administered and operated in Middlesex county in cities which shall include but not be limited to Lowell, Malden, Everett, Somerville, Medford, Cambridge and Woburn for priority prosecution of serious juvenile offenders and intervention through coordination and cooperation with local law enforcement, schools, probation and court representatives, and where appropriate the department of social services, department of youth services, and department of mental health, pursuant to section six hundred and fifty-two of this act $8,393,693

Local Aid Fund 89.0%
Victim and Witness Assistance Fund 11.0%

Eastern District Attorney.

0340-0300 For the Eastern district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than one hundred fifty-six thousand six hundred and seventy dollars shall be expended for a community based juvenile justice prosecution program to be administered and operated in the cities of Lawrence and Lynn for priority prosecution of serious juvenile offenders and intervention through coordination and cooperation with local law enforcement, schools, probation and court representatives, and where appropriate the department of social services, department of youth services, and department of mental health, pursuant to section six hundred and fifty-two of this act $5,517,544

Local Aid Fund 89.0%
Victim and Witness Assistance Fund 11.0%

Middle District Attorney.

0340-0400 For the Middle district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than one hundred twenty-six thousand dollars be used for an anti-gang unit, so-called; provided further, that two hundred ten thousand dollars shall be expended for the costs associated with six-person jury sessions $5,998,729

Local Aid Fund 92.0%
Victim and Witness Assistance Fund 8.0%

Western District Attorney.

State Appropriation

0340-0500 For the Western district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than two hundred sixty-eight thousand five hundred dollars be used for a specialized homicide trial unit; provided further, that not less than one hundred fifty-six thousand four hundred and twenty-one dollars shall be expended for a community based juvenile justice prosecution program to be administered and operated in the cities of Holyoke and Springfield for priority prosecution of serious juvenile offenders and intervention through coordination and cooperation with local law enforcement, schools, probation and court representatives, and where appropriate the department of social services, department of youth services, and department of mental health, pursuant to section six hundred and fifty-two of this act; provided further, that not less than four hundred thousand dollars shall be expended for the continued implementation and operation of the "Hampden county anti-gang project", so-called, a comprehensive organized and strategic effort of prosecution and law enforcement officials to identify, contain, and prevent the existence, operation and mobility of gangs and gang activity and to prosecute the same; and provided further, that the district attorney for Hampden county shall administer and direct said project in consultation with the

chiefs of police of each city and town within Hampden county, the state police, the sheriff of Hampden county and all appropriate federal law enforcement authorities $4,894,805

Local Aid Fund 87.0%
Victim and Witness Assistance Fund 13.0%

Federal Appropriation

0340-0526 For the purposes of a federally funded grant entitled, Gang Task Force $77,000

Northwestern District Attorney.

0340-0600 For the Northwestern district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than one hundred thousand dollars shall be expended for the salaries and expenses of a children's advocacy project, so-called $3,094,186

Local Aid Fund 86.0%
Victim and Witness Assistance Fund 14.0%

Norfolk District Attorney.

0340-0700 For the Norfolk district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit $5,312,930

Local Aid Fund 89.0%
Victim and Witness Assistance Fund 11.0%

Plymouth District Attorney.

0340-0800 For the Plymouth district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not more than twenty thousand dollars shall be expended for the renovations and refurbishment of 32 Belmont street; provided further, that said twenty thousand dollars shall not be expended prior to the relocation of the Plymouth county superior court probation office employees from 32 Belmont street; and provided further, that not less than ninety thousand four hundred and thirty-seven dollars shall be expended for a community based juvenile justice prosecution program to

be administered and operated in the city of Brockton for priority prosecution of serious juvenile offenders and intervention through coordination and cooperation with local law enforcement, schools, probation and court representatives, and where appropriate the department of social services, department of youth services, and department of mental health, pursuant to section six hundred and fifty-two of this act $4,579,033

Local Aid Fund 88.0%
Victim and Witness Assistance Fund 12.0%

Bristol District Attorney.

0340-0900 For the Bristol district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than fifty thousand dollars shall be expended to study the potential impact on the criminal justice system in Bristol county of the proposed Wampanoag entertainment center $4,503,657

Local Aid Fund 87.0%
Victim and Witness Assistance Fund 13.0%

Cape and Islands District Attorney.

0340-1000 For the Cape and Islands district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than ninety thousand two hundred and forty-five dollars shall be expended for a community based juvenile justice prosecution program to be administered and operated in Barnstable county for the priority prosecution of serious juvenile offenders and intervention through coordination and cooperation with local law enforcement, schools, probation and court representatives, and where appropriate the department of social services, department of youth services, and department of mental health, pursuant to section six hundred and fifty-two of this act $2,287,085

Local Aid Fund 83.0%
Victim and Witness Assistance Fund 17.0%

Berkshire District Attorney.

0340-1100 For the Berkshire district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than sixty-eight thousand three hundred and eighty-six dollars shall be expended for a community based juvenile justice prosecution program to be administered and operated in the city of Pittsfield for priority prosecution of serious juvenile offenders and intervention through coordination and cooperation with local law enforcement, schools, probation and court representatives, and where appropriate the department of social services, department of youth services and department of mental health, pursuant to section six hundred and fifty-two of this act $2,054,045

Local Aid Fund 80.0%
Victim and Witness Assistance Fund 20.0%

District Attorneys Association.

0340-2100 For a reserve for the implementation and related expenses of the district attorney's office automation and case management and tracking system; provided, that expenses associated with said system may be charged directly to this item $1,206,081

Local Aid Fund 100.0%

EXECUTIVE.

0411-1000 For the offices of the governor, lieutenant governor, and the governor's council pursuant to chapter six of the General Laws, and for the salaries and expenses of the administrative office pursuant to said chapter six of the General Laws; provided, that the amount appropriated herein may be used for the payment of extraordinary expenses not otherwise provided for, and for transfer to, appropriation accounts where the amounts otherwise available may be insufficient $4,874,095

0411-1010 For the governor's commission on mental retardation $203,878

SECRETARY OF STATE.

0511-0000 For the operation of the office of the secretary, provided one hundred twenty-five thousand dollars shall be expended for the costs of complying with the provisions of chapter two hundred eighty-one of the acts of nineteen hundred ninety-five. $6,400,602

0511-0001 The secretary of state is hereby authorized to expend revenues not to exceed thirty thousand dollars, from the sale of merchandise at the Massachusetts state house gift shop for the purpose of replenishing and restocking gift shop inventory $30,000

0511-0200 For the operation and administration of the state archives division. $544,238

0511-0230 For the operation and administration of the records center $185,771

0511-0250 For the operation and maintenance of the archives facilities $572,177

0511-0260 For the operation and administration of the commonwealth museum $202,636

0517-0000 For the printing of public documents $1,193,400

0521-0000 For the operation and administration of the elections division, including preparation, printing and distribution of ballots and for other miscellaneous expenses for primary and other elections $3,034,645

Local Aid Fund 100.0%

0521-0001 For the operation and administration of the central voter registration computer system; provided that an annual report detailing voter registration activity shall be submitted to the house and senate committees on ways and means by January first, nineteen hundred and ninety-seven $2,083,658

Local Aid Fund 100.0%

0524-0000 For providing information to voters; provided, that fifty thousand dollars shall be expended for the publication and insertion in the 1996 Information to Voters Pamphlet, so-called, the text of section eight of chapter one hundred and eight of the acts of nineteen hundred and ninety-one

regarding the reorganization of the Boston school committee and information relating thereto, if space is available in said pamphlet without incurring additional publication expense $946,989

Local Aid Fund 100.0%

0526-0100 For the operation of the Massachusetts historical commission; provided, that said commission shall be directed to prepare and submit a report investigating the historical significance, structural condition, possible uses and funding for the restoration of Highfield Hall in Falmouth on or before June thirtieth, nineteen hundred and ninety-seven; provided further that not less than fifty thousand dollars but not more than seventy-five thousand dollars shall be expended for a grant to the town of Framingham for funding restoration of Athenaeum Hall; provided further, that not less than fifty thousand dollars shall be expended for historic preservation grants; and provided further, that the unexpended balance of said fifty thousand dollars and grants made therefrom shall not revert to the general fund at the end of the fiscal year but shall carry forward to the next fiscal year without further appropriation $946,644

0527-0100 For the operation of the ballot law commission $17,500

0528-0100 For the operation of the records conservation board $35,233

Federal Appropriations

0526-0105 For the purposes of a federally funded grant entitled, Massachusetts Statewide Historical Survey and Plan $10,000

0526-0114 For the purposes of a federally funded grant entitled, Historic Preservation Survey and Planning $675,000

0526-0115 For the purposes of a federally funded grant entitled, Massachusetts Historical Commission & Federal Preservation Grants $242,000

0526-0117 For the purposes of a federally funded grant entitled, Gloucester National Register of Historic Places Nomination $30,000

0526-0118 For the purposes of a federally funded grant entitled, Lowell's Boat Shop Amesbury Preservation - Massachusetts Historical Commission $345,000

TREASURER AND RECEIVER-GENERAL.

Office of the Treasurer and Receiver-General.

0610-0000 For the office of the treasurer and receiver-general; provided, that the treasurer shall provide computer services required by the teachers' retirement board; provided further, that to the extent that bank fees, so-called, exceed the amount appropriated in item 0610-0100, the treasurer is authorized to transfer to said item, subject to an allocation plan which shall be filed in advanced with the house and senate committees on ways and means, from this item, sufficient funds to ensure full payment of said bank fees $5,842,765

General Fund 50.0%
Local Aid Fund 40.0%
Highway Fund 10.0%

0610-0100 For the payment of bank fees; provided, that the funds appropriated herein shall not be expended on administrative expenses other than those associated with the payment of bank fees $1,200,000

General Fund 50.0%
Local Aid Fund 40.0%
Highway Fund 10.0%

0610-1500 For tuition payments as required by section twelve B of chapter seventy-six of the General Laws, 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; provided, 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. .....

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 chapter two hundred fifty-eight C of the General Laws, if a 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 said 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; and provided further, that notwithstanding the provisions of any general or special law to the contrary, victims of the crime of rape shall be notified of all available services designed to assist rape victims including, but not limited to, the provisions outlined in section five of chapter two hundred fifty-eight A of the General Laws $2,854,843

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 which have constructed abatement facilities; provided, that said distribution to said public entities shall equal one million, two hundred forty-nine thousand, nine hundred and forty-eight dollars $477,565,226

Local Aid Fund 100.0%

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 $7,900,000

Local Aid Fund 100.0%

0611-5800 For distribution, pursuant to section eighteen D of chapter fifty-eight of the General Laws, to each city and town within which racing meetings are conducted $1,584,182

Local Aid Fund 100.0%

State Board of Retirement.

0612-0100 For the operation and administration of the state board of retirement; 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 the General Fund shall be reimbursed for the amount of this appropriation pursuant to paragraph (a) of subdivision (7) of section twenty-two of chapter thirty-two of the General Laws $1,316,063

0612-0105 For payment of the public safety employee line of duty death benefit authorized by section one hundred A of chapter thirty-two of the General Laws $500,000

Local Aid Fund 100.0%

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 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, for the costs of increased survivor benefits pursuant to chapter three hundred and eighty-nine of the acts of nineteen hundred and eighty-four and for the costs associated with a three percent cost-of-living adjustment pursuant to section five hundred and thirty-one of this act; 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-six to the house and senate committees on ways and means detailing all retirement benefits paid to the members of the state employees' and teachers' retirement systems, the reimbursement of local retirement systems for cost-of-living adjustments and for the costs of increased survivor benefits during fiscal year nineteen hundred and ninety-six; 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-six; 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 hereinbefore described; provided further, that the treasurer shall submit a report by January eighth, nineteen hundred and ninety-seven to the house and senate committees on ways and means detailing actual pension expenditures to date and estimated pension expenditures through June thirtieth, nineteen hundred and ninety-seven, with the intent that said committees shall be made aware of any potential shortfall in said fund; provided further, that the state retire-

ment board is authorized to expend an amount for the purposes of the higher education coordinating council's optional retirement program pursuant to section forty of chapter fifteen A of the General Laws; and provided further, that except where authorized herein no funds may be expended from this item, other than deposits to the commonwealth's pension liability fund $1,006,767,000

Local Aid Fund 59.0%
General Fund 33.9%
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-seven; provided, that the public employee retirement administration shall certify said losses; and 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 amount of this appropriation on or before June thirtieth, nineteen hundred and ninety-seven $107,449

Local Aid Fund 100.0%

0612-2000 For retirement benefits authorized 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, for pensions of retired judges or their widows or widowers, 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 or widowers of certain former members of the uniformed branch of the state police $20,900,000

General Fund 82.2%
Highway Fund 17.8%

Commission on Firefighter's Relief.

0620-0000 For financial assistance to injured firefighters $9,808

Local Aid Fund 100.0%

Emergency Finance Board.

0630-0000 For the operation 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 item $69,823

Local Aid Fund 100.0%

Lottery Commission.

0640-0000 For the operation of the state lottery commission and arts lottery; provided, that no funds shall be expended from this item for any costs associated with the promotion or advertising of lottery games; provided further, that positions funded by this item shall not be subject to chapters thirty and thirty-one of the General Laws; provided further, that twenty-five percent of the amount appropriated herein shall be transferred from the State Lottery Fund to the General Fund quarterly; provided further, that the state treasurer may conduct a feasibility study on the implementation of a redemption deposit system for lottery "scratch tickets"; provided further, that said study may include the cost of the system and a copy shall be submitted to the chairman of the committee on ways and means in both the house of representatives and the senate; provided further, that said study shall be completed by November first, nineteen hundred and nine-

ty-six; and provided further, that no funds appropriated herein shall be scheduled in or transferred to, or expanded from, the EE subsidiary, so-called, of this item $40,573,081

0640-0005 For the cost associated with the continued implementation of the game of keno, so-called; provided, that any sums expended on promotional activities shall be limited to point of sale promotions and agent newsletters; provided further, that twenty-five percent of this appropriation shall be transferred from the State Lottery Fund to the General Fund quarterly $4,000,000

0640-0010 For the promotional activities associated with the state lottery program; provided, that said promotional expenses shall be limited to point of sale promotions and agent newsletters; provided further, that twenty-five percent of this appropriation shall be transferred from the State Lottery Fund to the General Fund quarterly $400,000

0640-0096 For the purpose of the commonwealth's fiscal year nineteen hundred ninety-seven 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 $233,820

0640-0103 For the operation and administration of the state lottery commission and arts lottery; provided, that all funds appropriated herein shall be scheduled and expended in the EE subsidiary, so-called; provided further, that no funds shall be expended from any other subsidiary except said EE subsidiary, so-called; provided further, that said commission is hereby directed to use the most cost effective paper products for producing instant tickets; provided further, that said commission is also directed to use recycled paper products for producing instant tickets and bet slips whenever possible; provided further, that no funds shall be expended from this item for any costs associated with advertising lottery games; and provided further, that twenty-five percent of this appropriation shall be transferred from the State Lottery Fund to the General Fund quarterly $27,042,847

Massachusetts Cultural Council.

State Appropriations

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 schoolchildren shall be expended for the benefit of all Massachusetts schoolchildren and on the same terms and conditions; provided further, that the council shall not expend funds from this account for any recipient that, in any program or activity for Massachusetts schoolchildren, does not apply the same terms and conditions to all such children; and provided further, that persons employed under this item shall be considered employees within the meaning of section one of chapter one hundred and fifty E, and shall be placed in the appropriate bargaining units $10,816,961

0640-0350 For the purposes of the cultural resources act as provided in section thirty-six of chapter sixty-nine of the General Laws; provided, that the council shall not expend funds from this account for any recipient that, in any program or activity for Massachusetts schoolchildren, does not apply the same terms and conditions to all such children $3,329,850

Federal Appropriations

0640-9717 For the purposes of a federally funded grant entitled, Basic State Grant $352,000

0640-9718 For the purposes of a federally funded grant entitled, Artists in Education $75,000

0640-9721 For the purposes of a federally funded grant entitled, Youth Reach $111,240

Debt Service.

0699-0015 For the payment of interest, discount and principal on certain bonded debt and the sale of bonds of the commonwealth, previously charged to the Local Aid Fund, the State Recreation Areas Fund, the Metropolitan Parks District Fund, the Metropolitan Water District Fund, the Metropolitan Sewerage District Fund, the Watershed Management Fund, the Highway Fund, and the Inter-City Bus Fund; provided, that payments of certain serial bonds maturing previously charged to the Local Aid Fund, the State Recreation Areas Fund, the Metropolitan Water District Fund, the Metropolitan Sewerage District Fund, and the Highway Fund shall be paid from this item; provided further, that payments on bonds issued pursuant to section two O of chapter twenty-nine of the General Laws shall be paid from this item and shall be charged to the Infrastructure sub fund of the Highway fund; provided further, that payments 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 shall be paid from this item; and provided further, that notwithstanding the provisions of any general or special law or the provisions of this item to the contrary, the comptroller is hereby authorized to charge the payments authorized herein to the appropriate budgetary or other fund subject to a plan which the comptroller shall file ten days in advance with the house and senate committees on ways and means $1,009,510,000

General Fund 65.77%
Highway Fund 25.01%
Local Aid Fund 9.18%
Watershed Management Fund 0.04%

0699-0090 For the debt service associated with Dedicated Income Tax Bonds, Fiscal Recovery Loan Act of nineteen hundred and ninety, provided, that the state comptroller is hereby authorized to transfer such amounts as would otherwise be

unexpended on June thirtieth, nineteen hundred and ninety-seven to item 0699-0100, if that item has insufficient amounts to meet debt service payments for the fiscal year ending June thirtieth, nineteen hundred and ninety-seven; provided, however, that any amount transferred to item 0699-0100 shall be charged to the Commonwealth Fiscal Recovery Fund $271,379,000

Commonwealth Fiscal Recovery Fund 100.0%

0699-0100 For payments related to bonds issued pursuant to chapter one hundred and fifty-one of the acts of nineteen hundred and ninety due under agreements entered into pursuant to section thirty-eight C of chapter twenty-nine of the General Laws; provided, that the state comptroller is hereby authorized to transfer such amounts as would otherwise be unexpended on June thirtieth, nineteen hundred and ninety-seven to item 0699-0090, if that item has insufficient amounts to meet debt service payments for the fiscal year ending June thirtieth, nineteen hundred and ninety-seven; provided, however, that any amount transferred to item 0699-0090 shall be charged to the General Fund $6,600,000

0699-9100 For the payment of interest and issuance costs on bonds and 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 the fiscal year ending June thirtieth, nineteen hundred and ninety-seven shall be charged to the various funds or to the General or Highway Fund debt service reserves $10,000,000

0699-9200 For certain debt service contract assistance to the Massachusetts land bank in accordance with the provisions of section eight B of chapter two hundred and twelve of the acts of nineteen hundred and seventy-five $6,000,000

STATE AUDITOR.

Office of the State Auditor.

0710-0000 For the office of the state auditor $11,132,792

0710-0010 For the review and monitoring of privatization contracts in accordance with the provisions of sections fifty-three through fifty-five of chapter seven of the General Laws; provided, that a report shall be submitted to the house and senate committees on ways and means no later than September thirtieth nineteen hundred and ninety-six delineating the privatization contracts reviewed and monitored during fiscal year nineteen hundred ninety-six; and provided further, that said report shall also detail the relative number of full-time equivalent positions assigned to each of the aforementioned privatization contracts reviewed $975,107

0710-0100 For the operation and administration of the division of local mandates $697,537

Local Aid Fund 100.0%

ATTORNEY GENERAL.

State Appropriations

0810-0000 For the office of the attorney general, including the administration of the local consumer aid fund, the operation of the anti-trust division, and the victim compensation program; provided, that the victim and witness assistance program shall be administered in accordance with the provisions of chapters two hundred and fifty-eight B and two hundred and fifty-eight C of the General Laws; provided further, that the attorney general shall submit to the general court and the secretary of administration and finance a report detailing the claims submitted to the state treasurer for payment under item 0611-5000 of this act indicating both the number and costs for each category of claim; provided further, that not less than three hundred fifty thousand dollars shall be expended for merit compensation adjustments for staff of the office of the attorney general; provided further, that an

additional sum of three hundred seventy-five thousand dollars shall be expended for the salaries and expenses of the safe neighborhood initiative, so-called; and provided further, that the sum of not less than sixty thousand dollars shall be expended for two additional assistant attorneys general to expand said initiative to the Bowdoin Street-Geneva Avenue and Uphams Corner sections, so-called, of Dorchester in the city of Boston $15,954,261

General Fund 93.20%
Local Aid Fund 3.93%
Anti-Trust Law Enforcement Fund 1.99%
Victim and Witness Assistance Fund 0.88%

0810-0014 For the operation of the public utilities proceedings unit, pursuant to section eleven E of chapter twelve of the General Laws $1,391,774

0810-0017 For the expenses related to judicial proceedings relevant to the fuel charge, pursuant to section ninety-four G of chapter one hundred and sixty-four of the General Laws and such other proceedings as may be reasonably related to said section; provided, that said assessment shall be credited to the General Fund $75,000

0810-0021 For the operation of the medicaid fraud control unit; provided, that the federal reimbursement for any expenditure for this item shall not be less than seventy-five percent of such expenditure $1,381,122

0810-0045 For the labor law enforcement program, pursuant to continued authority under section three hundred and thirty-one of chapter one hundred and ten of the acts of nineteen hundred and ninety-three; provided, that notwithstanding the provisions of any general or special law to the contrary, any non-management position funded by this item shall be deemed a job title in a collective bargaining unit as prescribed by the labor relations commission, and shall be subject to the provvisions of chapter one hundred and fifty E of the General Laws $2,437,370

0810-0201 For the costs incurred in administrative or judicial proceedings on insurance 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 $1,144,509

0810-0338 For the investigation and prosecution of automobile insurance fraud; 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 notwithstanding said section, the amount so assessed shall be two hundred and fifty-two thousand five hundred and ninety-seven dollars plus an amount sufficient to recover indirect and fringe benefit costs of personnel funded from this item $252,597

0810-0399 For the investigation and prosecution of workers compensation fraud; provided, that the costs of this item 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 notwithstanding said section, the amount so assessed shall be four hundred twenty-two thousand and seventy-two dollars plus an amount sufficient to recover indirect and fringe benefit costs of personnel funded from this item; 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; 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 $422,072

Federal Appropriation

0810-6646 For the purposes of a federally funded grant entitled Crime Victim Compensation $1,133,000

Commission on Uniform State Laws.

0830-0100 For the commission on uniform state laws $29,200

Victim and Witness Assistance Board.

State Appropriations

0840-0100 For the operation of the Massachusetts office for victim assistance $296,631
Victim and Witness Assistance Fund 100.0%

0840-0101 For the salaries and expenses of continuing the pilot domestic violence advocates program in the Hampshire probate and family court and the Northampton and Ware district courts; provided, that thirty-seven thousand dollars from said program shall be made available for the salary and expenses of a coordinator/supervisor of said program within the Massachusetts office of victim assistance; provided further, that said office shall submit to the house and senate committees on ways and means on or before February third, nineteen hundred and ninety-seven, a report detailing the effectiveness of contracting for said program, including, but not limited to, the number and types of incidents to which said advocates responded, the types of service and service referrals provided by said domestic violence advocates, the cost of providing such contracted services and the extent of coordination with other service providers and state agencies $115,000

Federal Appropriations

0840-0110 For the purposes of a federally funded grant entitled, Crime Victim Assistance $3,000,000

0840-0113 For the purposes of a federally funded grant entitled, New England Victim Assistance Training $45,000

STATE ETHICS COMMISSION.

0900-0100 For the operation of the state ethics commission $1,168,923
General Fund 50.0%
Local Aid Fund 50.0%

OFFICE OF THE INSPECTOR GENERAL.

0910-0200 For the operation and administration of the office of the inspector general $1,562,523

0910-0210 The office of the inspector general is hereby authorized to expend revenues collected up to a maximum of one hundred thousand dollars from the fees charged to participants in the Massachusetts public purchasing official certification program for the operation of said program; provided, that for the purpose of accommodating discrepancies between the receipts of retained revenues and related expenditures, the office of the inspector general may incur expenses and the comptroller may certify for payments amounts not exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system $100,000

OFFICE OF CAMPAIGN AND POLITICAL FINANCE.

0920-0300 For the operation of the office of campaign and political finance $672,596

General Fund 50.0%
Local Aid Fund 50.0%

OFFICE OF THE STATE COMPTROLLER.

1000-0001 For the office of the state comptroller, for the purpose and cost 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-six, in accordance with generally accepted accounting principles; provided, that the office of the comptroller shall charge other items of appropriation for the cost of said audit from allocated federal funds transferred from federal reimbursement and grant receipts; provided further, that the costs of said audit and the total amount so charged shall not exceed five hundred twenty-five thousand dollars; provided further, 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; and provided further, that the comptroller shall provide quarterly reports to the house and senate committees on ways and means which shall include for each state agency for which the commonwealth is billing, the eligible state services, the full year estimate of revenues, and revenues collected $6,543,867

General Fund 93.81%
Revenue Maximization Fund 6.19%

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Office of the Secretary.

1100-1100 For the office of the secretary; provided, that forecasts generated by the state economic model and the governor's revenue advisory board shall be filed quarterly with the house and senate committees on ways and means; provided further, that not less than one million six hundred thirteen thousand six hundred thirteen dollars shall be expended for the establishment and operation of a central business office for the secretariat $2,836,195

Administering Agency for Developmental Disabilities.

Federal Appropriations

1100-1703 For the purposes of a federally funded grant entitled, Administering Agency for Developmental Disabilities; provided, that in order to qualify for said grant, this account shall be exempt from the first fifty-five thousand six hundred dollars of fringe benefits charges pursuant to section six B of chapter twenty-nine of the General Laws.... $1,222,170

1100-1710 For the purposes of a federally funded grant entitled, Massachusetts Developmental Disabilities Council $363,601

Office of Dispute Resolution.

1100-1103 For the office of dispute resolution; provided, that the office shall generate not less than three hundred eighty-two thousand seven hundred nineteen dollars from the collection of fees charged to other state agencies, cities, towns, and other political subdivisions of the commonwealth or to corporations and individuals for the costs of mediation and related services $382,719

State House Physician.

1100-2600 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; 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

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 filed with the general court $2,700,000

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 division of information technology 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 $2,069,547

Division of Capital Planning and Operations.

1102-3210 For the operation of the division of capital planning and operations; provided, that the division, in conjunction with the bureau of state office buildings, is hereby authorized and directed to prepare a five year plan for all state owned buildings under the management jurisdiction of both agencies projecting any and all maintenance costs, revenue from rentals, commissions, fees and other user charges, amounts necessary for maintenance reserves, and a capital replacement schedule; provided further, that said plan may

include a schedule for improving indoor air quality and heating, ventilating and air conditioning (HVAC) standards in said buildings so that the ventilation rates specified in the state building code may be met and to provide that there be adequate indoor air quality in buildings occupied or to be occupied by state employees during normal working hours; provided further, that said plan shall make such projections for the five fiscal years beginning with fiscal year nineteen hundred and ninety-eight; and provided further, that said plan shall be filed with the house and senate committees on ways and means not later than December first, nineteen hundred and ninety-six $5,002,069

1102-3214 For the state transportation building; provided, that the division of capital planning and operations is hereby authorized to expend revenues collected up to a maximum of six million two hundred five thousand dollars from rentals, commissions, fees, parking fees and from any and all other sources pertaining to the operation of the state transportation building for the maintenance and operation of said building; provided, that the building manager selected by said division shall make such expenditures on behalf of said division pursuant to the provisions of section two AA of chapter twenty-nine of the General Laws; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division of capital planning and operations 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, the square foot rental rate charged to the Massachusetts highway department shall not exceed the rates in effect on April first, nineteen hundred ninety-six $6,205,000

State Building Management Fund 100.0%

1102-3221 The division of capital planning and operations is hereby authorized to expend for consultant personnel, and associated costs, two hundred thousand dollars from revenues received for project management services provided to, but not limited to, the Massachusetts information technology center and the several community

colleges, pursuant to the provisions of section forty-two J of chapter seven of the General Laws, including the costs of personnel; provided, that a quarterly report be filed with the house and senate committees on ways and means detailing expenditures by project; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division of capital planning and operations 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 $200,000

1102-3231 For the Springfield state office building; provided, that the division of capital planning and operations is hereby authorized to expend revenues collected up to a maximum of seven hundred fifty thousand dollars accrued from rents charged to agencies occupying the Springfield state office building for the maintenance and operation of said building, pursuant to the provisions of section two AA of chapter twenty-nine of the General Laws; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division of capital planning and operations 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 $750,000

State Building Management Fund 100.0%

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, and education through the arts $540,392

Federal Appropriation

1107-2450 For the purposes of a federally funded grant entitled, Client Assistance Program $195,000

Disabled Persons Protection Commission.

1107-2501 For the disabled persons protection commission; provided, that the commission shall facilitate compliance by the department of mental health and the department of mental retardation with uniform investigative standards, so called; provided further, that the commission shall keep an account of the number of claims of abuse by caretakers made by employees or contracted service employees of the departments of mental retardation and mental health; and provided further, that said account shall include the following categories: (i) number of claims that are found to be substantiated; (ii) number of claims that are unsubstantiated; (ii) number of claims that are found to be falsely reported as a result of intentional and malicious action $1,405,991

Federal Appropriation

1107-2525 For the purposes of a federally funded grant entitled, Abuse Prevention for Consumers with Disabilities $20,875

Massachusetts Teachers Retirement Board.

1108-4010 For the Massachusetts teachers' retirement board; provided, that the General Fund shall be reimbursed for the amount of this appropriation pursuant to paragraph (a) of subdivision (7) of section twenty-two of chapter thirty-two of the General Laws $1,672,425

Group Insurance Commission.

1108-5100 For the administration of the group insurance commission; provided, that said commission shall generate the maximum amounts allowable under the federal consolidated omnibus budget reconciliation act, as amended, and from reimbursements allowed by sections eight, ten B, ten C, and twelve of chapter thirty-two A of the General Laws $1,901,548

1108-5200 For the commonwealth's share of the group insurance premium and plan costs incurred in fiscal year nineteen hundred and ninety-seven; provided, that not more than three 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 secretary of administration and finance 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 insurance premiums and plan costs as he determines should be borne by such funds, and shall notify the comptroller of the amounts to be transferred, after similar determination, from the several state or other funds, and amounts received in payment of all such charges or 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 the secretary of administration and finance is authorized and directed to charge all agencies for the commonwealth's share of the health insurance costs incurred on behalf of any employees of those agencies who are on leave of absence for a period of more than one year; provided further, that the amounts received in payment for said charges shall be credited to the General Fund; 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 notwithstanding the provisions of chapter one hundred and fifty E of the General Laws and as provided in section eight of said chapter thirty-two A and for the purposes of section fourteen of said chapter thirty-two A, the commonwealth's share of the group insurance premium for state employees who have retired prior to July first, nineteen hundred and ninety-four shall be ninety percent

and the commonwealth's share of the group insurance premium for state employees who have retired on or after July first, nineteen hundred and ninety-four shall be eighty-five percent; provided further, that the commission shall provide the house and senate committees on ways and means with the number of state employees who have retired on or after July first, nineteen hundred and ninety-four; provided further, that the commonwealth's share of such premiums for active state employees shall be eighty-five percent of such premiums and rates; provided further, that notwithstanding the provisions of chapter one hundred and fifty E of the General Laws, employees of the Massachusetts bay transportation authority and of regional transit authorities shall continue to pay the same percentage, if any, of their health insurance premium as they paid on June first, nineteen hundred and ninety-four; provided further, that 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 the commission shall notify the house and senate committees on ways and means by March fifteenth of each year, of the cost of the commonwealth's projected share of group insurance premiums for the next fiscal year; 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 $426,574,000

1108-5220 For the mail order prescription drug program $15,843,844

1108-5230 For payment of prior year costs incurred by the state indemnity health insurance plan and the preferred provider organization; provided, that expenditures from this item shall be made only for the purpose expressly stated herein; 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 $53,500,000

1108-5350 For elderly governmental retired employee premium payments; provided, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother $1,998,745

1108-5400 For the costs of the retired municipal teachers' premiums and the audit of said premiums; provided, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother $21,622,611

Local Aid Fund 100.0%

1108-5500 Notwithstanding the provisions of chapter thirty-two A of the General Laws to the contrary, for the provision of dental and vision benefits for those active employees of the commonwealth, not including employees of authorities and any other political subdivision, who are not otherwise provided such benefits pursuant to a separate appropriation or the provisions of a contract or collective bargaining agreement; and provided further, that said employees shall pay at least fifteen percent of the monthly premium established by the commission for such benefits $3,206,892

Public Employees Retirement Administration.

1108-6100 For the operation of the public employee retirement administration, including the costs of regional medical panels established pursuant to section six of chapter thirty-two of the General Laws, and for the administration of the workers' compensation costs of public employees, including the workers' compensation investigatory unit $3,010,966

General Fund 60.0%

Local Aid Fund 40.0%

Division of Administrative Law Appeals.

1110-1000 For the division of administrative law appeals established by section four H of chapter seven of the General Laws $489,224

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; and provided further, that said commission shall pursue the highest allowable rate of federal reimbursement $1,107,754

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 type 1 program and the equal opportunity resolution contract program during fiscal year nineteen hundred ninety-seven, and federal reimbursements received for these and other programs in prior years; provided, 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 revenues estimate as reported in the state accounting system; 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 four hundred thousand nine hundred dollars shall be credited to the General Fund; provided further, that notwithstanding any general or special law to the contrary, funds may be expended from this item for the purposes of case investigations, conciliation, and resolution efforts of local agencies as provided by contract through the commission; provided further, that such efforts include, but shall not be limited to, the following cities and towns: Worcester, New Bedford, Somerville, Chelsea, Cambridge, and Barnstable; provided further, that notwithstanding the provisions of any general or special law to the contrary, the commission shall deposit into the General Fund any federal reimbursements received for these purposes in fiscal year nineteen hundred and ninety-seven; provided further, that the commission shall report to the house and senate committees on ways and means no later than the last day of each quarter federal reimbursements received in that quarter, anticipated reimbursements to be received in the remaining quarters of the fiscal year, and reimbursements projected to be collected in the subsequent fiscal year for said purposes; provided further, that said report shall detail actual and anticipated reimbursements by date of receipt, case type, reimbursement per case, and cases resolved; and provided further, that the costs of personnel may be charged to this item $1,400,900

1150-5114 The Massachusetts commission against discrimination is hereby authorized to expend one hundred thousand dollars

for the sole purpose of supporting the civil rights enforcement efforts of cities and towns through their local human rights commissions; provided, that such efforts shall include, but not be limited to, the following cities and towns: Amherst, Barnstable, Boston, Cambridge, Chelsea, Lawrence, Malden, Melrose, New Bedford, Northampton, Pittsfield, Somerville, Springfield, and Worcester; provided further, that funds made available herein shall be in addition to funds available in item 1150-5104 ..... $100,000

1150-5115 For the prompt processing and resolution of all cases pending before the commission which were filed on or before July first, nineteen hundred and ninety-three and of all cases pending before the commission in which the Massachusetts bay transportation authority is named as a respondent; provided, that on or before October first, nineteen hundred and ninety-six, the commission shall submit to the senate and house committees on ways and means a report of the total number of such cases currently pending, and the total number of such cases in the investigation, conciliation, post-probable cause and pre-public hearing, and post-hearing stages; provided further, that the commission shall file an update of such report with such committees on or before March first, nineteen hundred and ninety-seven; provided further, that the commission shall identify in said reports the number of cases in which the commission has determined there is probable cause to believe that a violation of the provisions of chapter one hundred and fifty-one B has been committed in a case in which the Massachusetts bay transportation authority is named as a respondent; provided further, that the commission shall report to the house and senate committees on ways and means on or before September first, nineteen hundred and ninety-six the number of cases pending before the commission in which a state agency or state authority is named as a respondent, and the number of such cases in which the commission has found probable cause to believe that a violation of the provisions of chapter one hundred and fifty-one B has been committed; provided further, that the costs of personnel shall not be charged to this item; and

provided further that an amount not to exceed fifteen thousand dollars may be expended to fund Edward Brooke scholarships to the extent that the recipients of said scholarships assist the commission in resolving the cases pending before the commission which were filed on or before July first, nineteen hundred and ninety-three $115,000

Federal Appropriations

1150-5107 For the purposes of a federally funded grant entitled, Fair Housing Initiative Program-Type IV $12,794

1150-5109 For the purposes of a federally funded grant entitled, Fair Housing Initiative Program-Type V $94,112

1150-5111 For the purposes of a federally funded grant entitled, Fair Housing Initiative Program-Type VI $29,871

1150-5112 For the purposes of a federally funded grant entitled, Fair Housing Initiative Program-Type VII $69,826

Department of Revenue.

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 may allocate an amount not to exceed two hundred and fifty thousand dollars to the department of the attorney general for the purpose of the tax prosecution unit; provided further, that the department may charge the expenses for computer services, including the cost of personnel and other support costs provided to the child support enforcement division and the local services division, from this account to item 1201-0160 or 1231-0100, consistent with the costs attributable to the respective divisions; provided further, that the department shall submit a report to the house and senate committees on ways and means detailing savings as a result of recent information technology acquisitions; provided further, that said report shall be submitted no later than November thirtieth, nineteen hundred ninety-six; provided further,

that the department shall maintain a regional office in Springfield; provided further, that the department shall maintain a regional office in Pittsfield; and, provided further, that the department shall maintain a regional office in Worcester $98,309,488

General Fund 60.0%
Local Aid Fund 35.0%
Highway Fund 5.0%

1201-0130 The department of revenue is hereby authorized to expend an amount up to two million one thousand one hundred sixty dollars from revenues collected from the tax enforcement program authorized by section two hundred forty-nine of chapter thirty-eight of the acts of nineteen hundred ninety-five, for the cost of personnel and an amount up to eight hundred eighty thousand dollars from revenues collected from the tax enforcement program authorized by section five hundred and fifty-seven of this act, for the cost of personnel, related benefits and equipment and supplies; provided, that no monies shall be transferred from this item to any other item of appropriation $2,881,160

1201-0160 For the child support enforcement program conducted by the department; provided, that the department may allocate these funds to the department 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 quarterly to the house and senate committees on ways and means upon the allocation of said funds; provided further, that federal receipts associated with the child support computer network shall be deposited into a revolving account to be drawn down at the highest possible 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 established 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-six 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 said indicators for the remainder of the fiscal year, and any deviations of current performance from previous projections; and provided further, that the division shall make all reasonable efforts to maximize AFDC child support collections $29,981,766

1231-0100 For the local services program, including the bureaus of municipal data management and technical assistance, property tax, local assessment and accounts, including the expense of auditing municipal accounts where the circumstances require state assistance to accomplish a specific purpose in the protection of the public interest, for the operation of technical assistance and educational programs for financial officials of the cities and towns, for the monitoring of municipal audits performed by independent public accountants, for the supervision of the installation of accounting systems meeting generally accepted accounting principles, and for the expenses of materials which may be sold to cities and towns, including the expenses for developing and implementing a comprehensive and voluntary program of technical assistance and training for cities, towns and districts in local property tax assessment administration and accounting and financial management review; provided, that the department shall provide to the general court access to the municipal data bank $4,735,704

Local Aid Fund 100.0%

1231-1000 For the sewer rate relief fund established by section two Z of chapter twenty-nine of the General Laws $46,858,000

Local Aid Fund 94.13%
Commonwealth Cost Relief Fund 5.87%

1233-2000 For the tax abatements program; provided, that cities and towns shall be reimbursed for abatements granted pursuant to clauses Seventeenth, Twenty-second, 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 $4,500,000

Local Aid Fund 100.0%

1233-2010 For the tax abatements programs; provided, that cities and towns shall be reimbursed for abatements granted to certain homeowners over the age of sixty-five pursuant to the clause Fifty-second of section five of chapter fifty-nine of the General Laws; provided further, that not more than two million dollars shall be expended from this item for a low income sewer and water assistance program pursuant to the provisions of section twenty-four B of chapter twenty-three B of the General Laws, prior appropriation continued. .....

1233-2310 For the elderly persons component of 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 $13,600,000

Local Aid Fund 100.0%

Appellate Tax Board.

1310-1000 For the appellate tax board; provided, that the board shall schedule hearings in Barnstable, Gardner, Lawrence, Milford, Northampton, Pittsfield, Springfield, and Worcester $1,148,128

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" $27,000

A Hero's Welcome Trust Fund 100.0%

1410-0010 For the administration and support of the office of veterans' services; provided, that not less than ten thousand dollars shall be expended for the maintenance of the Massachusetts Korean War Memorial located in the shipyard park of the Charlestown Navy Yard; and provided further, that the office shall fund a housing specialist contract from this item $1,693,791

1410-0012 For services to veterans, including the maintenance and operation of outreach centers; provided, 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 one hundred eighty-five thousand dollars shall be obligated for a contract with the Veterans Benefits Clearinghouse in Roxbury; provided further, that seventy-five thousand dollars shall be obligated for a contract with the Veterans Northeast Outreach Center in Haverhill; provided further, that seventy thousand dollars shall be obligated for a contract with the Veterans Association of Bristol County in Fall River; provided further, that seventy-nine thousand five hundred dollars shall be obligated for a contract with the North Shore Veterans Counseling Center in Beverly; provided further, that ninety thousand dollars shall be obligated for a contract with NamVets of the Cape and Islands in Hyannis; provided further, that fifty-five thousand dollars shall be obligated for a contract with the Metrowest/Metrosouth Outreach Center in Framingham; provided further, that fifty-five thousand dollars shall be obligated for a contract with the Outreach Center, Inc., in Pittsfield; provided further, that seventy thousand dollars shall be obligated for a contract with the Montachusett Veterans Outreach Center in Gardner; and provided further, that sixty thousand dollars shall be obligated for a

contract with the Holyoke soldiers' home $770,084
Local Aid Fund 100.0%

1410-0100 For the elder affairs revenue maximization project, to identify individuals eligible for veterans' pensions who are currently receiving home care and home health services; provided, that the department shall enter into an interagency service agreement with the executive office of elder affairs not later than August first, nineteen hundred and ninety-six to determine the methods for recovering said pensions $95,983

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 two hundred and ninety-five thousand dollars shall 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; and provided further, that not less than one hundred twenty-five thousand dollars be obligated for a contract with the Southeastern Massachusetts Veterans' Housing Program, Inc., located in New Bedford $1,545,000

1410-0251 For the maintenance and operation of a transitional housing unit at the New England Shelter for Homeless Veterans $680,000

1410-0300 For the payment of annuities to certain disabled veterans; provided, that said payments shall be made pursuant to section six B of chapter one hundred and fifteen of the General Laws; provided, that the department shall take reasonable steps to terminate payments upon the death of a recipient $107,482

1410-0400 For reimbursing cities and towns for money paid for veterans' benefits and for payments to certain veterans; provided, that said reimbursements be made pursuant to section six of chapter one hundred and fifteen of the General Laws; provided further, that subject to the approval of the commissioner of veterans' services, not less than one hundred forty-seven thousand four hundred seventy-three dollars be paid to the town of Oxford, as reimbursement for veteran's benefits paid by the town of Oxford in the

years nineteen hundred ninety-one through nineteen hundred ninety-four, said reimbursement not previously being made because of a failure of said town to make a proper and seasonable report thereof to said commissioner. . . $10,300,000

Local Aid Fund 100.0%

Reserves.

1599-0002 For contributions toward the maintenance of the old provincial state house $75,000

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 deputy director of the division 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 G of the General Laws $3,000,000

Local Aid Fund 100.0%

1599-0033 For a reserve to promote departmental revenue optimization projects authorized by and subject to the provisions of sections five hundred and thirty-five of this act $7,500,000

Revenue Maximization Fund 100%

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 as most recently amended by section three hundred and fourteen of chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one $24,647,860

1599-0036 For the expenses of the Massachusetts convention center authority $9,842,000

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 $22,600,000

Local Aid Fund 100.0%

1599-0420 For a reserve for the department of youth services to manage increased caseloads resulting from the juvenile gun bill, so-called, and growing female population in the custody of the department; provided, that the department of youth services shall submit a quarterly report to the house and senate ways and means committees detailing the exact caseload increase and impact on line items 4202-0001, 4202-0002, 4202-0003, 4202-0004, 4202-0005, 4202-0006, 4237-1010 and 4238-1000; provided further, that the department shall submit to the secretary of administration and finance and the house and senate ways and means committees a schedule of the cost per case per line item as needed to supplement their current appropriation for the purposes stated herein; and provided further, that the secretary of administration and finance is hereby authorized to transfer funds from this item to items 4202-0001, 4202-0002, 4202-0003, 4202-0004, 4202-0005, 4202-0006, 4237-1010 and 4238-1000 subject to an allocation plan which he shall file in advance with the house and senate ways and means committees $3,000,000

1599-0421 For a reserve for unanticipated costs associated with the foster care program administered by the department of social services; provided, that all funds allocated, transferred, or expended from this item shall be expended subject to the provisions of item 4800-0030 of section two of this act; provided further, that no funds shall be allocated, transferred or expended from this item to any other item of this appropriation until the commissioner of the department of social services, the secretary of the executive office of health and human services, the state budget director, and the secretary of administration and finance certify in writing to the chairmen of the house and senate committees on ways and means that the amounts appropriated in item 4800-0030 and authorized in items

4800-1111 and 4800-1115 are insufficient to meet the costs of said foster care program; provided further, that no funds shall be allocated, transferred, or expended from this item until the department submits a revised spending plan which details by subsidiary account and by program component the reasons why funding made available in said items 4800-0030, 4800-1111, and 4800-1115 is insufficient; provided further, that no funds shall be allocated, transferred, or expended prior to April fifteenth, nineteen hundred and ninety-seven; and provided further, that funds allocated or transferred from this item shall be allocated only to said item 4800-0030 and shall not be allocated or transferred to any other item of appropriation. . . . $3,100,000

1599-2373 For a reserve for the administration of the department of youth services; provided, that no funds shall be expended or allocated from this item to any other item of appropriation until the commissioner of said department of youth services submits to the secretary of administration and finance and the house and senate ways and means committees a detailed caseload and cost per case estimate for all department programs funded in items 4202-0001, 4202-0002, 4202-0003, 4202-0004, 4202-0005, 4202-0006, 4237-1010 and 4238-1000; provided further, that said estimate shall delineate said caseload and cost per case estimates in accordance with the account structures established by the aforementioned items of appropriation; and provided further, that the department shall take all steps necessary, including, but not limited to, the termination of staff, to ensure that the expenditures for the administration of the department of youth services do not exceed the amounts appropriated for such purposes in this item and in item 4200-0010 of section two of this act $1,396,228

1599-3173 For a reserve to fund an adjustment in the rates paid for contracted day care slots and day care vouchers in fiscal year nineteen hundred and ninety-seven in order to increase the compensation paid to day care provider employees; provided, that the secretary of administration and finance, in consultation with the secretary of health and human services, the commissioner of the department

of transitional assistance, and the commissioner of the department of social services, shall make such adjustments pursuant to an implementation plan and allocation schedule that ensures said adjustments reduce the disparity of rates between providers and ensures further that the funds appropriated herein are targeted to providers receiving the lowest percentile of market rates paid to similar providers; provided further, that said adjustment shall not apply to informal day care; provided further, that the amount of said adjustment need not be uniform across all providers or within any class of providers; provided further, that adjustments shall first be granted to that class of providers subject to the rate freeze, so-called, in effect since nineteen hundred and eighty-nine; provided further that the annualized cost of said rate increase shall not exceed in fiscal year nineteen hundred and ninety-eight the amount appropriated herein; provided further, that no funds from this item may be used for any other purposes and shall not be used for the costs of managing or administering the day care system; provided further, that said plan and schedule shall be filed with the house and senate committees on ways and means by August first, nineteen hundred and ninety-six; provided further, that the state auditor is hereby authorized and directed to include in the scope of any human service provider audit standards an evaluation of provider and contracting agency compliance with the provisions established herein; and provided further, that the secretary of administration and finance shall implement rate adjustments authorized herein in a manner which shall maximize federal reimbursement. . . $20,000,000

1599-3174 For a reserve to fund an adjustment in the rates paid for contracted day care slots and day care vouchers in fiscal year nineteen hundred and ninety-seven in order to increase the compensation paid to day care provider employees; provided, that the secretary of administration and finance, in consultation with the secretary of health and human services, the commissioner of the department of transitional assistance, and the commissioner of the department of social services, shall make such adjustments pursuant to an implementation schedule that shall be filed with the house and senate committees on ways and means

not later than August first, nineteen hundred and ninety-six; provided further, that said schedule shall ensure that funds from this item shall be expended exclusively for rate adjustments for day care providers who are ineligible for the rate increases provided for by item 1599-3173 of section two of this act; provided further, that any provider receiving funds from item 1599-3173 of section two of this act shall be ineligible for funds provided from this item; provided further, that said adjustment shall not apply to informal day care; provided further, that the amount of said adjustment need not be uniform across all providers or within any class of providers; provided further, that the annualized cost of said rate increase shall not exceed in fiscal year nineteen hundred and ninety-eight the amount appropriated herein; provided further, that no funds from this item may be used for any other purposes and shall not be used for the costs of managing or administering the day care system; provided further, that the state auditor is hereby authorized and directed to include in the scope of any human service provider audit standards an evaluation of provider and contracting agency compliance with the provisions established herein; and provided further, that the secretary of administration and finance shall implement rate adjustments authorized herein in a manner which shall maximize federal reimbursement $5,000,000

1599-3856 For rent and associated costs for the Massachusetts information technology center in Chelsea; provided, that in fiscal year nineteen hundred and ninety-eight and future fiscal years, said rent and associated costs shall be charged to the resident agencies $11,704,632

State Building Management Fund 100.0%

1599-6895 For a reserve to fund a salary increase of up to four percent for direct care workers earning less than twenty thousand dollars in annual compensation employed by human service providers under contract with the departments of mental health, mental retardation, public health, transitional assistance, social services, youth services, and the commissions for rehabilitation, the blind and the deaf and hard of hearing; or by providers of homemaker or personal care services to elders funded by the executive office of elder affairs; provided, that no funds from this

item may be used for any other purpose; provided further, that said salary increase shall apply to all personnel compensation costs; provided further, that the annualized cost of said rate increase shall not exceed in fiscal year nineteen hundred and ninety-eight the amount appropriated herein; provided further, that the secretary of administration and finance shall establish an implementation plan and allocation schedule that ensures the amounts appropriated herein are equitably distributed among the said departments and contracted human service providers for said salary increases for direct care workers; provided further, that said salary increase shall be calculated to take effect on July first, nineteen hundred and ninety-six and shall begin to be paid to said direct care workers not later than October first, nineteen hundred and ninety-six; provided further, that the comptroller is hereby authorized and directed to transfer from this item to the respective departments the amounts identified by said plan and schedule; provided further, that said plan and schedule shall be filed with the house and senate committees on ways and means by September first, nineteen hundred and ninety-six; provided further, that the state auditor is hereby authorized and directed to include in the scope of any human service provider audit standards that evaluates the compliance of providers and contracting state agencies with the provisions established herein; provided further, that a study shall be conducted by the division of purchased services in order to examine the feasibility and financial impact of requiring any private human service provider, under contract to any state agency or department of the commonwealth, to compensate direct care workers in ratios of no greater than five to one and no greater than seven and one-half to one in direct proportion to that of the salary at the highest level of administrative position to that of the salary of the entry or lowest level of direct care workers within said private human service provider agency; provided further, that said study shall consider total annual compensation, including, but not limited to, overtime, of direct care workers employed by agencies under contract with the departments of mental retardation, mental health, transitional assistance, social services, and the executive office of elder affairs; and provided further,

that said study shall be submitted to the house and senate committees on ways and means on or before the twentieth day of December nineteen hundred and ninety-six $14,031,551

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-six, certify to the comptroller the amount necessary to meet the cost of said program in the fiscal year ending June thirtieth, nineteen hundred ninety-seven, and the comptroller shall thereupon allocate the entire balance in this account to item 7061-0009 of section two of this act $39,500,000

Local Aid Fund 100.0%

1599-9952 For the purpose of contracting an independent technical advisor for the North End/Waterfront area of the city of Boston to assist this neighborhood in evaluating and contributing to the central artery/third harbor tunnel project, including the Charles river crossing; provided, that the executive office for administration and finance shall issue a request for proposals for such technical advisor, said contract to be drafted in conjunction with designated representatives for the aforementioned neighborhood; provided, said advisor shall be independent from any existing employees or programs whose main purpose is to prepare designs or provide information relevant to the central artery/third harbor tunnel project, including the Charles river crossing, operating under the auspices of the city of Boston or any other municipality, the commonwealth of Massachusetts or the federal government; provided further, that after such contract for a technical advisor has been awarded, such advisor shall have access to data relative to design and mitigation, such technical advisor shall have appropriate input; and provided further that such independent technical advisor shall be accountable to and work directly with residents, designated community representatives and organizations of the North End/ Waterfront area of the city of Boston in assessing impacts and recommending alternative design modifications to the

central artery/third harbor tunnel project, including the Charles river crossing, prior appropriation continued $70,000
Highway Fund 100.0%

Division of Human Resources.

1750-0100 For the administration of the division of human resources, including the department of personnel administration, the civil service commission, the state office of affirmative action, the office of employee relations, provided, that the department of personnel administration shall be responsible for the administration of examinations for state and municipal civil service titles, establishment of eligible lists, certification of eligible candidates to state and municipal appointing authorities, technical assistance in selection and appointment to state and municipal appoint ing authorities; provided further, that notwithstanding the provisions of clause (n) of section five of chapter thirty-one of the General Laws or any other general or special law to the contrary, the commissioner of administration shall charge a fee of thirty-five dollars to be collected from each applicant for a civil service examination; provided further, that no funds shall be obligated for purposes of executive search programs except any executive search program which may be conducted pursuant to executive order two hundred and twenty-seven adopted on February twenty-fifth, nineteen hundred and eighty-three, as amended; provided further, that the division shall administer a program of state employee unemployment management, including, but not limited to, agency training and assistance; provided further, that the division shall administer the statewide classification system, including, but not limited to, maintaining a classification pay plan for civil service titles within the commonwealth in accordance with generally accepted compensation standards, and reviewing appeals for reclassification; provided further, that upon certification of any open competitive list for a public safety position in a city or town, the personnel administrator shall cause to be published in a newspaper of general circulation in a city or town, public notice that such eligible list has been certified along with the notice of the last date to respond to the notice of circulation; provided

further, that not less than four hundred eleven thousand one hundred twenty-one dollars shall be expended for the civil service commission; provided further, that not less than four hundred and forty thousand five hundred and thirty-nine dollars shall be expended for the office of employee relations; provided further, that the secretary of administration and finance shall file with the house and senate committees on ways and means the amounts of any and all economic benefits necessary to fund any incremental cost items contained in any and all collective bargaining agreements with the various classified public employees' unions; and provided further, that the nature and scope of economic proposals contained in said agreements shall include all fixed percentage or dollar based salary adjustments, non-base payments or other forms of compensation, and all supplemental fringe benefits resulting in any incremental costs $4,632,318

1750-0102 The division of human resources is hereby authorized to expend revenues up to a maximum of one million two hundred thirty thousand dollars from fees charged as provided herein, for the administration of the civil service examination program by the department and the costs of goods and services rendered in administering training programs; provided, that the division is authorized to collect an administrative fee from vendors at the time they submit proposals for the commonwealth of Massachusetts master service agreement for specialized training and consultation services; provided further, that any vendor which fails to deliver the appropriate administrative fee with its submission shall be deemed nonresponsive and its proposal shall not be considered for contract award; provided further, that the department shall charge any costs incurred in training participants enrolled in programs sponsored by the department; and provided further, that the department is authorized to collect from participating non-state agencies, political subdivisions, and individuals a fee sufficient to cover costs of the commonwealth's performance recognition programs and expend such fees for goods and services rendered in the administration of these programs, including the costs of personnel $1,230,000

1750-0300 For the purposes of the commonwealth's contributions in fiscal year nineteen hundred and ninety-seven 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 health and welfare trust funds on a monthly basis, or on such other basis as the applicable collective bargaining agreement provides $14,551,759

Division of Operational Services.

1775-0100 For the administration of the division, including the department of procurement and general services, the bureau of state office buildings, and the George Fingold library; provided, that the commissioner of administration 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-six; provided further, that not less than one million one hundred thirty thousand three hundred eighty-eight dollars shall be expended for the administration of the George Fingold library; provided further, that said library shall maintain regular hours of operation from nine a.m. to five p.m.; provided further, that not less than twenty-five thousand dollars shall be obligated for the purposes of converting the card catalogue to a machine readable format; provided further, that said library shall continue the implementation program necessary in order to secure access to the wide area network; provided further, that not less than fifty thousand dollars shall be made available for the restoration and preservation of the historic flags displayed in the state house hall of flags; provided further, that not less than ninety thousand dollars shall be made available for the Massachusetts art commission; provided further, that notwithstanding the provisions of section nineteen of chapter six of the General Laws, the chairman of said commission shall serve for the duration of the project as executive director of this project and shall be compensated therefor from funds appropriated in this item; provided further, that an amount not to exceed four hundred thirty-five thousand eighty-one dollars shall be obligated for payment to the city of Northampton to ac-

commodate costs associated with the presence of the Clarke school, so-called; and provided further, that the city of Northampton is hereby authorized to file with the house and senate committees on ways and means a report, together with recommendations for legislation, concerning its negotiations with the Clarke school for a program of payments in lieu of taxes or other compensation to be paid by the school to the city for education costs incurred by the city on behalf of the school $21,572,732

1775-0600 The division of operational services is hereby authorized to expend revenues collected up to a maximum of one hundred thirty-five thousand dollars from the sale of state surplus personal property, including the payment, expenses and liabilities for the acquisition, warehousing, allocation and distribution of surplus property; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division of operational 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, including the costs of personnel $135,000

1775-0700 The division of operational services is hereby authorized to expend revenues collected up to a maximum of one hundred thirty thousand dollars, in addition to the amount authorized in item 1775-1000 of section two B, 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..... $130,000

1775-0900 Pursuant to 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 division of operational services is hereby authorized to expend revenues collected up to a maximum of one hundred ninety-five thousand five hundred seventy-eight dollars from the sale of federal surplus property, for the acquisition, warehousing, allocation and distribution of federal surplus property; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division of operational 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, including the costs of personnel $195,578

1775-1100 The division of operational services is hereby authorized to expend revenues collected up to a maximum of five hundred four thousand seven hundred and seventy-three 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; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division of operational 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, including the costs of personnel $504,773

Division of Information Technology.

1790-0100 For the administration of the division of information technology; provided, that said division 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 division is hereby authorized and directed to continue a chargeback system for its bureau of computer services which complies with the requirements of section two B of this act; provided further, that said division shall continue conducting audits and surveys to identify and realize savings in the acquisition and maintenance of communications lines; provided further, that any revenue or reimbursements generated or received pursuant to this item shall be deposited into the General Fund; provided further, that all state departments and agencies shall participate or assist in such audits and surveys as directed by the commissioner of administration; 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 any such agreement shall put forth the manner in which compensation for such services shall be paid, including payment of a portion of, and only on receipt of, reimbursements from providers of communications services and equipment as a result of savings identified pursuant to this item; provided further, that the commissioner shall file an annual status report with the house and senate committees on ways and means by May fifteenth nineteen hundred and ninety-seven with actual and projected savings and expenditures for said audits in the fiscal year ending June thirtieth, nineteen hundred and ninety-seven; 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 $7,287,102

1790-0300 The division of information technology is hereby authorized to expend up to a maximum of two million five hundred thousand dollars in revenues collected from the provision of computer resources and services to the general public for the costs of the bureau of computer services, including the purchase, lease or rental of telecommunications lines, services and equipment $2,500,000

1790-0600 For the operation of the commonwealth's data warehouse; provided, that the secretary of administration and finance shall file a plan of expenditure for the amount appropriated herein, including the costs of personnel and consultants, not later than August first, nineteen hundred and ninety-six $500,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Office of the Secretary.

2000-0100 For the office of the secretary, including the water resources commission, the hazardous waste facility site safety council, 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, mosquito-borne disease vector control, and a central data processing center for the secretariat; provided, that not less than two hundred thousand dollars shall be expended on a program of coastal re-

sources monitoring and restoration focusing on all coastal regions of the commonwealth; provided further, that said program shall include technical assistance through the Massachusetts bays program, so-called; provided further, that not less than eighty thousand dollars shall be expended for conservation districts; provided further, the executive office of environmental affairs shall develop a plan to reduce the number of conservation districts from sixteen to eight; provided further, that said plan shall be submitted to house and senate committees on ways and means no later than November first,nineteen hundred ninety-six; provided further, said plan shall not be implemented before it is submitted to the house and senate committees on ways and means; provided further, 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 not less than fifty-five thousand dollars shall be expended for printing of the MEPA monitor; and 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. . . . $2,369,966

General Fund 60.0%
Local Aid Fund 40.0%

2001-1001 The secretary of environmental affairs may expend an amount not to exceed two hundred thousand dollars accrued from the rendering of data processing services to state agencies, authorities and units of government within the commonwealth the distribution of digital cartographic and other data, and the review of environmental notification forms pursuant to the Massachusetts environmental policy act $200,000

2010-0100 For the operation of the Springfield materials recycling facility and for recycling and related purposes consistent with the solid waste master plan including grants under the municipal guaranteed annual tonnage recycling assistance program; 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 $4,179,941

Clean Environment Fund 100.0%

2020-0100 For toxics use reduction technical assistance and technology, in accordance with the provisions of chapter twenty-one I of the General Laws $1,849,860

Toxics Use Reduction Fund 100.0%

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 to the program by said chapter one hundred eleven H; provided, that a report shall be submitted to the house and senate committees on ways and means on or before November first, nineteen hundred and ninety-six detailing expenditures from the prior year; and provided further, that no money shall be expended from this item after November first, nineteen hundred and ninety-six until such report has been filed with the house and senate committees on ways and means $500,000

Low Level Radioactive Waste Management Fund 100.0%

Federal Appropriations

2000-0140 For the purposes of a federally funded grant entitled, Ecosystem Protection Coastal Zone Management $125,000

2000-0141 For the purposes of a federally funded grant entitled, Coastal Zone Management Development $2,000,000

2000-0148 For the purposes of a federally funded grant entitled, Massachusetts Bay National Estuary Project $350,000

2000-0152 For the purposes of a federally funded grant entitled, Pollution Prevention Technical Assistance to Publicly-Owned Treatment Works $13,179

2000-0157 For the purposes of a federally funded grant entitled, Pollution Prevention Incentives for States $29,800

2000-0158 For the purposes of a federally funded grant entitled, Chemical Use Reduction for Improved Air Quality in Schools $40,000

2000-9704 For the purposes of a federally funded grant entitled, Pollution Prevention Merrimack River System $7,222

2000-9707 For the purposes of a federally funded grant entitled, Reducing Discharges from Businesses and Homes $9,730

2000-9735 For the purposes of a federally funded grant entitled, Buzzards Bay Project Assistance Agreement $200,000

2000-9736 For the purposes of a federally funded grant entitled, Buzzards Bay Project Management Plan $320,000

2000-9737 For the purposes of a federally funded grant entitled, Buzzards Bay Project Wetlands Protection $34,000

2000-9738 For the purposes of a federally funded grant entitled, Buzzards Bay Project Environmental Technology Agreement..... $459,000

2000-9760 For the purposes of a federally funded grant entitled, Inventory of Navy Shipwrecks $18,000

2030-9701 For the purposes of a federally funded grant entitled, Outdoor Recreation Projects $795,000

Department of Environmental Management.

State Appropriations

2100-0005 For the department of environmental management pursuant to the purposes of sections ten and one-half A of chapter ninety-one of the General Laws; provided, that sixty thousand dollars shall be expended for the Martha's Vineyard commission; provided further, that one hundred thousand dollars be expended for the dredging of Pillings pond in the town of Lynnfield; and provided further, that one hundred thousand dollars be expended for the dredging of Gleason and Norton ponds in the town of Framingham $2,908,029

Harbors and Inland Water Maintenance Fund .. 100.0%

2100-1000 For the administration of the department; provided, that the department shall conduct a study and report, including the engineering feasibility and design, for the siting of the ferry terminal in New Bedford harbor as authorized in section two of chapter one hundred and ninety-six of the acts of nineteen hundred and ninety-three, such final report, containing a recommended site for the terminal, to be made to the joint committee on natural resources, the commissioner of administration and the house and senate committees on ways and means no later than March first,

nineteen hundred and ninety-seven $2,158,941
Local Aid Fund 100.0%

2100-2002 The department is hereby authorized to expend seventy-five thousand dollars from revenues received from interstate fire fighting services authorized under section forty-four of chapter one hundred and thirty-eight of the acts of nineteen hundred and ninety-one; provided, that the department may expend from this item an amount equal to the costs of overtime and shift hours worked by employees of the department and the metropolitan district commission from reimbursements collected from the federal government for the costs of interstate fire fighting; provided further, that the department shall allocate such amounts to the metropolitan district commission for such purposes; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, said department and commission may incur expenses and the comptroller may certify for payment amounts the lower of this authorization or the most recent revenue estimate as reported in the state accounting system $75,000

2100-2030 For the recreational and resource conservation operations of the department; provided, that funds appropriated herein shall be used to operate all of the department's parks, heritage state parks, reservations, campgrounds, beaches, and pools, and for the oversight of rinks; provided further, that funds appropriated herein shall be used to protect and manage the department's lands and natural resources including the forest and parks conservation services and the bureau of forestry developments; provided further, that thirty-five thousand dollars shall be expended for a supervisor at Lake Whitehall in Hopkinton; provided further, that funds shall be expended for a study of how to prevent further eutrophication of Snake Brook in the town of Natick; provided further, that not less than fifteen thousand dollars shall be expended on the preparation and distribution of campground directories; provided further, that no funds from this item shall be made available for payment to true seasonal employees, so-called; provided further, that the department of environmental management shall enter into an intragovernmental service agreement

with the department of fisheries, wildlife, and environmental law enforcement for not more than forty thousand dollars for the placement of floats, so-called, in the Merrimack river in the town of Newburyport; provided further, that not less than one hundred twenty-five thousand dollars shall be obligated for the Schooner Ernestina commission; provided further, that said commission shall submit a management plan to the house and senate committees on ways and means; provided further, that said plan shall be submitted no later than April first nineteen hundred and ninety-seven; and, provided further, that not less than twenty-seven thousand five hundred dollars shall be expended for necessary surveys and acquisition of the Adams property off Bay road in the town of Belchertown for a railtrail in said town $17,779,813

2100-2040 For additional expenses, upkeep, and improvements to the department of environmental management's parks and recreation system, including an internship program for students at the university of Massachusetts Stockbridge school of forestry or other academic institutions providing similar training and education programs in forestry, recreation, natural resources, watershed management, or fire science; provided, that not less than fifty thousand dollars shall be expended for a tourist information center at Fall River Heritage state park $2,500,000

Second Century Fund 100.0%

2100-3010 For the summer and fall hires of the department, including hires for the fire control unit; provided that the same number of lifeguards shall be assigned to Salisbury beach in nineteen hundred and ninety-seven as were assigned to said beach in nineteen hundred and ninety-six; provided further, that no funds shall be expended from this item for year-round season employees, so-called; provided further, that notwithstanding the provisions of any general or special law or collective bargaining contract to the contrary, seasonal employees funded herein shall not be considered employees as defined in and for the purposes of chapter one hundred and fifty E of the General Laws or as defined in any collective bargaining agreement; and provided further, that nothing in this item shall prevent true seasonals, so-called, from receiving health insurance

pursuant to section six hundred and sixty-two of this act $3,299,908
Local Aid Fund 90.0%
Highway Fund 10.0%

2100-3011 For the winter and spring seasonal hires of the department, including hires for the fire control unit; provided, that no funds shall be expended from this item for year-round seasonal employees, so-called; and provided further, that notwithstanding the provisions of any general or special law or collective bargaining contract to the contrary, seasonal employees funded herein shall not be considered employees as defined in and for the purposes of chapter one hundred and fifty E of the General Laws or as defined in any collective bargaining agreement; and provided further, that nothing in this item shall prevent true seasonals, so-called, from receiving health insurance pursuant to section six hundred and sixty-two of this act $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 $20,000

2120-9702 For the purposes of a federally funded grant entitled, USDA Forest Service, Rural Community Fire Protection $50,000

2120-9707 For the purposes of a federally funded grant entitled, Urban and Community Forestry $200,000

2120-9708 For the purposes of a federally funded grant entitled, Improved Wood Utilization $30,000

2121-9705 For the purposes of a federally funded grant entitled, USFS Shade Tree and Health $450,000

2121-9709 For the purposes of a federally funded grant entitled, Forestry Planning $200,000

2121-9710 For the purposes of a federally funded grant entitled, Rural Fire Protection - Training and Excess Property $50,020

2121-9711 For the purposes of a federally funded grant entitled, USFS Rural Fire Prevention $150,000

2121-9712 For the purposes of a federally funded grant entitled, Forest Health Research $25,000

2121-9714 For the purposes of a federally funded grant entitled, Resource Conservation and Development $18,000

2121-9716 For the purposes of a federally funded grant entitled, Agriculture Conservation Program $16,500

2121-9718 For the purposes of a federally funded grant entitled, Forestry Incentives Program $6,700

2121-9723 For the purposes of a federally funded grant entitled, Hazard Mitigation Local Planning Workbook $10,000

2121-9750 For the purposes of a federally funded grant entitled, Insect Disease Control-Gypsy Moth Suppression $35,000

2130-9705 For the purposes of a federally funded grant entitled, SUASCO Watershed Flood Control Reservoir $38,000

2140-9709 For the purposes of a federally funded grant entitled, WBNERR Operation and Management $140,000

2140-9710 For the purposes of a federally funded grant entitled, WBNERR exhibits and renovations $220,000

2140-9712 For the purposes of a federally funded grant entitled, Waquoit Bay Environmental Technology $30,000

Department of Environmental Protection.

State Appropriations

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 shall not apply to fees established pursuant to section eighteen of chapter twenty-one A of the General Laws; provided further, that enactment of the appropriations made available by this act to the department shall be deemed a determination, pursuant to subsection (m) of section eighteen of chapter twenty-one A of the General Laws; provided further, that said appropriations for ordinary maintenance

of said department from state funds other than the environmental challenge fund and the environmental permitting and compliance assurance fund are comparable to the baseline figure, as defined in said subsection, based on inflation, the department's demonstrated program improvements and efficiencies in areas other than those supported by fees and added or reduced programmatic responsibilities of the department; provided further, that not more than two million five hundred fifty-nine thousand five hundred and fifteen dollars may be expended for rent and energy costs from this item; provided further, that not more than five hundred thirty- five thousand dollars shall be expended for technical assistance to communities to comply with provisions of Title V; provided further, that not less than two hundred fifty thousand dollars shall be allocated to the Massachusetts military reservation environmental technology center, so-called, pursuant to section two hundred fifty-two of chapter thirty-eight of the acts of nineteen hundred and ninety-five; and provided further, that the department shall submit a report to the house and senate committees on ways and means on or before October first, nineteen hundred and ninety-six detailing the number of full-time equivalent positions assigned to environmental permitting functions and the number of full-time equivalent positions assigned to compliance inspections and environmental enforcement activities $25,958,033

General Fund 54.0%
Environmental Permitting and
Compliance Fund 31.0%
Clean Environment Fund 15.0%

2210-0100 For the implementation and administration of chapter twenty-one I of the General Laws; provided, that the department shall submit a report to the house and senate committees on ways and means on or before October first, nineteen hundred ninety-six detailing the status of the department's progress in meeting the statutory and regulatory deadlines associated with chapter twenty-one I and detailing the number of full-time equivalent positions assigned to various implementation requirements of said chapter twenty-one I; and provided further, that not less than seventy-sev-

en thousand three hundred and twenty-three dollars shall be expended for rent and energy costs from this item $1,009,427

Toxic Use Reduction Fund 100.0%

2220-2205 For the administration and implementation of the federal Clean Air Act, including the operating permit program, so-called $1,480,140

Clean Air Act Compliance Fund 100.0%

2220-2207 For the administration and implementation of the federal Clean Air Act, including the emissions banking program, so-called $75,526

Clean Air Act Compliance Fund 100.0%

2220-2208 For the administration and implementation of the federal Clean Air Act, including the auto related state implementation program, so-called $465,836

Clean Air Act Compliance Fund 100.0%

2220-2209 For the administration and implementation of the federal Clean Air Act, including the low emission vehicle program, so-called $57,635

Clean Air Act Compliance Fund 100.0%

2220-2210 For the administration and implementation of the federal Clean Air Act, including the non-auto related state implementation program, so-called $178,609

Clean Air Act Compliance Fund 100.0%

2250-2000 For the purposes of state implementation of the federal Safe Drinking Water Act pursuant to section eighteen A of chapter twenty-one A of the General Laws; provided, that not less than one hundred twenty-eight thousand four hundred and forty-four dollars shall be expended for rent and energy costs from this item $1,325,668

Safe Drinking Water Act 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 chapter twenty-nine of the General Laws and section four of chapter twenty-one J of the General Laws; provided, that not more than ten thousand dollars shall be

expended for the start up, staffing, grant application drafting and technical assistance in support of the establishment of a non-profit research center for the development of innovative technologies, hazardous waste remediation and ecosystem recovery associated with the Superfund cleanup of the New Bedford Harbor, such monies to be matched with any available private or federal grants and assistance; provided further, that the department shall submit a report to the house and senate committees on ways and means on or before October first, nineteen hundred and ninety-six detailing the number of full-time equivalent positions assigned to tier IA, tier IB, tier IC and tier II projects; and provided further, that not less than forty thousand dollars be expended for the cleanup of the oil contamination of the pond at the Mindness middle school in the town of Ashland $14,951,670

Clean Environment Fund 43.74%
Environmental Challenge Fund 35.0%
General Fund 8.55%
Local Aid Fund 8.55%
Underground Storage Tank
Petroleum Product Cleanup Fund 4.16%

2260-8881 For the administration and operations of the board of registration of hazardous waste site cleanup professionals, notwithstanding the provisions of section nineteen A of chapter twenty-one A of the General Laws; provided, that not less than forty thousand dollars shall be expended for rent and energy costs from this item $355,016

Environmental Challenge Fund 100.0%

Federal Appropriations

2200-9704 For the purposes of a federally funded grant entitled, Solid Waste Disposal-Conservation and Recovery $1,200,000

2200-9705 For the purposes of a federally funded grant entitled, Underground Water Source Protection Program $81,336

2200-9706 For the purposes of a federally funded grant entitled, Water Quality Management Planning $570,254

2200-9709 For the purposes of a federally funded grant entitled, Massachusetts Multi-Site Cooperative Agreement $700,000

2200-9712 For the purposes of a federally funded grant entitled, Cooperative Agreement-Leaking Underground Storage Tank Program $800,000

2200-9715 For the purposes of a federally funded grant entitled, Core Cooperative Agreement CERCLA Implementation Support $200,000

2200-9717 For the purposes of a federally funded grant entitled, D.O.D. Environment Restoration $1,500,000

2200-9721 For the purposes of a federally funded grant entitled, Charles George Landfill - Operable Unit III Operations and Maintenance $45,125

2200-9722 For the purposes of a federally funded grant entitled, Baird and McGuire $437,930

2200-9723 For the purposes of a federally funded grant entitled, Federal/ State Waste Removal and Site Assessment Programs $425,037

2200-9724 For the purposes of a federally funded grant entitled, Superfund Bock Fund Cooperative Agreement $900,000

2240-9707 For the purposes of a federally funded grant entitled, 1991 Water Pollution Control Program $1,834,303

2240-9709 For the purposes of a federally funded grant entitled, Clean Lakes Program $163,041

2240-9710 For the purposes of a federally funded grant entitled, State Management Assistance Grant $639,807

2240-9716 For the purposes of a federally funded grant entitled, Non-Point Source Pollution Implementation $14,225

2240-9717 For the purposes of a federally funded grant entitled, Non-Point Source Pollution (319h-1) $11,336

2240-9718 For the purposes of a federally funded grant entitled, Nyanza Chemical Waste Dump Site Operable Unit One $62,088

2240-9719 For the purposes of a federally funded grant entitled, Lake Water Quality Assessment $20,301

2240-9721 For the purposes of a federally funded grant entitled, Water Quality/NPDES Implementation $34,228

2240-9722 For the purposes of a federally funded grant entitled, Non Point Source Management Plan (319h-2) $826

2240-9723	For the purposes of a federally funded grant entitled, Non-Point Source Implementation	$122,153
2240-9725	For the purposes of a federally funded grant entitled, Non-Point Source Management Plan (319H-3)	$29,080
2240-9726	For the purposes of a federally funded grant entitled, Non-Point Source Pollution (319h FY94)	$184,370
2240-9727	For the purposes of a federally funded grant entitled, Non-Point Source Pollution (319h)	$496,440
2240-9728	For the purposes of a federally funded grant entitled, Non-Point Source Pollution Management Plan (319h-7)	$650,000
2240-9732	For the purposes of a federally funded grant entitled, Wetland Protection State Development Grant	$13,331
2240-9733	For the purposes of a federally funded grant entitled, Public Outreach (104b-3)	$5,700
2240-9734	For the purposes of a federally funded grant entitled, Wetland Criteria/Cumulative (104b-3)	$2,700
2240-9735	For the purposes of a federally funded grant entitled, Blackstone Sewer/Storm-water Combined	$124,238
2240-9736	For the purposes of a federally funded grant entitled, Clean Water Strategy/NPDES (104B(3))	$108,390
2240-9737	For the purposes of a federally funded grant entitled, 401 Regulation Development (104b-3)	$2,300
2240-9739	For the purposes of a federally funded grant entitled, Wetlands Protection State Development Grant - Circuit Rider Approach	$3,319
2240-9740	For the purposes of a federally funded grant entitled, NPDES Related State Program Costs (104b-3) 94 Funds	$306,961
2240-9742	For the purposes of a federally funded grant entitled, Wetlands Protection - Circuit Rider 2	$1,500
2240-9743	For the purposes of a federally funded grant entitled, Wetlands Delineation Methods	$83,050
2240-9744	For the purposes of a federally funded grant entitled, Water Resource Protection Strategy (104b-3)	$384,000
2240-9745	For the purposes of a federally funded grant entitled, Buffer Zone (104b-3)	$27,500

2240-9746 For the purposes of a federally funded grant entitled, BVW Delineation Training Video (104b-3) $28,500

2240-9747 For the purposes of a federally funded grant entitled, Docks and Piers (104b-3) $40,000

2240-9748 For the purposes of a federally funded grant entitled, 401 Permits (104b-3) $26,000

2240-9749 For the purposes of a federally funded grant entitled, Water Quality Cooperative Grants (104b-3) $195,000

2250-9701 For the purposes of a federally funded grant entitled, Public Water Supply Supervision Program $855,000

2250-9708 For the purposes of a federally funded grant entitled, Demonstration Grant for Compliance Assurance $1,300,000

2250-9709 For the purposes of a federally funded grant entitled, Environmental Technology Initiative $280,000

2250-9710 For the purposes of a federally funded grant entitled, Statewide Air Pollution Control Program $4,600,000

Department of Fisheries, Wildlife, and Environmental Law Enforcement.

State Appropriations

2300-0100 For the office of the commissioner $525,569

General Fund 62.5%
Environmental Law Enforcement 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 funded herein shall not be subject to the provisions of chapter thirty-one of the General Laws $215,922

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 manage-

ment of lakes, ponds and rivers, for fish and wildlife rest oration 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 further, that an amount shall be used by the university of Massachusetts at Amherst for the purposes of wildlife and fisheries research; provided further, that the university of Massachusetts at Amherst shall receive no more than the amount received in fiscal year nineteen hundred and ninety-six for said 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 not less than one hundred forty-four thousand seven hundred and fifty dollars shall be expended for the costs associated with a management program of aquatic non-native plants in the Charles River Lakes District, including treatment and monitoring $6,596,754

Inland Fisheries and Game Fund 100.0%

2310-0316 For the purchase of land containing wildlife habitat and for the costs of the division of fisheries and wildlife directly related to the administration of the wildlands stamp program pursuant to sections two and two A of chapter one hundred thirty-one of the General Laws $2,000,000

Inland Fisheries and Game Fund 100.0%

2310-0317 For the waterfowl management program pursuant to section eleven of chapter one hundred thirty-one of the General Laws $85,000

Inland Fisheries and Game Fund 100.0%

2310-0500 For the expenses of a state funded program for natural heritage and environmental assessment $201,939

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 $422,955

General Fund 75.0%
Natural Heritage and Endangered Species Fund . 25.0%

2320-0100 For the administration of the public access board; provided, that positions funded herein shall not be subject to the provisions of chapter thirty-one of the General Laws $234,101
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 administration and operation of the division of marine fisheries, including expenses of the Cat Cove marine research laboratory, marine research programs, a commercial fisheries program, a shellfish management program including coastal area classification, mapping, and technical assistance, and for the operation of the Newburyport shellfish purification plant and shellfish classification program; provided, that three hundred thousand dollars shall 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 from purification fees; provided further, that not less than one hundred thousand dollars be expended for the joint operation of a shellfish propagation program on Cape Cod between the division and the Cape Cod economic development council; provided further, that the division shall conduct a study on the feasibility and cost of the vessel buy-back program in the commercial fishing industry; and provided further, that not less than thirty-five thousand dollars be expended to hire a recreational manager $3,689,866
Marine Fisheries Fund 100.0%

2330-0120 For the division of marine fisheries of the department of fisheries, wildlife, and environmental law enforcement 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; provided, that one hundred thousand dollars shall be used for a working capital loan program for displaced fishermen; and provided further, that the division of marine fisheries shall seek federal reimbursement for said working capital loan program $797,057

Marine Fisheries Fund 100.0%

2350-0100 For the administration and operations of the division of environmental law enforcement; provided, that collective bargaining costs for fiscal year nineteen hundred and ninety-seven are included in this item; provided, that each county in the commonwealth shall be assigned at least one full time environmental officer; provided further, that additional officers shall be assigned to the boat theft task force; provided further, that the division shall submit a report detailing revenues collected and anticipated by said task force to the house and senate committees on ways and means; provided further, that said report shall be submitted no later than May first nineteen hundred and ninety-seven; provided further, that officers shall be assigned to vacant patrol districts and shall provide monitoring pursuant to the national shellfish sanitation program; provided further, that not more than twenty thousand dollars shall be expended on the continued expansion of the communications network to join a statewide communications system with the executive office of public safety $8,184,820

Environmental Law Enforcement Fund 50.0%
Inland Fisheries and Game Fund 15.0%
Highway Fund 15.0%
General Fund 20.0%

2350-0101 For the hunter safety training program $260,580

Inland Fisheries and Game Fund 100.0%

2350-0104 For environmental police private details, so-called; provided, that the division is hereby authorized to expend revenues collected up to two hundred fifty thousand dollars from fees charged for private details $250,000

Environmental Law Enforcement Fund 100.0%

Federal Appropriations

2300-9885 For the purposes of a federally funded grant entitled, SUASCO Scenic River $13,600

2300-9887 For the purposes of a federally funded grant entitled, Assabet II Data Development $4,100

2300-9888 For the purposes of a federally funded grant entitled, Urban Rivers Action Program $20,000

2315-9703 For the purposes of a federally funded grant entitled, Protection of Flood Plain Forests and Significant Wetlands $25,754

2315-9704 For the purposes of a federally funded grant entitled, Piping Plover Project $77,653

2315-9705 For the purposes of a federally funded grant entitled, Vernal Pools Project $32,835

2315-9706 For the purposes of a federally funded grant entitled, Riverlines Project $25,000

2315-9707 For the purposes of a federally funded grant entitled, Coastal Ponds and Peat Lands Projects $60,000

2330-9222 For the purpose of a federally funded grant entitled, Clean Vessel Act, for vessel pumpout equipment, education, planning and administration $1,600,000

2330-9714 For the purposes of a federally funded grant entitled, Commercial Fisheries Extension $50,000

2330-9709 For the purposes of a federally funded grant entitled, Commercial Fisheries Research $50,000

2330-9712 For the purposes of a federally funded grant entitled, Commercial Fisheries Statistics $406,000

2330-9721 For the purposes of a federally funded grant entitled, Anadromous Fisheries Management $160,000

2340-9701 For the purposes of a federally funded grant entitled, Safe Boating Program $460,000

Metropolitan District Commission.

State Appropriations

2410-1000 For the administration of the commission; provided, that the commission shall enter into an interagency agreement with

the department of state police to provide police coverage on commission properties and parkways; provided further, that said department shall reimburse the commission for costs incurred by the commission including, but not limited to, maintenance and repairs to the department's vehicles, the operation of buildings in which said department resides, and other related costs; provided further, that notwithstanding the provisions of section three B of chapter seven of the General Laws the commission is hereby authorized and directed to establish or renegotiate fees, licenses, permits, rents and 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 shall be submitted to the house and senate committees on ways and means regarding fee adjustments no later than February fourteenth, nineteen hundred and ninety-seven; provided further, that notwithstanding the provisions of any administrative bulletin, general or special law to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the department of procurement and general services; provided further, that no funds shall be expended for personnel overtime costs; and provided further, that an amount not to exceed seventy-five thousand dollars shall be expended to provide community policing patrols along the southwest corridor, so-called $1,279,666

Local Aid Fund 75.0%
Highway Fund 25.0%

2410-1001 The commission is hereby authorized to expend one hundred thousand dollars for the operation and maintenance of the commission's telecommunications system from revenues received from the Massachusetts water resources authority, the Massachusetts convention center authority, the department of highways central artery/third harbor tunnel project, so-called, 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 said 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 item; provided further, that no water shall be diverted from the Connecticut river by the metropolitan district commission or the Massachusetts water resources authority; provided further, that five hundred thousand dollars shall be paid to the town of Clinton, pursuant to section eight of chapter three hundred and seven of the acts of nineteen hundred and eighty-seven, to compensate for the use of certain land; provided further, that the amount of said payment shall not be included in the amount of the annual determination of fiscal year charges to the Massachusetts water resources authority assessed to said authority under section one hundred and thirteen of chapter ninety-two of the General Laws; provided further, that no less than four hundred thousand dollars shall be expended for the design of sewer system elements required to abate water pollution and public health threats within the Wachusett reservoir watershed in the Pinecroft-Drury Hill areas of the towns of Holden and West Boylston and the Shrewsbury street industrial park area in the town of West Boylston in accordance with the recommendations of a wastewater facilities plan developed for the metropolitan district commission and the towns of Holden and West Boylston, and for reimbursement to the town of West Boylston for costs incurred in designing the sewer system to the Shrewsbury street industrial park area; and provided further, that a work crew shall be made available at the Sudbury reservoir for maintenance of said reservoir $11,053,529

Watershed Management Fund 95.48%
Local Aid Fund 4.52%

2440-0010 For the administration, operation and maintenance of the metropolitan district commission parks and recreation division, for the maintenance, operation, and related costs of the parkways, boulevards, roadways, bridges and related appurtenances under the care, custody, and control of the commission, for the flood control activities of said commission, and for the purchase of all necessary supplies and related equipment; provided, that no funding shall be made available from this item for true seasonal employees, so-called; provided further, that not less than thirty-seven thousand four hundred and eighty-two dollars shall be expended for additional personnel in the Fells Reservation; provided further, that not less than fifty thousand dollars shall be expended for maintenance and repairs to Pine Banks Park; provided further, that not less than eight hundred forty-two thousand nine hundred and ninety-four dollars shall be expended for expenses of the State House Park Rangers, including the cost of personnel; provided further, that fifty thousand dollars shall be expended for repairs and maintenance of Dooley Park; provided further, that not more than ten million dollars may be expended from the funds appropriated herein until repairs to Dooley Park are completed; provided further, that not less than one hundred twenty-five thousand dollars shall be expended for a one time payment to the town of Arlington for repairs, renovation, and other work at the veterans memorial center; and provided further, that notwithstanding the provisions of any general or special law to contrary, all offices and positions shall be subject to classification under sections forty-five to fifty, inclusive, of chapter thirty of the General Laws $24,588,509

Highway Fund 60%
Local Aid Fund 40%

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%

2440-1202 For the civilianization of crossing guards located at metropolitan district commission intersections where state police personnel previously performed such duties $220,000

2440-2000 For the expenses of snow and ice control on the metropolitan district commission parkways, including the costs of personnel $569,796

Highway Fund 100.0%

2440-3000 For the extended rink season, including the costs of personnel..... $498,750

Local Aid Fund 100.0%

2440-3001 The metropolitan district commission is authorized and directed to expend an amount not to exceed two hundred fifty-nine thousand four hundred and forty-eight dollars from skating rink fees and rentals for the operation and maintenance, including personnel costs of four rinks between September first, nineteen hundred and ninety-six and April thirtieth, nineteen hundred and ninety-seven as a pilot expanded and extended rink season $259,448

2440-4000 For the operation of the Ponkapoag golf course including maintenance, equipment, and capital improvements pursuant to section two U of chapter twenty-nine of the General Laws $700,000

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 Y of chapter twenty-nine of the General Laws, inserted by section eighty-three of chapter one hundred and ten of the acts of nineteen hundred and ninety-three $450,000

Leo J. Martin Recreational Fund 100.0%

2440-5000 For the summer and fall seasonal hires of the commission; provided, that no funds appropriated herein shall be used for year-round seasonals, so-called; and provided further, that notwithstanding the provisions of any general or special law or collective bargaining contract to the contrary, seasonal employees funded herein shall not be considered employees as defined in and for the purposes of chapter one hundred and fifty E of the General Laws or as defined in any collective bargaining agreement $2,428,863

Highway Fund 60.0%
Local Aid Fund 40.0%

2440-6000 For the winter and spring seasonal hires of the commission; provided, that no funds appropriated herein shall be used for year-round seasonals, so-called; and provided further, that notwithstanding the provisions of any general or special law or collective bargaining contract to the contrary, seasonal employees funded herein shall not be considered employees as defined in and for the purposes of chapter one hundred and fifty E of the General Laws or as defined in any collective bargaining agreement $530,267

Highway Fund 60.0%
Local Aid Fund 40.0%

2443-2000 For the operation and administration of the commonwealth zoological corporation, pursuant to chapter ninety-two A of the General Laws; provided, that said corporation shall take the necessary steps to increase the amount of private funding available for the operation of the zoos under their custody $3,000,000

Local Aid Fund 100.0%

2444-9001 For the construction, reconstruction, and improvement of boulevards, parkways, bridges, and related appurtenances under the care, custody, and control of the commission $877,432

Highway Fund 100.0%

2444-9004 For certain payments for the maintenance and use of the trail-side museum and the Chickatawbut Hill center $350,000

Local Aid Fund 100.0%

2444-9005 For street lighting on metropolitan district commission parkways $2,400,000

Highway Fund 100.0%

2460-1000 For the construction division; provided, 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 no less than two hundred sixteen thousand dollars shall be expended for the costs associated with the management of aquatic non-native plants in the Charles river lakes district, including treatment and monitoring $2,555,306

Highway Fund 80.0%

Local Aid Fund 20.0%

Department of Food and Agriculture.

State Appropriations

2511-0100 For the office of the commissioner, including the expenses of the board of agriculture $566,699

2511-0105 For the purchase of supplemental foods for the emergency food assistance program; provided that the funds appropriated herein shall be expended for food to be distributed by the greater Boston food bank as follows: seventy and eight-tenths of one percent to the greater Boston food bank, sixteen and eight-tenths percent to the food bank of western Massachusetts, and twelve and four-tenths percent to the Worcester county food bank $858,000

2511-2000 For the operation of the division of dairy services $452,175

2511-3000 For the operation of the division of regulatory services and animal health, including a program of laboratory services at the university of Massachusetts at Amherst and the expenses of the pesticides board $1,798,389

2511-3002 For the integrated pest management program; provided that not less than two hundred and fifty thousand dollars shall be expended for the purpose of a research grant at the University of Massachusetts $262,000

2511-4000 For the operation of the division of agricultural development and fairs, including the expenses of the agricultural lands board; provided, that allotment funds for 4-H activities may be expended from this line item; provided further, that not less than two hundred twenty-five thousand dollars be expended for the farmer's market coupon program; provided further, that not less than one hundred and fifty thousand dollars be expended for agricultural fair prizes, including prizes for pie baking; 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, pursuant to the provisions of a composting plan filed jointly by the department and the city of Boston; provided further, that not less than forty thousand dollars shall be expended for

the one time cost of agricultural equipment at the Smith Vocational High School in Northampton; and provided further, that not less than fifty-five thousand dollars shall be expended for the purposes of the mastitis laboratory at the university of Massachusetts at Amherst $1,607,737

2520-0100 For the operation of the state reclamation board $48,668
Mosquito and Greenhead Fly Control Fund ... 100.0%

2520-0107 For the purposes of the encephalitis and rabies control program $50,000

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 $950,731
Mosquito and Greenhead Fly Control Fund ... 100.0%

2520-0900 For the Suffolk county mosquito control program $171,405
Mosquito and Greenhead Fly Control Fund ... 100.0%

2520-1000 For the Central Massachusetts mosquito control program $667,103
Mosquito and Greenhead Fly Control Fund ... 100.0%

2520-1100 For the Berkshire county mosquito control program $88,206
Mosquito and Greenhead Fly Control Fund ... 100.0%

2520-1200 For the Norfolk county mosquito control program $602,694
Mosquito and Greenhead Fly Control Fund ... 100.0%

2520-1300 For the Bristol county mosquito control program $521,357
Mosquito and Greenhead Fly Control Fund ... 100.0%

2520-1400 For the Plymouth county mosquito control program $623,876
Mosquito and Greenhead Fly Control Fund ... 100.0%

2520-1500 For the Essex county mosquito control program $372,951
Mosquito and Greenhead Fly Control Fund .. 100.0%

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Office of the Secretary.

4000-0100 For the operation of the executive office, including the health facilities appeals board; provided, that said executive office shall provide technical and administrative assistance

to agencies receiving federal funds; provided further, that the executive office shall monitor the expenditures and completion timetables for systems development projects being undertaken by the department of social services, the division of medical assistance and the department of transitional assistance, and shall ensure that all measures are taken to make said systems compatible with one another for enhanced interagency interaction; provided further, that said office shall report to the house and senate committees on ways and means and the secretary of administration and finance on the progress of the development of said systems and the measures taken to ensure interagency cooperation no later than March first, nineteen hundred and ninety-seven; provided further, that the executive office shall complete a cost benefit analysis, including estimated development and implementation costs of a unified intake and eligibility system for state subsidized day care; provided further, that the executive office shall submit said analysis to the executive office of administration and finance and the house and senate committees on ways and means by April fifteenth, nineteen hundred and ninety-seven; provided further, that the executive office shall develop and implement a plan for the common client identifier, so-called; and provided further, that the executive office shall develop and implement a plan for the establishment of congruent agency boundaries for the purpose of improving interagency communication and service delivery $1,805,337

4000-0105 The executive office of health and human services is hereby authorized to expend federal reimbursements generated pursuant to an initiative to restructure the financing and delivery of children's and family services in an amount not to exceed three million dollars; provided, that the expenditure of said reimbursements shall be contingent upon receipt of an Annie E. Casey foundation program implementation grant; provided further, that federal reimbursements so generated shall not be expended unless certified by the secretary of administration and finance to exceed federal reimbursement estimates as appearing in sections

one A and one B of this act; provided further, that no reimbursements attributable to any department of social services expenditures or to any department of youth services Title IV-E expenditures shall be counted in said estimate or credited to this item; provided further, that said secretary may designate agencies within the executive office of health and human services 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 allowed by said secretary; and provided further, that thirty-one thousand seventy dollars shall be expended for the planning of a family service center in the cities of Lawrence and Northampton pursuant to section one hundred and thirty-seven of chapter five of the acts of nineteen hundred and ninety-five $3,000,000

Day Care.

State Appropriations

4000-0190 For the administration of day care programs; provided, that not more than four million five hundred seventy-five thousand dollars shall be expended for the operating expenses of the MassJOBS voucher management system $5,071,357

4000-0195 For the MassJOBS voucher and contracted day care program; provided, that the MassJOBS day care program shall be available for recipients of benefits provided under the program of transitional aid to families with dependent children and the absent parents of said recipients; provided further, that day care shall be available to participants in the MassJOBS program, and to former participants for up to one year after termination of their transitional 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 seventy-eight million two hundred ninety-seven thousand four hundred sixty-four dollars shall be expended for MassJOBS voucher day care; provided further, that four million one hundred eighty-six thousand seven hundred eighty-nine dollars shall be expended for MassJOBS contracted day care; provided further, that all day care providers that are part of a public school system shall be required to accept from recipients day care vouchers provided through this appropriation; provided further, that four hundred ninety-five thousand dollars shall be expended by the department of transitional assistance for the provision of one hundred day care slots for children in the transitional aid to families with dependent children program who are in the custody and care of grandparents due to the incapacity or absence of the parents; 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; and provided further, that the secretary of health and human services shall issue monthly reports to the house and senate committees on ways and means and the secretary of administration and finance detailing expenditures made from this item including, but not limited to, the number and cost of day care slots funded from this item $82,979,253

4000-0210 The executive office may expend for purposes of the MassJOBS day care program an amount not to exceed one million six hundred eleven thousand seven hundred eighty-four dollars from the monies received from title IV-A reimbursements; provided, that five hundred fifty thousand dollars shall be expended for voucher day care services for participants in the MassJOBS program and for former participants for up to one year after termination of their transitional aid to families with dependent children

benefits due to employment; provided further, that not more than one million sixty-one thousand seven hundred eighty-four dollars shall be expended for contracted day care services for participants in the MassJOBS program and for former participants for up to one year after termination of their transitional 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; and provided further, that the secretary of health and human services shall issue monthly reports to the house and senate committees on ways and means and the secretary of administration and finance detailing expenditures made from this item including, but not limited to, the number and cost of day care slots funded from this item $1,611,784

4000-0215 For day care services for the purposes of attending high school to teen parents receiving transitional aid to families with dependent children benefits pursuant to subsection (i) of section one hundred ten of chapter five of the acts of nineteen hundred ninety-five; provided, that teens eligible for year-round full-time day care services shall be participating in school, education, work and training-related activities or a combination thereof, totalling at least thirty hours per week; provided further, that five million eight hundred twelve thousand and twenty-seven dollars be expended for contracted day care services for said teen parents; provided further, that one million two hundred seven thousand six hundred and five dollars be expended for voucher day care services for said teen parents; provided further, that three hundred three thousand seven hundred and ninety dollars be expended on informal child care services for said teen parents; and provided further, that the secretary of health and human services shall issue monthly reports to the house and senate committees on ways and means and the secretary of administration and finance detailing expenditures made from this item including, but not limited to, the number and cost of day care slots funded from this item ..... $7 ,323,422

4000-0220 For the provision and management of the informal child care program; provided, that not more than two dollars per

child per hour shall be paid for such services; provided further, that not more than eight million two hundred thirty-one thousand six hundred and twenty-eight dollars shall be expended for informal child care services; and provided further, that the secretary of health and human services shall issue monthly reports to the house and senate committees on ways and means and the secretary of administration and finance detailing expenditures made from this item including, but not limited to, the number and cost of day care slots funded from this item $8,231,628

4000-0225 For the provision of income-eligible day care slots and vouchers; provided, that forty-two million nine hundred thirty-four thousand three hundred and nine dollars shall be expended for contracted and voucher day care slots for income eligible parents; provided further, that of said funds, nine million five hundred and ninety-eight thousand thirty-six dollars shall be expended for voucher day care services; provided further, that of said funds not less than twenty thousand dollars shall be expended for the purposes of a program of after school safety day care for the children of homeless families in the city of Framingham; provided further, that of said funds not less than one hundred sixteen thousand one hundred three dollars shall be expended for a trial court child care program in Roxbury; provided further, that not less than one hundred ninety-three thousand eight hundred and eighty-three dollars shall be expended for trial court child care programs in West Roxbury, Dorchester, Fall River, Framingham and the Middlesex trial court; provided further, that not less than one hundred thirty-four thousand nine hundred and eighty-three dollars shall be expended for the Springfield trial court day care program from this item or item 4000-0702; provided further, that the secretary of the executive office of health and human services is hereby authorized to transfer not more than ten million dollars to this item from item 4403-2000 to be expended, in addition to the amount appropriated herein, on voucher day care for income-eligible parents; provided further, that said secretary, prior to said transfer, shall file with the executive office of administration and finance and

the house and senate committees on ways and means an estimate of the number of voucher day care slots funded by said transfer, the annualized impact of said transfer and the effects, if any, of cost containment efforts implemented in the administration of income-eligible day care programs; provided further, that no funds shall be transferred from item 4403-2000 if such a transfer would cause a deficiency in said item; provided further, that the executive office of health and human services shall submit an income-eligible cost containment plan to the executive office of administration and finance and the house and senate committees on ways and means no later than August first, nineteen hundred and ninety-six; provided further, that one million nine hundred thousand one hundred and eighty-two dollars shall be expended for contracted day care slots for teen parents and their children; and provided further, that the secretary of health and human services shall issue monthly reports to the house and senate committees on ways and means and the secretary of administration and finance detailing expenditures made from this item including, but not limited to, the number and cost of day care slots funded from this item $45,028,374

4000-0228 For day care vouchers for participants in the full employment program established by subsection (i) of section one hundred and ten of chapter five of the acts of nineteen hundred and ninety-five; provided, that the secretary of health and human services shall issue monthly reports to the house and senate committees on ways and means and the secretary of administration and finance detailing expenditures made from this item including, but not limited to, the number and cost of day care slots funded from this item $500,000

4000-0230 For supportive day care associated with the family stabilization program; provided, that no funds shall be expended for "extended vouchers", so called; and provided further, that the secretary of health and human services shall issue monthly reports to the house and senate committees on ways and means and the secretary of administration and finance detailing expenditures made from this item including, but not limited to, the number and cost of day care slots funded from this item $32,362,255

Federal Appropriations

4000-0701 For the purposes of a federally funded grant entitled, Cooperative Agreement for Primary Care Services $99,000

4000-0702 For the purposes of a federally funded grant entitled, Child Care Development Block Grant; provided, that six hundred fifty thousand dollars shall be expended through child care resource and referral agencies and other qualified community-based child care training programs for the provision of child care training; provided further, that one million one hundred seventy-six thousand six hundred and sixty-two dollars 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 one hundred twenty-two thousand nine hundred and ten dollars shall be expended for operating expenses of child care resource and referral programs that provide direct services to parents; and provided further, that one hundred ninety thousand dollars shall be expended to provide day care services for children with disabilities in school-aged child care programs $13,353,745

4000-0705 For the purposes of a federally funded grant entitled, Emergency Shelter Grants Program $2,139,000

4000-0706 For the purposes of a federally funded grant entitled, Crisis Nursery $200,000

4000-0707 For the purposes of a federally funded grant entitled, Supportive Housing $5,900,353

4000-0708 For the purposes of a federally funded grant entitled, Head Start $150,000

4000-9401 For the purposes of a federally funded grant entitled, Community Mental Health Services $5,229,900

4000-9402 For the purposes of a federally funded grant entitled, Substance Abuse Prevention and Treatment Block Grant ... $29,566,735

4003-0804 For the purposes of a federally funded grant entitled, Refugee Targeted Assistance Grant $1,602,190

4003-0805 For the purposes of a federally funded grant entitled, Refugee Resettlement Program and Social Services $2,726,491

4003-0806 For the purposes of a federally funded grant entitled, Refugee Cash Assistance, Medical Assistance, and Administration... $11,518,146

4003-0807 For the purposes of a federally funded grant entitled, State Legalization Impact Assistance Grant $1,775,725

Division of Medical Assistance.

State Appropriation

4000-0300 For the administration of the division; provided, that the same standards and regulations in place for personal care attendants, nursing home bed holds, so-called, and score III, so called, in fiscal year nineteen hundred and ninety-six shall be retained in fiscal year nineteen hundred and ninety-seven; provided, that in consultation with the division of health care finance and policy, the division 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; provided further, that expenditures for the purposes of each item appropriated to the division by this act shall be accounted for according to such purpose on the Massachusetts management, accounting and reporting system not more than ten days after such expenditures have been made by the medicaid management information system; provided further, that the division shall not make expenditures that are not federally reimbursable, except as specifically authorized herein, or unless made for cost containment efforts the purposes and amounts of which have been submitted to the house and senate committees on ways and means thirty days prior to making such expenditures; provided further, that the 1115 research and demonstration waiver, MassHealth, so-called, shall not be implemented without prior legislative approval; provided further, that no funds shall be expended for the implementation of MassHealth from this item or any other item until funds are appropriated therefore; provided further, that not more than two hundred thousand dollars may be expended for necessary development costs associ-

ated with said waiver; provided further, that the division shall not extend or expand any categories of assistance under title XIX of the social security act, any successor federal statute, or under the authority of any waiver granted by the secretary of health and human services beyond those in effect as of March first, nineteen hundred and ninety-five; provided further, that the division may continue to recover provider overpayments made in the current and prior fiscal years through the medicaid management information system, and that such recoveries shall be deemed current fiscal year expenditure refunds, so-called; provided further, that the division shall report quarterly to the house and senate committees on ways and means the amounts of said expenditure refunds credited to each item of appropriation; provided further, that, unless otherwise expressly authorized by law, the division shall deposit all federal funds received in the General Fund; provided further, that the division shall report quarterly to the house and senate committees on ways and means the amount of hand generated payments, so-called, to providers by item of appropriation from which said payments were made; provided further, that the definitions for the personal care attendant program as set forth in 130 C.M.R. 422.402 and the operating procedures as set forth in 130 C.M.R. 422-421 shall not be changed from those in effect on January first, nineteen hundred and ninety-six until July first, nineteen hundred and ninety-seven, or until agreement is reached between the division of medical assistance and designees of the governor's advisory commission on disability policy, the Massachusetts office on disability, and the statewide independent living council regarding the legal and fiscal responsibilities associated with the employment of personal care attendants $33,461,077

4000-0302 The division of medical assistance may retain and expend for the administrative expenses of the division an amount not to exceed two million dollars pursuant to a project to claim new revenue from retroactive costs under family planning, from a project to claim hospital payments under disproportionate share from the medical security plan, from projects to increase the collection of prior year expenditures above

sixty-five million dollars; provided, however, that no funds shall be credited to this item until the division first deposits five million seven hundred fifty thousand dollars into the General Fund $2,000,000

4000-0310 For administrative support and related services purchased contractually by the division, including, but not limited to, pre-admission screening, utilization review, medical consultants, disability determination reviews, health benefit managers and interagency service agreements; provided, that a summary description of interagency service agreements for which funds are allocated by the division to other agencies shall be submitted to the house and senate committees on ways and means not more than ten days after making such allocations; provided further, that no funds shall be expended from this item for the contracted services funded in item 4000-0325; and provided further, that no funds shall be expended by the division for the purpose of funding interpretive services directly or indirectly related to a settlement or resolution agreement, so-called, with the office of civil rights or any other office, group, or entity; and provided further, that interpretive services currently provided by the division shall not give rise to enforceable legal rights for any party or to an enforceable entitlement to interpretive services $31,481,874

4000-0320 The division of medical assistance may expend an amount not to exceed sixty-five million dollars from the monies received from recoveries of any prior year expenditures and collections from liens, estate recoveries, third party recoveries, drug rebates, accident and trauma recoveries, case mix recoveries, computer audits, insurance recoveries, masspro and healthpro refunds, medicaid fraud returns, data match returns, medicare appeals, and program and utilization review audits; provided, that any revenues collected by the division that are not attributable to the aforementioned categories shall be deposited in the General Fund and shall be tracked separately therein; provided further, that additional categories of recoveries and collections may be credited to this item after providing written notice to the house and senate committees on ways and means; provided further, that no funds from this item

shall be used for the purposes of items 4000-0300, 4000-0310, or 4000-0325; provided further, that expenditures from this item shall be limited solely to payments for the provision of medical care and assistance rendered in the current fiscal year; provided further, that the division shall file quarterly, with the house and senate committees on ways and means, a report delineating the amount of current year rebates from pharmaceutical companies or other current year collections which are being used to supplement current year expenditures; and provided further, that the division shall make no expenditures from this item for the payment of abortions not necessary to prevent the death of the mother $65,000,000

4000-0325 For vendor contracts to manage a central automated vendor payment system and an automated eligibility verification system only; provided, that all federal reimbursements for said contracts shall be deposited in the General Fund; and provided further, that fifty percent of the cost of provider point of service eligibility verification devices purchased by the division shall be assumed by the providers utilizing said devices $29,325,322

4000-0350 For the operation of the eligibility system formerly known as the MA21 Project only; provided, that the division shall deposit all federal reimbursements for said system and its development costs in the general fund; provided further, that the division shall, prior to resuming development of said MA21 Project, notify the comptroller, the office of management and information systems and the house and senate committees on ways and means that sufficient state funds are available for said project in an amount which will not incur any deficiency for the division in the current fiscal year; provided further, that no funds shall be expended from this item for administrative expenses in item 4000-0300; provided further, that no funds shall be expended from this item for the contracted services in item 4000-0310; and provided further, that no funds shall be expended from this item for systems contracts in item 4000-0325 ..... $3,034,114

4000-0430 For the commonhealth program to provide primary and supplemental medical care and assistance to disabled working adults and children pursuant to sections sixteen

and sixteen A of chapter one hundred and eighteen E of the General Laws; provided, that no funds shall be expended from this item for expenses incurred in the prior fiscal year; provided further, that the division shall maximize federal reimbursement for state expenditures made on behalf of said adults and children; and provided further, that the division shall close enrollments or promulgate regulations that adjust eligibility, benefits and other requirements to limit expenditures to the amount appropriated herein; and provided further, that the division shall adhere to the same time standards for the processing of a commonhealth application as govern applications under Title XIX, namely within forty-five days of receipt of a completed application, or within ninety days if a determination of disability is required $19,870,847

4000-0500 For a managed care program for non-institutionalized recipients who are not otherwise insured and are required to enroll in the primary care clinician program, health maintenance organizations or the mental health and substance abuse network; provided, that said program shall be administered consistent with the terms of any federal approvals obtained prior to March first, nineteen hundred and ninety-five for said program; provided further, that expenditures from this item shall be made only for services rendered to recipients in the current fiscal year; provided further, that expenditures from this item shall be made only for the purposes expressly stated herein; and provided further, that the division shall make no expenditures from this item for the payment of abortions not necessary to prevent the death of the mother $1,006,469,462

4000-0600 For long-term care provided to medical assistance recipients by chronic disease and rehabilitation hospitals, nursing facilities, certain hospitals and facilities operated by the commonwealth, and services provided by community-based long-term care providers; provided, that notwithstanding the provisions of any general or special law to the contrary and without the necessity of obtaining approval by the division of health care finance and policy, the division may establish rates by contract with such hospitals for services provided to medicaid-eligible patients pursuant to a managed care program; provided further, that

expenditures from this item shall be made only for services rendered to recipients in the current fiscal year; provided further, that expenditures from this item shall be made only for the purposes expressly stated herein; provided further, that notwithstanding the provisions of item 4000-0310 to the contrary, not less than eight million six hundred thousand dollars shall be made available from this item to pay for the cost of home and community-based health waiver services provided to elderly medicaid recipients enrolled in the section 2176 waiver, so-called; provided further, that should the federal health care financing administration approve additional waiver slots, the division may expand funding for said waiver services after submitting prior notice of such expansion to the house and senate committees on ways and means; provided further, that the division shall make no expenditures from this item for the payment of abortions not necessary to prevent the death of the mother; provided further, that the division is hereby authorized to establish a program of group adult foster care benefits for persons living in assisted living residences certified pursuant to chapter nineteen D of the General Laws who meet the income criteria of the department of transitional assistance for the optional supplemental living arrangement category of supplemental security income payments authorized pursuant to item 4405-2000; provided further, that said benefit, when provided in conjunction with said optional category of payments, shall be contingent on the division's submission of a plan of implementation to the house and senate committees ways and means that shall include, but not be limited to, procedures that control the rate of growth of said optional category of payments and group adult foster care benefits to the amounts appropriated therefor; provided further, that clinical eligibly criteria for said benefits shall be those in effect as of January first, nineteen hundred and ninety-six; provided further, that any changes in said clinical criteria shall be filed with the house and senate committees on ways and means; and provided further, that rates of reimbursements paid to providers of group adult foster care benefits shall be class-based and calculated on a prospective basis $1,258,900,161

4000-0700 For medical services provided to medical assistance recipients not otherwise participating in the managed care program established by item 4000-0500 and for certain services not required to be provided by said managed care program nor requiring prior authorization from managed care programs consistent with the terms of any federal approvals obtained prior to March first, nineteen hundred and ninety-five; provided, that expenditures from this item shall be made only for services rendered to recipients in the current fiscal year; provided further, that expenditures from this item shall be made only for the purposes expressly stated herein; provided further, that the division shall make no expenditures from this item for the payment of abortions not necessary to prevent the death of the mother; and provided further, that not less than nine hundred thousand dollars shall be made available from this item to pay for the cost of outreach and follow-up services conducted by agencies certified as comprehensive family planning agencies to increase the utilization of comprehensive family planning services $415,980,377

4000-0800 For the payment of claims incurred in the prior fiscal year, to pay fiscal closure claims incurred in previous fiscal years and for certain other special provider costs incurred in such fiscal years; provided, that payment for special provider costs shall be made from this item only with the prior written approval of the secretary of administration and finance; provided further, that expenditures from this item shall be made only for the purposes expressly stated herein; and provided further, that the division shall make no expenditures from this item for the payment of abortions not necessary to prevent the death of the mother $665,000,000

4000-0820 For the intergovernmental transfer component of the disproportionate share program for municipal acute care hospitals established in accordance with title XIX, or any successor federal statute, any regulations promulgated thereunder, the medicaid state plan and the terms and conditions of agreements reached with the division for such transfer payments; provided, that such funds may only be expended from this item for such payments owed during the current fiscal year; provided further, that an accounting of such payments shall be reported quarterly to

the house and senate committees on ways and means; and provided further, that all revenues generated by said program shall be credited to the General Fund $32,000,000

Local Aid Fund 100.0%

4000-0830 For the intergovernmental transfer component of the medicaid payments to the university of Massachusetts medical center for hospital services as provided pursuant to the terms and conditions of the contract between the division 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 two 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 December second, nineteen hundred and ninety-six, to the house and senate committees on ways and means, a report detailing the programs funded from this item $5,000,000

Federal Appropriation

4000-0534 For the purposes of a federally funded grant entitled, Improving Access to Care for Pregnant Substance Abusers $375,000

Division of Health Care Finance and Policy.

State Appropriation

4100-0060 For the operation of the division and the administration of the uncompensated care pool established pursuant to chapter one hundred and eighteen G of the General Laws as added by this act, including not more than six full time equivalent positions previously funded in item 4600-1050 of section two of chapter thirty-eight; provided, that any interest accrued on principal in the compliance liability trust fund, so-called, during fiscal years nineteen hundred ninety-six and ninety-seven shall be deposited in the General Fund as partial reimbursement for the administrative costs of the uncompensated care pool; provided further, that the total amount assessed to acute hospitals pursuant to the provisions of said chapter one hundred and eighteen G for the purposes of this item shall be reduced by said three hundred thousand dollars; provided further, that the divi-

sion shall promulgate regulations requiring all hospitals receiving payments from the uncompensated care pool to report quarterly to the division the following utilization information: the number of inpatient admissions and outpatient visits by age category, income category, diagnostic category and average charge per admission; provided further, that the division shall submit quarterly to the house and senate committees on ways and means a summary report compiling said data; and provided further, that the division, in consultation with the division of medical assistance, shall not promulgate any increase in medicaid provider rates above existing rates without taking all measures possible under Title XIX of the Social Security Act or any successor federal statute to ensure that rates of payment to providers do not exceed such rates as are necessary to meet only those costs incurred by efficiently and economically operated providers in order to provide services of adequate quality $8,900,114

4100-1054 For the purpose of making initial gross payments to qualifying acute care hospitals from the uncompensated care pool pursuant to the provisions of chapter one hundred and eighteen G of the General Laws as added by this act, for the hospital fiscal year beginning October first, nineteen hundred and ninety-six; provided, that said payments shall be made to hospitals prior to, and in anticipation of, the payment by hospitals of their gross liability to said pool; provided further, that the comptroller is hereby authorized and directed to transfer the amount appropriated herein to said pool for the purpose of making such payments; provided further, that the amount appropriated herein, less any amount that is certified by the commissioner as unable to be collected from said hospitals, shall be returned proportionately to the General Fund and the Local Aid Fund at the end of the fiscal year ending June thirtieth, nineteen hundred and ninety-seven; provided further, that in no event shall the amount unable to be collected from a hospital exceed for any hospital which is a net payer to said pool the pool's gross liability to such hospital or for any hospital which is a net payee from said pool the pool's gross liability to such hospital;and provided further, that the comptroller is hereby authorized and di-

rected to transfer to the General Fund as of said June thirtieth the balance of this appropriation and any allocation thereof as certified by the said commissioner $30,000,000

General Fund 66.0%
Local Aid Fund 34.0%

Massachusetts Commission for the Blind.

State Appropriations

4110-0001 For the office of the commissioner and bureau of research $633,266

4110-0002 Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts commission for the blind may expend an amount not to exceed seventy-five thousand dollars from revenues received pursuant to the home and community based waiver initiative, so-called, for the administration of said commission; provided, that no funds shall be expended from this item until the secretary of administration and finance shall certify in writing to the house and senate committees on ways and means that not less than seven hundred twenty-five thousand dollars from said initiative has been deposited in the general fund; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system $75,000

4110-1000 For the community services program $2,470,330

4110-1010 For aid to the adult blind; and provided further, that funds may be expended from this item for burial expenses incurred in the prior fiscal year $8,702,093

4110-1020 For determining eligibility for a medical assistance program for the blind; provided, that the commission is hereby authorized and directed to work with the division of medical assistance, the department of mental retardation and other state agencies to maximize federal reimbursement for clients determined through this item $382,052

4110-2000 For the turning twenty-two program of the commission; provided, that the amount appropriated herein for new cli-

nts participating in said program in fiscal year nineteen hundred and ninety-seven shall not exceed four hundred and thirty-one thousand dollars and shall not annualize to more than seven hundred and ten thousand dollars in fiscal year nineteen hundred and ninety-eight; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein; provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement; provided further, that the commission shall work in conjunction with the department of mental retardation to secure the maximum amount of federal reimbursements available for the care of turning twenty-two clients; and provided further, that the commission shall work in conjunction with the department of mental retardation to secure similar rates for contracted residential services $5,351,607

4110-3010 For a program of vocational rehabilitation for the blind in cooperation with the federal government; provided, that no funds from the federal vocational rehabilitation grants or state appropriation shall be deducted for pensions, group health and life insurance, or any other such indirect cost of federally reimbursed state employees; provided further, that one hundred fifty thousand dollars of the amount appropriated herein shall be obligated for the purpose of mitigating inequitable reimbursement rates for the Carroll Center for the Blind $1,288,033

4110-4000 For the administration of the Ferguson industries for the blind; provided, that retired workshop employees shall receive grants equal to three-fourths of the salaries of current workshop employees; and provided further, that any funds received for goods and services purchased by private and public sector entities at Ferguson Industries shall be remitted to the General Fund $1,717,544

Federal Appropriations

4110-3020 For the purposes of a federally funded grant entitled, Vocational Rehabilitation; provided, that any reimbursement received for successful vocational rehabilitation closures under the federal Social Security Act's Vocational

Rehabilitation Program may be used by the commission for the blind to provide for essential client programming, including but not limited to pre-vocational and supported employment services $525,011

4110-3021 For the purposes of a federally funded grant entitled, Basic Support Grant - Section 110 ..... $6,750,000

4110-3023 For the purposes of a federally funded grant entitled, Independent Living - Part B $76,500

4110-3026 For the purposes of a federally funded grant entitled, Independent Living - Part C $225,000

4110-3027 For the purposes of a federally funded grant entitled, Rehabilitation Training $35,000

4110-3028 For the purposes of a federally funded grant entitled, Supported Employment $150,000

Massachusetts Rehabilitation Commission.

State Appropriations

4120-1000 For the operation of the commission; provided, that the commissioner shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the number of clients served and the amount expended on each type of service; provided further, that upon the written request of the commissioner of revenue, said commissioner shall provide lists of individual clients to whom or on behalf of whom payments have been made for the purpose of verifying eligibility and detecting and preventing fraud, error, and abuse in the programs administered by the commission; and provided further, that said lists shall include client names and social security numbers and payee names and other identification, if different from a client's $306,625

4120-2000 For vocational rehabilitation services operated in cooperation with the federal government; provided, that no funds from the federal vocational rehabilitation grant or state appropriation be deducted for pensions, group health and life insurance, and any other such indirect cost of the federally reimbursed state employees; and provided further, that no less than forty thousand dollars shall be expended on hand-

icap-accessible modifications of a van in the town of Chelmsford $6,306,616

4120-3000 For employment assistance services; provided, that vocational evaluation and employment services for severely physically disabled adults may, subject to appropriation, be provided; provided further, that not less than sixty-five thousand dollars be expended for the Charlestown navy yard special project for physically disabled adults $6,716,646

4120-4000 For independent living assistance services $3,618,446

4120-4001 For the housing registry for the disabled $100,000

4120-5000 For homemaking services $3,807,590

4120-6000 For head injured services $6,592,046

4120-6001 For the additional expenses of head injured services; provided, that the funds appropriated herein shall be expended solely for the cost of non-recurring services to the head injured; provided further, that said funds shall not be used to supplant existing services provided under item 4120-6000; and provided further, that all unexpended funds from this item shall revert to the head injury treatment services trust fund $125,000

Head Injury Treatment Services Trust Fund ... 100.0%

Federal Appropriations

4120-0020 For the purposes of a federally funded grant entitled, Vocational Rehabilitation $36,000,000

4120-0024 For the purposes of a federally funded grant entitled, HUD Fair Housing Initiatives $133,000

4120-0171 For the purposes of a federally funded grant entitled, Teaching Grant and Traineeships in RSA Training $145,000

4120-0172 For the purposes of a federally funded grant entitled, Vocational Rehabilitation Services - Severely Disabled Worcester Area Placement Consortium $165,000

4120-0173 For the purposes of a federally funded grant entitled, New England Psychiatric Rehab Training $200,000

4120-0187 For the purposes of a federally funded grant entitled, Supported Employment Program $990,000

4120-0188 For the purposes of a federally funded grant entitled, Statewide Supported Employment Demonstration Project $550,000

4120-0511 For the purposes of a federally funded grant entitled, Disability Determination Services $36,000,000

4120-0760 For the purposes of a federally funded grant entitled, Independent Living $990,000

4120-0765 For the purposes of a federally funded grant entitled, Empirical Analysis of the Educational Experiences of Young Adult Traumatic Brain Injury Survivors $165,000

Massachusetts Commission for the Deaf and Hard of Hearing.

4125-0100 For the operation of and services provided by the commission for the deaf and hard of hearing; provided, that not less than fifty thousand dollars be allocated for interpreter services for late-deafened adults $3,235,903

4125-0101 Notwithstanding the provisions of any general or special law to the contrary, the commission for the deaf and hard of hearing may expend revenues in an amount not to exceed forty-five thousand dollars from charges received on behalf of interpreter services and monies received from private grants, bequests, gifts or contributions; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system..... $45,000

Federal Appropriation

4125-0103 For the purposes of a federally funded grant entitled Massachusetts Assistive Technology Partnership $811,962

Office For Children.

State Appropriations

4130-0001 For the central administration of the office; provided, that the office shall administer the child care resource and referral system; provided further, that nothing contained herein shall be construed as limiting 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 ninety-three; and provided further, that said system shall receive funding from item 4000-0702 of section two of this act $196,604

4130-0002 For the administration of the children's trust fund $793,722

4130-0005 For field operations licensing; provided, that no funds from this item may be expended for family support services; and provided further, that the office generate not less than six hundred thirty-one thousand eight hundred fifty dollars to be deposited in the General Fund from licensing fees and the sale of day care lists $5,643,369

Federal Appropriations

4130-2087 For the purposes of a federally funded grant entitled, Dependent Care Planning and Development; provided, that one hundred twenty-two thousand nine hundred and ten dollars shall be expended for operating expenses of child care resource and referral programs that provide direct services to parents; and provided further, that one hundred ninety thousand dollars shall be expended to provide day care services for children with disabilities in school-aged child care programs $312,910

4130-9002 For the purposes of a federally funded grant entitled, Child Abuse Prevention Activities $100,000

Massachusetts Soldiers' Home.

4180-0100 For the maintenance and operation of the Massachusetts soldiers' home located in the city of Chelsea $17,402,743

4180-0101 For the maintenance of a specialized unit for the treatment of Alzheimer's disease patients at the Massachusetts soldiers' home in Chelsea $446,744

4180-1100 The soldiers' home in Chelsea may expend revenues up to a maximum of one hundred thirty-two thousand dollars for facility maintenance and patient care, including personnel costs; provided, that sixty percent of all revenues generated pursuant to section two of chapter ninety of the General Laws, through the purchase of license plates with the designation 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 $132,000

Holyoke Soldiers' Home.

4190-0100 For the maintenance and operation of the soldiers' home in Holyoke $12,603,445

4190-0101 For the adult day care program at the soldiers' home in Holyoke $137,345

4190-1100 The soldiers' home in Holyoke may expend revenues up to a maximum of eighty-eight thousand dollars for facility maintenance and patient care, including personnel costs; provided, that forty percent of all revenues generated pursuant to section two of chapter ninety of the General Laws, through the purchase of license plates with the designation 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 Holyoke $88,000

Department of Youth Services.

State Appropriations

4200-0010 For the administration of the department; provided, that the department shall develop an AIDS education plan for youths in custody or under supervision of the department; and provided further, that the department shall continue to seek Title IV-E revenues and report the status of such efforts to the house and senate committees on ways and means not later than December thirty-first, nineteen hundred and ninety-six $1,394,720

4200-9999 For the payment of charges assessed to the department of youth services for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called; provided, that notwithstanding the provisions of any general or special law to the contrary, prior to April fifteenth, nineteen hundred and ninety-seven

all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that after said date, the commissioner of the department of youth services, with the approval of the secretary of administration and finance, is hereby authorized to transfer from said DD subsidiary to the KK subsidiary, so-called, or the NN subsidiary, so-called, of this account, an amount not to exceed fifteen percent of the funds appropriated herein, if the secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the charges owed by the department for workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback are less than the amount appropriated herein, (2) that the department does not require any supplemental appropriation in any of its other items of appropriation, (3) that the department is expected to meet the revenue targets established in sections one A and one B of this act, and (4) that the department has not expended any funds for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called, in any of its other items of appropriation; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of funds between subsidiaries as authorized herein; and provided further, that, no funds shall be scheduled to any subsidiary in this account which is not explicitly referenced herein $906,322

4202-0001 For purchased secure treatment programs and services, in accordance with the provisions of chapter twenty-eight A of the General Laws; provided, that the commissioner is hereby authorized to transfer up to ten percent of the funds appropriated herein to items 4202-0002, 4202-0003, 4202-0004, 4202-0005, and 4202-0006 of section two of this act; and provided further, that thirty days before any such transfer is made, said commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the

amounts to be transferred and the reason for the proposed transfer $13,787,659

4202-0002 For purchased detention programs and services, in accordance with the provisions of chapter twenty-eight A of the General Laws; provided, that the commissioner is hereby authorized to transfer up to ten percent of the funds appropriated herein to items 4202-0001, 4202-0003, 4202-0004, 4202-0005, and 4202-0006 of section two of this act; and provided further, that thirty days before any such transfer is made, said commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer $12,430,403

4202-0003 For purchased community-based treatment programs and services, in accordance with the provisions of chapter twenty-eight A of the General Laws; provided, that the commissioner is hereby authorized to transfer up to ten percent of the funds appropriated herein to items 4202-0001, 4202-0002, 4202-0004, 4202-0005, and 4202-0006 of section two of this act; and provided further, that thirty days before any such transfer is made, said commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer $18,845,110

4202-0004 For purchased transitional management programs and services, in accordance with the provisions of chapter twenty-eight A of the General Laws; provided, that the commissioner is hereby authorized to transfer up to ten percent of the funds appropriated herein to items 4202-0001, 4202-0002, 4202-0003, 4202-0005, and 4202-0006 of section two of this act; and provided further, that thirty days before any such transfer is made, said commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer $2,095,217

4202-0005 For purchased medical services, in accordance with the provisions of chapter twenty-eight A of the General Laws; provided, that the commissioner is hereby authorized to transfer up to ten percent of the funds appropriated herein to items 4202-0001, 4202-0002, 4202-0003, 4202-0004, and 4202-0006 of section two of this act; and provided further, that thirty days before any such transfer is made, said commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer $1,026,794

4202-0006 For purchased educational and vocational programs and services, in accordance with the provisions of chapter twenty-eight A of the General Laws; provided, that the commissioner is hereby authorized to transfer up to ten percent of the funds appropriated herein to items 4202-0001, 4202-0002, 4202-0003, 4202-0004, and 4202-0005 of section two of this act; and provided further, that thirty days before any such transfer is made, said commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer $939,346

4237-1010 For supervision, counseling, and other services provided by the department incidental to certain residential or non-residential care programs $7,344,813

4238-1000 For the administration and operation of the department's secure facilities $22,011,030

Federal Appropriation

4238-1030 For the purposes of a federally funded grant entitled, Serious Violent and Chronic Juvenile Offender Treatment Program..... $500,000

Department of Transitional Assistance.

State Appropriations

4400-1000 For the central administration of the department, including the development and maintenance of automated data processing systems and services in support of department

operations, and for the administration of department programs in local transitional assistance offices including a program of health services for certain recipients and the expenses of operating a food stamp program; provided, that three hundred and fifty thousand dollars shall be expended on a food stamp outreach program; provided further, that the department shall maintain a transitional assistance office at 294 Bowdoin street in the Dorchester section of the city of Boston; provided further, that all costs associated with verifying disability for all programs of the department shall be paid from this item; provided further, that associated expenses of employees whose AA subsidiary payroll costs, so-called, are paid from item 4400-1100 of section two shall be paid from this item; provided further, that the DD subsidiary costs, so-called, shall be paid from item 4400-9999; provided further, that the AA subsidiary payroll costs, so-called, for such employees shall not be paid from this item; provided further, that the department shall collect all out-of-court settlement restitution payments, so-called; provided further, that said restitution payments shall include, but not be limited to, installment and lump sum payments; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means detailing the total amount of fraudulently obtained benefits identified by the bureau of special investigations of the department of public safety, the total value of said settlement restitution payments, actual monthly collections, and any circumstances that produce shortfalls in said collections; provided further, that notwithstanding any provision of general or special law to the contrary, unless otherwise expressly provided, all federal reimbursements received for the purposes of the department, including reimbursements for administrative, fringe and overhead costs, for fiscal year nineteen hundred ninety-seven and prior fiscal years, shall be credited to the General Fund; provided further that the department shall submit on a monthly basis to the house and senate committees on ways and means and the secretary of administration and finance a status report on program expenditures, savings and revenues, error rate measurements, public assistance caseloads and benefits;provided further, that said reports shall

detail changes in caseload by eligibility category resulting from the phase-in of chapter five of the acts of nineteen hundred and ninety-five; provided further, that said report shall comprehensively track statewide use of the emergency assistance program by eligibility category including, but not limited to, caseload, average length of use or stay, and monthly expenditures; and provided further, that no funds shall be expended from this item for the compensation of unit eight employees, so-called $62,455,005

4400-1007 For finger imaging pilot programs in two offices of the department in Springfield and one office in Lawrence, pursuant to section one hundred fifteen of chapter five of the acts of nineteen hundred ninety-five $112,500

4400-1100 For AA subsidiary payroll, so-called, of the department's caseworkers, so-called; provided, that only employees of bargaining unit eight, so-called, as identified in the Massachusetts personnel administrative reporting and information system, so-called, shall be paid from this item; and provided further, that any other expenses associated with said employees shall be paid from items 4400-1000 and 4400-9999 ..... $58,427,037

4400-9999 For the payment of charges assessed to the department of transitional assistance for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called; provided, that notwithstanding the provisions of any general or special law to the contrary, prior to April fifteenth, nineteen hundred and ninety-seven all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that after said date, the commissioner of department of transitional assistance, with the approval of the secretary of administration and finance, is hereby authorized to transfer from said DD subsidiary to the KK subsidiary, so-called; or the NN subsidiary, so-called; of this account, an amount not to exceed fifteen percent of the funds appropriated herein, if the secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the charges owed by the

department for workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback are less than the amount appropriated herein, (2) that the department does not require any supplemental appropriation in any of its other items of appropriation, (3) that the department is expected to meet the revenue targets established in sections one A and one B of this act, and (4) that the department has not expended any funds for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called, in any of its other items of appropriation; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of funds between subsidiaries as authorized herein; and provided further, that no funds shall be schedule to any subsidiary in this account which is not explicitly referenced herein $1,435,853

4401-1000 For a program to provide employment and training services for recipients of benefits provided under the program of transitional aid to families with dependent children and the absent parents of said recipients; provided, that certain parents who have not yet reached the age of eighteen years, including those who are ineligible for transitional aid to families with dependent children, and who would qualify for benefits under the provisions of chapter one hundred and eighteen of the General Laws but for the deeming of the grandparents' income, be allowed to participate in the MassJOBS program; provided further, that the department may allocate funds from this item to other agencies, including community colleges in the commonwealth for the purposes of the MassJOBS program; provided further, that funds from this item shall be expended for the 100 careers program at Roxbury community college to recruit, train, counsel, and place in employment one hundred new students with one or more dependents who are receiving transitional assistance benefits and to provide workforce development in cooperation with employers; provided further, that no funds from this item shall be expended for day care or informal child

care; provided further, that expenditures shall not exceed the amount appropriated herein; provided further, that no recipient of the MassJOBS program may pursue more than one course of study, except that a high school diploma or G.E.D. shall not be considered a course of study; provided further, that the MassJOBS Council and the department of transitional assistance shall explore all federal reimbursements relating to job training programs to augment state appropriations; provided further, that the MassJOBS Council shall explore all other job training initiatives within the Commonwealth to supplement the programs funded herein; provided further, that the payments for the costs of transportation to an approved activity by means other than public transportation or private automobile shall be permitted only when transportation by public means or private automobile is not reasonably available and affordable, and shall be subject to reasonable maximums determined by the department; provided further, that one hundred thousand dollars shall be expended for the purposes of MassJOBS refugee training and employment for the recipients of said program in Boston; and provided further, that the department shall notify the house and senate committees on ways and means of all allocations made from this item $11,808,759

4403-2000 For a program of transitional aid to families with dependent children; provided, that the need standard shall be equal to the standard in effect in fiscal year nineteen hundred and eighty-nine; provided further, that the payment standard shall be equal to the need standard; provided further, that the payment standard for families who do not qualify for an exempt category of assistance under the provisions of subsection (e) of section one hundred ten of chapter five of the acts of nineteen hundred and ninety-five shall be two and three quarters percent below the payment standard in effect in fiscal year nineteen hundred and ninety-five, subject to federal waiver approval; provided further, that the department shall notify all teen parents receiving benefits from said program of the requirements, subject to federal approval or modification, found in clause two of subsection (i) of said section one hundred and ten of said chapter five, notwithstanding approval of the necessary

federal waivers; provided further, that a forty dollar per month rent allowance shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing, subject to federal reimbursement; provided further,that a non-recurring children's clothing allowance in the amount of one hundred fifty dollars shall be provided to each child eligible under this program in September, nineteen hundred and ninety-six, subject to federal reimbursement; provided further, that said children's clothing allowance shall be included in the standard of need for the month of September, nineteen hundred and ninety-six; provided further, that the department shall assure that eligibility is redetermined in the month of October for any applicant made eligible for assistance by virtue of said increase in the standard of need; provided further, that benefits under this program shall not be available to those families where a child has been removed from the household pursuant to a court order after a care and protection hearing on child abuse, nor to adult recipients otherwise eligible for transitional aid to families with dependent children but for the temporary removal of the dependent child or children from the home by the department of social services in accordance with department procedures; provided further, that notwithstanding the provisions of section two of chapter one hundred and eighteen of the General Laws, or any other general or special law to the contrary, the department shall render aid to pregnant women with no other eligible dependent children only if it has been medically verified that the child is expected to be born within the month such payments are to be made or within the three-month period following such month of payment, and who, if such child had been born and was living with her in the month of payment would be categorically and financially eligible for transitional aid to families with dependent children benefits; provided further, that certain families that suffer a reduction in benefits due to a loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for such loss; provided further, that no funds from this item shall be expended by the department for daycare or transportation services for the employment and training

program; provided further, that no funds from this item shall be expended by the department for family reunification benefits or informal child care; provided further, that child support payments collected pursuant to Title IV-D of the Social Security Act, not to exceed an amount of seventy million dollars shall be credited to this account and may be expended without further appropriation for the purposes of this program; provided further, that the department shall work in concert with the Massachusetts office for refugees and immigrants to conduct a study regarding the transfer of certain components of the transitional aid to families with dependent children program to the Massachusetts office for refugees and immigrants; provided further, that said study shall include an analysis of caseloads, costs, benefits, and federal reimbursements; provided further, that said study shall include recommendations on implementation and coordination of other services including, but not limited to, day care and health care; and provided further, that said study shall be issued to the house and senate committees on ways and means and the secretary of administration and finance no later than October first, nineteen hundred and ninety-six $474,564,330

4403-2013 The department may expend an amount not to exceed seventy million dollars, in accordance with the provisions of item 4403-2000 of section two of this act, accrued from the child support payments collected pursuant to Title IV-D of the Social Security Act, for the purposes of the program of transitional aid to families with dependent children $70,000,000

4403-2110 For expenses of the emergency assistance program directly attributable to rent liability; provided, that no funds may be expended for heat or utility arrearages, so-called; provided further, that the department may provide limited related services in the event of a disaster as defined by regulations promulgated by the department; provided further, that said services shall be defined as payments for advance rent, security deposits, sheltering, housing search, food, clothing and housing supplies; provided further, that in promulgating, amending, or rescinding regulations with respect to eligibility or benefits under said program, the department

shall take into account the amounts available to it for expenditure by this item so as not to exceed the appropriation; provided further, that notwithstanding the provisions of any general or special law to the contrary or of this item to the contrary, thirty days before promulgating any such eligibility or benefit changes, the commis-sioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet projected expenses and a report setting forth such proposed changes; provided further, that expenditures for rental arrearages shall be subject to federal reimbursement; provided further, that the department shall prepare and promulgate rules and regulations to prevent abuse in the emergency assistance program in items 4403-2110 and 4403-2120 of section two; provided further, that said rules and regulations shall include but not be limited to a year-to-year cross check of recipients to determine if a person has received similar benefits in the previous thirty-six months; provided further, that if a person has utilized emergency assistance benefits more than once within thirty-six months, the department is hereby authorized and directed to place said person on a protective payment schedule for the entire period during which said person is receiving said benefits; provided further, that no advance payments shall be paid in fiscal year nineteen hundred and ninety-seven; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to services other than to the extent that such rights or entitlements exist pursuant to the regulations promulgated by the department; provided further, that nothing stated herein shall be construed as giving rise to enforceable legal rights or enforceable entitlement to any services other than to the extent that such rights or entitlements exist pursuant to the regulations promulgated by the department; provided, further, that nothing in the two preceding provisos shall authorize the department to alter eligibility criteria or benefit levels, except to the extent that such changes are needed to avoid a deficiency in this item; and provided further, that no emergency assistance expenditures shall be

paid from this item unless explicitly authorized by this item $12,105,000

4403-2119 For the provision of structured settings as provided in subsection (i) of section one hundred ten of chapter five of the acts of nineteen hundred and ninety-five for parents under the age of twenty who are receiving benefits under the transitional aid to families with dependent children program; provided, that the executive office of health and human services and the department of transitional assistance are directed to seek federal reimbursement for said structured settings expenditures; and provided further, that all structured settings expenditures shall be subject to federal reimbursement $5,223,689

4403-2120 For certain expenses of the emergency assistance program as herein delineated: (i) contracted family shelters, (ii) transitional housing program, (iii) program to reduce homelessness in Barnstable, Dukes and Nantucket counties, (iv) residential education center for single mothers with children, (v) intake centers, so-called, (vi) hotel and motel payments on behalf of homeless families; and (vii) voucher shelters, so-called; provided, that not more than seventy-six thousand six hundred fifty dollars may be expended for the hotel and motel emergency assistance program; provided further, that no funds may be expended for heat or utility arrearages, so-called; provided further, that in promulgating, amending, or rescinding regulations with respect to eligibility or benefits under said program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the appropriation; provided further, that notwithstanding the provisions of any general or special law to the contrary or to this item to the contrary, thirty days before promulgating any such eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet projected expenses and a report setting forth such proposed changes; provided further, that the department is author-

ized to enter into an interagency agreement with the division of housing and community development for a program to prevent homelessness; provided further, that not more than four million five hundred sixty-three thousand three hundred thirty-three dollars be expended for said program; provided further, that twenty-six expended on contracted family shelters; provided further, that of the amount authorized for said contracted family shelters, not less than seven hundred ninety-eight thousand dollars be expended for the Safe Harbor shelter, so-called; provided further, that of the amount authorized for said contracted family shelters, not more than fifty thousand dollars shall be expended for case management services for the Amity Transitional Housing Program, so-called, of Lynn; provided further, that of the amount authorized for said contracted family shelters, not less than two hundred ninety-seven thousand dollars be expended for the operation of the emergency family shelter operated by Emmaus Inc. of Haverhill; provided further, that the department is directed to enter into four contracts to provide transitional housing for homeless families; provided further, that not more than one million two hundred eighty thousand six hundred forty-eight dollars shall be expended on said transitional housing program; provided further, that no more than three hundred fifty thousand dollars shall be expended for the purpose of a program to reduce homelessness for needy families in Barnstable, Dukes, and Nantucket counties as provided in section two hundred fifty-three of chapter sixty of the acts of nineteen hundred and ninety-four; provided further, that at least as many shelter spaces as were provided for homeless families during fiscal year nineteen hundred ninety-six be made available in fiscal year nineteen hundred ninety-seven; provided further, that the winter shelters, so-called, be operated year-round; provided further, that funds from this item expended for emergency shelter costs shall be subject to federal reimbursement; provided further, that one hundred four thousand one hundred million nine hundred seventy thousand seven hundred twenty-two dollars shall be forty-eight dollars shall be expended for a furniture donation pickup van; provided further, that the department shall promulgate reg-

ulations to prevent abuse in the emergency assistance program in items 4403-2110 and 4403-2120 of section two; provided further, that said rules and regulations shall include but not be limited to a year to year cross check of recipients to determine if a person has received similar benefits in the previous thirty-six months; provided further, that if a person has utilized emergency assistance benefits more than once within thirty-six months, the department is hereby authorized and directed to place said person on a protective payment schedule for the entire period during which said person is receiving said benefits; provided further, that no advance payments shall be paid in fiscal year nineteen hundred ninety-seven provided further, that no emergency assistance expenditures shall be paid from this item unless explicitly authorized by this item; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to services other than to the extent that such rights or entitlements exist pursuant to the regulations promulgated by the department; provided further, that nothing stated herein shall be construed as giving rise to enforceable legal rights or enforceable entitlement to any services other than to the extent that such rights or entitlements exist pursuant to the regulations promulgated by the department; and provided further, that nothing in the two preceding provisos shall authorize the department to alter eligibility criteria or benefit levels, except to the extent that such changes are needed to avoid a deficiency in this item $34,137,411

4405-2000 For the state supplement to the supplemental security income program for the aged and disabled, including a program for emergency needs for supplemental security income recipients; provided, that the expenses of special grants recipients residing in rest homes, as provided in section seven A of chapter one hundred eighteen A of the General Laws, may be paid from this item; provided further, that services shall be provided to the extent determined to be possible within the appropriation, and the department shall amend applicable rules, regulations or eligibility determination methods and seek all necessary waivers to ensure expenditures under said program do not exceed the

appropriation herein; provided further, that not more than one million two hundred thousand dollars shall be obligated for a community-based emergency aid to the elderly, disabled and children to supplemental security income conversion advocacy program; provided further, that not less than one million two hundred thousand dollars shall be allocated for legal appeal services for emergency aid to the elderly, disabled and children to supplemental security income conversions; provided further, that the department of transitional assistance, in collaboration with the division of medical assistance, is hereby authorized to establish a new optional supplement living arrangement category under the supplemental security income program that makes payments to persons living in assisted living residences certified pursuant to chapter nineteen D of the General Laws who meet the income and clinical eligibility criteria established by the department and said division; provided further, that said optional category of payments shall only be administered in conjunction with the medicaid group adult foster care benefit; provided further, that sixty days prior to implementation of said optional category, the department and the division shall file with the house and senate committees on ways and means, a plan that shall establish a maximum percentage of residents at an assisted living facility who may receive such benefits; provided further, that the implementation of said optional category of payments shall be contingent on the submission of said plan; provided further, that the maximum income eligibility for said payments shall not exceed nine hundred dollars per month per qualifying person; provided further, that notwithstanding provisions of any general or special law to the contrary, persons receiving services under the provisions of subsection (a) of section six of chapter three hundred fifty-four of the acts of nineteen hundred ninety-four on June thirtieth, nineteen hundred ninety-six shall continue to receive said services until the implementation of said optional category of payments; provided further, that the eligibility of said persons for said optional category of payments shall be determined at the time said optional category of payments

is implemented; provided further, that the expenses of a program to aid emergency aid to the elderly, disabled and children recipients in becoming eligible for said supplemental security income program may be paid from this item; and provided further, that of any federal administrative costs assessed to the state for issuing state supplemental payments half shall be paid from a corresponding portion of said payment $196,096,619

4406-3000 For the homelessness program to assist individuals who are homeless or in danger of becoming homeless, including assistance to organizations which provide food, shelter, housing search, and limited related services to the homeless and indigent; provided, that the department may allocate funds to other agencies for the purposes of this program; provided further, that the department shall notify the house and senate committees on ways and means of all such allocations; provided further, that nine hundred eighty-seven thousand four hundred thirty-one dollars shall be expended for the health care for the homeless programs in Boston, Worcester and Springfield and that not less than five hundred sixty-three thousand three hundred forty-five dollars shall be expended for the Boston health care for the homeless program; provided further, that not less than forty-eight thousand four hundred dollars be expended for a health clinic in a comprehensive multi-service center located in the city of Lynn; provided further, that not less than two hundred thirty-five thousand dollars shall be expended for the Our Fathers House in Fitchburg;provided further, that not less than two million one hundred two thousand five hundred eighty-four dollars be expended for the Greater Boston Housing and Shelter Alliance; provided further, that not less than six hundred fifty-nine thousand nine hundred ninety-six dollars shall be expended for the Middlesex Shelter in Lowell; provided further, that not less than eighty-four thousand dollars be expended for the Boston Rescue Mission; provided further that not less than two hundred seventy-one thousand nine hundred eighty-nine dollars be expended for a the Market Ministries shelter in New Bedford; provided further, that not less than eleven million nine hundred seventy-four thousand three

hundred forty-five dollars shall be expended for a contract with the Pine Street inn located in the city of Boston, including not less than one million one hundred eighteen thousand nine hundred eighty-seven dollars for a comprehensive multi-service day treatment program for the homeless in the city of Boston and not less than four million two hundred five thousand one hundred eighty-two dollars for the PIP shelter in Worcester, the daybreak shelter in Lawrence, the Long Island shelter in Boston; provided further, that not less than two hundred forty-seven thousand five hundred dollars shall be expended for the Friends of the Homeless shelter in Springfield; provided further, that five hundred three thousand five hundred fifty-six dollars shall be expended for the Cambridge Salvation Army; provided further, that not less than one hundred seventy thousand dollars from this item shall be expended for a contract with ServiceNet, Inc., to operate homeless shelters in Hampshire and Franklin counties; provided further, that notwithstanding the provisions of any general or special law to the contrary, one hundred and sixty-five thousand dollars shall be obligated for a contract with the SHADOWS project in Natick, for the provision of shelter services to homeless women; provided further, that not less than six hundred twenty-four thousand four hundred ninety-four dollars be available for the Quincy Interfaith Sheltering Coalition; provided further, that not less than forty thousand dollars be expended for the Samaritan Inn homeless shelter in Westfield; and provided further, that not less than two-hundred fifteen thousand eight hundred twenty-four dollars shall be expended for a shelter operated by Emmaus, Inc. of Haverhill; provided further, that one hundred forty thousand dollars shall be expended for the Meadows program, so-called; and provided further, that at least as many shelter spaces as were provided for homeless families and individuals during fiscal year nineteen hundred and ninety-six be made available in fiscal year nineteen hundred and ninety-seven $28,424,355

4408-1000 For a program of cash assistance to certain residents of the commonwealth pursuant to chapter one hundred and seventeen A of the General Laws, entitled emergency aid

to the elderly, disabled and children found by the department to be eligible for such aid, pursuant to regulations promulgated by said department and subject to the limitations of appropriation therefore; provided, that the payment standard shall equal the payment standard in effect under the general relief program in fiscal year nineteen hundred and ninety-one; provided further, that said program may include a program of medical benefits, that shall include services provided in public detoxification and outpatient substance abuse treatment centers; provided further, that a thirty-five dollar rent allowance, to the extent possible within the amount of this appropriation, shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; provided further, that the department may provide benefits to persons age sixty-five or older who have applied for benefits under chapter one hundred eighteen A of the General Laws, to persons suffering from a medically determinable impairment or combination of impairments which is expected to last for a period as determined by department regulations and which substantially reduces or eliminates the individual's capacity to support him or herself and which have been verified by a competent authority, to certain persons caring for a disabled person, 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 a full time grade, high school, technical or vocational school not beyond the secondary level and to dependent children who are ineligible for benefits under chapter one hundred eighteen of the General Laws and parents or other caretakers of dependent children who are ineligible under said chapter one hundred eighteen; provided further, that no ex-offender, person over age forty-five without a prior work history, or person in a residential treatment facility shall be eligible for benefits under this program unless said person otherwise meets the eligibility criteria described herein and defined by regulations of the department; provided further, that any person incarcerated in a correctional institution shall not be eligible for benefits un-

der said program; provided further, that benefits under this program shall be provided only to residents who are citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law and shall not be provided to illegal or undocumented aliens; provided further, that no funds shall be expended from this item for the payment of expenses associated with any medical review team, other disability screening process or costs associated with verifying disability for this program; provided further, that the department shall promulgate emergency regulations pursuant to chapter thirty A of the General Laws to implement the changes to this program required by this act promptly and within the appropriation; provided further, that in initially implementing the program for this 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; provided further, that in promulgating, amending, or rescinding its regulations with respect to eligibility or benefits, including the payment standard, medical benefits, and any other benefits under this program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the amount appropriated herein; provided further, that notwithstanding the provisions of any general or special law to the contrary or of this item to the contrary, before implementing any eligibility or benefit changes or both to the program, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet projected expenses and a report setting forth such proposed changes; 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 need for proposed changes in eligibility requirements or benefit levels or both; provided further, that the department is authorized to promulgate emergency regulations pursuant to chapter thirty A of the General Laws to implement these eligibility or benefit changes or both; provided further, that nothing herein shall be construed as creating any right accruing to recipients of the former general relief program; provided further, that the secretary of health and human services shall report monthly to the house and senate committees on ways and means for the preceding month on the number of persons applying for benefits under this program, by category, age, and disability, if any, and the number of persons receiving and denied benefits under this program by category, age and disability, if any; provided further, that reimbursements collected from the social security administration on behalf of former clients of the emergency assistance to the elderly, disabled and children program, or unprocessed payments from said program that are returned to the department, not to exceed an amount of twenty-two million nine hundred thousand dollars, shall be credited to this account and may be expended without further appropriation for the purposes of this program; and provided further, that notwithstanding any general or special law to the contrary, the funds made available herein shall be the only funds available for said programs, and the department shall not spend funds for said program in excess of the amount made available herein $87,714,526

Federal Appropriations

4400-3069 For the purposes of a federally fund grant entitled, Food Stamp Cash-Out $4,300,000

4407-9002 For the purposes of a federally funded grant entitled, MassJOBS; provided, that federal reimbursements which are solely attributable to the provision of job training, in an amount not to exceed seventeen million eight hundred ninety-six thousand seven hundred eight dollars, may be credited to this item; 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 the amount specified

herein and federal reimbursements received in prior fiscal years shall be credited to the General Fund $17,896,708

4407-9070 For the purposes of a federally funded grant entitled, At-Risk Day Care; provided, that five million eight hundred thousand dollars received pursuant to this grant shall be expended for the purchase of income eligible contracts; and provided further, that four hundred thousand dollars shall be expended for the management of the income eligible voucher system $6,200,000

4407-9072 For the purposes of a federally funded grant entitled, Parents Fair Share $292,592

4407-9073 For the purposes of a federally funded grant entitled, Parents Fair Share - Title IV-D $81,657

Department of Public Health.

State Appropriations

4510-0100 For the operation of the department; provided, that the position of assistant commissioner shall not be subject to chapter thirty-one of the General Laws; provided further, that the department is hereby authorized to transfer up to three percent of the funds appropriated herein to items 4510-0103, 4510-0104, and 4510-0105 of section two; provided further, that no such transfer shall occur before May first, nineteen hundred and ninety-seven; provided further, that thirty days before any such transfer is made, said department shall file with the house and senate committees on ways and means a schedule of the amounts to be transferred and the reason for such proposed transfer; and provided further, that said transfers from this item shall not cause a deficiency in this item $7,379,450

4510-0103 For the payment of charges assessed to the department of public health for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called, as classified by the comptroller; provided, that all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that no funds from any other item of state appropriation available to the department shall be used for

said payments; provided further, that the department is hereby authorized to transfer up to three percent of the funds appropriated herein to items 4510-0104 and 4510-0105 of section two; provided further, that no such transfer shall occur before May first, nineteen hundred and ninety-seven; provided further, that thirty days before any such transfer is made, said department shall file with the house and senate committees on ways and means a schedule of the amounts to be transferred and the reason for such proposed transfer; and provided further, that said transfers from this item shall not cause a deficiency in this item $4,278,877

4510-0104 For the administrative expenses and chargebacks of the department made pursuant to the EE subsidiary, so-called, as classified by the comptroller; provided, that all funds appropriated herein shall be scheduled in the EE subsidiary, so-called; provided further, that no funds from any other item of state appropriation available to the department shall be used for said expenses and chargebacks; provided further, that the public health hospitals funded in items 4540-0900 and 4590-0900, the center for laboratory and communicable disease control and the state laboratory funded in item 4516-1000, the nuclear safety assessment program funded in item 4510-0615, the drug registration and monitoring program funded in item 4510-0616, and the universal immunization program funded in item 4580-1000 shall not be subject to the provisions stated herein; provided further, that the department is hereby authorized to transfer up to three percent of the funds appropriated herein to items 4510-0103 and 4510-0105 of section two; provided further, that no such transfer shall occur before May first, nineteen hundred and ninety-seven; provided further, that thirty days before any such transfer is made, said department shall file with the house and senate committees on ways and means a schedule of the amounts to be transferred and the reason for such proposed transfer; and provided further, that said transfers from this item shall not cause a deficiency in this item $1,486,739

4510-0105 For the space and energy payments made by the department pursuant to the GG subsidiary, so-called, as classified by the comptroller; provided, that all funds appropriated herein shall be scheduled in the GG subsidiary, so-called; provided further, that no funds from any other item of state appropriation available to the department shall be used for said payments; provided further, that the public health hospitals funded in items 4540-0900 and 4590-0900, the center for laboratory and communicable disease control and the state laboratory funded in item 4516-1000, and the universal immunization program funded in item 4580-1000 shall not be subject to the provisions stated herein; provided further, that the department is hereby authorized to transfer up to three percent of the funds appropriated herein to items 4510-0103 and 4510-0104 of section two; provided further, that no such transfer shall occur before May first, nineteen hundred and ninety-seven; provided further, that thirty days before any such transfer is made, said department shall file with the house and senate committees on ways and means a schedule of the amounts to be transferred and the reason for such proposed transfer; and provided further, that said transfers from this item shall not cause a deficiency in this item $3,024,458

4510-0110 For community health center services, including smoking cessation programs $1,096,939

Health Protection Fund 71.10%
General Fund 28.90%

4510-0150 For the managed care program at community health centers known as CenterCare established pursuant to section twenty-four F of chapter one hundred and eleven of the General Laws; provided, that the monthly number of clients enrolled in said program shall not exceed the average monthly enrollment in said program for fiscal year nineteen hundred and ninety-six; provided further, that the department may assist professional and nonprofit agencies dedicated to the advancement of the scope and nature of services delivered in communities and community health centers and to pursue available federal technical assistance funding; and provided further, that two hundred twenty thousand three hundred and fifty dollars shall be expended

on a statewide program of technical assistance to community health centers to be provided by a state primary care association qualified under section 330(f)(1) of the United States Public Health Service Act at 42 USC 254c $4,347,350

Health Care Access Fund 100.0%

4510-0600 For an environmental and community health hazards program, including control of radiation and nuclear hazards, consumer products protection, food and drugs, lead poisoning prevention in accordance with chapter four hundred and eighty-two of the acts of nineteen hundred and ninety-three, lead-based paint inspections in day care facilities, inspection of radiological facilities, licensing of x-ray technologists, and the administration of the division of environmental epidemiology and toxicology for the purpose of implementing certain provisions of chapter four hundred and seventy of the acts of nineteen hundred and eighty-three, the "Right-to-Know" law, so-called; provided, that the expenditures from this item for the fair packaging and labeling survey program shall be contingent upon the prior approval of the proper federal authorities for reimbursement of one hundred percent of the amounts so expended; provided further, that not less than one hundred fourteen thousand dollars shall be expended on the implementation of a program to manage the disposal of low-level radioactive waste in accordance with sections seven, eight, eleven, thirteen, and sixteen of chapter one hundred and eleven H of the General Laws; provided further, that no funds appropriated herein shall be expanded for the purpose of siting or locating a low-level radioactive waste facility in the commonwealth; and provided further, that two new food and drug inspectors be hired $2,855,721

4510-0615 The department of public health is hereby authorized to expend an amount not to exceed one hundred fifty thousand dollars from assessments collected in accordance with section five K of chapter one hundred and eleven of the General Laws for services provided to monitor, survey and inspect nuclear power reactors; provided, that the department is hereby further authorized to expend revenues not to exceed five hundred ninety-one thousand

two hundred and sixteen dollars from fees collected from the licensing and inspecting of users of radioactive material within the commonwealth under licenses presently issued by the nuclear regulatory commission; and provided further, that revenues collected may be used for all program costs, including the compensation of employees $741,216

4510-0616 For a drug registration and monitoring program; provided, that the department of public health may expend an amount not to exceed five hundred fifteen thousand five hundred and four dollars from revenues collected from a fee charged to registered practitioners, including physicians, dentists, veterinarians and podiatrists, for controlled substance registration; provided further, that funds may be expended from this item for the costs of personnel; and 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 lower of this authorization or the most recent revenue estimate as reported in the state accounting system..... $515,504

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 further, that should said department contract with a private contractor for services to provide said monitoring, then notwithstanding the provisions of any general or special law to the contrary, the provisions of section twenty-nine A of chapter twenty-nine shall be applicable; provided further, that the inspector general shall conduct a review of said contract to ensure that the provisions of chapter twelve A have been complied with; provided further, that 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 power from the Seabrook nuclear power plant, whose nuclear power plant area, as defined by section two B of chapter six hundred and fifty, and as amended by section twenty-four of chapter seven hundred and ninety-six of the acts of nineteen hundred and seventy-nine, includes communities located in 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 distribute electricity in the commonwealth; and provided further, that the term electric companies shall not include municipalities or municipal light plants $71,460

4510-0710 For the administration of the division of health care quality; provided, that said division shall be responsible for assuring the quality of patient care provided by the commonwealth's health care facilities and services, and for protecting the health and safety of patients who receive care and services in nursing homes, rest homes, clinical laboratories, clinics, institutions for the mentally retarded and the mentally ill, hospitals and infirmaries, including the inspection of ambulance services $5,161,816

4510-0712 The department is hereby authorized to expend an amount not to exceed four hundred seventy-three thousand five hundred dollars in revenues collected from the licensure of health facilities; provided, that the department is hereby authorized to collect revenues of not less than one hundred seventy-five thousand dollars from the licensure of mammography facilities; and provided further, that revenues collected may be used for all program costs, including the compensation of employees $473,500

4510-0750 For the determination of need program established pursuant to section twenty-five C of chapter one hundred and eleven of the General Laws $138,916

4510-0790 For regional emergency medical services; provided, that the regional emergency medical services councils designated as such in accordance with 105 CMR 170.101 and the

C-MED communications as of January first, nineteen hundred and ninety-two shall remain the designated councils and C-MEDs; and provided further, that not less than sixty-eight thousand dollars shall be made available for region one, not less than eighty-eight thousand dollars shall be made available for region two, not less than eighty-eight thousand dollars shall be made available for region three, not less than eighty-eight thousand dollars shall be made available for region four, and not less than sixty-eight thousand dollars shall be made available for region five $400,000

Local Aid Fund 100.0%

4512-0103 For acquired immune deficiency syndrome prevention and treatment; provided, that not less than six hundred seventy-nine thousand dollars shall be expended on comprehensive family planning providers for AIDS prevention education; provided further, that two million dollars shall be expended from this item for early screening and treatment necessary to reduce hospitalization and avoid medicaid costs by delaying the onset of fully symptomatic AIDS; and provided further, that not less than six hundred thousand dollars shall be expended for combination drug therapy services $41,363,388

General Fund 84.72%

Health Protection Fund 15.28%

4512-0110 For rental housing subsidies for the purposes of preventing institutionalization in acute hospitals, chronic hospitals, and nursing homes; provided, that the department may contract for the administration of said program; provided further, that the costs of said administrative contract shall not be expended from this item; provided further, that rents payable by tenants shall be not less than thirty percent of total household income if heat and cooking fuel are provided by the landlord and shall be not less than twenty-five percent of total household income if heat and cooking fuel are not provided; provided further, that no funds shall be expended for subsidies for housing units in excess of the number of units funded on June thirtieth, nineteen hundred and ninety-one; and provided further,

that the department shall not enter into any new housing contracts or expend funds for such new contracts in fiscal year nineteen hundred and ninety-seven that would fund units in excess of the number of units funded on June thirtieth, nineteen hundred and ninety-six $118,800

4512-0200 For the administration of the division of substance abuse services, including a program to reimburse driver alcohol education programs for services provided for court adjudicated indigent clients; provided, that not less than nine million eight hundred forty-three thousand two hundred and fifty-nine dollars shall be expended for detoxification services, including not less than two million dollars for detoxification beds targeted to homeless individuals; provided further, that not less than five hundred thousand dollars shall be expended for AIDS education for clients served by said program; provided further, that not less than five hundred and sixty-five thousand dollars shall be expended for the Celeste House; provided further, that not less than sixty-six thousand dollars shall be expended for the "CASPAR" emergency service center, so-called in Cambridge; provided further, that not less than six hundred fifty thousand three hundred and fifty dollars shall be expended for a contract with Sobriety Treatment, Education and Prevention, Inc., doing business as STEP, Inc.; provided further, that not less than three hundred fifty thousand dollars shall be allocated to provide three pilot child care programs, one family day care system model and two on-site traveling models for the children of parents in ambulatory drug and alcohol treatment; provided further, that not less than five hundred thousand dollars shall be expended for the treatment and detoxification of intravenous drug users who test positive for HIV, so-called; provided further, that not less than two hundred thousand dollars shall be expended for a residential program to provide alcohol and drug treatment services to Hispanic women in the commonwealth; provided further, that not less than two hundred fifty thousand dollars shall be expended for a system of case management and central intake for substance abuse treatment services in the city of Boston; provided further,

that not less than eighty thousand dollars shall be expended for substance abuse consultant services for the department of social services; provided further, that the commissioner of the department of public health is hereby authorized and directed to enter into an interagency service agreement with the department of social services to provide said consulting services; provided further, that two hundred forty thousand dollars shall be expended for additional detoxification services; provided further that four hundred thousand dollars shall be expended for an acute treatment program for detoxification and stabilization services for civilly committed women; provided further, that not less than sixty thousand dollars shall be allocated for Bay Colony Health Services, Inc.; provided further, that not less than two million dollars shall be expended for the purchase of long-term residential treatment beds operated by agencies contracting with the department of public health as of January first, nineteen hundred and ninety-six; provided further, that not less than two million dollars be allocated to expand the purchase of outpatient treatment services to high risk populations in agencies contracted with the department of public health as of January first, nineteen hundred and ninety-six; provided further, that not less than thirty-six thousand dollars of said allocation shall be expended for the Tynan Community Center Adolescent Wellness program in the city of Boston; and provided further, that no less than fifty-eight thousand four hundred and twenty dollars shall be expended for a contract with Gavin House to provide a pilot total immersion program in conjunction with the probation department of the South Boston division of the district court department of the trial court $37,730,482

General Fund 66.77%
Health Protection Fund 33.23%

4512-0225 The department is hereby authorized to expend for a compulsive gamblers treatment program an amount not to exceed three hundred forty-three thousand dollars from unclaimed prize money held in the State Lottery Fund for more than one year from the date of the drawing when said

unclaimed prize money was won; provided, that the state comptroller is hereby authorized and directed to transfer said amount to the General Fund $343,000

4512-0500 For dental health services $1,312,605

4513-1000 For the administration of the division of family health services, including a program of maternal and child health in addition to any federal funds received for this program; provided, that not less than two hundred fifty thousand dollars shall be expended for community-based prenatal outreach and education programs targeted to those communities with severe infant mortality issues; provided further, that not less than twenty million one hundred thirty-five thousand six hundred and thirty-nine dollars shall be expended for early intervention services; provided further, that the department shall report quarterly to the house and senate committees on ways and means the total number of units of service purchased and the total expenditures for said units of service paid by the department, the division of medical assistance, and by private payers for early intervention services for each of the following units: home visit, center-based individual, child focused group, parent focused group, screening, and assessment; provided further, that the department shall fund not less than thirty-nine full time equivalent employees for the early intervention program; provided further, that the department shall make all reasonable efforts to secure third party and medicaid reimbursements for the early intervention services funded herein; provided further, that nothing herein shall give rise to enforceable legal rights to any such services or an enforceable entitlement to the early intervention services funded herein; provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement; provided further, that notwith standing any general or special law to the contrary, the funds made available herein shall be the only state funds available for said early intervention program, and the department shall not spend funds for said program in excess of the amount made available herein; provided further, that not less than one hundred and seven thousand

dollars be expended for the Our Babies/Our Future program; provided further, that one hundred thousand dollars shall be expended for the "Women Enjoying Longer Lives" program; provided further, that not less than one hundred thousand dollars be expended for the purposes of section fifty-one of chapter one hundred and eleven of the General Laws and section ten of chapter two hundred and eighteen of the acts of nineteen hundred and ninety-five; provided further, that said department shall file a report with the joint committee on health care no later than December thirty-first, nineteen hundred and ninety-six for the purpose of establishing a mechanism for the collection of data concerning the implementation of and hospital compliance with chapter two hundred and eighteen of the acts of nineteen hundred and ninety-five; provided further, that not less than thirty-five thousand dollars be expended for the Framingham teen parenting program; provided further, that an amount not to exceed five hundred thousand dollars may be expended for reimbursements to providers for early intervention services rendered in the prior fiscal year resulting from a denial of third party reimbursement claims; provided further, that not less than one million seven hundred eighty-three thousand five hundred dollars shall be expended for rape prevention and victim services; provided further, that not less than three million two hundred and sixty-three thousand dollars shall be expended for family planning services provided by agencies certified as comprehensive family planning agencies; provided further, that not less than seventy-five thousand dollars shall be expended for a program for the promotion of preventive medicine through physical fitness and sports activities in the commonwealth to be administered by the governor's committee on physical fitness and sports; provided further, that not less than one million two hundred ninety thousand sixty-three dollars shall be expended for school and community-based teen health programs; provided further, that not less than two hundred thousand dollars shall be provided to the Northeastern university conflict resolution program; provided further, that not less than seventy-nine thousand

two hundred dollars shall be expended for the North Quabbin domestic violence prevention program created in this act; and provided further, that not less than one hundred thousand shall be expended for Mujeres Y Ninos to provide a full-time child advocate-parent educator specialist to attend to the needs of Latino women in recovery with a focus on pregnant women, new parents, and/or mothers recently reunified with children $30,664,158

Health Protection Fund 54.11%
General Fund 45.89%

4513-1002 For women, infants, and children's (WIC) nutrition services in addition to funds received under the federal nutrition program; provided, that all new WIC cases, in excess of fiscal year nineteen hundred and ninety-one caseload levels, shall be served in accordance with priority categories one through seven, as defined by the state WIC program; provided further, that within thirty days of the effective date of this act, the department shall report to the house and senate committees on ways and means the total number of cases which can be supported with funds from this item without incurring a deficiency; provided further, that the department shall report quarterly to the house and senate committees on ways and means the total number of clients served per month and the total food voucher expenditures per month for the WIC program; and provided further, that not less than six hundred two thousand dollars shall be obligated for failure to thrive programs $13,907,498

General Fund 73.30%
Health Protection Fund 26.70%

4513-1005 For the healthy start program to provide medical care and assistance to pregnant women and infants residing in the commonwealth pursuant to section twenty-four D of chapter one hundred and eleven of the General Laws; provided, that pursuant to an interagency agreement established with the division of medical assistance, the department of public health shall determine the presumptive eligibility of low-income pregnant women for services available under Title XIX and chapter one hundred and eighteen E of the General Laws $6,446,604

Health Protection Fund 68.35%

General Fund 31.65%

4513-1012 The department of public health may expend an amount not to exceed twenty million five hundred thousand dollars from revenues received from the infant formula price enhancement system, for the purpose of increasing the caseload of the WIC program $20,500,000

4513-1111 For an osteoporosis education and prevention program; provided, that the program shall include, but not be limited to: (1) development or identification of educational material to promote public awareness of the cause of osteoporosis, options for prevention, the value of early detection, and possible treatments, including their benefits and risks, to be made available to consumers, particularly targeted to high risk groups; (2) development or identification of professional education programs for health care providers; and (3) development and maintenance of a list of current providers of specialized services for prevention and treatment of osteoporosis $500,000

Health Protection Fund 69.65%
General Fund 30.35%

4513-1112 For a prostate cancer prevention, education, and treatment program $1,000,000

4516-1000 For the administration of the center for laboratory and communicable disease control, including the division of communicable venereal diseases, the division of tuberculosis control, and the state laboratory institute; provided, that the department shall give priority to services to analyze samples used in prosecution of controlled substances offenses; provided further, that not less than two hundred sixty-three thousand two hundred and forty-four dollars shall be expended for the maintenance of the statewide rabies control program coordinated by the department of public health providing assistance to cities, collaboration through the rabies advisory committee, the twenty-four hour epidemiological and clinical consultation for rabies exposures, the rapid laboratory diagnostic services, and for the continuation of the raccoon rabies vaccine field trial on Cape Cod operated through a contract with Tufts university school of veterinary medicine in col-

laboration with the federal centers for disease control and prevention; provided further, that funds shall be expended for an eastern encephalitis testing program and towns, and the public, and for the interagency for tuberculosis testing and treatment services; and provided further, that no funds appropriated herein shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded herein $10,479,615

4518-0100 For the health statistics program and for the operation of a cancer registry and occupational lung disease registry $1,003,038

Health Protection Fund 82.96%
General Fund 17.04%

4518-0200 The department is hereby authorized to expend an amount not to exceed two hundred thousand dollars generated by fees collected from the following services: amendments of vital records by the registrar of vital records and statistics, all requests for vital records not issued in person at the offices of the registry, and research requests performed by registry staff at the registry of vital records; provided, that revenues so collected may be used for all program costs, including the compensation of employees; 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 lower of this authorization or the most recent revenue estimate as reported in the state accounting system $200,000

4530-9000 For teenage pregnancy prevention services; provided, that applications for such funds shall be administered through the department upon receipt and approval of coordinated community service plans to be evaluated in accordance with guidelines issued by the department; provided further, that portions of said grants may be used for state agency purchases of designated services identified by said community service plans; and provided further, that not less than one hundred thousand dollars shall be expended for such plans and programs in Berkshire County $4,177,460

4540-0900 For the maintenance of and for certain improvements to the department of public health hospitals; provided, that Tewksbury hospital shall not be used to house county,

state or other prisoners; provided further, that the department shall take no action to reduce or realign the client population and services at the Tewksbury state hospital unless such action results in alternative service delivery in an appropriate and cost-effective method of care; provided further, that staffing configurations at said hospital shall be consistent with said client population and service realignment; provided further, that not less than twenty-five thousand dollars shall be expended for an adult day service program; and provided further, that no funds appropriated herein shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded herein $34,779,869

4570-1500 For an early breast cancer detection program, mammographies for the uninsured, breast cancer research, and a breast cancer detection public awareness program; provided, that not less than one million five hundred thousand dollars shall be expended for the purposes of a scientific research grant program to investigate potential environmental factors that contribute to breast cancer in "areas of unique opportunity"; provided further, that not less than two million dollars shall be expended for a breast cancer research grant program to support innovative research by investigators who are in the formative stages of their careers; provided further, that the department shall name one of the said research grants the "Suzanne Sheats Breast Cancer Research Fellowship"; provided further, that said research grants shall be awarded to investigators, post-doctoral fellows and assistant professors who are within ten years after completion of their highest degree or within ten years after completion of clinical training; provided further, that members of any selection review committee for the breast cancer research grant program shall be subject to chapter two hundred and sixty-eight A and shall not participate in the review or recommendation of an application filed by an organization with which they are affiliated; provided further, that such members may participate in the review and recommendations of applications filed by organizations with which they are not affiliated; and provided further, that one hundred ninety-four thousand five hundred dollars may be expended for

the Breast Cancer Resource Guide, published by the university of Massachusetts medical center and the American cancer society in English, Spanish and large print, as well as the Breast Health Guide, the primary goal of which is to improve access to care for women in the commonwealth through screening, diagnosis and treatment. . . . $6,136,519

General Fund 87.51%
Health Protection Fund 12.49%

4580-1000 For the universal immunization program established pursuant to section one hundred and forty-one of chapter six hundred and fifty-three of the acts of nineteen hundred and eighty-nine and section forty-five and forty-six of chapter four hundred and ninety-five of the acts of nineteen hundred and ninety-one; provided, that no funds appropriated herein shall be expended for administrative or energy expenses of the department not directly related to personnel or programs funded herein; and provided further, that space rental expenditures from this item in fiscal year nineteen hundred and ninety-seven shall not exceed the cost of said expenditures in fiscal year nineteen hundred and ninety-six $10,585,035

Health Care Access Fund 100.0%

4580-1230 For medical respite services provided by the health care for the homeless program established pursuant to section twenty-four F of chapter one hundred and eleven of the General Laws $300,000

Health Care Access Fund 100.0%

4590-0300 For the smoking prevention and cessation program established pursuant to chapter two hundred and fifty-four of the acts of nineteen hundred and ninety-two; provided, that not less than four million three hundred fourteen thousand, six hundred sixty-two dollars shall be allocated 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 the department of

public health; provided further, that the salary of the statewide D.A.R.E. coordinator shall be paid from said allocations; provided further, that priority shall be given to funding programs in communities with high smoking rates among women; provided further, that not less than twelve thousand eighty-one dollars of said four million three hundred fourteen thousand six hundred sixty-two dollars shall be expended for the "Here's Looking at You 2,000" and "Pals for Wellness" drug education programs, so-called, in the town of Cohasset; provided further, that not less than thirteen million eight hundred six thousand nine hundred nineteen dollars shall be allocated 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 any such city, town or regional school district, held in a separate account and expended without further appropriation by the school committee; provided further, that not less than five million one hundred seventy-seven thousand five hundred and ninety-five dollars shall be expended from this item for a school health service program, including enhanced school and health centers; provided further, that programs funded in this item shall include an educational component and campaign on smokeless tobacco; provided further, that the department of public health and the department of education shall jointly establish standards and criteria for said school health service programs; provided further, that not less than one million one hundred forty-seven thousand seven hundred dollars shall be expended for tobacco control coalitions; provided further, that not less than two hundred fifteen thousand seven hundred thirty-three dollars shall be expended for a discretionary grant program available to nonprofit organizations operating satellite programs which provide outreach services to teenagers involving substance abuse prevention, health programs and community service in the context of recreation and youth development; provided further, that not less than one million seventy-eight thousand six hundred sixty-six dollars shall

be expended for the student awareness of fire education program (S.A.F.E.); provided further, that said amount shall be allocated to the executive office of public safety to administer a discretionary grant program for city and town student awareness of fire education programs, which shall include information about the fire risks caused by smoking; provided further, that no funds shall be expended from this item for an interagency service agreement with the department of revenue; provided further, that no funds appropriated herein shall be expended for administrative, space leasing or energy expenses of the department; provided further, that two hundred thousand dollars shall be allocated from this item to the Berkshire County area health education center, inc. for programs including but not limited to alcohol, drug and tobacco prevention; and provided further, that said two hundred thousand dollars shall be in addition to any amount previously made available for this purpose $55,810,349

Health Protection Fund 100.0%

4590-0900 The department is hereby authorized to expend an amount not to exceed sixty-three million five hundred forty-eight thousand four hundred and nineteen dollars from reimbursements collected for hospital services, subject to the approval of the commissioner of public health; provided, that such revenues may be expended for the purpose of hospital related costs, including 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 notwithstanding the provisions of any general or special law to the contrary, the western Massachusetts hospital shall be eligible to receive and retain full reimbursement from the medical assistance program of the division of medical assistance; provided further, that notwithstanding the provisions of any general or special law to the contrary, said western Massachusetts hospital shall reimburse the General Fund for a portion of employee benefit expenses, according to a schedule submitted by the

commissioner of public health and approved by the secretary of administration and finance; provided further, that such reimbursement shall not exceed ten percent of total personnel costs for said hospital; provided further, that the department shall take no action to reduce or align the client population and services at the Tewksbury state hospital unless such action results in alternative service delivery in an appropriate and cost effective method of care; provided further, that said staffing configurations at said hospital shall be consistent with said client population and service realignment; provided further, that funds may be expended from this item for the costs of personnel; provided further, that for the purpose of accomodating 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 in the state accounting system; provided further, that no funds appropriated herein shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded herein; and provided further, that reimbursements received for medical services provided at the Lemuel Shattuck hospital to inmates of county correctional facilities not managed by private health care vendors shall be credited to item 4590-0903 of section two B of this act $63,548,419

4590-0902 For the Tewksbury hospital school of nursing; provided, that the department shall study the possibilities of coordinating the licensed practical nurse training with similar programs offered by area public institutions of higher learning $344,899

4590-0906 For the children's medical security plan to provide primary and preventive health services for uninsured children from birth through age twelve pursuant to the provisions of chapter one hundred and eleven E of the General Laws; provided, that the department shall pre-screen enrollees and applicants for medicaid eligibility; provided further, that no funds shall be expended from this item for expenses incurred in the prior fiscal year; provided further, that the department shall maximize federal reimbursement

for state expenditure made on behalf of said children; provided further, that the department shall close enrollment or promulgate regulations that adjust eligibility, benefits and other requirements to limit expenditures to the amount appropriated herein; provided further, that the amount appropriated herein shall be the total amount expended for the current fiscal year; and provided further, that the department shall negotiate with the vendor of said program to ensure that rates paid for the administration of the program do not exceed such rates as are necessary to meet only those costs which must be incurred for an economically and efficiently operated program $11,597,500

Health Care Access Fund 100.0%

Federal Appropriations

4500-1000 For the purposes of a federally funded grant entitled, Preventive Health Services Block Grant; provided, that not less than four hundred and fifty thousand dollars shall be obligated to the emergency medical services regions; and provided further, that not less than five hundred and eighty-five thousand dollars be obligated for rape prevention and victim services. $5,143,373

4500-2000 For the purposes of a federally funded grant entitled, Maternal and Child Health Services Block Grant; provided that the department shall review and assess the process by which it allocates resources under the appropriation; provided further that the said process shall involve the use of a needs assessment that clearly considers the magnitude, severity, and degree of risk for identified health problems within individual communities; and provided further, that a specific focus will be taken to support programs serving communities and neighborhoods with high poverty rates ... $12,801,427

4502-1012 For the purposes of a federally funded grant entitled, Cooperative Health Statistics System $380,000

4510-0109 For the purposes of a federally funded grant entitled, State Loan Repayment Project $250,000

4510-0113 For the purposes of a federally funded grant entitled, Massachusetts Office of Rural Health $60,000

4510-0118 For the purposes of a federally funded grant entitled, Primary Care Cooperative Agreement $99,000

4510-0400 For the purposes of a federally funded grant entitled, Medicare and Medicaid Survey and Certification $4,510,082

4510-0500 For the purposes of a federally funded grant entitled, Clinical Laboratory Improvement Amendments $493,136

4510-0618 For the purposes of a federally funded grant entitled, HARP $40,000

4510-9014 For the purposes of a federally funded grant entitled, Mammography Quality Standards Act Inspections $208,433

4510-9019 For the purposes of a federally funded grant entitled, Environmental Monitoring Program $47,736

4510-9040 For the purposes of a federally funded grant entitled, Diabetes Control Program $297,500

4510-9043 For the purposes of a federally funded grant entitled, Demonstration Program to Conduct Toxic Waste Site Impact Health Assessments $413,504

4510-9048 For the purposes of a federally funded grant entitled, Indoor Radon Development Program $170,845

4512-0102 For the purposes of a federally funded grant entitled, Sexually Transmitted Disease Control $851,743

4512-0179 For the purposes of a federally funded grant entitled, Vaccination Assistance Project $7,842,215

4512-9415 For the purposes of a federally funded grant entitled, Boston Drug Treatment Improvement Project $651,966

4512-9425 For the purposes of a federally funded grant entitled, Massachusetts Critical Populations $442,571

4512-9426 For the purposes of a federally funded grant entitled, Uniform Alcohol and Drug Abuse Data Collection $20,713

4512-9427 For the purposes of a federally funded grant entitled, State Demand and Needs Assessment Studies/Alcohol and Other Drugs (Treatment) $489,385

4512-9428 For the purposes of a federally funded grant entitled, State Demand and Needs Assessment Studies/Alcohol and Other Drugs (Prevention) $335,112

4512-9429 For the purpose of a federally funded grant entitled, HIV/STD/TB Risk Reduction $396,336

4513-0110 For the purpose of a federally funded grant entitled, Supportive Housing $715,825

4513-0111 For the purpose of a federally funded grant entitled, Housing Opportunities-People with AIDS $704,360

4513-9000 For the purposes of a federally funded grant entitled, WIC Patient Flow Analysis $85,000

4513-9007 For the purposes of a federally funded grant entitled, Nutritional Status of Women, Infants and Children (WIC); provided, that the department shall report quarterly to the secretary of administration and finance, the joint committee on federal financial assistance, and the house and senate committees on ways and means on all expenditures from this item and the state nutrition program for women, infants and children, including the numbers of participants in each program $55,697,699

4513-9018 For the purposes of a federally funded grant entitled, Augmentation and Evaluation of Established Health Education/Risk Reduction Program $7,513,149

4513-9021 For the purposes of a federally funded grant entitled, Program for Infants and Toddlers with Handicaps $8,492,708

4513-9022 For the purposes of a federally funded grant entitled, Prevention Disability State Based Project $542,106

4513-9026 For the purposes of a federally funded grant entitled, Families C.A.N. - Care and Nurturance for At-Risk Families $450,000

4513-9027 For the purposes of a federally funded grant entitled, Massachusetts Care - Community AIDS Resource Enhancement $418,031

4513-9030 For the purposes of a federally funded grant entitled, Planning a Comprehensive Primary Care System for All Massachusetts Children and Youth $112,670

4513-9035 For the purposes of a federally funded grant entitled, AIDS Surveillance $1,032,872

4513-9037 For the purposes of a federally funded grant entitled, Ryan White Comprehensive AIDS Resources $3,396,600

4513-9038	For the purposes of a federally funded grant entitled, Shelter Plus Care - Worcester	$239,000
4513-9041	For the purposes of a federally funded grant entitled, Managed Care Enhancement Project	$259,980
4513-9043	For the purposes of a federally funded grant entitled, Home Visiting for At-Risk Families	$20,000
4513-9044	For the purposes of a federally funded grant entitled, Evaluating Impact of 1993 AIDS CASE Definition	$390,246
4513-9045	For the purposes of a federally funded grant entitled, MA Women's HIV Advocacy Project	$318,412
4515-0113	For the purposes of a federally funded grant entitled, Health Program for Refugees	$146,411
4515-0115	For the purposes of a federally funded grant entitled, Tuberculosis Control Project (317)	$2,483,601
4516-1004	For the purposes of a federally funded grant entitled, Active Rabies Surveillance Program	$80,300
4516-1015	For the purposes of a federally funded grant entitled, Training Network Grant	$10,000
4518-0500	For the purposes of a federally funded grant entitled, National Program of Cancer Registries	$643,833
4518-1000	For the purposes of a federally funded grant entitled, Procurement of Information for the National Death Index (NDI)	$29,176
4518-1002	For the purposes of a federally funded grant entitled, Social Security Administration - Massachusetts Death File	$48,479
4518-1003	For the purposes of a federally funded grant entitled, Massachusetts Birth Records for Social Security Administration	$121,000
4518-9022	For the purposes of a federally funded grant entitled, Sentinel Event Notification System for Occupational Risks	$180,000
4518-9023	For the purposes of a federally funded grant entitled, Census of Fatal Occupational Injuries	$30,000
4518-9025	For the purposes of a federally funded grant entitled, Fatality Surveillance and Field Investigations at the State Level	$95,000

4540-8200 For the purposes of a federally funded grant entitled, Transitional Housing/Shattuck Shelter $122,000

4570-1503 For the purposes of a federal grant entitled, Comprehensive Breast and Cervical Early Detection Program $3,495,995

4570-1504 For the purposes of a federal grant entitled, Prostate Cancer Early Detection Demonstration Project $111,004

4570-1505 For the purposes of a federal grant entitled, Skin Cancer Primary Prevention and Education $100,000

Department of Social Services.

Notwithstanding any provision of any general or special law to the contrary, the department of social services shall report monthly to the house and senate committees on ways and means and to the secretary of administration and finance the current social worker caseloads by type of case and level of social worker assigned to cases.

Notwithstanding any provision of general or special law to the contrary, the department of social services shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance the amount expended on women-at-risk services; provided, that said report shall include the number of service units by category, utilization by category, and cost by category.

Notwithstanding any provision of general or special law to the contrary, the department of social services shall not authorize purchased social services at a level that will cause expenditures to exceed appropriations; provided, that social services shall be maintained and expenditures allocated in such a manner that will not cause said services to be terminated prior to the end of the fiscal year.

Notwithstanding any provision of general or special law to the contrary, the department of social services shall report monthly to the house and senate committees on ways and means and the secretary of administration and finance, the amount expended on permanency services; provided, that said report shall include the total number of children with the goal of adoption and guardianship by region, the number of new cases with the goal of adoption and guardianship by region and the number of adoptions finalized by region.

Notwithstanding any provision of general or special law to the contrary, if the commissioner of the department of social services determines that funds made available pursuant to items 4800-0016, 4800-0017, 4800-0020, 4800-0030 and 4800-0041 are insufficient to fund the services for which said items may be expended, the commissioner may reallocate up to fifteen percent

of the funds appropriated in each of said items among said items after providing thirty days prior written notice to the house and senate committees on ways and means; provided, however, that no funds may be allocated from item 4800-0020 of section two of this act.

State Appropriations

4800-0014 For costs of the revenue maximization contract, so-called, only; provided, that said costs shall be funded entirely from this item $2,200,000

4800-0015 For central and area office administration; provided, that the department shall not place a child or adolescent referred by or discharged from the care of the department of mental health until said latter department forwards an assessment and recommendation as to whether the child or adolescent may be appropriately placed in foster care or, if due to severe emotional disturbance, is only appropriate for group care; provided further, that the department, in consultation with the department of mental health, shall establish guidelines to assist said latter department in making such assessments and recommendations; provided further, that three hundred thousand dollars shall be expended on photocopying contracts for work related to termination of parental rights or care and protection proceedings; and provided further, that unless otherwise authorized, all funds including federal reimbursements received by the department shall be credited to the General Fund $20,908,407

4800-0016 For the family stabilization program for non-placement families experiencing instability, including, not less than two million six hundred thirteen thousand six hundred and fifty-four dollars for school and community-based young parent programs, parent aides, and education and counseling services; provided, that the department shall pursue the establishment of public/private partnership agreements established for family stabilization services funded from sources other than the commonwealth; 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; provided further, that not less than sixty-nine thousand, one hundred and ninety-three dollars be expended for the establishment of

a pilot comprehensive school age parenting program at Framingham high school providing direct services to teenage mothers and fathers, and, in collaboration with local education and social service providers, to conduct a long-term needs assessment of young parents in the Framingham area; provided further, that not less than one million five hundred thousand dollars shall be expended for intensive and expanded parent aid and other support services for families requiring such services for family preservation due to acute conditions; and provided further, that the department shall work in conjunction with the department of transitional assistance to obtain federal reimbursement pursuant to Title IV-A of the Social Security Act for all eligible young parent program participants $12,742,079

4800-0017 For the family unification and reunification program for non-placement families and families whose children are expected to return home following placement including, but not limited to, shelter services, substance abuse treatment, respite care and family reunification networks; provided, that the department shall expend a sum of not less than forty thousand dollars in region I for a community-based family unification counseling program to prevent juvenile delinquency; provided further, that the department shall pursue the establishment of public/private partnership agreements established for family unification and reunification services funded from sources other than the commonwealth; provided further, that not less than two hundred fifty thousand dollars shall be expended for a contract for an integrated family services team in region six; provided further, that not less than one hundred twenty thousand dollars shall be expended for family support, programming, counseling, education, job skills preparation, and integrated child care for participants in region six; and provided further, that not less than two hundred ninety-eight thousand dollars shall be expended for alternative schools for students aged fourteen to sixteen who are placed before the court on children in need of services petitions (CHINS) in region six $25,217,840

4800-0020 For permanency and adoption services, including the provision of adoption and guardianship subsidies; provided, that no funds shall be expended to provide subsidies to adoptive parents for children no longer in their care; provided further, that the department shall assess all children in its care for longer than twelve months for the appropriateness of adoption; provided further, that the department shall maintain a central registry and tracking system to monitor the progress of such children in the adoption process; provided further, that the department may contract with community-based agencies for the purpose of providing adoption and special needs adoption services; and provided further, that the department shall expend not less than three million two hundred thousand dollars for the purchase of special needs adoption contracts located at community-based agencies $47,571,907

4800-0025 For foster care review services $1,939,176

4800-0030 For foster care services, including foster care subsidies, services to foster families and reimbursements to foster parents for extraordinary expenses incurred; provided, that the department shall establish a schedule of fees for services which shall vary with the ability of the recipient's legal family to pay; provided further, that said fees shall be imposed regardless of whether a placement is voluntary or results from an order of a court of competent jurisdiction; provided further, that no fees shall be charged to individuals and families with incomes at or below one hundred fifty percent of the federal poverty level; and provided further, that the foster care daily rate paid for subsidies in fiscal year nineteen hundred and ninety-seven shall be equal to the daily rate paid in fiscal year nineteen hundred and ninety-six, except those rate increases made pursuant to the tiered reimbursement system, so-called, established in outside section five hundred and sixty-six of this act $61,233,566

4800-0036 For a sexual abuse intervention network (SAIN) program to be administered in conjunction with the district attorneys in the counties of Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Nan-

tucket, Norfolk, Plymouth, Suffolk and Worcester; provided, that said program in Barnstable county shall receive not less than sixty-seven thousand five hundred dollars from this item; and provided further, that said program in Suffolk county shall receive not less than seventy-five thousand dollars from this item $682,500

4800-0041 For group care services; provided, that the department shall establish a schedule of fees for services which shall vary with the ability of the recipient's legal family to pay; provided further, that said fees shall be imposed regardless of whether the placement is voluntary or results from an order of a court of competent jurisdiction; provided further, that no fees shall be charged to individuals and families with incomes at or below one hundred and fifty percent of the federal poverty level; provided further, that unless otherwise authorized to be expended any federal reimbursements received for this purpose shall be credited to the General Fund; and provided further, that the department shall pursue the establishment of a managed care network for the commonworks program, so-called, and shall submit a plan to the house and senate committees on ways and means which details the request for proposals and the estimated savings associated with said network no later than November first, nineteen hundred ninety-six $97,216,473

4800-0050 For the operation of the New Chardon Street home for women located in the city of Boston $548,567

4800-0150 For the administration of the area offices; provided, that the department shall not enter into rental agreements, move, or expand any existing space that would result in the expenditure of funds exceeding the amount appropriated herein; and provided further, that an area office shall be maintained in the Beverly area $17,942,885

4800-0151 For a program to provide alternative overnight non-secure placements for status offenders and nonviolent delinquent youth up to the age of seventeen in order to prevent the inappropriate use of juvenile cells in police stations for such offenders, in compliance with the federal juvenile justice and delinquency prevention act of nineteen hundred and seventy-four, as amended in nineteen hundred and eighty-eight $750,000

4800-1100 For case management services, including a sufficient number of registered nurses to provide medical case management for medically- involved children in foster care, and for social workers and their expenses $80,479,763

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, may expend an amount not to exceed twenty million dollars from federal revenues collected pursuant to the provisions of Title IV-E of the social security act; provided, that before depositing any revenue in this account, the department of social services shall first deposit at least sixty-four million five hundred thousand dollars in Title IV-E revenues in the General Fund $20,000,000

4800-1115 The department of social services, for the purposes of the permanency, foster care, and group care programs, and social worker expenses and subject to the provisions of items 4800-0020, 4800-0030, 4800-0041 and 4800-1100 of section two, may expend an amount not to exceed six million dollars from federal revenues collected pursuant to the provisions of Title II, Title IV-A, Title IV-D, Title IV-E, Title XVI and Title XIX of the social security act and from the department's sliding fee collections; provided, that the department shall establish monthly benchmarks for the collection of federal reimbursements based on year-end collections of ninety-one million dollars; provided further, that before depositing any revenue in this account, the comptroller shall certify that the department's federal reimbursement collections are meeting or exceeding said benchmarks; and provided further, that not more than one million dollars shall be expended on social worker expenses $6,000,000

4800-1200 For partnership agencies to provide protective services; provided, that the funds appropriated herein may be expended on contracts serving minority and mentally retarded or handicapped clients $3,018,368

4800-1400 For women-at-risk shelters and services, including supervised visitation programs; provided, that the department shall pursue the establishment of public/private partnership agreements established for family stabilization services funded from sources other than the commonwealth; provided that not less than ten thousand dollars shall be expended for the Melrose alliance against violence; provided further, that not less than fifty thousand dollars shall be expended for Children's Supervised Visitations, Inc. of Framingham; and provided further that not less than sixty-five thousand two hundred five dollars shall be expended for the North Quabbin Domestic Violence Prevention Program $9,759,080

4800-1500 For domestic violence prevention specialists in the department's area offices $450,000

4800-1997 For a reserve to improve the quality of services provided by the department to children in the care of the commonwealth, including but not limited to an enhanced program for recruiting and retaining foster families, including but not limited to the use of tiered reimbursement, so-called, to promote the placement of children with special medical and social needs who would otherwise be placed in structured group care facilities and the coordination of services provided by the department and the departments of public health, education, transitional assistance, mental health and mental retardation, and the juvenile courts; provided, that not more than six hundred fifty-three thousand one hundred seventeen dollars shall be obligated for the expansion of consolidated foster care and adoption recruitment units to allow for targeted recruitment, including the need for cultural and ethnic diversity; provided further, that such units shall recruit, screen, license, and provide Massachusetts approaches to partnership in parenting training for all foster and pre-adoptive families; provided further, that not more than four million dollars shall be obligated for the purpose of developing a tiered reimbursement system for foster care pursuant to section five hundred and sixty-six of this act; provided further, that the commissioner is directed to provide quarterly reports beginning October first, nineteen

hundred and ninety-six to the joint committee on health and human services and elderly affairs and to the house and senate committees on ways and means detailing the total number of additional foster care placements made during fiscal year nineteen hundred and ninety-seven as a result of enhanced recruitment activities; provided further, that said report shall include a separate section detailing the number of additional placements for children with special medical, psychological or social needs that have resulted from said initiatives, and any reduction in group care placements for children with such needs that have resulted from these initiatives; provided further, that not more than two hundred eighty-nine thousand seven hundred forty dollars shall be obligated to hire not more than twelve attorneys to reduce the size of legal caseloads; provided further, that the department is authorized and directed to work with law enforcement authorities including the attorney general and district attorneys to identify any need for additional legal staffing to eliminate any such backlog of adoption and care and protection cases and shall develop a plan to eliminate any such backlog through the use of contracted or temporary legal services; provided further, that the department shall file a report on the costs of implementing said plan with the house and senate committees on ways and means by October first, nineteen hundred and ninety-six; provided further, that not more than one hundred thousand dollars shall be obligated for the costs of attaining licensure as a licensed social worker associate pursuant to section five hundred and sixty-four of this act for social workers currently employed by the department who are not licensed by the board of registration of social workers; provided further, that the department shall establish a reasonable minimum duration during which social workers who have received financial assistance from the department for obtaining said license must remain with the department or refund part or all of said financial assistance; provided further, that not more than two hundred seventy-five thousand dollars shall be obligated for an enhanced training program for social workers and investigators, so-called; provided further, that not more

than two million three hundred thirty-nine thousand six hundred ninety-five dollars shall be obligated for the development of bridge homes, so-called, in each region; provided further, that said bridge homes shall provide extended diagnostic services not to exceed ninety days for any child and shall be geographically distributed to allow children in said placements to attend their pre-placement public school whenever possible; provided further, that not more than five hundred thousand dollars shall be obligated for child care and respite care services for foster families; provided further, that not more than fifty thousand dollars shall be obligated for a contract with an independent school of public health to assess and determine the need for nursing services within the department; and provided further, that no funds shall be transferred from this item to other items for purposes other than those listed herein $8,207,552

Federal Appropriations

4800-0005 For the purposes of a federally funded grant entitled, Children's Justice Act $197,653

4800-0007 For the purposes of a federally funded grant entitled, The Family Violence Prevention Act $505,080

4800-0009 For the purposes of a federally funded grant entitled, Title IV-E Independent Living $640,571

4800-0013 For the purposes of a federally funded grant entitled, Family Preservation and Support $2,307,396

4899-0001 For the purposes of a federally funded grant entitled, Title IV-B Child Welfare Services $4,708,631

4899-0022 For the purposes of a federally funded grant entitled, Child Abuse and Neglect Prevention and Treatment - Basic Grant $427,460

4899-0024 For the purposes of a federally funded grant entitled, Child Abuse and Neglect Prevention and Treatment - Medical Grant $60,233

Department of Mental Health.

State Appropriations

5011-0100 For the administration of the department pursuant to the pro-

visions of chapter nineteen of the General Laws; provided, that the department shall not refer or discharge a child or adolescent to the custody or care of the department of social services until the department of mental health forwards its assessment and recommendation as to whether said child or adolescent is appropriate for foster care, or if due to severe emotional disturbance, is only appropriate for group care; provided further, that the department is hereby authorized and directed to develop and implement by December first, nineteen hundred and ninety-six a program to coordinate twenty-four hour per day emergency medical supports for all regions, including, but not limited to, transportation and health care coordination, for individuals eligible for services provided by the department; provided further, that said services may be provided in conjunction with existing local, community based psychiatric emergency services; provided further, that in making such assessments and recommendations the department of mental health shall use guidelines developed in consultation with the department of social services; and provided further, that two hundred seventy-five thousand dollars from this item shall be placed in a reserve for an association known as the consortium, pursuant to the provisions of section five hundred and sixty-two of this act. . . $19,993,288

5042-1000 For the maintenance and operation of the secure unit at Medfield state hospital $1,522,416

5042-5000 For child and adolescent services; provided, that of the sum appropriated herein, not less than sixty-nine thousand four hundred and eight dollars shall be expended on the Franklin community action corporation in Greenfield for a youth and adolescent services program; provided further, that not less than twenty-five thousand dollars be expended for the purposes of sending children to existing summer programs funded through the department of mental health's camperships, so-called; and provided further, that not less than one hundred eighty-nine thousand dollars shall be expended for the purposes of providing educational services in institutional settings $55,899,411

5046-0000 For adult mental health and support services; provided, that the department is hereby authorized to allocate funds in an

amount not to exceed nine million dollars from item 5095-0000 of section two, to this item, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means thirty days prior to any such transfer, for residential and day services for clients formerly receiving care at department facilities; provided further, that sixty thousand dollars shall be expended for comprehensive vocational rehabilitation services to be provided to mentally ill adults who are homeless or are at-risk of being homeless; provided further, that said services shall be provided at the multi-service center located in the city of Lynn by a vocational rehabilitation agency specializing in employment issues of mentally ill adults; provided further, that not less than one hundred and sixty-three thousand dollars shall be expended for western Massachusetts community enterprise programs; provided further, that not less than three hundred ninety-four thousand five hundred and two dollars shall be expended for the lighthouse clubhouse program, so-called, in the city of Springfield; provided further, that not less than forty-three thousand four hundred sixty dollars shall be expended for the provision of community based case management for participants in the tenant-based rental assistance program funded under HUD's shelter plus care program, administered by Quincy *interfaith* sheltering coalition in conjunction with the Quincy housing authority; provided further, that any allocations from this item for services provided in the metro-Boston area, so-called, shall not cause funding decreases in other areas; provided further, that the department shall report to the house and senate committees on ways and means on the historical causes of the funding deficiency in the metro-Boston area no later than August fifteenth nineteen hundred ninety-six; and provided further, that of the amount appropriated herein and notwithstanding any transfers to this item from item 5047-0001, the department may encumber prior to April first nineteen hundred ninety-seven an amount not to exceed one hundred twenty-four million five hundred fifty-one thousand seven hundred eighty-six dollars for contracted services paid from the MM subsidiary, so-called; provided further, that

on or after said date the department may encumber the greater of forty-one million five hundred seventeen thousand two hundred sixty-two dollars or the unexpended balance in the MM subsidiary of this item as certified in writing by the comptroller to the house and senate committees on ways and means and the secretary of administration and finance $194,770,444

5046-1000 For rental subsidies to eligible clients; provided, that the department shall establish the amounts of said subsidies so that payment thereof and of any other commitments from this item shall not exceed the amount appropriated herein.... $2,607,550

5046-2000 For statewide homelessness services; provided that not less than two hundred thousand dollars shall be expended for a program by project AIM, so-called, of community enterprises for residents of Berkshire county who have a dual diagnosis of major mental illness and substance abuse, and who have either been homeless or are in jeopardy of becoming homeless $7,982,743

5046-3000 For metro-Boston homelessness prevention services $6,095,000

5046-4000 The department of mental health is hereby authorized to expend revenues collected up to a maximum of one hundred twenty-five thousand dollars from occupancy fees charged to the tenants in the creative housing option in community environments, the CHOICE program, so-called, authorized by chapter one hundred sixty-seven of the acts of nineteen hundred eighty-seven; provided, that all such fees collected shall be expended for the routine maintenance and repair of facilities in the CHOICE program, so-called, including the costs of personnel $125,000

5046-9999 For the payment of charges assessed to the department of mental health for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called; provided that, notwithstanding the provisions of any general or special law to the contrary, prior to April fifteenth, nineteen hundred and ninety-seven all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that after said date, the commissioner of the department of mental health, with

the approval of the secretary of administration and finance, is hereby authorized to transfer from said DD subsidiary to the KK subsidiary, so-called; or the NN subsidiary, so-called; of this account, an amount not to exceed fifteen percent of the funds appropriated herein, if the secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the charges owed by the department for workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback are less than the amount appropriated herein, (2) that the department does not require any supplemental appropriation in any of its other items of appropriation, (3) that the department is expected to meet the revenue targets established in sections one A and B of this act, and (4) that the department has not expended any funds for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called, in any of its other items of appropriation; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of funds between subsidiaries as authorized herein; and provided further, that, no funds shall be scheduled to any subsidiary in this account which is not explicitly referenced herein $7,854,776

5047-0001 For the designated emergency programs and acute mental health care replacement units; provided, that the department is authorized to enter into an interagency service agreement with the division of medical assistance for the purchase of said services and for such other services as said agreement may provide, including, but not limited to, acute inpatient care and diversionary services; provided further, that said agreement shall be entered into not earlier than thirty days and not later than sixty days from the effective date of this act; provided further, that part or all of an amount not to exceed nine million dollars or the most recent savings projection from the implementation of said agreement may be transferred from

this item to item 5046-0000 or 5042-5000 for services to consumers; provided further, that of said nine million dollars, the first four million three hundred thousand dollars shall be expended for services for the Northeast area, so-called; provided further, that prior to obligating said transferred funds, the department shall certify to the secretary of the executive office of administration and finance that the department will incur no deficiency for any item of appropriation in fiscal year nineteen hundred and ninety-seven; provided further, that the department shall report to the house and senate committees on ways and means not later than February first, nineteen hundred and ninety-seven on the use of any funds so obligated and certified, including, but not limited to, the number of clients served, the types of services purchased by region, and the annualized impact of said expenditures in the subsequent fiscal year; provided further, that the department of mental health is hereby authorized and directed to conduct an investigation as to the distribution of funds among regions and report such findings to the house and senate committees on ways and means no later than October first, nineteen hundred ninety-six; and provided further, that such findings shall include, but not be lmited to, any formulas needed for distribution of funds and any other factors which indicate fund distribution to the various regions of the department and recommendations for providing more equitable regional funding $40,969,231

5051-0100 For community mental health centers $77,566,955

5055-0000 For forensic services; provide further, that not less than two hundred eighty-two thousand dollars shall be expended for mental health services at the Barnstable and Middlesex county houses of correction $7,372,461

5095-0000 For adult inpatient and facilities' services; provided, that the department is hereby authorized to allocate funds in an amount not to exceed nine million dollars from this item to item 5046-0000, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means thirty days prior to any such transfer, for residential and day services for clients formerly receiving care at department facilities; provided further, that the department

shall comply with the provisions of section five hundred and seventy-three of this act $102,003,378

Federal Appropriations

5012-9121 For the purposes of a federally funded grant entitled, Project for Assistance in Transition from Homelessness $458,000

5021-9106 For the purposes of a federally funded grant entitled, Mental Health Systems Improvement Demonstration Grant $149,017

5046-9102 For the purposes of a federally funded grant entitled, Shelter Plus Care $240,000

Department of Mental Retardation.

State Appropriations

5911-1000 For administration of the department pursuant to the provisions of chapter nineteen B of the General Laws; provided, that four hundred seventy-five thousand dollars from this item shall be placed in a reserve for an association known as the consortium, pursuant to the provisions of section five hundred and sixty-two of this act $4,972,072

5911-1001 Notwithstanding the provisions of any general or special law to the contrary, the department of mental retardation may expend an amount not to exceed one million dollars from revenues received pursuant to the home and community-based waiver initiative, so-called, for the administration of said department; provided, that no funds shall be expended from this item until the secretary of administration and finance shall certify in writing to the house and senate committees on ways and means that not less than six million dollars from said initiative has been deposited in the general fund; 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 payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system $1,000,000

5911-2000 For transportation costs associated with the adult services program; provided, that the department shall provide trans-

portation on the basis of priority of need as determined by the department; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that transportation services are maintained throughout fiscal year nineteen hundred and ninety-seven; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means $24,918,805

5911-9999 For the payment of charges assessed to the department of mental retardation for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called; provided that, notwithstanding the provisions of any general or special law to the contrary, prior to April fifteenth, nineteen hundred and ninety-seven all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that after said date, the commissioner of the department of mental retardation, with the approval of the secretary of administration and finance, is hereby authorized to transfer from said DD subsidiary to the KK subsidiary, so-called; or the NN subsidiary, so-called; of this account, an amount not to exceed fifteen percent of the funds appropriated herein, if the secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the charges owed by the department for workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback are less than the amount appropriated herein, (2) that the department does not require any supplemental appropriation in any of its other items of appropriation, (3) that the

department is expected to meet the revenue targets established in sections one A and B of this act, and (4) that the department has not expended any funds for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called, in any of its other items of appropriation; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of funds between subsidiaries as authorized herein; provided further, that no funds shall be scheduled to any subsidiary in this account which is not explicitly referenced herein; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year nineteen hundred and ninety-seven; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means $12,860,475

5920-1000 For the operation of the adult services program; provided, that not less than forty-four thousand seventy-five dollars shall be expended from this item for a program at the life focus center in Charlestown; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year nineteen hundred and ninety-seven; provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means; provided further, that the department is

hereby authorized to transfer two hundred and twenty-four adult services administrative support positions to this item from items 5920-2010, 5930-1000, and 5930-2000; and provided further, that the department of personnel administration and the office of the comptroller shall assist in the reassignment of said positions $38,878,556

5920-2000 For vendor-operated community-based residential adult services and for eight million five hundred thousand dollars in annualized funding for priority one turning twenty-two clients who began receiving services for fiscal year nineteen hundred and ninety-six pursuant to item 5920-5000 of section two of chapter thirty-eight of the acts of nineteen hundred and ninety-five; provided, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year nineteen hundred and ninety-seven; provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department notifies the house and senate committees on ways and means; provided further, that not more than five hundred thousand dollars shall be expended for the care of individuals transferred to the care of the department from the department of public health; provided further, that not less than one hundred thousand dollars shall be expended for the Massachusetts special olympics, so-called; and provided further that, no less than one hundred thousand dollars shall be expended for increased mentor programs statewide.. $271,401,093

5920-2010 For state-operated community-based residential services for adults; provided, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year nineteen hundred and ninety-seven; provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the

commissioner of the department notifies the house and senate committees on ways and means; provided further, that the department is hereby authorized to transfer six hundred and twenty-nine state-operated residential care positions to this item from items 5920-1000 and 5930-1000 of section two; and provided further, that the department of personnel administration and the office of the comptroller shall assist in the reassignment of said positions $67,024,237

5920-2025 For community-based day and work programs for adults; provided, that not less than sixty-five thousand dollars shall be expended for an alternative work program at the life focus center in Charlestown; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year nineteen hundred and ninety-seven; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means $67,421,823

5920-2040 For community-based health services for adults; provided, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year nineteen hundred and ninety-seven; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means $11,046,488

5920-3000 For respite services; provided, that the department shall pursue the highest rates of federal reimbursement possible for such services; provided further, that not less than forty-four thousand seventy-five dollars shall be expended

from this item for a program at the life focus center in Charlestown; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year nineteen hundred and ninety-seven; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means $36,764,670

5920-5000 For services for clients of the department who turn twenty-two years of age during state fiscal year nineteen hundred and ninety-seven; provided, that the amount appropriated herein shall not annualize to more than eight million five hundred thousand dollars in fiscal year nineteen hundred and ninety-eight; provided further, that not more than one hundred and sixty clients shall receive services funded from this item in fiscal year nineteen hundred and ninety-seven; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein; provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year nineteen hundred and ninety-seven; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means $4,400,000

5920-6000 For services to the older unserved; provided, that not less than three million five hundred thousand dollars shall be expended for the purpose of providing services to clients

who remain at home; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein; provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year nineteen hundred and ninety-seven; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means $6,750,000

5920-8000 For the child and adolescent services program; provided, that the commissioner of the department of mental retardation is hereby authorized to transfer funds from this item to item 5920-8010 of section two of this act, pursuant to an allocation plan, which shall detail by subsidiary and contract the distribution of said funds to be transferred and which said commissioner shall file with the house and senate committees on ways and means fifteen days prior to any such transfer; provided further, that not less than four hundred thirty-seven thousand dollars shall be expended for support services for families of children with autism; provided further, that not less than forty-four thousand seventy-five dollars shall be expended from this item for a program at the life focus center in Charlestown; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year nineteen hundred and ninety-seven; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the

house and senate committees on ways and means $4,036,077

5920-8010 For the residential expenses associated with school placements of children and adolescents between the ages of four and twenty-one, inclusive; provided, that the commissioner of the department of mental retardation is hereby authorized to transfer funds from this item to item 5920-8000 of section two of this act, pursuant to an allocation plan, which shall detail by subsidiary and contract the distribution of said funds to be transferred and which said commissioner shall file with the house and senate committees on ways and means fifteen days prior to any such transfer; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year nineteen hundred and ninety-seven; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means $500,000

5930-1000 For the operation of facilities for the mentally retarded; provided, that the commissioner of the department of mental retardation is hereby authorized to transfer funds from this item to items 5920-2000, 5920-2010 and 5920-2025 of section two, pursuant to an allocation plan, which shall detail by subsidiary and contract the distribution of said funds to be transferred and which said commissioner shall file with the house and senate committees on ways and means fifteen days prior to any such transfer; provided, however, that not more than three million dollars shall be transferred from this item in fiscal year nineteen hundred ninety-seven; provided further, that the department shall comply with the provisions of section five hundred and seventy-three of this act; provided further, that the department is prohibited from making capital or debt service payments to the South Essex Sewerage District from this or any other item of appropriation made available

to the department; provided further, that the department is hereby authorized to transfer eight hundred and forty-six community administrative support and state-operated residential care positions from this item to items 5920-1000 and 5920-2010 of section two; and provided further, that the department of personnel administration and the office of the comptroller shall assist in the reassignment of said positions $189,070,852

5930-2000 For the maintenance and operation of the Glavin regional center; provided, that the department is hereby authorized to transfer eight community administrative support positions from this item to item 5920-1000 of section two $5,549,314

Federal Appropriation

5947-0004 For the purposes of a federally funded grant entitled, Project Engage Temporary Child Care for Children with Disabilities $179,572

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Office of the Secretary.

State Appropriations

6000-0100 For the office of the secretary of transportation and construction; provided, that said office shall submit to the house and senate committees on ways and means quarterly reports detailing all personnel-related expenditures made from capital funds; provided further, that said reports shall delineate for the executive office and for each agency, board, authority or commission under its control, the amounts paid in the prior quarter as compensation for each type of position assigned to capital projects that were charged to each such funding source; provided further, that said report shall also delineate by funding source any other amounts paid for personnel-related costs that were charged to said funds, including payroll allocations for budgetary employees, fringe recovery and other chargebacks; provided further, that said report shall identify the number of full time equivalent personnel classified in each position type; and provided further, that said report shall delineate said information for full time employees, part-time employees and contracted personnel $285,265

Highway Fund 100.0%

6000-0110 The executive office of transportation and construction may expend, for the purpose of property management and maintenance of railroad properties owned by said executive office on behalf of the commonwealth, including the cost of personnel, an amount not to exceed twenty-seven thousand three hundred and forty-five dollars from the rents and fees received pursuant to section four of chapter one hundred and sixty-one C of the General Laws. $27,345

6005-0011 For additional assistance to the Massachusetts bay transportation authority in accordance with the provisions of sections six and nine of chapter eight hundred and twenty-five of the acts of nineteen hundred and seventy-four, as amended by section four of chapter two hundred and ninety-one of the acts of nineteen hundred and seventy-five; provided, that the authority shall furnish to the executive office of transportation and construction and the house and senate committees on ways and means all information necessary to compile quarterly capital funded personnel expenditure reports; provided further, that operating expenditures of the said authority for calendar year nineteen hundred and ninety-seven shall not exceed one hundred and three percent of its operating expenditures for calendar year nineteen hundred and ninety-six; provided further that said authority shall install new security cameras and hook-up cablevision of Boston; and provided further, that said authority shall install and operate a security camera in the parking lot of the commuter rail station in the city of West Gloucester $229,781,477

Local Aid Fund 40.0%
General Fund 40.0%
Highway Fund 20.0%

6005-0012 For certain debt service contract assistance to the Massachusetts bay transportation authority in accordance with the provisions of section twenty-eight of chapter one hundred sixty-one A of the General Laws $238,043,000

Local Aid Fund 40.0%
General Fund 40.0%
Highway Fund 20.0%

6005-0015 For certain assistance to the regional transit authorities, including operating grants and reimbursements to increase the accessibility of transit provided to the elderly and disabled under the mobility assistance program, the regional transit authority program, and the intercity bus capital assistance program; provided, that the commonwealth, acting by and through the executive office for administration and finance, for the period beginning July first, nineteen hundred and ninety-six and ending June thirtieth, nineteen hundred and ninety-seven, may enter into contracts with the authorities; provided further, that notwithstanding the provisions of section one hundred and fifty-two A of chapter one hundred and sixty-one, and of section twenty-three of chapter one hundred and sixty-one B of the General Laws, at least fifty percent and up to seventy-five percent of the net cost of service of each authority incurred in fiscal year nineteen hundred and ninety-six shall be paid by the commonwealth, and shall not be assessed upon the cities and towns constituting the authorities; provided further, that operating expenditures of each of the regional transit authorities for calendar year nineteen hundred and ninety-seven shall not exceed one hundred and three percent of its operating expenditures for calendar year nineteen hundred and ninety-six; provided further, that operating expenditures shall not include federal, private or additional municipal non-state revenue sources or any expenses arising from the provision of services required by the Americans with disabilities act; and provided further, that the pioneer valley regional transit authority shall maintain an express bus route from the city of Springfield to the Hampden county house of correction $36,316,676

Local Aid Fund 40.0%
General Fund 40.0%
Highway Fund 20.0%

6005-0017 For certain payments to cities and towns as authorized by clause (c) of section thirteen of chapter sixty-four A, clause (b) of section thirteen of chapter sixty-four E and clause (b) of section fourteen of chapter sixty-four F of the General Laws; provided, that the amounts appropriated

herein are in full satisfaction of the amounts payable pursuant to said clauses for fiscal year nineteen hundred and ninety-seven; and provided further, that funds herein may be used for the lease, purchase and maintenance of vehicles for use in road maintenance, and for costs incurred for the removal of snow and ice $43,472,110

Highway Fund 100.0%

6005-0018 For additional contract assistance to be allocated by the Massachusetts bay transportation authority for the net additional expense of commuter rail service provided to and on behalf of the regional transit authorities and cities and towns outside the Massachusetts bay transportation authority district for fiscal year nineteen hundred and ninety-six, including funds for the net additional expense of bus service provided to and on behalf of the regional transit authorities and cities and towns outside the Massachusetts bay transportation authority district for fiscal year nineteen hundred and ninety-seven, in the amounts determined to be appropriate by the executive office for administration and finance, acting on behalf of the commonwealth, on the recommendation of the secretary of the executive office of transportation and construction; provided, that said additional expense of bus service shall not exceed two million two hundred fifty thousand dollars, in accordance with the provisions of section twenty-eight A of chapter one hundred and sixty-one A of the General Laws as amended in section forty-five of chapter eight hundred and eleven of the acts of nineteen hundred and eighty-five; and provided further, that no less than seventeen thousand five hundred dollars be made available for a commuter boat service between Hull and Boston $15,978,283

Local Aid Fund 40.0%
General Fund 40.0%
Highway Fun 20.0%

Federal Appropriations

6000-0018 For the purposes of a federally funded grant entitled, Section 18 Rural Public Transportation Assistance $1,629,044

6000-0023 For the purposes of a federally funded grant entitled, Section 8 Planning Grant/Rural Public Transportation $1,804,909

6000-0024 For the purposes of a federally funded grant entitled, Disadvantaged Business Enterprise Disparity Study $248,438

6000-0049 For the purposes of a federally funded grant entitled, Elderly and Handicapped Transportation $1,388,152

6000-0054 For the purposes of a federally funded grant entitled, Rail Planning Assistance/FRA Section 5 which shall include a feasibility study of the reopening of the Central Mass Railraod between Boston and Route 495 ..... $36,575

Massachusetts Aeronautics Commission.

State Appropriation

6006-0003 For the administration of the commission, including the expenses of the commissioners $594,809

Local Aid Fund 100.0%

Federal Appropriation

6006-0042 For the purposes of a federally funded grant entitled, Airport System Planning $350,000

Department of Highways.

6010-0001 For personnel services of the department, for certain administrative and engineering expenses and equipment of the highways commission, the office of the highways commissioner, the division of administrative services, highway engineering, highway maintenance, highway construction, district and other highway activity offices, materials, supplies, fleet maintenance and equipment, general maintenance and equipment, for maintenance and operation of state highways and bridges and for workers' compensation related expenditures, as defined by the (D15) object code of the DD subsidiary, so-called, on the Massachusetts management accounting and reporting system, for employees of the department including, but not limited to, those funded from this item and items 6010-1016, 6010-1017, and 6010-1018 of section two; provided, that funds appropriated herein shall be the only

source of funding for all overtime expenses associated with the department's snow and ice control efforts; provided further, that one hundred twenty-five thousand dollars shall be made available for all contractual contingency costs associated with highway maintenance in areas 4A, 4B, 4C, 4D, 5A, 5B and 5C, so-called; provided further, that the department shall submit a report to the house and senate committees on ways and means detailing contractual contingency expenditures on a quarterly basis; provided further, that the department shall furnish to the executive office of transportation and construction and the house and senate committees on ways and means all information necessary to compile quarterly capital-funded personnel expenditure reports; provided further, that notwithstanding the provisions of any administrative bulletin, general or special law to the contrary, the department shall not pay any fees charged for 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 to the secretary of transportation and construction for approval requests to repair vehicles costing in excess of the limit set forth in said section twenty-two of said chapter seven; 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 not less than seventy-five thousand dollars shall be expended for the road repairs in New Braintree as determined by section two hundred and sixty-eight of chapter thirty-eight of the acts of nineteen hundred and ninety-five; provided further, that said department shall submit a report to the house and senate committees on ways and means detailing the total overtime expenditures by category and specific area on or before November first, nineteen hundred and ninety-six and on or before March fifteenth, nineteen hundred and ninety-seven; provided further, that the department shall expedite the design and contracting work for the Center street bridge replacement in Middleborough in order to begin construction during calendar year nineteen hundred

and ninety-six; provided further, that not less than twenty-five thousand dollars shall be made available to the Cape Cod chamber of commerce to fund costs related to the Bourne rest area on state highway twenty-five; provided further, that the department shall study the feasibility of constructing a pedestrian overpass over the Grant Circle Rotary, so-called, in the city of Gloucester; and provided further, that the department of highways shall reimburse the town of Salisbury five thousand one hundred and eighty-eight dollars for the cost of sewer repairs $56,047,985

Highway Fund 100.0%

6010-1009 For costs associated with police services within contract areas 4B, 4C, 4D and 5C, so-called; provided, that the department shall report to the house and senate committees on ways and means the expenditures from this item for said contract areas in the preceding months on or before November first, nineteen hundred and ninety-six, and on or before March fifteenth, nineteen hundred and ninety-seven $527,000

Highway Fund 100.0%

6010-1010 For overtime costs associated with contract areas 4A, 5A and 5B, so-called; provided, that the department shall submit a report to the house and senate committees on ways and means on or before November fifteenth, nineteen hundred and ninety-six, detailing the total overtime expenditures for the preceding months by category and specific area, and on or before March fifteenth, nineteen hundred and ninety-seven, detailing said expenditures for the preceding months $362,975

Highway Fund 100.0%

6010-1012 For the highway maintenance private contract in area 4B, so-called; provided, that the department shall not enter into a contract exceeding one million nine hundred thousand dollars; provided further, that no funds appropriated herein may be used for the purchase of maintenance and repair supplies or infrastructure maintenance materials; provided further, that no funds appropriated herein may be used for vehicle maintenance and repair; provided further, that no funds other than the amount appropriated herein, police

costs appropriated in item 6010-1009, and contractual contingency costs appropriated in item 6010-0001 shall be used to fund said contract; and provided further, that no additional funds made available to the department, either directly or indirectly, including capital, trust, or other funds, shall be used to supplement or supplant the funds for said contract as provided for herein $1,900,000

Highway Fund 100.0%

6010-1013 For the highway maintenance private contract in area 4C, so-called; provided, that the department shall not enter into a contract exceeding two million five hundred and fifty thousand dollars; provided further, that no funds appropriated herein may be used for the purchase of maintenance and repair supplies or infrastructure maintenance materials; provided further, that no funds appropriated herein may be used for vehicle maintenance and repair; provided further, that no funds other than the amount appropriated herein, police costs appropriated in item 6010-1009, and contractual contingency costs appropriated in item 6010-0001 shall be used to fund said contract; and provided further, that no additional funds made available to the department, either directly or indirectly, including capital, trust, or other funds, shall be used to supplement or supplant the funds for said contract as provided for herein $2,550,000

Highway Fund 100.0%

6010-1014 For the highway maintenance private contract in area 4D, so-called; provided, that the department shall not enter into a contract exceeding three million dollars; provided further, that no funds appropriated herein may be used for the purchase of maintenance and repair supplies or infrastructure maintenance materials; provided further, that no funds appropriated herein may be used for vehicle maintenance and repair; provided further, that no funds other than the amount appropriated herein, police costs appropriated in item 6010-1009, and contractual contingency costs appropriated in item 6010-0001 shall be used to fund said contract; and provided further, that no additional funds made available to the department, either

directly or indirectly, including capital, trust, or other funds, shall be used to supplement or supplant the funds for said contract as provided for herein $3,000,000

Highway Fund 100.0%

6010-1015 For the highway maintenance private contract in area 5C, so-called; provided, that the department shall not enter into a contract exceeding two million one hundred thousand dollars; provided further, that no funds appropriated herein may be used for the purchase of maintenance and repair supplies or infrastructure maintenance materials; provided further, that no funds appropriated herein may be used for vehicle maintenance and repair; provided further, that no funds other than the amount appropriated herein, police costs appropriated in item 6010-1009, and contractual contingency costs appropriated in item 6010-0001 shall be used to fund said contract; and provided further, that no additional funds made available to the department, either directly or indirectly, including capital, trust, or other funds, shall be used to supplement or supplant the funds for said contract as provided for herein $2,100,000

Highway Fund 100.0%

6010-1016 For the highway maintenance contract in area 4A, so-called; provided, that no funds other than the amount appropriated herein, overtime costs appropriated in item 6010-1010 and contractual contingency costs appropriated in item 6010-0001 shall be used to fund said contract; and provided further, that no additional funds made available to the department, either directly or indirectly, including capital, trust, or other funds, shall be used to supplement or supplant the funds for said contract as provided for herein $1,420,528

Highway Fund 100.0%

6010-1017 For the highway maintenance contract in area 5A, so-called; provided, that no funds other than the amount appropriated herein, overtime costs appropriated in item 6010-1010 and contractual contingency costs appropriated in item 6010-0001 shall be used to fund said contract; and provided further, that no additional funds made available to the department, either directly or indirectly, including

capital, trust, or other funds, shall be used to supplement or supplant the funds for said contract as provided for herein $2,421,618
Highway Fund 100.0%

6010-1018 For the highway maintenance contract in area 5B, so-called; provided, that no funds other than the amount appropriated herein, overtime costs appropriated in item 6010-1010 and contractual contingency costs appropriated in item 6010-0001 shall be used to fund said contract; and provided further, that no additional funds made available to the department, either directly or indirectly, including capital, trust, or other funds, shall be used to supplement or supplant the funds for said contract as provided for herein.... $2,764,720
Highway Fund 100.0%

6020-2505 For the outdoor advertising board $67,117
Highway Fund 100.0%

6030-7201 For the cost of hired and leased equipment, so-called, used for snow and ice control; provided, that no funds appropriated herein shall be used for materials, overtime costs or vehicle repair related to snow and ice control $6,727,688
Highway Fund 100.0%

6030-7211 For vehicle repair directly associated with department snow and ice control equipment; provided, that no funds appropriated herein shall be used for materials, overtime costs or hired or leased equipment related to snow and ice control..... $200,000
Highway Fund 100.0%

6030-7221 For the cost of sand, salt, and other control chemicals used for the purpose of snow and ice control; provided, that no funds appropriated herein shall be used for hired or leased equipment, overtime costs or vehicle repair related to snow and ice control $4,984,741
Highway Fund 100.0%

BOARD OF LIBRARY COMMISSIONERS.

State Appropriations

7000-9101 For the operation of the board of library commissioners; provided, that one hundred twenty-two thousand dollars shall be expended from this item solely for the purpose of

implementing the strategic plan for the future of library services in Massachusetts, so-called, including the employment of two information systems specialists $938,385

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 one hundred two and one-half percent of the average of the appropriations for free public library service for the three years immediately preceding; provided further, that notwithstanding the provisions of this section, the board of library commissioners may grant waivers, in a number not to exceed one-tenth the number permitted pursuant to the sixth paragraph of section nineteen A of chapter seventy-eight of the General Laws, to any library not receiving funds as a library of last recourse for a period of no more than one year; provided further, that not more than three hundred thousand dollars shall be distributed as one time, non-recurring grants to six interim regional planning committees to develop regional programs and budgets relating to the strategic plan for the future of library services in Massachusetts, so-called; and provided further, that no more than five hundred thousand dollars shall be expended by the Boston public library for services

relating to the implementation of said plan $13,805,931
Local Aid Fund 100.0%

7000-9402 For the purposes of a talking book library at Worcester $147,332
Local Aid Fund 100.0%

7000-9406 For the administration of a talking book program, including the operation of the machine lending agency $952,919
Local Aid Fund 100.0%

7000-9501 For state aid to public libraries; provided, that notwithstanding the provision of any general or special law to the contrary, no city or town shall receive any money under this item in any year when the appropriation of said city or town for free public library services is below an amount equal to one hundred two and one-half percent of the average of the appropriations for free public library service for the three years immediately preceding; provided further, that notwithstanding the provisions of this section, the board of library commissioners may grant waivers permitted pursuant to the sixth paragraph of section nineteen A of chapter seventy-eight of the General Laws, as appearing in the nineteen hundred and ninety-four 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 $6,899,804
Local Aid Fund 100.0%

7000-9506 For the telecommunications expenses of automated resource sharing networks and their member libraries; provided, that one million three hundred sixty thousand dollars shall be expended from this item solely for the purpose of implementing the strategic plan for the future of library services in Massachusetts, so-called $1,837,235

Federal Appropriations

7000-9703 For the purposes of a federally funded grant entitled, Title III LSCA Interlibrary Cooperation $524,527

7000-9705 For the purposes of a federally funded grant entitled, LSCA Program-Title I $1,829,847

7000-9707 For the purposes of a federally funded grant entitled, Emergency Federal Jobs Bill-LSCA Title II $378,740

OFFICE OF LABOR, EDUCATION AND ECONOMIC DEVELOPMENT.

7001-0010 For the operation of the office of labor, education and economic development and expenses of the labor, education and economic development coordinating council established pursuant to section thirty-nine of this act $450,000

Department of Labor and Workforce Development.

7002-0100 For the administration of the department of labor including the divisions under the control of the department $290,097

7002-0101 For the operation and administration of the apprentice training program; provided, that no position in the apprentice training division shall be subject to chapter thirty-one of the General Laws $261,054

Division of Occupational Safety.

State Appropriations

7002-0200 For the operation and administration of the industrial safety program $1,052,374

7002-0400 For the operation and administration of the occupational hygiene program; provided, that the division may employ staff which shall not be subject to chapter thirty-one of the General Laws for a program to evaluate the asbestos level in public schools and other public buildings $989,482

Federal Appropriations

7002-4203 For the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Statistics Program $102,200

7002-4212 For the purposes of a federally funded grant entitled, Asbestos Licensing and Monitoring Toxic Substance Control Act $33,500

7002-4213 For the purposes of a federally funded grant entitled, Lead Licensing and Monitoring Toxic Substance Control Act $187,800

7002-4215 For the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Data Collection Survey $61,079

7002-6627 For the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Onsite Consultation Program $842,000

Division of Labor Market Information.

Federal Appropriation

7002-9701 For the purposes of a federally funded grant entitled, Bureau of Labor Statistics Administration $1,966,743

Division of Industrial Accidents.

7002-0500 For the operation of the division of industrial accidents; provided, that the General Fund shall be reimbursed the amount appropriated herein and for associated indirect and fringe benefit costs from assessments levied pursuant to section sixty-five of chapter one hundred and fifty-two of the General Laws $19,017,209

Labor Relations Commission.

7002-0600 For the operation of the labor relations commission; provided, that twenty thousand dollars shall be expended for the purpose of maintaining a satellite office in the Springfield state office building $1,001,697

Joint Labor Management Committee.

7002-0700 For the operation of the joint labor management committee $409,695

Board of Conciliation and Arbitration.

7002-0800 For the operation of the board of conciliation and arbitration..... $648,967

Division of Employment and Training.

Federal Appropriations

7002-6624 For the purposes of a federally funded grant entitled, Unemployment Insurance Programs Administration $56,749,505

7002-6626 For the purposes of a federally funded grant entitled, Employment Service Programs Administration $22,000,000

Division of Workforce Development.

7003-0100 For the division of workforce development; provided, that costs associated with the administration of said division may be assessed to item 7003-1000; provided further, that no funds from any federal funding source or grant other than that set forth in item 7003-9006 shall be redirected from any agency or department of the executive branch to the career center initiative, if such redirection would result in the termination of temporary, provisional, or permanent employees at any such agency or department whose positions are presently paid for from said federal funding source or grant, or if such redirection would otherwise jeopardize the ability of any agency or department to carry out its present management and oversight responsibilities for said federal funding source or grant; and provided further, that, notwithstanding the provisions of any general or special law to the contrary, career centers located in the city of Boston shall receive at least the same level of funding and positions in fiscal year nineteen hundred and ninety-seven as were received in fiscal year nineteen hundred and ninety-six $75,00

7003-0300 For the purpose of establishing a revolving loan fund within the industrial services program to provide working capital and related assistance to defense-dependent firms and leverage federal matching funds for financial assistance for such purposes under the Economic Adjustment Program Revolving Loan Fund authorized pursuant to Title IX of the Public Works and Economic Development Act of 1965, as amended $450,000

7003-0400 For a program to provide comprehensive re-employment assistance to employees impacted by economic structural dislocation, in particular those laid off from defense-dependent companies, the computer industry and the fishing industry; provided, that said assistance shall be provided in conjunction with any applicable federal funds granted to the state for related assistance by the employment and training administration of the United States department of labor $377,000

7003-0500 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 $155,400

7003-0601 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-seven that were served in fiscal year nineteen hundred ninety-six $3,050,000

7003-0700 For the expenses of the bay state skills corporation and the industry-responsive training program to secure employment, training and counseling for displaced workers; provided, for the employee involvement and ownership in the workplace component of the industrial services program; provided further, that one million dollars shall be expended for employed worker training technical assistance and matching grants; provided further, that not more than one hundred seventy-five thousand dollars shall be expended to administer said technical assistance program; provided further, that a report of all revenues, expenditures, assets and liabilities of said corporation shall be filed quarterly with the secretary of administration and finance and the house and senate committees on ways and means; and provided further, that said corporation shall remain a quasi-public corporation $2,000,000

Commonwealth Economic Development Fund 100.0%

7003-0800 For pre-employment and re-employment services provided by the division $1,600,000

Commonwealth Economic Development Fund . 100.0%

7003-0900 For the Tactical Training Initiative, so-called $500,000

Commonwealth Economic Development Fund . 100.0%

7003-0901 For a summer jobs youth-at-risk program; provided, that no funds appropriated herein shall be allotted or disbursed prior to the receipt of equal matching funds from private sources to any entity or municipality eligible for or requesting funds from this item; provided further, that the executive office of administration and finance is authorized and directed to submit an allotment and disbursement plan for the funds appropriated herein for approval by the general court, prior to the expenditure of any funds appropriated herein $550,000

7003-0904 For the creation and support of manufacturing networks $1,100,000

Commonwealth Economic Development Fund . 100.0%

7003-1000 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; provided further, that no grant made available to a regional employment board shall be used to encourage, induce, require or mandate the establishment of said regional employment board's administrative staff as an entity independent of the administrative entity agreed to under the provisions of the Federal Job Training Partnership Act by the regional employment board and the lead elected official; provided further, that expenditures for programs specified herein shall be subject to the approval of the local regional employment boards; provided further, that no specific program allocations directed herein shall preclude a regional employment board from receiving its equal share of funds to be distributed to regional employment boards by the MassJOBS council; provided further, that each regional employment board shall receive not less than seventy-five thousand dollars in fiscal year nineteen hundred ninety-seven; provided further, that funds provided to the regional employment boards shall not be subject to any limitations imposed by the MassJOBS council; provided further, that the MassJOBS council is hereby authorized and directed

to expend not less than one hundred fifty thousand dollars for the consumer provider program operated by CASCAP, inc. in collaboration with Bunker Hill community college for the training of men and women with psychiatric disabilities to become part-time employees at health and human services agencies within the commonwealth; provided further, that of the amount appropriated herein, not less than one hundred fifty thousand dollars shall be expended for the western Massachusetts enterprise fund and JVS microenterprise program as the supplemental match to conduct an entrepreneurial training program for income eligible residents; provided further, that not less than one hundred thousand dollars shall be provided to the Massachusetts maritime academy for a training and work program for youth in maritime trades, including but not limited to sailing, seamanship and nautical training; provided further, that the Cape Cod, Martha's Vineyard and Nantucket regional employment board shall oversee and make recommendations regarding said program; and provided further, that not less than seventy-five thousand dollars shall be expended for the career beginnings program, so-called, at Worcester state college in the city of Worcester $1,925,000

Commonwealth Economic Development Fund . 100.0%

7003-2055 For the youth, senior service, and conservation group corps program, including the costs of administration; provided, that not more than one hundred twenty-five thousand dollars shall be expended for the administration of the Massachusetts national and community service commission $1,500,000

Federal Appropriations

7003-1010 For the purposes of a federally funded grant entitled, Trade Expansion Act Program $7,959,391

7003-1621 For the purposes of a federally funded grant entitled, Title III - Employment and Training Assistance for Dislocated Workers $60,820,000

7003-2013 For the purposes of a federally funded grant entitled, Mine Safety and Health Training $32,483

7003-6628 For the purposes of a federally funded grant entitled, Disabled Veterans Outreach Program $2,050,000

7003-6629 For the purposes of a federally funded grant entitled, Local Veterans Employment Representative Program $1,434,285

7003-6630 For the purposes of a federally funded grant entitled, Massachusetts Occupational Information Coordinating Committee Administration $140,100

7003-9006 For the purposes of a federally funded grant entitled, One-Stop Career Centers; provided, that, with the exception of career centers located in the Boston service delivery area, not more than five career centers located in two service delivery areas shall operate in the commonwealth during fiscal year nineteen hundred ninety-seven; provided further, that the division of workforce development shall promptly modify its contractual agreement with the United States department of labor to conform with said limitations $6,500,000

Division of Housing and Community Development.

State Appropriations

7004-0001 For the Indian affairs commission $67,922

7004-0002 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; provided, that not less than forty thousand dollars of the amount appropriated herein shall be expended as a grant to the planned learned achievement for youth program; and provided further, that said urban initiative fund shall be administered by the community development finance corporation pursuant to section one hundred and thirty-seven of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two $1,000,000

Local Aid Fund 100.0%

7004-0003 For the Boston housing authority for a program to provide certain tenant services for the West Broadway housing authority task force $76,000

Local Aid Fund 100.0%

7004-0099 For the administration of the division; provided, that, notwithstanding the provisions of any general or special law to the contrary, the division of housing and community development is hereby authorized to make expenditures for the purposes of said division against federal grants for certain direct and indirect costs pursuant to an overhead cost allocation plan approved by the comptroller; provided further, that the comptroller shall establish and designate an account on the Massachusetts management accounting and reporting system for the purpose of making such expenditures; provided further, that expenditures made against said account shall not be subject to appropriation and may include the cost of personnel; provided further, that said division shall submit quarterly reports to the house and senate committees on ways and means on object code expenditures made against said account; provided further, that not less than ten thousand dollars be expended for the expenses of the state commission on manufactured housing, as established by chapter one hundred and forty-five of the acts of nineteen hundred and ninety-three, including, but not limited to travel, postage, advertising and printing $5,125,693

7004-0200 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 funds appropriated herein may be provided in advance; and provided further, that no funds shall be expended from the AA subsidiary, so-called, of this item for the compensation of state employees $750,000

Local Aid Fund 100.0%

7004-0300 For the special commission established by section three hundred and forty-seven of chapter thirty-eight of the acts of nineteen hundred and ninety-five to study municipal cooperation in the greater Boston area; provided, that no funds shall be expended from this item until the city of Boston appropriates an equal amount for the expenses of said commission, prior appropriation continued. .....

Local Aid Fund 100.0%

7004-1966 For the loan program established pursuant to section one hundred and ninety-seven E of chapter one hundred and eleven of the General Laws, as amended, for lead abatement throughout the commonwealth; provided, the terms and conditions of such loans will be based on income eligibility 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 division of housing and community development in consultation with the department of public health; provided further, that funds shall be disbursed from this item on a quarterly basis subject to a disbursement plan which shall be filed in advance with the house and senate committees on ways and means; provided further, that such disbursements shall be made upon demonstration of need by the entity selected by the division to implement the program funded herein $4,500,000

7004-2027 For community economic development; provided, that contracts may be awarded to community-based organizations; and provided further, that no funds shall be expended from the AA subsidiary so-called of this item for the compensation of state employees $900,000

Local Aid Fund 100.0%

7004-2475 For the home ownership opportunity affordable housing program; provided, that all sums appropriated herein shall be used to write down interest rates on soft second mortgage loans, so-called, for low and moderate income first-time home buyers; provided further, that the total payment obligations of home ownership opportunity program contracts do not exceed fifteen million dollars $500,000

7004-3036 For housing services to provide assistance through community-based organizations to low-income tenants in privately-owned housing, and to landlords to maintain such housing; provided, that no funds shall be expended from the AA subsidiary, so-called, of this item for the compensation of state employees $265,000

7004-4314 For the expenses of a service coordinators program established by the division of housing and community development to assist tenants residing in housing develop-

ed pursuant to sections thirty-nine and forty of chapter one hundred and twenty-one B of the General Laws to meet tenancy requirements in order to maintain and enhance the quality of life in said housing $500,000

7004-8878 For the private rental housing development action loan program; provided, that notwithstanding the provisions of any general or special law to the contrary, no new commitments, contracts, or renegotiations of existing contracts shall be entered into during fiscal year nineteen hundred and ninety-seven or any subsequent fiscal year $2,650,494

7004-9005 For subsidies to housing authorities and nonprofit organizations 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 notwithstanding the provisions of any general or special law to the contrary, all housing authorities operating elderly public housing are 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 years of age or older on June thirtieth, nineteen hundred and ninety-five, then receiving rental assistance from the Massachusetts rental voucher program; provided further, that the division of housing and community development shall enforce compliance by local housing authorities with said provisions, and is hereby authorized to take such actions as it deems necessary, including requiring regular, current reports by housing authorities and non-profit organizations operating such public housing, to insure compliance in a timely and equitable manner; provided further, that said division may expend funds appropriated herein for deficiencies caused by certain reduced rentals which may be anticipated in the operation of housing authorities for the first quarter of the subsequent fiscal year; provided further, that no monies shall be expended from this item for the purpose of reimbursing the debt service reserve and capital reserve included in the budgets of housing authorities; provided further, that no funds shall be expended from this item for the compensation of state employees; provided further, that the amount appropriated

herein shall be deemed to meet any and all obligations pursuant to said sections thirty-two and forty; and provided further, that any new reduced rental units developed in fiscal year nineteen hundred and ninety-seven eligible for subsidies pursuant to this item, shall not cause any annualization that results in an amount exceeding the amount appropriated herein $25,305,129

Local Aid Fund 100.0%

7004-9006 For 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 division of housing and community 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 division 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 division 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 division 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 division 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 October twenty-eighth, nineteen hundred and ninety-six, prior appropriation continued. .....

Local Aid Fund 100.0%

7004-9024 For a program of rental assistance for families and elderly persons 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 further, 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 law 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 to be known as the Massachusetts rental voucher program, as such program may hereafter be amended by the division of housing and community development; 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 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 deputy director of said division as a condition of continued eligibility for

a voucher and voucher payments, may require disclosure of social security numbers by participants and members of participants' households in the Massachusetts rental voucher program for use in verification of income with other agencies, departments and executive offices in the commonwealth; provided further, that said vouchers shall be in varying dollar amounts and set by the deputy director based on considerations, including, but not limited to, family size and composition, family income levels, 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 twenty-five dollars per voucher per month shall be determined and paid by said division for administration of the rental assistance program; provided further, that said costs of administration shall not exceed six percent of the appropriation provided herein; provided further, that said six percent shall include, but not be limited to, all expenditures which may be made by the deputy director to conduct or otherwise contract for rental voucher program inspections; provided further, that under no circumstances shall subsidies be reduced for the cost of accommodating the cost of said inspections; 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 said division shall establish the amounts of the mobile vouchers, so-called, and the project-based vouchers, so-called, so that the appropriation herein is not exceeded

by payments for rental assistance and administration; provided further, that said division shall not enter into commitments which will cause it to exceed the appropriation set forth herein; 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 said division may impose certain obligations for each participant in the Massachusetts rental voucher program through a twelve month contract which shall be executed by the participant and the division; provided further, that such obligations may include, but need not be limited to, job training, counseling, household budgeting, and education, to the extent that appropriate programs, as defined in regulations promulgated by the division of housing and community development, are available; provided further, that each participant shall be required to undertake and meet any such obligation as a condition for continued eligibility in the program; provided further, that for continued eligibility each participant shall execute any such twelve month contract on or before September first, nineteen hundred and ninety-five if his or her annual eligibility recertification date occurs between June thirtieth, nineteen hundred and ninety-five and September first, nineteen hundred and ninety-six and otherwise on or before his or her annual eligibility recertification date; provided further, that any participant who is over the age of sixty years or who is handicapped may be exempted from any obligations unsuitable under his or her particular circumstances; provided further, that the division of housing and community development shall submit an annual report to 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 no funds shall be expended from the AA subsidiary, so-called, of this item for the compensation of state employees $42,327,556

7004-9027 For state housing assistance for rental production (SHARP) contracts with sponsors of rental housing projects, financed through the Massachusetts housing finance agency established pursuant to chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, in the form of a loan by the commonwealth to facilitate the construction or rehabilitation of rental housing projects pursuant to the provisions of section seven of chapter five hundred and seventy-four of the acts of nineteen hundred and eighty-three; provided, that notwithstanding the provisions of section twenty-seven of chapter twenty-three B or sections twenty-six and twenty-seven of chapter twenty-nine of the General Laws to the contrary, the division of housing and community development is hereby authorized to enter into such contracts for terms not exceeding fifteen years with annual payment obligations not to exceed thirty-one million seven hundred and two thousand five hundred dollars; provided further, 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-seven for said fiscal year or any subsequent fiscal years; provided further, that the deputy director of said division 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 deputy director shall file a report with the house and senate committees on ways and means, detailing the recovery of said overpayments and recommending alternative uses for said amounts $31,702,500

7004-9030 For the transitional rental assistance program established pursuant to chapter one hundred and seventy-nine of the acts of nineteen hundred and ninety-five; provided, that notwithstanding the provisions of any general or special

law to the contrary, said transitional rental assistance shall be in the form of mobile vouchers, so-called; provided further, that said vouchers shall be in varying dollar amounts and set by the deputy director on considerations including, but not limited to, household size and composition, ranges of household income and geographic location; 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 shall be terminated from the program; provided further, that said division shall pay local housing agencies administering said program an allowance not to exceed twenty-five dollars per voucher per month to cover the costs of administration; 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, but each household shall be required to pay not less than twenty-five percent of their net income, as defined in regulations promulgated by said division, for units if utilities are not provided by the unit owner, or not less than thirty percent of their income for units if utilities are provided by the unit owner; provided further, that payments for said transitional rental assistance may be provided in advance; provided further, that said division shall establish the amounts of the mobile vouchers, so-called, so that the appropriation herein is not exceeded by payments for rental assistance and administration; provided further, that said division shall not enter into commitments which will cause it to exceed the appropriation set forth herein; 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 said division shall submit an annual report to the state bud-

get 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; provided further, that nothing stated herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to any form of housing; and provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement $4,000,000

7004-9101 For federally aided urban renewal community development; provided, that no new contracts shall be entered into during fiscal year nineteen hundred and ninety-seven $97,874

Local Aid Fund 100.0%

7004-9102 For non-federally aided urban renewal community development; provided, that no new contracts shall be entered into during fiscal year nineteen hundred and ninety-seven $191,145

Local Aid Fund 100.0%

7004-9108 For urban revitalization and development, for projects authorized pursuant to section fifty-four of chapter one hundred and twenty-one B of the General Laws; provided, that notwithstanding the provisions of section fifty-three or fifty-seven of said chapter one hundred 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; provided further, that no new commitments shall be entered into during fiscal year nineteen hundred and ninety-seven; and provided further, that one hundred and eighteen thousand dollars shall be expended for grants to the city of Pittsfield $2,323,500

Local Aid Fund 100.0%

7004-9201 For interest subsidies for the private development of affordable housing; 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-seven for said fiscal year or any subsequent fiscal years $8,212,955

7004-9315 For the low income housing tax credit program; provided, that the division of housing and community development may

expend an amount not to exceed four hundred forty-nine 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 deputy director of the division of housing and community development $449,000

7004-9320 For the publication of community profiles, so-called; provided, that the division of housing and community development may expend an amount not to exceed six thousand dollars accrued from fees collected for the printing and distribution costs of "Community Profiles"; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the division of housing and community development is hereby authorized to establish a fee sufficient to cover the costs of printing and distributing said "Community Profiles" $6,000

Federal Appropriations

7004-0300 For the purposes of a federally funded grant entitled, Lead Paint Abatement $3,200,000

7004-0301 For the purposes of a federally funded grant entitled, Lead Paint Initiatives $4,000,000

7004-9011 For the purposes of a federally funded grant entitled, Supportive Housing Demonstration Program $1,300,000

7004-9013 For the purposes of a federally funded grant entitled, Section 8 Existing Housing Program; provided, that the division of housing and community development may provide monthly payments in advance to participating agencies $67,500,000

7004-9014 For the purposes of a federally funded grant entitled, Section 8 Federal Housing Voucher Program; provided, that the division of housing and community development may provide monthly payments in advance to participating agencies $19,000,000

7004-9019 For the purposes of a federally funded grant entitled, Section 8 Moderate Rehabilitation; provided, that the division of housing and community development may provide monthly payments in advance to participating agencies $17,500,000

7004-9020 For the purposes of a federally funded grant entitled, Section 8 New Construction Program; provided, that the division of housing and community development may provide monthly payments in advance to participating agencies $3,915,000

7004-9028 For the purposes of a federally funded grant entitled, HOME; provided, that consistent with applicable federal regulations and the state plan, the division of housing and community development may provide monthly payments.... $9,220,000 in advance to participating agencies .....

7004-9051 For the purposes of a federally funded grant entitled, Shelter Plus Care-Lowell; provided, that consistent with applicable federal regulations and the state plan, the division of housing and community development may provide monthly payments in advance to participating agencies $45,000

7004-9052 For the purposes of a federally funded grant entitled, Shelter Plus Care-Boston; provided, that consistent with applicable federal regulations and the state plan, the division of housing and community development may provide monthly payments in advance to participating agencies $996,000

7004-9053 For the purposes of a federally funded grant entitled, Shelter Plus Care-Southbridge; provided, that consistent with applicable federal regulations and the state plan, the division of housing and community development may provide monthly payments in advance to participating agencies $165,000

7004-9054 For the purposes of a federally funded grant entitled, Shelter Plus Care-New Bedford; provided, that consistent with applicable federal regulations and the state plan, the division of housing and community development may provide monthly payments in advance to participating agencies $50,000

7004-3037 For the purposes of a federally funded grant entitled, Small Cities Community Development Block Grant Program; provided, that consistent with applicable federal regulations and the state plan, the division of housing and community development may provide monthly payments in advance to participating agencies $39,600,000

7004-3050 For the purposes of a federally funded grant entitled, Rural Development Councils $144,700

7004-9009 For the purposes of a federally funded grant entitled, Section 8 Substantial Rehabilitation Program; provided, that the division of housing and community development may provide monthly payments in advance to participate agencies $5,100,000

7004-2030 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 division of housing and community development may provide monthly payments in advance to participating agencies $4,652,700

7004-2033 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 division of housing and community development shall provide monthly payments in advance to participating agencies $40,000,000

7004-2034 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 division of housing and community development may provide monthly payments in advance to participating agencies $9,500,000

Office Of Consumer Affairs And Business Regulation.

7006-0000 For the office of the director of consumer affairs and business regulation, including expenses of an administrative services unit $1,331,848

Division of Banks.

7006-0010 For the operation and administration of the division of banks.... $8,921,627

Division of Insurance.

7006-0020 For the operation and 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 the division of insurance shall maintain a phone system in its western Massachusetts office that will immediately transfer calls made to that office to the consumer assistance office in Boston during any business hours when the western Massachusetts office is closed; and provided further, that the division shall have an employee or other such person answering all initial incoming telephone calls between the hours of nine o'clock ante meridiem and five o'clock post meridiem; provided further, that the division shall designate an employee to handle all incoming calls relative to chapter two hundred and eighteen of the acts of nineteen hundred and ninety-five or regulations promulgated under said chapter two hundred and eighteen $5,042,910

General Fund 60.0%
Highway Fund 40.0%

7006-0030 For the additional costs associated with administration of the division; provided, that the commissioner of insurance shall expend funds from this item for the purpose of maintaining accreditation by the national association of insurance commissioners $3,000,000

Division of Insurance Trust Fund 100.0%

Division of Registration.

7006-0040 For the operation and administration of the division of registration; provided, that the division shall at all times employ no fewer than two hearings officers to facilitate the

processing of the cases pending before the various boards within said division; provided further, that the division of investigator of radio-television technicians shall not be subject to chapter thirty-one of the General Laws; and provided further, that the division shall maintain and staff an office in Springfield $4,548,563

7006-0050 For personnel, administrative, computer, equipment, newsletter and other expansion costs of the board of registration in nursing, in addition to funds available to said board in item 7006-0040 ..... $497,024

Division of Standards.

7006-0060 For the operation and administration of the division of standards $475,050

Department of Public Utilities.

7006-0070 For the operation and administration of the department of public utilities; provided, that notwithstanding the provisions of the second sentence of the first paragraph of section eighteen of chapter twenty-five of the General Laws, the assessments levied pursuant to said first paragraph of said section for fiscal year nineteen hundred and ninety-seven shall be made at a rate sufficient to produce three million seven hundred sixty-one thousand eight hundred and seventy-seven $3,761,877

7006-0080 For the operation and administration of the transportation division $567,616

7006-0090 The department of public utilities may expend revenues collected up to seventy-five thousand dollars for the operation of the energy facilities siting commission $75,000

Alcoholic Beverages Control Commission.

7006-0100 For the operation and administration of the alcoholic beverages control commission; provided, that the commission is hereby authorized and directed to take all steps necessary, up to and including amending its regulations, to eliminate duplication of tasks currently performed by the commission which are also performed by the cities and towns, including but not limited to the per-

formance of investigations; and provided further that on or before March first, nineteen hundred and ninety-seven the commission shall submit a report to the house and senate committees on ways and means which details all steps the commission has taken to fulfill the foregoing directive. $1,013,665

State Racing Commission.

7006-0110 For the operation and administration of the state racing commission $3,592,016

Community Antenna Television Commission.

7006-0120 For the administration of the community antenna television commission $718,276

Board of Registration in Medicine.

7006-0130 For the operation and administration of the board of registration in medicine and the committee on acupuncture, including the cost of the physician profile $1,525,464

Department of Economic Development.

State Appropriations

7007-0100 For the office of the director of the department of economic development $235,647

7007-0101 For minority economic and community development grants; provided, that notwithstanding the provisions of any general or special law to the contrary, the director of economic development, in consultation with the secretary of administration and finance and the deputy director of the division of housing and community development, is hereby authorized and directed to establish a task force on minority economic and community development for the purpose of determining the best uses for the funds appropriated herein; provided further, the task force shall seek and consider the advice of individuals and organizations involved in minority economic and community development including, but not limited to, the recommendations contained in the Hispanic-American advisory commission report; and provided further, that said task force shall submit to the house and senate committees on ways and means the plan for the distribu tion of grants, a time-

line for said distribution, a comprehensive list of grant applicants and a list of awarded grants $495,000

7007-0300 For the operation and administration of the Massachusetts office of business development and the regionalization and job creation program administered by said office, and for marketing and promoting Massachusetts, nationally and internationally, in an effort to attract and retain targeted businesses and industries; provided, that not less than eighty thousand dollars be expended for the Cape Cod economic development council of Barnstable county; and provided further, that not less than two hundred thousand dollars shall be expended for the Center for Advanced Fiberoptic Applications of Southbridge; and provided further that appropriation of said monies shall be contingent upon receipt of matching federal funds; provided further, that not less than eighty thousand dollars be expended to support the economic development activities carried out by the Blackstone Valley chamber of commerce; provided further, that the office maintain business development assistance services to serve southeastern Massachusetts by responding to business inquiries and providing assistance and encouragement in office space at the university of Massachusetts at Dartmouth, for New Bedford and Fall River; provided further, that not less than two hundred fifty thousand dollars be expended for the Massachusetts ventures corporation in the Pioneer Valley; provided further, that not less than one hundred twenty-five thousand dollars shall be obligated as final payment 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 said organization shall submit a plan to the house and senate committees on ways and means detailing how program funding will be maintained in fiscal year nineteen hundred and ninety-eight; provided further, that for any and all advertising and marketing programs funded herein, said office shall be required to report to the house and senate committees on ways and means the number of companies contacted, number of companies responding and number of companies locating to the commonwealth for each program conducted and funded herein $3,623,993

7007-0350 For the purpose of a state matching grant to the Massachusetts manufacturing partnership upon its receipt of federal funds from the technology reinvestment program in the advanced research projects agency of the department of defense, to support the creation of or assistance to manufacturing extension services, alternative deployment pilot projects, technology access programs, and other technology deployment programs; provided, that no funds shall be expended from this item prior to the receipt of federal funds $2,000,000

Commonwealth Economic Development Fund . 100.0%

7007-0500 For the operation and maintenance of the Massachusetts biotechnology research institute for the purpose of promoting the commercialization of new, academic-based research and development, and raising the scientific awareness of the communities of the commonwealth $500,000

Commonwealth Economic Development Fund . 100.0%

7007-0515 For the operation of the Devens Enterprise Commission $250,000

Commonwealth Economic Development Fund . 100.0%

7007-0800 For the state match for a small business development center; provided, that no funds shall be expended from this account until such time as the United States small business administration has executed a grant or contract with the university of Massachusetts at Amherst for the operation of said center; provided further, that the funds expended from this account shall not exceed twenty-five percent of the gross operating cost of said center; and provided further, that quarterly expenditure reports shall be filed with the house and senate committees on ways and means $747,203

7007-0900 For the operation and administration of the office of travel and tourism; provided, that for the purposes of developing the request for proposals, so-called, for any marketing and advertising contract, and for overseeing and evaluating said contract, the office shall implement performance-based standards which shall include, but not be limited to, a correlation between compensation and outcomes; provided further, that said performance-based request for proposals and subsequently awarded contracts shall be submitted to the house and senate committees on ways and means and the joint committee on commerce and labor in

conjunction with the office's explicit expectations, including quantifiable measures, for any marketing and advertising program undertaken with funds appropriated herein; provided further, that not less than two hundred thousand dollars shall be expended for the Baystate games, so-called; provided further, that not less than two hundred thousand dollars shall be expended for the expenses of the Massachusetts international trade council; provided further, that not less than four hundred thousand dollars shall be expended for the operation and administration of the Massachusetts film office; provided further, that one million dollars shall be expended for the production and broadcast expenses of the Evening at the Pops; provided further, that nothing in this appropriation shall commit the commonwealth to any expenditure related to said broadcast and production expenses in future years; provided further, that the office of travel and tourism shall receive advertising rights associated with said program; provided further, that not less than three hundred and fifty thousand dollars shall be expended for the purposes of the Visitor Information Services Travel Alliance ("VISTA") according to section nineteen of chapter one hundred and two of the acts of nineteen hundred and ninety-five; provided, that of said three hundred fifty thousand dollars, one hundred seventy-five thousand dollars shall be assessed against the Massachusetts turnpike authority for the purposes of said Vistor Information Service Travel Alliance; provided further, that such assessments shall be credited to the General Fund; provided further, that said VISTA board shall develop a statewide plan for creating local VINS; provided further, that the VISTA board shall develop a plan to link all visitor and information centers in the commonwealth into a unified visitor information system; provided further, that no later than March first of every year, the VISTA board submit to the house and senate committees on ways and means said plans; provided further, that said VISTA board shall make available grants to operators of visitor facilities in the commonwealth to the locally designated VINS boards to provide support for visitor information and visitor services; provided further, that no less than fifty thousand dollars shall be expended

for a tourist information center on Route 3 in Plymouth operated by the Plymouth County Development Council; provided further, that said operator or VINS board shall comply with the provisions pursuant to section nineteen of chapter one hundred and two of the acts of nineteen hundred and ninety-five; provided further, notwithstanding any general or special law to the contrary, no less than three hundred and fifty thousand dollars shall be annually administered from the grant program established in section twenty-two of said chapter one hundred and two to the VISTA board for the purposes of the VISTA grant program; provided further, the VISTA board is authorized and directed to disseminate said funds in a manner the board deems appropriate for the purposes of the program . . . $10,360,000

Massachusetts Tourism Fund 100.0%

7007-1000 For financial assistance to local tourist councils; pursuant to section fourteen of chapter twenty-three A of the General Laws $4,921,000

Massachusetts Tourism Fund 100.0%

7007-1200 For a program to enhance and improve the prospects of Massachusetts companies and universities to secure federal technology-related funding from programs, including but not limited to, the technology reinvestment program, the regional technology alliance program, the advanced technology program, the small business innovation research program, the cooperative research and development agreements program, the science and technology transfer program, and the various programs of the national science foundation; provided, that amounts appropriated herein shall be administered by the Massachusetts technology park corporation, through its Massachusetts technology collaborative; provided further, that said corporation shall establish an independent advisory panel that includes representatives from Massachusetts industry, universities, and government agencies to advise said corporation relative to the most effective application of funds appropriated herein; provided further, that funds appropriated herein shall be used solely for the purposes of providing technical assistance and proposal support to applicants or prospective applicants; and provided further, that the exec-

utive director shall file a report with the house and and senate committees on ways and means and the house and senate committees on science and technology detailing the activities undertaken with the funds appropriated herein, as well as the results of fiscal year nineteen hundred ninety-six expenditures, by March fifteenth nineteen hundred ninety-seven $875,000

Commonwealth Economic Development Fund . 100.0%

7007-1300 For operation and administration of the Massachusetts international trade council; provided further, that not less than fifty thousand dollars shall be expended for an international trade assistance center in Fall River $777,000

Massachusetts Tourism Fund 100.0%

7007-1500 For the operation and administration of the state office of minority and women business assistance $521,207

7007-2215 For the second year of a state matching grant to fund the council of state government's Yankee Trader Institute as established by section fifty-nine of chapter one hundred and twenty of the acts of nineteen hundred and ninety-five, prior appropriation continued. .....

Federal Appropriations

7007-0002 For the purposes of a federally funded grant entitled, Massachusetts Fisheries Initiative $200,000

7007-0211 For the purposes of a federally funded grant entitled, Massachusetts Modernization Partnership $4,052,312

7007-7000 For the purposes of a federally funded grant entitled, Planning Assistance - Department of Commerce Development $150,000

7007-9007 For the purposes of a federally funded grant entitled, Urban Enterprise Program $4,842,104

Division of Energy Resources.

7007-0600 For the operation and administration of the division of energy resources; provided, that not less than twenty-five thousand dollars shall be expended for a feasibility study of a wood fired energy system at Mount Wachusett community college; and provided further, that said division shall conduct a study to determine the feasibility of merging with the department of public utilities $566,014

7007-0700 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 $187,661

Federal Appropriations

7007-9642 For the purposes of a federally funded grant entitled, Institutional Conservation Program $56,250

7007-9720 For the purposes of a federally funded grant entitled, State Heating Oil and Propane Program $24,404

7007-9742 For the purposes of a federally funded grant entitled, 1981 State Energy Conservation Plan Grant $474,846

7007-9750 For the purposes of a federally funded grant entitled, Erving Paper Mills National Industrial Competitiveness Through Energy $132,242

7007-9757 For the purposes of a federally funded grant entitled, Northeast Regional Biomass Program $30,000

7007-9760 For the purposes of a federally funded grant entitled, Heavy Duty State and Municipal Alternative Fuel Vehicle Demonstration Program $5,000

Department of Education.

Office of the Director of Education.

State Appropriations

7009-0001 For the administration of the office of the director of education established pursuant to the provisions of section forty-six of this act $250,000

7010-0005 For the operation of the department; provided, that not less than seventy-five thousand dollars shall be expended for staff and support services for the education reform and review commission established pursuant to the provisions of chapter seventy-one of the acts of nineteen hundred and ninety-three $8,225,673

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 a 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; and provided further, that the division of elementary, secondary, and occupational education shall, through a competitive procurement process, contract with qualified school transportation business enterprises $12,031,328

Local Aid Fund 100.0%

7010-0016 For the attracting excellence to teaching program established pursuant to section nineteen A of chapter fifteen A of the General Laws as amended by this act; provided, that not less than one hundred and fifty thousand dollars shall be expended for grants to new teachers; provided further, that said teachers shall have graduated in the top fifteen percent of their undergraduate class; and provided further, that said grants shall not exceed one thousand eight hundred dollars per teacher $300,000

Local Aid Fund 100.0%

7010-0017 For grants to charter schools, provided, that the board of education may award grants to charter schools established pursuant to section eighty-nine of chapter seventy-one of the General Laws, as added by section fifty-five of the acts of nineteen hundred and ninety-three; provided further, that said grants shall be awarded to support costs associated with planning and development of said schools; provided further, that charter schools shall submit requests for said grants to the board of education; and provided further, that grants shall be awarded pursuant to guidelines developed by said board $250,000

Local Aid Fund 100.0%

7010-0042 For grants to cities, towns, or regional school districts for the cost of providing magnet educational programs in accordance with the provisions of section thirty-seven I and thirty-seven J of chapter seventy-one of the General Laws; provided, that any payment made under this appro-

priation 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 of such city, town, or regional school district without further 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 the services of 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 appropriated herein $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 in a separate account and shall be expended by the school committee of such city, town or regional school district without further 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 department of labor and workforce development; provided further, that any funds distributed from 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, notwithstanding the provisions of any general or special laws to the contrary; provided further, that each grant awarded herein shall be matched by the recipient from local, federal or private funds; and 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 requirement of the partnerships advancing learning mathematics and science and the community service projects $2,100,000

Local Aid Fund 100.0%

7028-0031 For the expenses of school age children in institutional schools required pursuant to 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.... $8,512,894

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 by other state agencies to the department of education; provided, 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 appropriated herein; and provided further, that notwithstanding the provisions of any general or special law to the contrary, 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 expended from this item $3,508,460

Local Aid Fund 100.0%

7030-1000 For contracts with cities, towns, regional school districts, educational collaboratives, head start programs, and licensed day care providers for early care and education programs, pursuant to the provisions of section fifty-four of chapter fifteen of the General Laws, provided, that any payment made under any such contract with a school district 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 municipal appropriation, notwithstanding the provisions of any general or special law to the contrary; provided, further, that notwithstanding the provisions of said section fifty-four, school districts and head start agencies that served as lead agencies in fiscal year nineteen hundred and ninety-six shall receive the same amounts, subject to the same conditions as in said fiscal year, and in any city or town in which there was only one lead agency in fiscal year nineteen hundred and ninety-five such lead agency shall serve as lead agency to submit proposals pursuant to said section fifty-four; provided, further, that in addition to services provided by Head Start pursuant to this item in fiscal year nineteen hundred and ninety-six, not less than an additional two million dollars shall be made available for services provided by Head Start agencies pursuant to the provisions of said section fifty-four, in fiscal year nineteen hundred and ninety-seven; provided further, that the department shall not enter into any contracts that would cause annualized costs for this item to exceed the amount appropriated herein; provided further, that the amount by which the funds appropriated in this item exceed the amount appropriated in item 7030-1000 of chapter sixty of the acts of nineteen hundred and ninety-four shall be used to provide services to the children of working parents; provided further, that in allocating said funds, the board of education shall give priority consideration to three and four year old children in cities and towns where high concentrations of low income

working families reside; provided further, that not less than one-third of the total slots funded by said amount by which the funds appropriated in this item exceed the amounts appropriated in item 7030-1000 of said chapter sixty shall be for full-day, full-year care that meets the needs of working parents; provided further, that two hundred and fifty thousand dollars shall be made available from this item for a pilot program that involves students from the university of Massachusetts at Lowell and community teamwork, inc. in the provision of child care services; and provided further, that in addition to funds provided to family networks, so called, pursuant to this item in fiscal year nineteen hundred and ninety-six, not less than an additional one million dollars shall be made available for family networks pursuant to the provisions of said section fifty-four of said chapter fifteen $34,309,540

Local Aid Fund 100.0%

7030-1500 For grants to head start programs $6,829,151

Local Aid Fund 100.0%

7030-2000 For training and for drop-out prevention grants and basic skills remediation programs to cities, towns, regional school districts, and educational collaboratives programs; provided, that twenty-five per cent of the funds available for drop out prevention programs shall be awarded to school districts that demonstrate a marked increase in the percentage of students who are graduating from a public high school program; provided further, that any funds distributed from this item shall be deposited with the treasurer of such city, town, regional school district or educational collaborative and held in a separate account and shall be expended by the school committee of such city, town, regional school district or educational collaborative without further appropriation, notwithstanding the provisions of any general or special law to the contrary; provided further, that school councils receiving said grants shall be responsible for spending them in accordance with their school improvement plans as defined by section fifty-nine C of chapter seventy-one of the General Laws; and provided further, that one million four hundred seventy-five thousand nine hundred eighty-eight dollars

shall be allocated to basic skills remediation programs for students in grades one through nine; and provided further, that eighty-nine thousand two hundred and forty-eight dollars be earmarked for the expansion of the Boston-based comprehensive school age parenting program, inc. to accommodate an increased caseload pursuant to chapter five of the acts of nineteen hundred and ninety-five $3,735,968

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 from this item shall be deposited with the treasurer of said city, town or regional school district and held in a separate account and shall be expended without further appropriation by the school committee; provided further, that not more than one percent of the amount appropriated herein shall be expended for administrative costs; provided further, that one million four hundred thousand dollars shall be expended on the school linked services program; provided further, that the commissioner of education shall file a report on the distribution of all funds appropriated herein with the joint committee on education and the house and senate committees on ways and means not later than October fifteenth, nineteen hundred and ninety-six; and provided that no more than three hundred thousand dollars shall be expended for teen dating violence prevention; and provided further that no less than thirty-seven thousand five hundred dollars shall be expended for the North Quabbin Domestic Violence Prevention Program created in this act $11,139,503

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 not less than one hundred thousand dollars be expended for programs including, but not limited to, adult basic education and English as a second language provided by the NDEC educational program, so-called $11,745,465

Local Aid Fund 51.0%

Commonwealth Economic Development Fund .. 49.0%

7035-0004 For reimbursements to cities, towns, 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-six 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 reimbursements to regional school districts for the transportation of pupils; provided, that notwithstanding the provisions of any general or special law to the contrary, the commonwealth's obligation shall not exceed the amount appropriated herein $27,939,604

Local Aid Fund 100.0%

7051-0015 For the administration of the emergency food assistance program $142,000

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 and forty-five of the acts of nineteen hundred and forty-eight, as amended, for first an-

nual 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 said chapter six hundred and forty-five, shall not exceed eighteen million four hundred nineteen thousand and one hundred twenty-eight dollars, six million of which shall be attributed to the total amount to be expended on the education reform funding schedule specified in section sixty-eight of chapter seventy-one of the acts of nineteen hundred and ninety-three; provided further, that projects on the fiscal year nineteen ninety-six priority lists ranked through number twenty-two, inclusive, shall be given priority before any other projects; and provided further, that a report shall be filed semi-annually by the board of education with the house and senate ways and means committees regarding funding commitments $8,384,455

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-seven shall not exceed fourteen million four hundred sixty-three thousand four hundred seventy-one, six million of which shall be attributed to the total amount to be expended on the education reform funding schedule specified in section sixty-eight of chapter seventy-one of the acts of nineteen hundred and ninety-three; provided further, that projects on the fiscal year nineteen ninety-six priority lists ranked through number one hundred and eighteen, inclusive, shall be given priority before any other projects; and provided further, that a report shall be filed semiannually by the board of education with the house and senate committees regarding funding commitments $11,572,731

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 the accounts of school projects for which first annual payments have been made $166,173,474

Local Aid Fund 100.0%

7052-0006 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 (a) educational, engineering and architectural services for 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 $333,903

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 and forty-five of the acts of nineteen hundred and forty-eight, as amended; 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 school children $2,300,000

Local Aid Fund 100.0%

7053-1909 For 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 outreach program, and not less than two hundred thousand dollars shall be expended for the school breakfast outreach program, including reimbursement of municipal expenses, prior appropriation continued $850,000

Local Aid Fund 100.0%

7061-0008 For school aid to cities, towns, regional school districts, counties maintaining agricultural schools and independent vocational schools to be distributed pursuant to the provisions of 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; provided further, that notwithstanding the provisions of section three of this act, each school district which receives aid from this item in fiscal year nineteen hundred ninety-seven, shall expend from this aid not less than fifty dollars per student on professional development expenditures as defined in regulations of the department of education; provided, that said fifty dollars per student shall include twenty-five dollars in such aid previously made available in chapter thirty-eight of the acts of nineteen hundred and ninety-five; provided, that eighteen million two hundred thousand dollars shall be transferred from item 7061-9100 and credited to this item; provided further, that said eighteen million two hundred thousand dollars shall not be subject to the provisions of paragraph (b) of section twelve of chapter seventy of the General Laws; provided further, that notwithstanding the provisions of any general or special law to the contrary, no school district shall receive less than seventy-five dollars per student in chapter seventy aid, so-called, in fiscal year nineteen hundred and ninety-seven; provided, that said aid shall be in addition to the seventy-five dollars per student aid authorized and made available in this item of section

two of chapter thirty-eight of the acts of nineteen hundred and ninety-five; and provided further, that each such district shall report to said department the professional development activities funded by said expenditures and said department shall make a determination as to whether said amounts were expended for professional development activities $2,040,387,637

Local Aid Fund 100.0%

7061-0009 For reimbursement to cities, towns and regional school districts of public school tuition of any school age child placed in a school district other than a home town by, or under the auspices of, the department of transitional assistance or the department of social services pursuant to section ninety-six of chapter seventy-one of the acts of nineteen hundred and ninety-three; provided, that notwithstanding section ninety-six of said chapter seventy-one, said reimbursement, including any amount transferred into this account from item 1599-9100, shall constitute complete satisfaction of the commonwealth's obligation for tuition payments to cities, towns or regional school districts for school aged children placed by, or under the control of, the department of transitional assistance 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 a home town $7,508,959

Local Aid Fund 100.0%

7061-0011 For a reserve to meet unanticipated or extraordinary increases in the minimum required local contribution of a municipality as calculated pursuant to the requirements of this act and chapter seventy of the General Laws, in conjunction with unanticipated or extraordinary decreases in cherry sheet aid, so-called, for such municipalities, or to meet expenses associated with extraordinary increases in enrollment calculated on a percentage basis for such municipalities; and for a reserve to assist regional school districts offset unanticipated funding losses resulting from a member municipality's extraordinary increase or decrease in its minimum required local contribution; provided, however, priority shall be granted to member municipalities of regional, and regional vocational school

districts; provided further, that special consideration shall be given to municipalities experiencing difficulty reaching their foundation budgets; provided further, that a municipality seeking funds hereunder shall apply for a waiver from the department of revenue pursuant to section five hundred and eighty-nine of this act; provided further, that the commissioner of revenue shall issue a finding concerning such waiver applications within thirty days of the receipt thereof, after consulting with the commissioner of education regarding the merits of said application; provided further, that, notwithstanding any general or special law to the contrary, assistance funded by this item shall only be available on a one-time non-recurring basis; provided further, that no funds distributed from this item to a municipality shall be considered base aid nor used in the calculation of the minimum required local contribution for fiscal year nineteen hundred and ninety-eight; and provided further, that eighty-three thousand dollars shall be expended for the town of Holbrook; provided further, that one hundred eighty-two thousand nine hundred forty-nine dollars shall be expended for a rate adjustment for the town of Swansea for its contribution to the Diman regional vocational technical high school in the city of Fall River; provided further, that two million dollars shall be expended for the town of Bourne; provided further, that one million eight hundred thousand dollars shall be expended for the town of Barnstable; provided further, that thirty-nine thousand and thirty dollars shall be expended for the town of Pelham; provided further, that not less than two hundred and fifty thousand dollars shall be expended for the town of Franklin; provided further, that sixty-five thousand dollars shall be expended for the town of Shutesbury; provided further, that two hundred fifty thouand dollars shall be expended for the Mahar regional school district; provided further, that three hundred thousand dollars shall be expended for the town of Newburyport; provided further, that one hundred eighty-seven thousand dollars shall be expended for the Hampshire regional school district; provided further, that forty-five thousand one hundred and thirteen dollars shall be expended for the New Salem-Wendell school district; provided further, that fifty-five thousand dollars shall be

expended for the town of Rowley to meet the extraordinary increase in its minimum contribution to the Triton regional school district; provided further, that thirty thousand dollars shall be expended for the town of Rowe; and provided further, that the department of education shall expend from this item an amount not less than five thousand three hundred fifty-seven dollars to repay the town of Chester for said department's errant school choice program assessment on said town $8,000,000

Local Aid Fund 100.0%

7061-0012 For non-educational costs of residential school programs for students placed by a local school district or ordered by the bureau of special education on appeals, as provided under chapter seventy-one B of the General Laws; provided, that subject to rules and regulations promulgated by the commissioner of education, each city and town shall verify to the commonwealth the cost thereof and upon approval of the commissioner the treasurer shall be authorized to make such payments directly to the service provider for services provided on or after July first, nineteen hundred ninety-six; provided further, that not more than five million dollars may be used to continue and expand voluntary residential placement prevention programs between the department of education and other departments within the executive office of health and human services that develop community based support services for children and their families; and 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 such community-based support services; provided further, that funding provided herein may reimburse private schools for prior fiscal year's tuition; and provided further, that the commonwealth shall not pay more than fifty percent of the cost of any such residential placement $37,851,563

Local Aid Fund 100.0%

7061-9000 For fiscal year nineteen hundred and ninety-seven reimbursements to certain cities, towns and regional school districts for a school choice transportation reimbursement program pursuant to subsection (i) of section twelve B of chapter seventy-six of the General Laws $500,000

Local Aid Fund 100.0%

7061-9010 For fiscal year nineteen hundred and ninety-seven reimbursements to certain cities, towns, and regional school districts pursuant to section nineteen of chapter two hundred and sixty-seven of the acts of nineteen hundred and ninety-five as amended by this act $1,921,965

Local Aid Fund 100.0%

7061-9100 For professional development; provided, that eighteen million two hundred thousand dollars shall be transferred to item 7061-0008 for the purposes of professional development; provided further, that said eighteen million two hundred thousand dollars shall not be subject to the provisions of subsection (b) of section twelve of chapter seventy of the General Laws; provided further, that preference shall be given to public institutions of higher education in the Commonwealth in contracts awarded by the department of education for the professional development of teachers; and provided further, that not less than two hundred thousand dollars shall be expended for the writing project at the university of Massachusetts at Amherst and at Boston for the professional development of teachers $18,400,000

Local Aid Fund 100.0%

7061-9200 For the education technology program, so-called; 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 and ninety-six; provided further, that sixty thousand dollars shall be expended on the Pentucket regional schools for the purpose of creating technology matching partnerships; provided further, that one hundred and fifty thousand dollars shall be expended for equipment purchases by the town of Framingham in accordance with the Framingham school technology plan; provided further, that one hundred and fifty thousand dollars shall be expended for the Hopkinton technology project; provided further, that one hundred and fifty thousand dollars shall be expended for the Athol-Royalston high school wood energy project; and provided further, that the department shall not disburse the funds made available

herein for said project until Athol-Royalston high school demonstrates that it has collected three hundred thousand dollars from local sources $952,686

Local Aid Fund 100.0%

7061-9300 For curriculum frameworks, provided, that the department shall include, pursuant to the second paragraph of section one D of chapter sixty-nine of the General Laws, comprehensive standards in said frameworks which are expressed in terms which lend themselves to objective measurement, define the performance outcomes expected of students, and facilitate comparisons with students of other states and nations $750,000

Local Aid Fund 100.0%

7061-9400 For student and school assessment; provided, that assessment shall center on the academic standards embodied in the curriculum frameworks and shall involve gauges which are relevant and meaningful to students, parents, teachers, administrators, and taxpayers pursuant to paragraph one of section one L of chapter sixty-nine of the General Laws; and provided further, however, notwithstanding the provision of any general or special law to the contrary, assessment of proficiency in english shall be administered in english $6,150,000

Local Aid Fund 100.0%

7061-9600 For payments to state public institutions of higher education for the dual enrollment program, so-called $1,000,000

Local Aid Fund 100.0%

7061-9604 For teacher preparation as approved in the board of education's five year master plan; provided, that not more than three hundred fifty thousand dollars may be expended on the teacher certification system and development program; and provided further, that not more than one million dollars may be expended on the administration certification program $1,350,000

Local Aid Fund 100.0%

7061-9611 For after-school programs as approved in the board of education's five year master plan; provided, that two hundred and fifty thousand dollars shall be expended for

a pilot program in the city of Fall River on preventing violence among youths, prior appropriation continued; provided further, that no less than fifty thousand dollars shall be expended for a pilot program to create a recreation and education advancement program to be administered by the management team created in chapter one hundred thirty-three of the acts of nineteen hundred and eighty-nine; provided further, that two hundred fifty thousand dollars shall be expended for a pilot program in the city of Lawrence to incorporate violence prevention education skills with reading, language, social studies, science, math, and the arts for kindergarten through grade eight; provided further, that said program shall also provide parent training and education in violence prevention; provided further, that not less than one million fifty thousand dollars may be expended on the after school programs; provided further, that no funds from this item may be expended for the educational alternatives for chronically disruptive students program, provided further, that one million dollars shall be expended for service corps and community-based service-learning programs administered by the Massachusetts national and community service commission; and provided further, that two hundred thousand dollars shall be expended for a violence prevention task force and for grants for violence prevention initiatives; and provided further, that two hundred and fifty thousand dollars shall be expended for service corps and community-based service-learning programs administered by the Massachusetts national and community service commission $2,500,000

Local Aid Fund 100.0%

7061-9612 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; provided further, that sending school districts of students attending said academy shall not be required to expend any funds for the cost of said students while in attendance at said academy; provided further, that of the amount appropriated herein, three hundred and seventy-eight thousand dollars shall be obligated for professional

development activities at the school of excellence program at Worcester polytechnic institute, including salary and benefits for so-called master teachers and visiting scholars; and provided further, that the department 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 $819,231

Local Aid Fund 100.0%

7061-9615 For the Mass Ed On-Line program, so-called; provided, 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 and ninety-six; provided that not less than one hundred and fifty thousand dollars shall be allocated as the commonwealth's share of the Federal Technology Reinvestment Project, NII-based Education Consortium, so-called $2,000,000

Local Aid Fund 100.0%

7061-9616 For the family support and adult learning network $200,000

Local Aid Fund 100.0%

7061-9617 For the abstinence-based teen pregnancy prevention program, so-called, to prevent teen pregnancy in the cities of Lawrence, North Adams and Pittsfield; provided, that the funds appropriated herein shall be transferred to the department of public health to administer said program; and provided further, that not less than sixty thousand dollars shall be expended for said program in the city of Pittsfield..... $180,000

Local Aid Fund 100.0%

7061-9618 For the provision of day care vouchers for teen parents in order to allow said parents to attend high school pursuant to the provisions of subsection (i) of section one hundred ten of chapter five of the acts of nineteen hundred and ninety-five; provided, that two million dollars shall be transferred from this item to item 4000-0215 ..... $2,000,000

Local Aid Fund 100.0%

7061-9619 For the purpose of funding the Franklin Institute of Boston; provided, that the Franklin Institute of Boston shall be granted access to the Massachusetts education computer

system; and provided further, that the Franklin Institute of Boston shall be permitted to join the state buying consortium $1

Local Aid Fund 100.0%

7061-9620 For grants to school districts for the costs associated with establishing advanced placement courses; provided, that priority shall be given to those districts not offering advanced placement courses in the nineteen hundred ninety-five to nineteen hundred ninety-six school year $500,000

Local Aid Fund 100.0%

7061-9621 For the administration of a grant program for gifted and talented school age children; provided, that the funds appropriated in this line item shall be in addition to any federal funds available for said program; provided further, that the department shall establish criteria for the purpose of identifying children enrolled in a public school in the commonwealth in grades kindergarten through twelve who excel, or have the potential to excel, beyond their age peers to the extent that said students can benefit from said program; and provided further, that said programs may be made available by any city, town or regional school district. $437,970

Local Aid Fund 100.0%

7061-9622 For grants to school districts to develop portfolio assessments for use in individual classrooms as an enhancement to student assessment; provided, that 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 shall facilitate authentic and direct gauges of student performance; and provided further, that said portfolio assessments, shall not replace the statewide standardized assessment based on the curriculum frameworks $300,000

Local Aid Fund 100.0%

7061-9624 For the funding of the Attleboro Literacy Center $30,000

Local Aid Fund 100.0%

7061-9625 For professional standards for teachers, administration preparation and development, including professional development and recertification of administrators, and the

development and monitoring of professional development programs for teachers as approved in the board of education's five year master plan $1,025,000

7061-9626 For grants and contracts with youthbuild programs certified by Youthbuild USA for the purposes of providing comprehensive youthbuild services to economically disadvantaged young adults; provided, that one hundred twenty-five thousand dollars be used for said programs in the city of Boston; provided further, that seventy-five thousand dollars be used for said programs in the city of Cambridge $500,000

7061-9628 For the establishment and operation of a school-to-career demonstration program in the New Bedford public school system to further develop a systematic program existing at the elementary level to the junior and senior high school levels $125,000

7061-9629 For grants to cities, towns, or regional school districts for early intervention individual tutorial literacy programs designed as a pre-special education referral, short-term intervention for children who are at-risk of failing to learn to read in first grade, provided that said programs are research-based with proven long-term results, identify students in need of additional help no later than mid-first grade, train and provide ongoing training and support to program teachers, and include ongoing documentation and evaluation of results $500,000

Local Aid Fund 100.0%

Federal Appropriations

7010-0013 For the purposes of a federally funded grant entitled, Administration-Desegregation Plans for Massachusetts Public Schools $149,943

7010-2000 For the purposes of a federally funded grant entitled, Goals 2000 - Distribution $5,800,000

7010-2001 For the purposes of a federally funded grant entitled, Goals 2000 - Administration $8,000,000

7010-2002 For the purposes of a federally funded grant entitled, Goals 2000 - Technology $75,000

7010-6610	For the purposes of a federally funded grant entitled, Initial Teacher Professional Development-Administration	$220,000
7010-6611	For the purposes of a federally funded grant entitled, Initial Teacher Professional Development-Distribution	$200,000
7010-9093	For the purposes of a federally funded grant entitled, Partnerships Advancing Learning of Math and Science - Administration	$75,599
7010-9094	For the purposes of a federally funded grant entitled, Partnerships Advancing Learning of Math and Science - Distribution	$1,400,000
7010-9103	For the purposes of a federally funded grant entitled, Math and Science Curriculum Frameworks for Massachusetts	$600,000
7010-9104	For the purposes of a federally funded grant entitled, Math and Science Curriculum Frameworks - Distribution	$160,000
7010-9134	For the purposes of a federally funded grant entitled, Comprehensive School Health Education School Health Restructuring	$130,000
7010-9135	For the purposes of a federally funded grant entitled, Comprehensive School Health Education School Health Restructuring - Distribution	$40,000
7010-9706	For the purposes of a federally funded grant entitled, Common Core Data Project	$48,000
7010-9732	For the purposes of a federally funded grant entitled, Chapter II Education Consolidation and Improvement Act - Administration	$689,437
7027-9116	For the purposes of a federally funded grant entitled, Occupational Education - Distribution	$17,000,000
7027-9123	For the purposes of a federally funded grant entitled, Technical Preparation	$1,900,000
7027-9126	For the purposes of a federally funded grant entitled, Occupational Education - Administration	$1,108,518
7028-0601	For the purposes of a federally funded grant entitled, Education of Handicapped - Administration	$2,262,000
7028-9125	For the purposes of a federally funded grant entitled, Transition Services for Youth with Disabilities - Administration	$51,849

7028-9500 For the purposes of a federally funded grant entitled, Special Education for Culturally and Linguistically Diverse Exceptional Students $325,000

7030-0191 For the purposes of a federally funded grant entitled, Coordination of Technical Assistance for Bilingual Education Programs by S.E.A.S. $44,460

7030-9736 For the purposes of the Chapter II Block Grant Distribution $5,500,000

7030-9780 For the purposes of a federally funded grant entitled, Dwight D. Eisenhower Math and Science Education Program - Administration $80,826

7030-9790 For the purposes of a federally funded grant entitled, Dwight D. Eisenhower Math and Science Education Program - Distribution $3,900,000

7032-0217 For the purposes of a federally funded grant entitled, Robert C. Byrd Honors Scholarship Program - Distribution $570,000

7032-0227 For the purposes of a federally funded grant entitled, Drug Free Schools - Administration $294,895

7032-0228 For the purposes of a federally funded grant entitled, Massachusetts AIDS Education Program $169,035

7032-0230 For the purposes of a federal grant entitled, Drug Free Schools - Distribution $6,600,000

7032-0402 For the purposes of a federally funded grant entitled, Local Education Agencies Education of Children of Low Income Families - Administration $589,320

7032-0403 For the purposes of a federally funded grant entitled, Chapter I - Administration $500,000

7032-9130 For the purposes of a federally funded grant entitled, Foreign Language Assistance - Distribution $100,000

7032-9131 For the purposes of a federally funded grant entitled, Foreign Language Assistance - Administration $41,000

7033-9401 For the purposes of a federally funded grant entitled, Christa McCauliffe - Administration $1,200

7033-9402 For the purposes of a federally funded grant entitled, Christa McCauliffe - Distribution $40,000

7035-0013 For the purposes of a federally funded grant entitled, Education of the Handicapped - Distribution $1,341,716

7035-0116	For the purposes of a federally funded grant entitled, Chapter I, Education Consolidation and Improvement Act - Distribution	$125,000,000
7035-0126	For the purposes of a federally funded grant entitled, Neglected and Delinquent Children	$725,000
7035-0136	For the purposes of a federally funded grant entitled, Children in State Adult Correctional Institutions	$131,546
7035-0146	For the purposes of a federally funded grant entitled, Migrant Education	$3,300,000
7035-0151	For the purposes of a federally funded grant entitled, Homeless Children Youth Exemplary Grant	$400,000
7035-0156	For the purposes of a federal grant entitled, Chapter I Capital Expenses for Private Schools	$1,600,000
7035-0157	For the purposes of a federal grant entitled, Chapter I Program Improvement	$650,000
7035-0158	For the purposes of a federally funded grant entitled, Massachusetts Educational Program for Homeless Children	$44,460
7035-0166	For the purposes of a federally funded grant entitled, Even Start Family Literacy - Distribution	$1,600,000
7035-0167	For the purposes of a federally funded grant entitled, Even Start Family Literacy - Administration	$70,560
7035-0316	For the purposes of a federally funded grant entitled, Education of the Handicapped - Distribution	$59,000,000
7035-0713	For the purposes of a federally funded grant entitled, Early Childhood Incentive - Administration	$221,516
7035-0716	For the purposes of a federally funded grant entitled, Preschool Incentive - Distribution	$7,400,000
7035-0718	For the purposes of a federally funded grant entitled, Preschool Incentive - Discretionary	$523,566
7038-0002	For the purposes of a federally funded grant entitled, Adult Basic Education - Administration	$290,330
7038-0106	For the purposes of a federally funded grant entitled, Adult Basic Education - Distribution	$4,500,000

7038-0109 For the purposes of a federally funded grant entitled, Adult Education for the Homeless $70,000

7038-0110 For the purposes of a federally funded grant entitled, Adult Education for the Homeless $430,000

7038-0150 For the purposes of a federally funded grant entitled, National Workplace Literacy Program - Administration $66,188

7038-0151 For the purposes of a federally funded grant entitled, National Workplace Literacy Program - Distribution $800,000

7038-0195 For the purposes of a federally funded grant entitled, State Literacy Resource Centers $150,000

7038-0197 For the purposes of a federally funded grant entitled, Staff Development $180,000

7038-9002 For the purposes of a federally funded grant entitled CNCS School Based-Administration $20,000

7038-9003 For the purposes of a federally funded grant entitled, CNCS School Based - Administration $56,000

7038-9004 For the purposes of a federally funded grant entitled, CNCS School Based - Distribution $370,000

7038-9203 For the purposes of a federally funded grant entitled, CNCS American Conservation and Youth Service Corps - Administration $60,000

7038-9204 For the purposes of a federally funded grant entitled, CNCS American Conservation and Youth Service Corps - Distribution $6,250,000

7038-9205 For the purposes of a federally funded grant entitled, Americorps-Training $135,000

7038-9402 For the purposes of a federally funded grant entitled, CNCS National Demonstration Models-Administration $10,000

7038-9403 For the purposes of a federally funded grant entitled, CNCS National Demonstration Models - Administration $26,775

7038-9404 For the purposes of a federally funded grant entitled, Learn and Serve America Community Based Training - Administration $130,000

7038-9724 For the purposes of a federally funded grant entitled, Emergency Immigrant Education Assistance - Administration $27,000

7038-9746 For the purposes of a federally funded grant entitled, Emergency Immigrant Education Assistance - Distribution. . . . $1,000,000

7053-2105 For the purposes of a federally funded grant entitled, Special Food Distribution Cash $550,000

7053-2111 For the purposes of a federally funded grant entitled, Special Milk Program $625,000

7053-2112 For the purposes of a federally funded grant entitled, School Lunch, Section 11 - Special Assistance $60,000,000

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 $16,000,000

7053-2117 For the purposes of a federally funded grant entitled, Child Care Food Program $40,000,000

7053-2118 For the purposes of a federally funded grant entitled, School Food Service-Management and Related Activities $200,000

7053-2126 For the purposes of a federally funded grant entitled, Temporary Emergency Food Assistance $1,000,000

7053-2202 For the purposes of a federally funded grant entitled, Special Summer Food Service Program for Children $750,000

7062-0008 For the purposes of a federally funded grant entitled, Nutrition Program - Administration $1,173,506

7062-0018 For the purposes of a federally funded grant, entitled, Cooperative Demonstration (School to Work) . . . . .

Board of Higher Education.

State Appropriations

7066-0000 For the operation of the board of higher education established by chapter fifteen A of the General Laws including, but not limited to, a division of fiscal affairs, a division of labor relations and affirmative action, a division of research, policy and planning, a division of student affairs, a business office, an office of general counsel, and for the operation of the higher education computer network; provided, that the council may require the state and com-

munity colleges to provide communication accessability for the deaf and hard of hearing where necessary; provided further, that not less than one hundred twenty-five thousand dollars shall be expended for campus technical assistance grants so-called; provided further, that notwithstanding the provisions of any general or special law to the contrary, data processing services of the computer network may be rendered to agencies, institutions and other educational organizations in the commonwealth at no expense to said network; and provided further, that charges for using said services shall be allocated to said agencies, institutions, and organizations pursuant to a schedule of fees and charges for said services $3,265,400

7066-0002 For a revenue retention account for the operation of the higher education computer network; provided, that said network is authorized to expend up to one hundred fifty thousand dollars in fees and charges collected for data processing services rendered to agencies, institutions and other educational organizations in the commonwealth $150,000

7066-0005 For the commonwealth's share for the cost of the compact for education $60,500

7066-0009 For the New England board of higher education $605,177

7066-0100 For a reserve to be distributed according to guidelines established by the board of higher education for campus initiatives or projects to improve academic programs and student performance, campus accountability, efficiency in management, and cost-effective use of resources; provided, that the board shall report quarterly to the house and senate committees on ways and means and the joint committee on education, arts and humanities, which institutions applied for said grants, which institutions received said expenditures or grants, and the intended projects and project outcomes; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the board may allocate funds from this item to other items of appropriation; and provided further, that the board shall submit an allocation plan to the house and senate committees on ways and means ten days prior to any allocation of funds from this item $3,800,000

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 $4,061,741

7070-0032 For student financial aid to provide matching funds to the supplemental educational opportunity grant program, the college work study program and the Perkins loan program, as determined by the board of higher education $1,569,105

7070-0065 For a scholarship program, to provide financial assistance to Massachusetts students enrolled in and pursuing a program of higher education in any approved public or independent college, university, school of nursing, or any other approved institution furnishing a program of higher education; provided, that the Massachusetts state scholarship office is hereby authorized to expend not less than twelve million six hundred thousand 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 not less than ten million dollars shall be made available for the no-interest loan program pursuant to section fifty-one of this act; provided further, that of said ten million dollars, not more than seven hundred seventy-five thousand dollars be spent for the administration of said no-interest loan program; provided further, that of the sum appropriated herein, not less than one 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; provided further, that the Massachusetts state scholarship office is authorized and directed to expend no less than ten million dollars to provide for the matching scholarship grants to needy Massachusetts students at participating 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, 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 said 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; and provided further, that not more than nine hundred fifty-four thousand one hundred seventy-seven dollars shall be expended on the administration of the scholarship program $67,734,050

7077-0010 For the purchase of scientific, technological and other educational reference materials for the libraries of the system of public higher education institutions $11,000,000

7077-0023 For a contract with the Tufts school of veterinary medicine; 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 $4,525,000

7100-0200 For the operation of the university of Massachusetts; 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, 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 not less than two hundred seventy-five thousand dollars shall be expended for the analysis of any narcotic drug and/or synthetic substitute, poison, drug, medicine or chemical at the university of Massachusetts medical school in order to support the law enforcement efforts activities of the district attorney and the police departments of the cities and towns of the middle district; provided further, that not less than forty thousand dollars shall be expended for the costs associated with the publication and distribution of the popular history of work and labor in Massachusetts titled the "Commonwealth of Toil"; 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 Massachusetts at 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 six hundred twenty-one 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 and 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; provided further, that four hundred ninety-nine thousand nineteen 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 institute for Asian-American studies; provided further, that not less than seventy-five thousand dollars shall be expended on an artificial reef program; including, but not limited to, the creation of a model program to enhance and rehabilitate marine habitats at the university of Massachusetts at Dartmouth; provided further, the university of Massachusetts at Dartmouth shall enter into a cooperative agreement with the division of fisheries and wildlife within the department of fisheries, wildlife and law enforcement for said division to administer said program; provided further, that not less than six hundred twenty-eight thousand eight hundred and thirty-four dollars be expended for the expense of a gerontology institute; provided further, that of the amount appropriated herein, not 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 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, Barnstable, 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 de-

tailing the plan for maintenance of statewide delivery of services; provided further, that not less than thirty-five thousand dollars be expended for the continuing education program in Attleborough operated by the university of Massachusetts at Dartmouth; provided further, that not less than four hundred forty-three thousand two hundred dollars be expended for the cranberry experiment station; provided further, that a board of oversight shall be responsible for the purposes of said station; provided further, that not less than three hundred thousand dollars be expended for the John W. McCormack Institute; provided further, that not less than one hundred seventy-nine thousand six hundred and thirty-five dollars be expended for the Center for Women in Politics and Public Policy at the John W. McCormack Institute of Public Affairs; provided further, that two hundred thousand dollars shall be obligated for the university of Massachusetts economic project, so-called; provided further, that not less than one million, five hundred thousand dollars be expended for the emerging technology centers, pursuant to sections thirty-eight through forty-two, inclusive, of chapter seventy-five of the General Laws; provided further, that not less than three hundred eighty thousand dollars be obligated for the start-up costs associated with the center of marine environmental science electronic technology and fisheries at the university of Massachusetts at Dartmouth, including a study and model program for artificial reef construction and fisheries development; provided further, that fifty thousand dollars shall be obligated for rural development councils; provided further, that one hundred ten thousand dollars shall be expended for the development of a court interpreter's study program at the university in conjunction with the university's partnership with the trial courts; provided further, that three hundred fifty thousand dollars shall be expended for a satellite medical examiners office; provided further, that two hundred thousand dollars shall be expended for the center for Portuguese studies at the university of Massachusetts at Dartmouth; provided further that one hundred thousand dollars shall be expended for an outreach program at Martha's Vineyard by the university of Massachusetts at Dartmouth in conjunction with Nathan

Mayhew Seminars for the purposes of establishing a long distance learning center; and provided further, that the board of trustees may require said institutions to provide communication accessibility for the deaf and hard of hearing where necessary $372,313,119

7109-0100 For Bridgewater state college $23,446,414

7109-1202 For the operation of the John Joseph Moakley center for technological applications at Bridgewater state college; provided, that said initiative shall be conducted on the site of said college for the purposes of technological applications to classroom teaching, initiatives in distance learning and economic development in conjunction with business and industry in southeastern Massachusetts $593,000

7110-0100 For Fitchburg state college $19,784,808

7112-0100 For Framingham state college; provided, that not less than four hundred thousand dollars shall be expended for the Christa McAuliffe center; and provided further, that not less than ten thousand dollars shall be expended for global education $16,496,136

7113-0100 For North Adams state college; provided that not less than twenty-five thousand dollars shall be expended for the operation of a blue ribbon task force on community education with the assistance of the state college council of presidents, so-called $10,878,985

7114-0100 For Salem state college; provided, that a sum of not less than thirty thousand dollars shall be expended for the development of an aquaculture program by Salem State College pursuant to section two hundred seventy-four of chapter thirty-eight of the acts of nineteen hundred and ninety-five $24,612,065

7114-0101 For a reserve for the operation and maintenance associated with the acquisition of the GTE/Sylvania property located in the city of Salem; provided, that an amount not to exceed one hundred thousand dollars may be expended for costs associated with said acquisition, including, but not limited to, legal fees, appraisals, environmental studies, and short term consultant services, as needed $600,000

7115-0100 For Westfield state college $15,603,770

7116-0100 For Worcester state college $16,018,351

7117-0100 For the Massachusetts college of art $10,071,239

7118-0100 For the Massachusetts maritime academy $8,922,189

7119-0100 For a health and welfare reserve for eligible personnel employed at the state colleges $1,167,125

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; provided, that not less than two hundred thousand dollars shall be obligated for programs that train business, industry, higher education, medical laboratory and high school laboratory personnel to reduce toxic waste at the source utilizing the Microscale chemistry technology $1,763,114

Toxics Use Reduction Fund 100.0%

7502-0100 For Berkshire community college $7,440,832

7503-0100 For Bristol community college; provided that sixty thousand dollars shall be expended for the purpose of tracking, monitoring, evaluating, and reporting on individuals who are enrolled at Bristol community college while receiving public assistance; and provided further, that said tracking, monitoring, evaluating, and reporting shall include administrative and computer assistance in order to enable communication with the department of transitional assistance regarding these individuals $9,884,691

7504-0100 For Cape Cod community college $7,738,309

7504-0101 For the operation of an environmental technology education and job training partnership through the Cape Cod community college; provided that the Cape Cod community college shall coordinate through a partnership with Massachusetts maritime academy and university of Massachusetts at Dartmouth; provided further, that this initiative shall be conducted at the Massachusetts military reservation, or at any other site on Cape Cod to be determined by the Cape Cod community college for the purposes of on-site education and training in the use of alternative technologies to clean up designated superfund sites; provided further, that preference shall be given to lo-

cal applicants; provided further, that the executive office of environmental affairs and the university of Massachusetts at Dartmouth are hereby authorized and directed to participate in the testing and evaluation of innovative technologies $124,438

Toxics Use Reduction Fund 100.0%

7505-0100 For Greenfield community college; provided, that no less than one hundred and ninety-five thousand dollars shall be obligated for the heritage bank building acquired by the Greenfield community college foundation $6,762,177

7506-0100 For Holyoke community college $11,736,343

7507-0100 For Massachusetts Bay community college $8,768,376

7508-0100 For Massasoit community college $15,039,815

7509-0100 For Mount Wachusett community college; provided, that one hundred thousand dollars shall be expended for the operation of the Vietnam Memorial Community Fitness and Wellness Center at Mount Wachusett Community College; and provided further that two hundred thousand dollars shall be expended for the creation of a wood technology center at Mount Wachusett Community College $7,865,050

7510-0100 For Northern Essex community college $12,811,992

7511-0100 For North Shore community college $14,902,442

7512-0100 For Quinsigamond community college $9,437,861

7514-0100 For Springfield technical community college $16,766,072

7514-0101 For a reserve for the operation and maintenance expenses incurred by Springfield technical community college associated with the acquisition of the Digital property, so-called; provided, that an amount not to exceed two hundred thousand dollars may expended for costs associated with said acquisition, including, but not limited to, legal fees, appraisals, environmental studies, and short term consultant services, as needed; and 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, prior appropriation continued. .....

7514-0102 For the Massachusetts center for telecommunications and information technology, as designated by chapter two hundred seventy-three of the acts of nineteen hundred and ninety-four, to establish, operate and maintain a satellite up-link antenna and decoder to provide telecommunications support for cable television programming, distance learning curricula, and telecommunications intensive company facilities $250,000

7515-0100 For Roxbury community college $8,605,210

7515-0120 For the operation of the Reggie Lewis track and athletic center at Roxbury community college $1,000,000

7515-0121 The Reggie Lewis track and athletic center at Roxbury community college may expend an amount not to exceed two hundred forty-seven thousand and one hundred dollars received from fees, rentals, and facility expenses associated with the running and operation of major high school track meets, high school dual meets, major national track meets, conferences, other special athletic events, meetings, Roxbury community college athletic events and programs; provided, that only expenses for contracted services associated with the aforementioned events shall be funded from this item $247,100

Reggie Lewis Track and Athletic Center Fund . 100.0%

7516-0100 For Middlesex community college $13,091,047

7518-0100 For Bunker Hill community college; provided, that one hundred and two thousand dollars shall be obligated for the life focus center $12,587,077

7520-0423 For a health and welfare reserve for eligible personnel employed at the community colleges $1,257,228

Federal Appropriations

7066-1966 For the purposes of a federally funded grant entitled, Connectivity to NSFNET - Mass. Public Education $4,000

7066-1969 For the purposes of a federally funded grant entitled, Higher Education Computer Network Connectivity Project National Science Fund $196,173

7066-6007 For the purposes of a federally funded grant entitled, the Dwight D. Eisenhower Mathematics and Science and Edu-

	cation Act	$6,996
7066-6092	For the purposes of a federally funded grant entitled, the Dwight D. Eisenhower Mathematics and Science and Education Act	$1,540,332
7070-0017	For the purposes of a federally funded grant entitled, State Student Incentive Grant Program	$2,328,053
7070-0018	For the purposes of a federally funded grant entitled, Paul Douglas Teacher Scholarship	$307,660
7110-9740	For the purposes of a federally funded grant entitled, Upward Bound	$165,000
7140-3093	For the purposes of a federally funded grant entitled, Polymer Building Construction UMass Amherst	$1,210,118
7113-9731	For the purposes of a federally funded grant entitled, Services to Disadvantaged Students	$63,001
7113-9740	For the purposes of a federally funded grant entitled, Substance Abuse Prevention	$8,000
7114-9714	For the purposes of a federally funded grant entitled, Special Programs for Disadvantaged Students	$279,076
7114-9746	For the purposes of a federally funded grant entitled, U.S. Department of Education Upward Bound Program	$179,500
7503-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students	$281,027
7503-9714	For the purposes of a federally funded grant entitled, Upward Bound Program	$221,465
7505-0520	For the purposes of a federally funded grant entitled, Cooperative Education Payroll	$13,379
7505-0530	For the purposes of a federally funded grant entitled, Other Substance Abuse Prevention Payroll	$52,908
7505-0560	For the purposes of a federally funded grant entitled, Title III - Strengthening Institutions	$162,042
7505-0565	For the purposes of a federally funded grant entitled, Project Update - Greenfield Community College	$13,938
7508-9745	For the purposes of a federally funded grant entitled, Title III - Institutional Aid Program	$474,135

7509-9714	For the purposes of a federally funded grant entitled, Special Services Disadvantaged	$138,583
7509-9716	For the purposes of a federally funded grant entitled, IAP - Strengthening Institutions	$38,393
7509-9718	For the purposes of a federally funded grant entitled, Talent Search - Mount Wachusett Community College	$100,375
7509-9834	For the purposes of a federally funded grant entitled, College Work Study	$100,000
7510-9731	For the purposes of a federally funded grant entitled, Special Services	$204,856
7510-9734	For the purposes of a federally funded grant entitled, Federal Cooperative Education Grant	$52,287
7511-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students	$333,509
7511-9713	For the purposes of a federally funded grant entitled, IAP - Strengthening Institutions Program	$331,066
7511-9715	For the purposes of a federally funded grant entitled, Prevention an all College Imperative	$30,000
7511-9716	For the purposes of a federally funded grant entitled, Teaching Literature Using Multimedia	$51,262
7511-9740	For the purposes of a federally funded grant entitled, Upward Bound	$263,423
7512-9726	For the purposes of a federally funded grant entitled, Title III - Strengthening Institutions Program	$199,874
7514-9720	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students Project	$172,103
7514-9721	For the purposes of a federally funded grant entitled, Cooperative Education Program	$12,827
7514-9745	For the purposes of a federally funded grant entitled, STCC Health Career Center	$179
7515-9726	For the purposes of a federally funded grant entitled, Title III - Institutional Aid Program Part A Strengthening.	$9,481
7515-9746	For the purposes of a federally funded grant entitled, Learning to Learn	$108,882

7518-9747 For the purposes of a federally funded grant entitled, Student Literacy Corps Program $200,000

7518-9748 For the purposes of a federally funded grant entitled, Student Support Services $179,301

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Office of the Secretary.

8000-0000 For the office of the secretary $550,022

Highway Fund 85.0%
General Fund 15.0%

8000-0010 For community policing grants to be administered by the executive office of public safety to be awarded to those cities which have experienced extraordinary health and safety problems as a result of having increased gang activity and street violence; provided further, that no funds shall be awarded to the department of state police; provided further, that not more than seventy-five thousand dollars shall be provided for the safe city program, so-called, in the city of Lynn; provided further, that grants shall be awarded by the executive office of public safety to the municipalities of Agawam, Attleborough, Boston, Brockton, Cambridge, Chelsea, Chicopee, Dedham, Fall River, Fitchburg, Framingham, Haverhill, Holyoke, Lawrence, Lowell, Lynn, Medford, Methuen, New Bedford, North Attleborough, Orange, Pittsfield, Quincy, Revere, Rockland, Somerville, Springfield, and Worcester in an amount not less than the amount of the grant or grants received in fiscal year nineteen hundred and ninety-six, but in no circumstance should any listed communities receive less than forty thousand dollars; provided further, that all grants are made pursuant to the review and approval of grant proposals submitted by said municipalities to the executive office of public safety; provided further, that monies awarded by said executive office of public safety may include grants made for community policing in state-aided public housing developments; provided further, that an additional sum of two hundred fifty thousand dollars shall be made available for community policing in the Bowdoin Street-Geneva Avenue and Uphams Corner

sections so-called, of Dorchester in the city of Boston and provided further, that not later than September fifteenth, nineteen hundred and ninety-six, the executive office of public safety shall submit a report detailing the amount of grants awarded to said grant recipients and descriptions of said grants to the house and senate committees on ways and means $12,660,000

Local Aid Fund 100.0%

8000-0020 For the statewide emergency telecommunications board; 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 $320,435

Local Aid Fund 100.0%

8000-0040 For police career incentives to reimburse certain cities and towns for career incentive salary increases for police officers $12,660,093

Local Aid Fund 100.0%

8000-0101 The office of the secretary is hereby authorized to expend up to a maximum of thirty thousand dollars in revenues collected from fees 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 $3,338,101

Local Aid Fund 50.0%
General Fund 50.0%

Criminal History Systems Board.

State Appropriation

8000-0110 For the criminal history systems board; provided, that said board is hereby directed to collect five 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; provided further, that seventy-five thousand dollars shall be expended for the purpose of enabling local housing authorities access to criminal offense information when qualifying applicants for state-assisted housing $4,319,261

Highway Fund 50.0%
Local Aid Fund 50.0%

Federal Appropriations

8000-0009 For the purposes of a federally funded grant entitled, Information System Improvement $595,000

8000-0113 For the purposes of a federally funded grant entitled, Integrated Criminal Justice Information System $362,150

8000-0179 For the purposes of a federally funded grant entitled, Fingerprint Supported Records $30,075

8000-0180 For the purposes of a federally funded grant entitled, Criminal Justice Information System $16,250

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, inclusive, of chapter one hundred and forty-three of the General Laws $344,682

8000-0161 For the registration and licensing of home improvement contractors pursuant to chapter one hundred and forty-two A of the General Laws $106,536

Architectural Access Board.

8000-0500 For the architectural access board $191,299

Department of State Police.

State Appropriations

8100-0000 For the administration and operation of the department of state police; provided, that the department shall maintain 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 department shall enter into an interagency agreement with the metropolitan district commission to provide police coverage on commission properties and parkways; and 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 $126,297,280

Highway Fund 88.2%
Local Aid Fund 9.5%
General Fund 2.3%

8100-0006 For private police details; provided, that the department is hereby authorized to expend up to fourteen million one hundred fifty thousand dollars in revenues collected from fees charged for private police details, and the costs of administering said details; and provided, further, that notwithstanding any general or special law to the contrary, the department of state police is hereby authorized to incur, and the comptroller may certify for payment, expenses and liabilities during fiscal year nineteen hundred and ninety-seven to be charged to this item in an amount not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system for the purposes stated herein to accommodate the delayed receipt of revenues authorized to be retained in this item during fiscal year nineteen hundred and ninety-seven $14,150,000

8100-0007 For overtime of state police officers; provided, that not less than two hundred twenty-nine thousand five hundred sixteen 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 thirty- three thousand five hundred seventy dollars shall be ex-pended at the direction of the western district attorney; provided further, that not less than one hundred fifteen thousand five hundred seventy dollars shall be expended at the direction of the northwestern district attorney; provided further, that not less than three hundred ten thousand seven hundred forty-five dollars shall be expended at the direction of the Norfolk district attorney; provided further, that not less than two hundred seventeen thousand six hundred 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 not 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 not less than seventy thousand seven hundred nineteen dollars shall be expended at the direction of the Berkshire district attorney; and provided further, that not less than four hundred sixty thousand one hundred forty-one dollars shall be expended at the direction of the office of the attorney general; provided further, that the balance of this appropriation may be expended for the overtime costs incurred by the department; provided further, that the department shall ensure that the several district attorneys and the office of the attorney general receive sufficient funds from this item to meet all overtime demands; and provided further, that the state police shall provide monthly reports to each district attorney's office delineating the amount of overtime hours used, the cost of said overtime, the amount of overtime dollars spent to date and the amount of available overtime dollars for said district attorney's office $12,964,692

Highway Fund 88.2%
Local Aid Fund 9.5%
General Fund 2.3%

8100-0100 For the administration and operation of the crime laboratory; provided, that the secretary of public safety is directed to maintain the satellite western Massachusetts crime laboratory located at the Agawam criminal justice training council; and provided further, not less than two hundred thousand dollars shall be made available for said western Massachusetts crime laboratory $1,558,715

Highway Fund 88.2%
Local Aid Fund 9.5%
General Fund 2.3%

8100-0150 For the administration and operation of an automated fingerprint identification system $437,688

Highway Fund 88.2%
Local Aid Fund 9.5%
General Fund 2.3%

8100-0200 For the administration and operation of a motor carrier safety assistance program $444,603

Highway Fund 100.0%

8100-0201 The department of state police is hereby authorized and directed to expend up to one million fifty thousand dollars from reimbursements received from the motor carrier safety assistance program for the costs of said program, including personnel $1,050,000

8100-0300 For the administration and operation of a drug enforcement administration task force $73,720

Highway Fund 85.0%
General Fund 15.0%

8100-9999 For the payment of charges assessed to the department of state police for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called; provided that, notwithstanding the provisions of any general or special law to the contrary, prior to April fifteenth, nineteen hundred and ninety-seven all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that after said date, the commissioner of the department of state police, with the approval of the secretary of administration and finance, is hereby authorized to transfer from said DD subsidiary to

the KK subsidiary, so-called; or the NN subsidiary, so-called; of this account, an amount not to exceed fifteen percent of the funds appropriated herein, if the secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the charges owed by the department for workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback are less than the amount appropriated herein, (2) that the department does not require any supplemental appropriation in any of its other items of appropriation, (3) that the department is expected to meet the revenue targets established in sections one A and B of this act, and (4) that the department has not expended any funds for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called, in any of its other items of appropriation; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of funds between subsidiaries as authorized herein; and provided further, that, no funds shall be scheduled to any subsidiary in this account which is not explicitly referenced herein $2,398,331

Highway Fund 88.2%
Local Aid Fund 9.5%
General Fund 2.3%

Federal Appropriations

8100-2058 For the purposes of a federally funded grant entitled, N.E.S.P.A.C. - Regional Investigation $1,518,962

8100-9706 For the purposes of a federally funded grant entitled, Cannabis Eradicate/Controlled Substance Prosecution DEA Agreement 21 ..... $57,000

Criminal Justice Training Council.

8200-0200 For the operation of programs conducted by the Massachusetts criminal justice training council $3,000,000

Local Aid Fund 100.0%

Department of Public Safety.

State Appropriations

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 $843,385

8312-1000 For the operation of the bureau of special investigations; provided, that investigative positions for the front-end detection program shall not be subject to the provisions of chapter thirty-one of the General Laws $6,338,000

8315-1000 For the division of inspections; provided, that the expenses of the state boxing commission shall be paid from this item; provided further, that not less than thirty thousand dollars shall be made 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 the department shall hire an additional engineer inspector; provided further, that said inspector's duties shall include, but not be limited to administering pipefitter license examinations; provided further, that said additional engineer inspector shall be a regular state employee compensated from the AA subsidiary, so-called, of this item; provided further, that said additional engineer inspector position shall be in addition to any such positions added during fiscal year nineteen hundred ninety-five; 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 not later than September first, nineteen hundred and ninety-six, the secretary of administration and finance is hereby authorized and directed to file with the house and senate committees on ways and means a report detailing the level of resources necessary to carry out the provisions of chapters one hundred forty-three and one

hundred forty-six of the General Laws $3,473,351

Department of Fire Services.

8314-1000 For the fire prevention program; provided, that one hundred thousand dollars shall be expended for a Suffolk county based arson prevention program; provided further, that of the amount appropriated herein eight hundred sixty-two thousand two hundred and sixty-three 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 item; and provided further, that the expenses of the fire safety commission shall be paid from this item $1,142,940

8314-1100 For the underground storage tank program and the administrative expenses associated with the implementation of 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 said administrative expenses of the underground storage tank program $462,114

Underground Storage Tank Petroleum Product Cleanup Fund 100.0%

8314-1200 For underground storage tank reimbursements, to parties that have cleaned up spills of petroleum products pursuant to chapter twenty-one J of the General Laws $9,000,000

Underground Storage Tank Petroleum Product Cleanup Fund 100.0%

8314-1300 For the underground storage tank administrative review board pursuant to chapter twenty-one J of the General Laws $835,584

Underground Storage Tank Petroleum Product Cleanup Fund 100.0%

8314-1400 For underground storage tank municipal grants, to remove and replace said tanks pursuant to section two of chapter twenty-one J of the General Laws and section thirty-seven A of chapter one hundred forty-eight of the General Laws. . . . $2,000,000

Underground Storage Tank Petroleum Product Cleanup Fund 100.0%

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; provided, that notwithstanding the provisions of any general or special law to the contrary, the estimated expenses of the administration of the academy, including the estimated expenses of training facilities and curriculum for firefighting personnel and training programs, shall not exceed two million seven hundred ten thousand one hundred and fifteen dollars per fiscal year; provided further, that not less than forty-eight thousand nine hundred and ninety-two dollars shall be available for the community-based fire prevention program in the Fall River area; provided further, that the funds necessary to support this item 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; and provided 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 Local Aid Fund by not hiring said personnel in this item $2,710,115

Federal Appropriation

8314-9707 For the purposes of a federally funded grant entitled, Underground Storage Tank Registry Program $162,500

Registry of Motor Vehicles.

State Appropriations

8400-0001 For the administration and operation of the registry of motor vehicles, including the title division; provided, that the po-

sitions 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 the registry shall replace the rotary dial telephone in the Northampton registry office with a state of the art touch-tone telephone; 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 registry computer, which reflects the proportionate use of said computer by the merit rating board, shall be assessed to insurance companies doing motor vehicle insurance business within the commonwealth, pursuant to section one hundred eighty-three of chapter six of the General Laws; provided further, that the registry shall operate an office in Fall River; and provided further, that the registry of motor vehicles establish and maintain a record of all vehicles leased within the commonwealth for a period longer than thirty days; and, provided further, that said record will include, but not be limited to, the name of the lessor and the lessee, and the address of the lessor and the lessee $32,298,277

Highway Fund 100.0%

8400-0024 Notwithstanding the provisions of section two of chapter two hundred and eighty of the General Laws, the registry of motor vehicles is hereby authorized to expend revenue collected up to a maximum of 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 said chapter two hundred and eighty, and shall not affect or alter the amounts of payments to cities and towns pursuant to said section two of said chapter two hundred and eighty $2,300,000

8400-0033 The registry of motor vehicles is hereby authorized to expend revenues collected up to a maximum of three million five hundred thousand dollars from the fees charged for driver

record access, drunk driver hearings, and registration reinstatement, for the administration of said fees, including the costs of personnel; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the registry may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that 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; and provided further, that forty percent of the costs of personnel services associated with the registry computer, which reflects the proportionate use of said computer by the merit rating board, shall be assessed to insurance companies doing motor vehicle insurance business within the commonwealth, pursuant to section one hundred eighty-three of chapter six of the General Laws $3,500,000

8400-0050 For rent and related parking and utility expenses of the registry of motor vehicles $5,563,662

Highway Fund 100.0%

8400-0100 For the safe driver insurance plan program authorized by chapter six of the General Laws; provided, that, 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 surcharge for the first offense for non-criminal, motor vehicle traffic violations as described in chapter ninety C of the General Laws $6,473,281

Highway Fund 100.0%

8400-0150 For rent and related parking and utility expenses of the merit rating board $563,840

Highway Fund 100.0%

8400-8999 For the payment of charges assessed to the registry of motor vehicles for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called; provided that, notwithstanding the

provisions of any general or special law to the contrary, prior to April fifteenth, nineteen hundred and ninety-seven all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that after said date, the registrar of the registry of motor vehicles, with the approval of the secretary of administration and finance, is hereby authorized to transfer from said DD subsidiary to the KK subsidiary, so-called; or the NN subsidiary, so-called; of this account, an amount not to exceed fifteen percent of the funds appropriated herein, if the secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the charges owed by the registry for workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback are less than the amount appropriated herein, (2) that the registry does not require any supplemental appropriation in any of its other items of appropriation, (3) that the registry is expected to meet the revenue targets established in sections one A and B of this act, and (4) that the registry has not expended any funds for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called, in any of its other items of appropriation; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of funds between subsidiaries as authorized herein; and provided further, that, no funds shall be scheduled to any subsidiary in this account which is not explicitly referenced herein $616,810

Highway Fund 100.0%

Federal Appropriation

8400-0052 For the purposes of a federally funded grant entitled, International Registration Plan-Registry of Motor Vehicles $48,163

Committee on Criminal Justice.

State Appropriation

8600-0001 For the administration of the committee on criminal justice $303,828

Federal Appropriations

8600-0002 For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act Planning $95,000

8600-0003 For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act $855,000

8600-0008 For the purposes of a federally funded grant entitled, Drug Free Schools and Communities Act of 1986 ..... $1,957,206

8600-0009 For the purposes of a federally funded grant entitled, Narcotics Control Assistance $9,000,000

8600-0010 For the purpose of a federally funded grant entitled, Statistical Analysis Center $50,000

8600-0015 For the purposes of a federally funded grant entitled, Weed and Seed for Chelsea $450,000

8600-0019 For the purposes of a federally funded grant entitled, Title V Delinquency Prevention $398,000

8600-0020 For the purposes of a federally funded grant entitled, Stop Violence Against Women Formula Grants Program $426,364

Military Division.

8700-0001 For the administration of the military division, including the offices of the adjutant general and state quartermaster, the operation of the armories, the camp Curtis Guild rifle range and certain national guard aviation facilities; 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; provided further, that not less than twenty-five thousand dollars be expended on the renovations of the Newburyport armory, so-called, to facilitate said armory's use as a senior center $5,195,892

General Fund 50.0%
Local Aid Fund 50.0%

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 for the costs of utilities and maintenance and up to a maximum of one hundred ten thousand dollars

received from assessments made to the federal government for the use of telephones $185,000

Massachusetts Emergency Management Agency.

State Appropriations

8800-0001 For the operations of the Massachusetts emergency management agency; provided, that expenditures from this item shall be contingent upon the prior approval of the proper federal authorities; provided further, that not less than twenty-two 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; and provided further, that not less than seventy-five thousand dollars shall be made available for the federal emergency management agency multi-hazard program, so-called; provided, however, that there is at least a one hundred percent match by the federal government; and, provided further, that the agency shall, prior to June thirtieth, nineteen hundred and ninety-seven, develop a hazard mitigation strategy for the commonwealth consistent with the national mitigation strategy prepared by the federal emergency management agency $705,889

Local Aid Fund 100.0%

8800-0100 For the nuclear safety preparedness program of the Massachusetts emergency management agency; provided, that the costs of said program, including fringe benefits and indirect costs, shall be assessed upon 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; and 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 $395,745

Local Aid Fund 100.0%

8800-0200 For the Seabrook nuclear safety preparedness program; provided, that the cost of said program 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 thirty-nine of the acts of nineteen hundred and fifty, as added by section twenty-four of chapter seven hundred and ninety-six of the acts of nineteen hundred and seventy-nine, include communities located within the commonwealth and shall be credited to the General Fund; 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; and provided further, that the term electric company shall not include municipalities or municipal light plants $261,924

Federal Appropriations

8800-0003 For the purposes of a federally funded grant entitled, Emergency Management Assistance - Personnel and Administrative Expenses $909,263

8800-0004 For the purposes of a federally funded grant entitled, Emergency Management Assistance - Distribution to Cities and Towns $690,000

8800-0005 For the purposes of a federally funded grant entitled, Disaster Preparedness Assistance $50,000

8800-0006 For the purposes of a federally funded grant entitled, Radiological Systems Maintenance $219,303

8800-0007 For the purposes of a federally funded grant entitled, Radiological Defense Officer $61,405

8800-0008 For the purposes of a federally funded grant entitled, Population Protection Planning Program $220,992

8800-0009 For the purposes of a federally funded grant, entitled, Emergency Management Training - State/Local Personnel..... $124,500

8800-0010 For the purposes of a federally funded grant entitled, Earthquake Loss Study $88,600

8800-0019 For the purposes of a federally funded grant entitled, Superfund Amendment and Reauthorization Acts of 1986. . . . . $60,000

8800-0020 For the purposes of a federally funded grant entitled, Communication Warning Systems $50,000

8800-0023 For the purposes of a federally funded grant entitled, SERC Emergency Response $10,810

8800-0025 For the purposes of a federally funded grant entitled, Hurricane Bob - Public Assistance $91,206

8800-0026 For the purposes of a federally funded grant entitled, Coastal Storm - Public Assistance Major Coastal Storm 10/30/91-11/02/91 . . . . . $300,000

8800-0037 For the purpose of a federally funded grant entitled, 404 Hazard Mitigation 914 . . . . . $500,000

8800-0038 For the purposes of a federally funded grant entitled, Survival Crisis Management $55,116

8800-0039 For the purposes of a federally funded grant entitled, Urban Search and Rescue $25,000

8800-0040 For the purposes of a federally funded grant entitled, Winter Coastal Storm 12/11/92-12/13/92 Public Assistance $571,737

8800-0041 For the purposes of a federally funded grant entitled, Snow Removal Declaration 03/13/93-03/17/93 . . . . . $20,356

8800-0042 For the purposes of a federally funded grant entitled, Hazardous Materials Transportation Act $225,000

8800-0043 For the purposes of a federally funded grant entitled, Hurricane Preparedness $46,400

Governor's Highway Safety Bureau.

8850-0001 For the highway safety program to provide matching funds for a federal planning and administration grant pursuant to section two hundred and seven (d) of the Governor's Highway Transportation Act of nineteen hundred and seventy-eight $220,115

Highway Fund 50.0%
Motorcycle Safety Fund 50.0%

8850-0015 For the expenses of the motorcycle safety program $165,738

Motorcycle Safety Fund 100.0%

Federal Appropriations

8850-0004 For the purposes of a federally funded grant entitled, State Agency Programs $3,400,000

Department of Correction.

8900-0001 For the administration and operation 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-seven shall contain an increase in roll call pay for correctional officers; provided further, that the department shall maintain operations of one twelve-bed treatment unit for females who are awaiting trial or who have been convicted of a crime and who are in need of detoxification and treatment for chemical dependency and/or alcoholism; provided further, that when the department determines that it is necessary to transfer prisoners to facilities outside of the commonwealth, said department shall determine which such available facility is the geographically closest facility that will provide the most cost effective transfer; and provided further, that not less than one hundred thousand dollars shall be expended for Latinas y Ninos Center for a child specialist to provide full time child advocate-parent education to attend to the needs of Latino women in recovery with a focus on pregnant women, new parents and/or mothers recently reunified with children $236,015,251

8900-0002 For the administration of the department; provided, that employees in the prisoners classification division shall not be subject to civil service law and rules; provided further, that notwithstanding the provisions of any general or special law to the contrary, the director of civil service shall certify to the commissioner of correction, upon receipt of permanent requisitions, names of correction officers to fill permanent vacancies; and provided further, that the department shall provide quarterly reports on overtime and authorized excess quota position usage at each facility, to the house and senate committees on ways and means $4,050,568

8900-0003 For local relief 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; 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 inmate health services; 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, expenditures made from the RR subsidiary, so-called, of this item for the contracted provider service costs associated with the purposes of the programs funded herein shall not exceed forty-one million three hundred fifty-nine thousand nine hundred and ninety dollars $42,188,136

8900-0007 For the expenses of the comprehensive offenders employment resources system; including a contract for the community corrections resource center in the city of Springfield $369,159

8900-0009 For education services of the department; provided, that not more than one hundred and fifty thousand dollars be made available for a literacy education pilot program at two correctional facilities, one of which shall be MCI-Framingham $3,330,027

8900-0010 For prison industries and farm services; 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; and 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 $2,357,812

8900-0011 For a prison industries and farm services revenue retention account; provided, that the department is hereby authorized to expend an amount not to exceed four million one hundred sixty thousand eight hundred and forty-seven dollars from revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; 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 reporting system, so-called; and provided further, that of the compensation for state employees appropriated herein, not less than five hundred thousand dollars shall be expended for correction officer farmers to support the operation and maintenance of the farm facilities at the correctional facilities at MCI-Concord and MCI-Bridgewater $4,160,847

8900-0015 For 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 fifty thousand dollars shall be obligated for assistance to incarcerated mothers; and provided further, that not less than twenty-five thousand dollars be provided to the Dismas house in Worcester $755,000

8900-0016 For the cost of housing state inmates in federal prisons $800,000

8900-0100 For the administration and operation of the Nemansket correctional center $4,143,394

8900-9999 For the payment of charges assessed to the department of correction for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called; provided, that, notwithstanding the provisions of any general or special law to the contrary, prior to April fifteenth, nineteen hundred and ninety-seven

all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that after said date, the commissioner of the department of correction, with the approval of the secretary of administration and finance, is hereby authorized to transfer from the DD subsidiary to the KK subsidiary, so-called, or the NN subsidiary, so-called, of this account, an amount not to exceed fifteen percent of the funds appropriated herein, if the secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the charges owed by the department for workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback are less than the amount appropriated herein, (2) that the department does not require any supplemental appropriation in any of its other items of appropriation, (3) that the department is expected to meet the revenue targets established in sections one A and one B of this act, and (4) that the department has not expended any funds for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called, in any of its other items of appropriation; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of funds between subsidiaries as authorized herein; and provided further, that, no funds shall be scheduled to any subsidiary in this account which is not explicitly referenced herein $8,612,755

County Corrections.

8910-0000 For a reserve to fund county correctional programs; provided that not more than three hundred eighty-five thousand dollars shall be expended for an intermediate sanctions program at the New Bedford district court; provided further, that not less than four million one hundred thirty-eight thousand two hundred dollars shall be made available to Barnstable county; provided further, that not less than three million one hundred seventy-eight thousand eight hundred ninety-four dollars shall be made available

to Berkshire county; provided further, that not less than twenty million nine hundred four thousand three hundred thirteen dollars shall be made available to Bristol county; provided further, that an additional twenty thousand dollars be allocated for a domestic violence prevention program in said Bristol county; provided further, that not less than seven hundred seventy-two thousand one hundred seventy-two dollars dollars shall be made available to Dukes county; provided further, that not less than nineteen million five hundred seventy-three thousand two hundred thirty-one dollars shall be made available to Essex county; provided further, that not less than three million six hundred fifty-seven thousand six hundred ninety-eight dollars shall be made available to Franklin county; provided further, that not less than thirty-two million nine hundred thirty-six thousand nine hundred seventeen dollars shall be made available to Hampden county; provided further, that not less than six million eight hundred three thousand eight hundred thirty-seven dollars shall be made available to Hampshire county; provided further, that not less than nineteen million four hundred twenty-five thousand six hundred eleven dollars shall be made available to Middlesex county; provided further, that not less than fifty-nine thousand seven hundred fourteen dollars shall be made available to Nantucket county; provided further, that not less than eleven million five hundred twenty-two thousand six hundred fifty-six dollars shall be made available to Norfolk county; provided further, that not less than twenty-four million seven hundred fifty-three thousand seven hundred five dollars shall be made available to Plymouth county; provided further, that said funds appropriated to Plymouth county shall be expended for operating and debt service costs associated with state inmates housed in the Plymouth county facility, pursuant to the provisions of clauses three and four of the memorandum of agreement signed May fourteenth, nineteen hundred and ninety-two; provided further, that not less than sixty-one million two hundred fifty-five thousand one hundred eighty-three dollars shall be made available to Suffolk county; provided further, that not less than twenty-one million sixty-three thousand six hundred sixty-seven

dollars shall be made available to Worcester county; provided further, that the balance of funds appropriated herein shall be distributed among the counties by the county government finance review board, upon notification to the house and senate committees on ways and means; provided further, that Suffolk county shall not receive additional funding from said balance for county corrections maintenance and operation expenses; provided further, that funds distributed from this item shall be paid to the treasurer of each county who shall place said funds in a separate account within the treasury of each county; provided further, that the treasurer shall authorize temporary transfers into this account for operation and maintenance of jails and houses of correction in advance of receipt of the amount distributed by the state under this item; provided further, that upon receipt of the state distribution, the treasurer shall be authorized to transfer out of said account an amount equal to the funds so advanced; provided further, that 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, without further appropriation; provided further, that 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; provided further, that the spending plans required by this item shall be developed by the county government finance review board, in consultation with the Massachusetts sheriffs' association; provided further, that in accordance with section two hundred and forty-seven of chapter thirty-eight of the acts of nineteen hundred and ninety-five, all spending plans shall be detailed by subsidiary and in accordance with any and all expenditure classification plans promulgated by the comptroller; provided further, that said spending plans shall be accompanied by a delineation of all personnel employed by each county correctional facility; provided further, that no sheriff shall purchase any new vehicles or

major equipment in fiscal year nineteen hundred ninety-seven unless such purchase is made pursuant to a multi-county or regionalized collaborative procurement arrangement, or is directly related to significant population increase or is otherwise necessary to address an immediate and unanticipated public safety crisis, and is approved by the county government finance review board and the executive office of public safety; provided further that notwithstanding the provisions contained herein, sheriffs may purchase "marked" prisoner transportation vans upon notification to the county government finance review board; provided further, that the county government finance review board and the executive office of public safety shall identify and develop county correction expenditures which can and shall be reduced through shared contracts, regionalized services, bulk purchasing and other centralized procurement savings programs; provided further that documentation of said expenditures and savings shall be submitted to the house and senate committees on ways and means no later than December thirtieth, nineteen hundred and ninety-six and shall make provision for said system of shared contracts, regionalized services, bulk purchasing and other centralized procurement savings to take effect no later than June thirtieth, nineteen hundred and ninety-seven; provided further, that the county government finance review board, in conjunction with the executive office of public safety, shall complete the study of county corrections collective bargaining agreements, which shall include, but not be limited to, the following: (1) a ten-year review of salary increases granted pursuant to collective bargaining agreements, by county (2) a comparison of said increases to salary adjustments granted by the commonwealth for comparable positions; provided further, that said studies shall be submitted by the executive office public safety to the house and senate committees on ways and means no later than July fifteenth nineteen hundred and ninety-six; provided further, that on or before October fifteenth, nineteen hundred and ninety-six, each county sheriff shall submit a final spending plan for fiscal year nineteen hundred and ninety-seven to the county government finance review board, detailing the level of resources deemed

necessary for the operation of each county correction facility and the expenditures which shall be reduced to remain within the appropriation; provided further, that failure by a county sheriff to comply with any provision of this item 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-six, as determined by the county government finance review board; provided further, that each sheriff shall submit to the executive office of public safety and the house and senate committees on ways and means copies of said spending plans no later than October fifteenth, nineteen hundred and ninety-six; provided further, that on or before November fifteenth, nineteen hundred and ninety-six, the county government finance review board shall have approved final fiscal year nineteen hundred and ninety-seven county corrections budgets; provided further, that the county government finance review board shall provide the executive office of public safety and the house and senate committees on ways and means with copies of said approved budgets no later than January second, nineteen hundred and ninety-seven; provided further, that said budgets shall include distribution schedules for the final two quarters of fiscal year nineteen hundred and ninety-seven, and said plans shall be used to make all subsequent quarterly distributions; provided further, that services shall be provided to the extent determined to be possible within the amount appropriated herein, and each sheriff shall make all necessary adjustments to ensure that expenditures do not exceed said appropriation; provided further, that each county shall expend during fiscal year nineteen hundred and ninety-seven for the operation of county jails and houses of correction and other statutorily authorized facilities and functions of the office of the sheriff, in addition to the amount distributed from this item, not less than one hundred two and one-half percent of the amount expended in fiscal year nineteen hundred and ninety-six for such purposes from own-source revenues, which shall not be less than five percent of total county 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; provided further, that in fiscal year nineteen hundred and ninety-seven, those counties which have not met maintenance of effort obligations in prior fiscal years shall expend not less than the minimum contribution, as defined above from own-source revenues; provided further, that notwithstanding the provisions stated herein, the maintenance of effort obligations for Suffolk county shall be eight and three quarters percent of the total Suffolk county corrections operating budget as approved by the county government finance review board; provided further, that 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-seven that all municipalities have appropriated and transferred to their respective county treasuries, not less than one hundred two and one-half percent of the municipality's prior year obligations or minimum contributions as defined above, whichever is greater, for county corrections; provided further, that 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, authorized from account 0611-5500 of section two and from funds made available from the state lottery fund distribution in section three of this act; provided further, that on or before August first, nineteen hundred and ninety-seven, said commissioner shall report all such withholdings to the house and senate committees on ways and means; provided further, that in fiscal year nineteen hundred and ninety-seven, notwithstanding the provisions of section twenty A of chapter fifty-nine of the General Laws, any county except Suffolk and Nantucket may increase its county tax for said fiscal year by an additional amount if the total amount of such additional county tax is approved by two-thirds of the cities and towns in the county, in towns by a majority vote of the town meeting or town council, and in cities by a majority vote of the city council or board of aldermen, with the approval of the

mayor or manager; provided further, that any county which borrowed under the provisions of section six of chapter one hundred and ninety-three of the acts of nineteen hundred and eighty-nine on or before July thirty-first, nineteen hundred and eighty-nine or which borrowed in fiscal nineteen hundred and eighty-nine under the provisions of section thirty-six A of chapter thirty-five of the General Laws, is hereby authorized to refund such debt for a term not to exceed seven years from the date of the original loan with payments on such refunding loan to be made in accordance with the provisions of chapter thirty-five of the General Laws and section twelve of chapter sixty-four D of the General Laws, as may be applicable; and provided further, that each county shall, in accordance with the provisions of section two hundred and forty-seven of chapter thirty-eight of the acts of nineteen hundred and ninety-five, continue to report all expenditures which occur from item 8910-0000 on the Massachusetts management accounting reporting system, so-called, in accordance with the latest expenditure classification plan promulgated by the state comptroller pursuant of the provisions of section twenty-seven of chapter twenty-nine of the General Laws $272,653,453

Local Aid Fund 100.0%

8910-0010 For the purpose of funding expenses for services provided to inmates of county correctional facilities by the department of public health Lemuel Shattuck hospital in fiscal year nineteen hundred and ninety-seven; provided, that said department shall notify the county government finance review board and the comptroller of all such expenses; provided further, not more than thirty days after receiving such notification, the board shall certify to the comptroller the amount of such expenses to be charged to this item; provided further, that upon receiving said certification, the comptroller shall effect the transfer of said amount from this item to item 4590-0903 in section two B; and provided further, that such actual and projected payments shall be considered expenditures within each county spending plan and shall be reflected as such in proposed spending plans required by 8910-0000 in section two $2,400,000

Local Aid Fund 100.0%

Parole Board.

8950-0001 For the administration and operation of the parole board; provided that not less than two hundred fifty thousand dollars shall be expended for the Pathways Program to include direct linkages and interagency agreements for the provision of services with the appropriate workforce development agencies $12,510,429

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 shall be classified by the department of personnel administration under the state classification system $187,076

Victim Witness Assistance Fund 100.0%

EXECUTIVE OFFICE OF ELDER AFFAIRS.

Office of the Secretary.

State Appropriations

9110-0100 For the operation and administration of the executive office of elder affairs; provided, that the secretary of elder affairs is hereby authorized and directed to work with the commissioner of the division of medical assistance and the deputy purchasing agent of the division of purchased services to identify all home care 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 seek 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 reimbursed; provided further, that the secretary of elder affairs shall 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 to maximize revenues by identifying individuals who are eligible for veterans' pensions and are

currently receiving home care and home health services; provided further, that said secretary is hereby authorized and directed to expend not more than one hundred thousand dollars to study and report on the feasibility of establishing a public non-profit alzheimer's disease research, development and gerontology center at the Lawrence Manufacturing site, so-called, if said secretary receives not less than an additional one hundred thousand dollars from the Massachusetts gerontology center for said purposes; provided further, that said study shall include consideration of the ability of said center to: (1) conduct research into the causes of and potential cures for alzheimer's disease and associated forms of dementia; (2) provide independent elderly housing and assisted care facilities for persons afflicted with alzheimer's disease; and (3) support and assist other such activities related to the foregoing; provided further, that said study shall consider the possible structure and composition, corporate or otherwise, of said center; and provided further, that said secretary shall report on the results of said study by filing the same with the clerks of the house of representatives and the senate and the house and senate committees on ways and means on or before the first Wednesday in December nineteen hundred and ninety-six; provided further, that the executive office of elder affairs, in cooperation with the executive office of human and community services, shall conduct a study of the feasibility of establishing a nursing home "follow-out" program for the purposes of evaluating the extent to which certain elders may be able to receive sufficient care through community based elder programs and services; and provided further, that the executive office of elder affairs shall submit said report to the house and senate committees on ways and means no later than November first, nineteen hundred and ninety-six $1,747,517

9110-0102 For the regulation of assisted living facilities; provided, that the executive office of elder affairs shall report quarterly to the house and senate committees on ways and means the number of assisted living units certified and the total revenues generated from application and certification fees for said units $223,654

Assisted Living Administrative Fund 100.0%

9110-1603 For managed care in housing for individuals at risk of institutionalization due to functional impairments not of sufficient severity to meet medicaid nursing home clinical admissions criteria; provided, that said individuals shall be subject to the same rules and regulations as clients served under item 9110-1630 of section two of this act; and provided further, that no rate increase for managed care services shall be awarded in fiscal year nineteen hundred and ninety-seven $8,276,000

9110-1630 For the home care program including home care, health aides, home health and respite services, protective services and other services provided to the elderly; provided, that a sliding fee shall be charged to qualified elders; provided further, that the secretary of elder affairs may waive collection of said fee in cases of extreme financial hardship; provided further, that not more than three million three 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 shall 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 the executive office shall report quarterly to the house and senate committees on ways and means on the receipt and expenditure of revenues accrued from said sliding fees; provided further, that home care corporations shall report monthly to the executive office of elder affairs on the receipt and expenditure of revenues accrued from said sliding fees; 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 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 no rate increase for home care services shall be awarded in fiscal year nineteen hundred and ninety-seven which would cause a reduction in client services or in the number of clients served; provided further, that any additional funding in fiscal year nineteen hundred and ninety-seven shall be obligated to new home care clients in said fiscal year; and 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, which would cause a reduction in client services; 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 $73,838,305

9110-1633 For contracts with home care corporations or other qualified entities for home care case management services, protective services, and the administration of the home care corporations 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 managers, travel, rent and any other costs deemed appropriate by the executive office; 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 $29,263,000

9110-1634 The secretariat may expend for the purposes of item 9110-1630 an amount not to exceed one million dollars and for the purposes of item 9110-1633 an amount not to exceed two million dollars from federal revenues collected pursuant to the provisions of Title XIX of the Social Security Act for case management and personal care and re-

lated services provided to Medicaid-eligible home care clients; provided that, notwithstanding the provisions of any general or special laws to the contrary, in the event that revenues appropriated herein are not collected at a level sufficient to fund contracts established pursuant to 9110-1633 at the level such contracts were funded at during fiscal year nineteen hundred and ninety-six, the secretary is authorized and directed to transfer from item 9110-1630 to item 9110-1633 funds sufficient to fulfill such contract amounts in the event of a shortfall; provided further, that said transferred amount shall not exceed three percent of the appropriation for item 9110-1630 ..... $3,000,000

9110-1660 For congregate and shared housing services for the elderly; provided, that not less than fifty thousand dollars shall be expended for congregate housing services at the Tuttle House facility in Dorchester; and provided further, that no new congregate housing sites not otherwise authorized in fiscal year nineteen hundred and ninety-six shall be established in fiscal year nineteen hundred and ninety-seven $1,354,492

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; and provided further, that the department of elder affairs shall maximize federal reimbursement for meals funded herein $4,559,341

Local Aid Fund 100.0%

9110-9002 For the local services program for grants to the councils on aging; provided, that notwithstanding the above, all monies appropriated herein be expended in accordance

with the distribution schedules for formula and incentive grants established by the department of elder affairs; provided further, that said distribution schedules be submitted to the house and senate committees on ways and means; provided further, that not less than fifteen thousand dollars shall be obligated for the Massachusetts senior games; provided further, that thirty thousand dollars shall be expended for the Newton/Nonantum multi-service center; and provided further, that no less than twenty thousand dollars be expended for the Waltham council on aging $4,450,000

Local Aid Fund 100.0%

Federal Appropriations

9110-0850 For the purposes of federally funded grant entitled, Coordinated Aging, Rehabilitation and Disability Services $153,852

9110-1074 For the purposes of a federally funded grant entitled, Older Americans Assistance, Title III and Title VII; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies $9,915,740

9110-1095 For the purposes of a federally funded grant entitled, Health Information Counseling and Assistance; provided that the executive office of elder affairs may provide periodic payments in advance to participating agencies $350,000

9110-1173 For the purposes of a federally funded grant entitled, Older Americans Act - Title III Nutrition Program; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies $13,350,000

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 $1,782,324

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

LEGISLATURE.

Senate.

9511-0000	For the compensation of senators; provided, that, notwithstanding the provisions of any other special or general law to the contrary, the funds appropriated herein shall be expended only in accordance with the provisions of section three of chapter one hundred ninety-two of the acts of nineteen hundred and ninety-four, prior appropriation continued	$2,279,400
9511-8000	For expenses of senators, including travel, prior appropriation continued	$228,000
9512-0000	For the office of the senate clerk, prior appropriation continued	$794,563
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	$3,920
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	$5,700,000
9515-0100	For the cost of universal health insurance, 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	$1,860,000
9516-0030	For a legislative intern and service program for the senate, prior appropriation continued	$325,000
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	$1,100,000
9519-5000	For the salaries of court officers and pages of the senate, prior appropriation continued	$1,284,000

9519-6000 For the office of legislative post audit and oversight bureau of the senate, prior appropriation continued $355,000

9519-7000 For legislative committee services for the senate, prior appropriation continued $1,650,000

9519-7500 For the automation of senate offices, prior appropriation continued $225,000

9519-8000 For the expenses of televising sessions of the senate, prior appropriation continued $240,000

9519-9000 For the expenses of the special commission on forest management, so-called, established by section three hundred forty-one of chapter thirty-eight of the acts of nineteen hundred and ninety-five; provided, that notwithstanding the provisions of any general or special law to the contrary, said commission shall not expire until June thirtieth, nineteen hundred and ninety-seven, prior appropriation continued. .....

0185-7888 For the additional expenses of the senate committee on ways and means which are associated with the review and study of the commonwealth's health care systems, pension systems, organizational structure, and other policy areas, prior appropriation continued. .....

House of Representatives.

9621-0000 For the compensation of representatives; provided that, notwithstanding the provisions of any other special or general law to the contrary, the funds appropriated herein shall be expended only in accordance with the provisions of section three of chapter one hundred ninety-two of the acts of nineteen hundred and ninety-four, prior appropriation continued $7,875,600

9622-8000 For expenses of representatives, including travel, prior appropriation continued $926,000

9623-0000 For the office of the clerk of the house of representatives, prior appropriation continued $566,654

9624-0000 For the salary of the chaplain of the house of representatives, prior appropriation continued $17,450

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 $1,310,401

9626-0010 For repairs and renovations, prior appropriation continued $186,000

9627-0050 For the cost of universal health and unemployment insurance, medicare and worker's compensation charges assessed against the employees of the house of representatives, prior appropriation continued $506,449

9627-0100 For a legislative intern and service program for the house of representatives, prior appropriation continued $400,000

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, equipment and personnel, prior appropriation continued .....

9628-0020 For the performance oversight component of the house ways and means committee, including the cost of travel as may be authorized and approved in writing by the chair of said house committee on ways and means, prior appropriation continued .....

9629-0000 For clerical and other expenses of the members of the house of representatives, prior appropriation continued $2,850,348

9630-0020 For administrative and legislative aides to the members of the house of representatives, prior appropriation continued $4,184,000

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 $764,521

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 $5,320,484

9634-6000 For the office of legislative post audit and oversight bureau of the house of representatives, prior appropriation continued..... $652,833

9636-0000 For the legislative service bureau, prior appropriation continued $355,924

Sergeant At Arms.

9731-0000 For the office of the sergeant-at-arms, prior appropriation continued $518,728

9731-0050 For the cost of universal health and unemployment insurance, medicare and worker's compensation charges assessed against the employees of the joint legislative committees, prior appropriation continued .....

9734-1000 For the salaries of clerks employed in the legislative document room, including other joint legislative expenses, prior appropriation continued $176,570

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

Joint Legislative Expenses.

0143-0151 For the special commission on the effects of growth-rural grant, prior appropriation continued. .....

0185-7601 For the state mandate inventory project, prior appropriation continued .....

9738-0001	For the administration of the office of legislative data processing, prior appropriation continued	$900,000
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	$248,199
9743-0000	For printing, binding and paper ordered by the senate and house of representatives, or by concurrent order of the two branches, for printing the manual of the general court, with the approval of the clerks of the respective branches, and for biographical sketches of certain state and federal officials and other expenses, prior appropriation continued	$1,051,858
9744-1000	For joint legislative data processing and telecommunications equipment and services, prior appropriation continued.	
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	$235,000
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, non-depository 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, that the expenditure of funds appropriated herein shall be contingent upon the prior receipt of private donations equal to or greater than said expenditure; provided further, that said donations shall be deposited into the General Fund, prior appropriation continued .....

9749-0300 For the expenses of the special commission on state debt established by section two hundred and thirteen of chapter sixty of the acts of nineteen hundred and ninety-four, prior appropriation continued .....

NO SECTION 2A.

SECTION 2B. Notwithstanding the provisions of any general or special law to the contrary, the agencies listed herein are hereby authorized to expend such amounts as are listed in this section for the provisions 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 would cause said fund to be in deficit at the close of fiscal year nineteen hundred and ninety-seven; provided further, that all authorizations in this section shall be charged to said Intragovernmental Service Fund; and provided further that, any balance remaining at the close of fiscal year nineteen hundred and ninety-seven shall be transferred to the General Fund.

SECRETARY OF STATE.

Office of the Secretary of State.

0511-0003 For the costs of providing electronic and other publications purchased from the state bookstore and for commission and notary fees and for direct access to the secretary's computer library $25,000

0511-0235 The secretary of state is hereby authorized to receive compensation revenues from other state agencies including the judicial branch for the destruction of their obsolete records

by the records center where appropriate; provided, that the secretary of state is hereby authorized to expend revenues not to exceed one hundred thousand dollars from such funds received for the costs of such obsolete record destruction; provided further, that said fees shall be charged on an equitable basis $100,000

EXECUTIVE OFFFICE OF ADMINISTRATION AND FINANCE.

Office of Dispute Resolution.

1100-1108 For the office of dispute resolution for the costs of mediation and other services provided to certain agencies $300,000

Workers' Compensation Litigation Unit.

1100-1111 For the workers' compensation litigation unit, including the costs of personnel $476,980

Public Employees 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 six hundred and one 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; provided further, that no funds shall be expended from this item that would cause said item to be deficient; and provided further, that said secretary shall provide projected costs of workers' compensation costs incurred by agencies in fiscal year nineteen hundred ninety-seven to the house and senate committees on ways and means by February fourteenth, nineteen hundred ninety-seven $45,000,000

Reserves.

1599-2040 For the payment of prior year deficiencies, so-called, based upon schedules provided to the house and senate committees on ways and means; provided, that the comptroller is hereby authorized to charge departments' current fiscal year appropriations and transfer to this item amounts equivalent to the amounts to any prior year deficiency, so-called, subject to the conditions stated herein; provided further, that the comptroller shall only assess chargebacks to those current fiscal year appropriations when the account to which the chargeback is applied is the same account to which the prior year deficiency pertains, or if there is no such account, to the current fiscal year appropriation for the general administration of the department that administered the account to which the prior year deficiency pertains; provided further, that no chargeback shall be made which would cause a deficiency in any current fiscal year item of appropriation; provided further, that the comptroller shall report on a quarterly basis to the house and senate committees on ways and means on all chargebacks assessed, including the amount of the chargeback, the item of appropriation and subsidiary charged, and the reason for the prior year deficiency $6,000,000

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; and 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 $11,564,307

Division of Human Resources.

1750-0101 For the cost of goods and services rendered in administering training programs, including the cost of training unit staff; provided, that the division of human resources 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 division shall charge to other items of appropriation for the cost of participants enrolled in programs sponsored by the division, or to state agencies employing said participants; and provided further, that the division is authorized to collect from participating state agencies a fee sufficient to cover administrative costs of the commonwealth's performance recognition programs and to expend such fees for goods and services rendered in the administration of these programs $1,000,000

Office of Employee Relations.

1750-0110 For the payment of fees by user agencies to arbitrators selected by the commonwealth to hear and decide final and binding arbitration cases for grievances filed pursuant to the provisions of chapter one hundred and fifty E of the General Laws $80,000

Division of Operational Services.

1775-0500 For the operation and maintenance of state buildings, including reimbursement for overtime expenses, materials and contract services purchased in performing renovations and related services for agencies occupying state buildings or for services rendered to approved entities utilizing state facilities $50,000

1775-0800 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, including the costs of personnel $4,368,660

1775-1000 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, including the costs of personnel $1,600,843

Division of Information Technology.

1790-0200 For the cost of computer resources and services provided by the division of information technology 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 said secretary shall charge other items of appropriation for the cost of said resources and services; provided further, that notwithstanding the provisions of any general or special law to the contrary, 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 for the analysis and development of appropriations bills shall not be charged to any item of appropriation of the house of representatives, the senate or any joint legislative account in fiscal year nineteen hundred and ninety-seven; 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, including the costs of personnel $7,792,035

1790-0400 For the purchase, delivery, handling of, and contracting for, supplies, postage, and related equipment and other incidental expenses provided pursuant to the provisions of section fifty-one of chapter thirty of the General Laws $2,111,005

1790-0500 For the cost of the commonwealth's data warehouse, in accordance with the policies, procedures and rates approv-

ed by the secretary of administration and finance; provided, that said secretary shall charge other items of appropriation for the cost of said warehouse; provided further, that notwithstanding the provisions of any general or special law to the contrary, charges for the cost of the data warehouse and services provided for the design, development, and production of reports and information required for the analysis and development of appropriations bills shall not be charged to any item of appropriation of the house of representatives, the senate or any joint legislative account in fiscal year nineteen hundred and ninety-seven; 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, including the costs of personnel $492,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Office of the Secretary

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 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..... $160,000

Metropolitan District Commission.

2410-1002 For the costs of operating the commission's telecommunications system; provided, that nothing in this section shall diminish or impair the rights of access or utilization of all current users of the system pursuant to agreements which have been entered into with the commission $100,000

2410-1003 For the costs of the purchase of fuel, oil, and other associated products for other state agencies $550,000

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 the costs of personnel may be charged to this item; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system $125,000

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 $150,000

4590-0903 For the expenses of medical services provided at the department of public health Lemuel Shattuck hospital to inmates of county correctional facilities; provided, that the expenses so incurred shall be charged to item 8910-0010 pursuant to the provisions contained therein; provided further, that not more than two million four hundred thousand dollars in expenses shall be so incurred; provided further, that the department may expend the amounts transferred to this item for purposes of hospital related costs, including capital expenditures and motor vehicle replacement without further appropriation; and 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 amount not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system $2,400,000

Department of Mental Retardation.

5948-0012 For the costs of residential services provided in item 7061-0012, in section two of this act $5,000,000

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Massachusetts Aeronautics Commission.

6006-0010 For the costs of air transportation services, including the costs of personnel $47,500

Department of Highways.

6030-7501 For the costs of the purchase of bulk fuel for certain vehicles under the authority of the department of procurement and general services, and the costs of purchased fuel for other agencies and for certain administrative expenses related to purchasing and distributing the fuel $1,000,000

OFFICE OF LABOR EDUCATION AND ECONOMIC DEVELOPMENT.

Department of Education.

7053-2101 For the costs of USDA commodity foods pursuant to federal law requirements $100,000

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, however, for the purpose of accommodating discrepancies between the receipt of 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 therefor as reported in the state accounting system $2,000,000

Military Division.

8700-1145 For the costs of utilities and maintenance and for the implementation of energy conservation measures with regard to the state armories $25,000

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 $6,211,945

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, except for section twelve B of chapter seventy-six of the General Laws and section eighty-nine of chapter seventy-one of the General Laws, for the fiscal year ending June thirtieth, nineteen hundred and ninety-seven, the 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 four hundred eighty-four million one hundred eighty thousand 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; provided, further, that the total amount of lottery distribution in fiscal year nineteen hundred and ninety-six shall be considered "general revenue sharing aid received in the prior fiscal year" for purposes of calculating the municipal revenue growth factor pursuant to the provisions of chapter seventy of the General Laws; provided further, that the entire amount of the distribution made by this section shall be exempt from the provisions of section five of chapter seventy.

Notwithstanding the provisions of any general or special law to the contrary, except for section twelve B of chapter seventy-six of the General Laws, and section eighty-nine of chapter seventy-one of the General Laws, 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 and 7061-0008 of section two of this act shall be as set forth in the following lists; provided, that the specified amounts to be distributed from item 7061-0008 of said section two are hereby deemed to be in full satisfaction of the amounts due under the provisions of sections three, six, and seven of chapter seventy of the General Laws; provided further, that the amounts to be distributed from item 0611-5500 of said section two are hereby deemed to be in full satisfaction of the amounts due under section thirty-seven of chapter twenty-one of the General Laws. No payments to cities, towns, or counties maintaining an agricultural school pursuant to this section shall be made 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	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Abington	4,717,216		1,326,339
Acton	1,137,052	37,368	902,764
Acushnet	3,576,961	30,043	1,026,323
Adams		44,096	1,379,809
Agawam	7,977,036		2,434,181
Alford			10,627
Amesbury	7,057,342		1,317,718
Amherst	4,366,168	280,503	5,091,299
Andover	2,837,944		1,127,831
Arlington	3,531,573	5,652,310	3,000,800
Ashburnham			401,457
Ashby	17,280		246,680
Ashfield	36,321		101,920
Ashland	1,097,118	366,937	610,476
Athol		5,507	1,348,605
Attleboro	16,268,906		3,495,561
Auburn	2,904,820		1,074,622
Avon	351,015	504,148	281,422
Ayer	3,727,748	55,642	524,251
Barnstable	2,787,386		1,148,320
Barre	39,269		489,010
Becket	2,357	10,797	49,918
Bedford	1,052,980	609,391	491,093
Belchertown	5,502,499		947,980
Bellingham	5,154,979		1,303,276
Belmont	1,632,669	1,041,278	1,209,515
Berkley	2,318,981		319,621
Berlin	307,455		157,627
Bernardston			159,903
Beverly	4,646,789	3,086,077	2,604,463
Billerica	9,527,520	2,956,313	2,621,911
Blackstone	15,955		829,218
Blandford			77,514
Bolton			117,582

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Boston	114,723,730	206,638,214	41,107,710
Bourne	2,161,675	443,645	699,07
Boxborough	171,660		147,08
Boxford	340,535	45,818	254,586
Boylston	227,445		225,813
Braintree	2,681,491	4,250,822	2,128,732
Brewster	300,709		207,960
Bridgewater	33,553		1,919,557
Brimfield	732,760		224,088
Brockton	65,876,311	5,424,063	11,005,680
Brookfield	1,181,329		309,578
Brookline	2,701,838	4,401,448	2,668,147
Buckland	5,516		174,798
Burlington	2,244,208	1,744,603	985,920
Cambridge	4,027,744	22,595,349	5,379,859
Canton	1,457,899	1,104,851	898,115
Carlisle	291,341	18,534	133,474
Carver	6,249,901		841,494
Charlemont	27,272		97,515
Charlton			773,445
Chatham	201,355		105,222
Chelmsford	4,383,654	3,190,395	1,991,357
Chelsea	23,882,441	4,274,507	3,379,435
Cheshire	46,675		336,822
Chester			102,467
Chesterfield	38,213		76,176
Chicopee	25,727,666	1,504,526	6,275,046
Chilmark			2,288
Clarksburg	867,429	16,502	246,041
Clinton	6,400,604	220,865	1,400,472
Cohasset	719,809	209,013	287,310
Colrain			136,156
Concord	842,673	483,163	633,215
Conway	390,976		104,422
Cummington	27,757		46,032
Dalton	276,215		633,517
Danvers	1,860,091	1,408,080	1,311,316

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Dartmouth	5,221,584		1,634,932
Dedham	1,921,271	1,950,847	1,465,064
Deerfield	482,887		311,584
Dennis			317,040
Dighton			444,649
Douglas	3,054,410		390,478
Dover	126,414		135,563
Dracut	9,529,376		2,090,228
Dudley			941,262
Dunstable	50,966	37,846	112,010
Duxbury	1,565,597		593,546
East Bridgewater	5,702,508		922,365
East Brookfield	7,635		189,140
East Longmeadow	2,550,355		863,784
Eastham	111,905		82,815
Easthampton	6,253,408	137,004	1,772,560
Easton	4,571,758		1,361,693
Edgartown	153,123	35,873	25,544
Egremont			46,175
Erving	163,638	16,548	36,153
Essex	274,493	42,569	150,967
Everett	7,852,251	5,139,628	2,167,566
Fairhaven	4,904,122	492,569	1,337,878
Fall River	64,738,779	2,882,862	15,449,436
Falmouth	3,027,312		809,883
Fitchburg	22,706,326	270,312	5,149,677
Florida	347,031		30,226
Foxborough	4,054,832		1,033,068
Framingham	4,313,992	5,911,189	4,001,925
Franklin	9,046,702		1,565,109
Freetown	692,137		597,584
Gardner	10,163,568	151,944	2,395,616
Gay Head			1,507
Georgetown	1,839,153	66,691	442,602
Gill			129,020
Gloucester	3,401,432	2,419,911	1,662,485
Goshen	1,650		42,292

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Gosnold	1,075	2,469	306
Grafton	3,001,429		978,790
Granby	1,906,440		548,539
Granville	393,251		87,245
Great Barrington			528,271
Greenfield	7,624,596		1,998,424
Groton	101,269		443,786
Groveland			444,692
Hadley	312,527	174,084	205,027
Halifax	1,584,146		591,063
Hamilton		53,967	409,976
Hampden			400,646
Hancock	41,415	22,195	29,243
Hanover	1,962,391	1,669,092	700,407
Hanson			832,320
Hardwick	43,383	4,062	256,625
Harvard	756,368	69,324	1,316,543
Harwich	598,316		250,702
Hatfield	489,552		219,333
Haverhill	23,950,104	3,149,881	4,772,364
Hawley	9,286	16,264	17,371
Heath			34,123
Hingham	1,975,822	420,485	944,239
Hinsdale	33,622		130,723
Holbrook	3,379,230	5,987	1,013,092
Holden			1,051,963
Holland	321,625		105,283
Holliston	3,559,447	518,826	815,333
Holyoke	46,301,377	763,384	6,097,316
Hopedale	2,381,448		383,243
Hopkinton	1,324,071	151,365	394,842
Hubbardston	6,410		175,445
Hudson	4,635,009		1,382,516
Hull	3,317,517	1,747,307	712,156
Huntington			195,132
Ipswich	1,141,809	975,780	686,918
Kingston	1,619,497		563,870

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Lakeville	1,126,271		475,134
Lancaster			588,728
Lanesborough	420,781		265,680
Lawrence	73,152,980	239,970	10,084,731
Lee	1,188,870		479,419
Leicester	4,784,909		1,115,610
Lenox	910,667	90,787	422,966
Leominster	18,125,413	14,714	3,341,374
Leverett	145,048		107,396
Lexington	2,802,306		1,084,537
Leyden			39,635
Lincoln	224,505	367,459	318,228
Littleton	654,804	207,535	362,081
Longmeadow	2,337,138		920,843
Lowell	70,918,756	7,978,998	11,205,618
Ludlow	6,887,005		1,843,708
Lunenburg	2,355,294		689,876
Lynn	57,095,998	11,926,220	8,631,303
Lynnfield	1,039,050	455,892	509,751
Malden	14,149,788	7,030,168	5,474,713
Manchester	424,048		172,811
Mansfield	3,975,087	912,368	882,570
Marblehead	1,347,794	49,583	772,188
Marion	135,805		132,607
Marlborough	2,565,220	3,433,241	2,076,801
Marshfield	7,367,663	255,142	1,374,267
Mashpee	1,126,466		122,851
Mattapoisett	243,193		279,751
Maynard	1,374,230	738,519	739,179
Medfield	1,144,439	937,000	590,010
Medford	8,930,786	8,094,393	4,907,907
Medway	3,108,904	235,317	626,033
Melrose	4,076,443	3,402,865	2,152,756
Mendon			230,410
Merrimac			484,892
Methuen	14,322,788	205,147	3,229,815
Middleborough	11,004,683		1,559,849

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Middlefield			27,640
Middleton	281,870	159,272	223,159
Milford	8,860,373		2,071,390
Millbury	3,563,931		1,156,704
Millis	1,220,472	403,862	505,704
Millville	6,792		216,825
Milton	1,696,645	1,566,851	1,570,778
Monroe	12,748	17,526	5,935
Monson	3,971,684		837,070
Montague			789,161
Monterey		15,777	26,927
Montgomery			53,170
Mount Washington	5,191	41,886	1,876
Nahant	213,054	157,791	200,370
Nantucket	312,585		46,166
Natick	2,346,539	2,444,348	1,595,699
Needham	2,072,823	259,216	1,078,170
New Ashford	10,720	9,203	5,103
New Bedford	71,033,327	901,313	15,563,944
New Braintree			65,115
New Marlborough			35,798
New Salem			60,452
Newbury			286,773
Newburyport	2,214,865	1,736,621	1,058,390
Newton	5,379,166	1,732,789	3,483,496
Norfolk	1,627,571		564,366
North Adams	10,612,839	233,872	2,989,218
North Andover	2,163,587	151,695	1,175,014
North Attleborough	8,431,292		1,863,485
North Brookfield	2,925,826		516,767
North Reading	1,527,350	1,189,787	704,396
Northampton	5,744,003	727,239	2,706,761
Northborough	1,382,533	76,900	674,606
Northbridge	6,973,991	3,865	1,505,558
Northfield			175,864
Norton	6,170,546		1,346,100
Norwell	1,136,729	680,878	453,724

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Norwood	2,117,877	3,354,660	1,719,870
Oak Bluffs	112,960		41,573
Oakham	45,684		94,914
Orange	3,913,532	2,661	1,040,583
Orleans	98,465		112,048
Otis			19,012
Oxford	6,096,425		1,369,756
Palmer	6,048,131		1,234,089
Paxton			285,528
Peabody	8,742,427	3,951,625	3,312,545
Pelham	39,960		91,157
Pembroke	3,072,404		1,070,219
Pepperell	44,849		778,344
Peru	37,591		65,494
Petersham	114,042		65,738
Phillipston		5,519	80,590
Pittsfield	22,061,574	1,107,722	5,188,757
Plainfield	18,682		24,478
Plainville	899,027		451,556
Plymouth	12,643,583		2,094,937
Plympton	423,366		141,234
Princeton			184,563
Provincetown	164,305	27,912	96,604
Quincy	9,579,537	14,555,556	6,671,689
Randolph	6,766,525	2,297,597	2,315,133
Raynham	13,979		751,061
Reading	2,855,026	1,931,472	1,417,822
Rehoboth			593,062
Revere	13,643,798	6,712,698	3,741,060
Richmond	232,078		78,356
Rochester	524,411		257,473
Rockland	7,399,773	496,221	1,562,882
Rockport	539,942		278,545
Rowe	21,465		2,238
Rowley		143,746	271,608
Royalston			83,837
Russell			139,773
Rutland			500,130

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Salem	7,046,593	4,151,021	2,513,885
Salisbury			398,173
Sandisfield			20,659
Sandwich	2,327,621	111,247	432,628
Saugus	2,341,756	2,245,040	1,461,824
Savoy	281,953	17,367	66,324
Scituate	1,874,862	1,101,119	969,244
Seekonk	2,243,817		807,950
Sharon	2,607,679	78,642	884,639
Sheffield		15,023	143,185
Shelburne	22,016		176,857
Sherborn	157,696	26,364	143,459
Shirley	2,329,448	233,500	629,502
Shrewsbury	3,848,124	376,077	1,535,165
Shutesbury	315,930		83,372
Somerset	1,413,903		894,737
Somerville	17,609,371	20,410,649	8,183,656
South Hadley	4,627,296	25,437	1,640,295
Southampton	929,091		365,180
Southborough	461,537		278,497
Southbridge	10,953,287		2,149,248
Southwick			736,155
Spencer	94,745		1,340,201
Springfield	133,255,509	2,302,181	19,971,276
Sterling			424,190
Stockbridge			73,575
Stoneham	1,496,509	2,553,177	1,419,407
Stoughton	6,535,610	129,781	2,173,270
Stow		8,776	264,391
Sturbridge	826,985		434,154
Sudbury	1,018,880	807,321	611,899
Sunderland	463,212		287,951
Sutton	2,196,175		490,812
Swampscott	1,106,554	443,359	650,385
Swansea	3,599,614		1,300,629
Taunton	24,155,157		5,971,541
Templeton			775,555

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Tewksbury	7,254,811		1,908,145
Tisbury	123,260		66,257
Tolland		12,413	3,396
Topsfield	230,965	318,725	276,522
Townsend	50,078		696,116
Truro	62,550		18,746
Tyngsborough	3,212,127		510,903
Tyringham	10,250		9,179
Upton			331,019
Uxbridge	4,048,500		908,096
Wakefield	2,806,368	1,809,635	1,582,952
Wales	536,375		141,960
Walpole	3,284,792	1,112,115	1,201,678
Waltham	4,162,251	6,869,270	3,607,212
Ware	4,571,127	19,199	1,063,391
Wareham	7,845,993		1,371,087
Warren			451,160
Warwick		36,354	46,347
Washington	19,612	29,889	44,459
Watertown	1,466,412	5,571,114	2,032,794
Wayland	1,269,949	352,813	478,803
Webster	5,763,848	78,026	1,492,340
Wellesley	1,635,569	121,858	937,737
Wellfleet	91,726		39,099
Wendell	6,001	32,131	74,063
Wenham		175,913	204,379
West Boylston	914,588	85,259	424,733
West Bridgewater	1,368,750	59,411	430,362
West Brookfield			280,819
West Newbury			188,271
West Springfield	8,374,121		2,090,664
West Stockbridge			71,622
West Tisbury		229,569	17,287
Westborough	1,375,662	182,536	646,335
Westfield	19,643,732		3,857,941
Westford	2,465,293	1,126,887	858,774
Westhampton	162,259		84,410

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Westminster			360,865
Weston	595,883		281,056
Westport	2,384,560		897,443
Westwood	1,149,102	45,632	489,713
Weymouth	14,244,601	3,050,391	4,883,947
Whately	51,133		82,781
Whitman			1,411,101
Wilbraham			813,724
Williamsburg	268,895		205,812
Williamstown	739,335		667,277
Wilmington	1,909,929	1,578,564	878,326
Winchendon	6,706,784	31,919	964,519
Winchester	1,878,610	433,387	883,291
Windsor		35,260	37,669
Winthrop	3,213,559	2,878,558	1,721,976
Woburn	2,666,480	4,513,710	2,072,138
Worcester	91,105,271	14,860,192	18,900,647
Worthington			66,963
Wrentham	2,400,262		641,629
Yarmouth			699,383
Total Aid to Regional Schools	375,438,871		
Total	2,058,587,640	476,315,282	484,180,000

Regional Schools	7061-0008 Chapter 70 School Aid
Acton Boxborough	2,110,517
Adams Cheshire	7,066,636
Amherst Pelham	5,762,097
Ashburnham Westminster	6,627,842
Assabet Valley	2,662,938
Athol Royalston	11,412,733
Berkshire Hills	2,452,415
Berlin Boylston	683,409
Blackstone Millville	6,976,893
Blackstone Valley	4,169,391

Regional Schools	7061-0008 Chapter 70 School Aid
Blue Hills	3,088,171
Bridgewater Raynham	14,003,397
Bristol County	1,245,928
Bristol Plymouth	3,824,993
Cape Cod	1,636,406
Central Berkshire	5,571,237
Chesterfield Goshen	362,255
Concord Carlisle	1,166,058
Dennis Yarmouth	4,684,430
Dighton Rehoboth	7,343,951
Dover Sherborn	869,245
Dudley Charlton	11,378,597
Essex County	3,516,920
Farmington River	259,688
Franklin County	1,822,002
Freetown Lakeville	4,233,739
Frontier	897,436
Gateway	5,358,781
Gill Montague	4,932,431
Greater Fall River	7,705,990
Greater Lawrence	9,419,867
Greater Lowell	12,642,252
Greater New Bedford	12,054,806
Groton Dunstable	3,931,832
Hamilton Wenham	2,312,323
Hampden Wilbraham	6,630,802
Hampshire	1,455,095
Hawlemont	487,959
King Philip	3,505,873
Lincoln Sudbury	1,428,002
Ralph C. Mahar	2,859,769
Marthas Vineyard	579,340
Masconomet	1,773,194
Mendon Upton	3,067,258
Minuteman	2,170,778
Mohawk Trail	4,866,621
Montachusett	5,190,305
Mount Greylock	1,635,755

Regional Schools	7061-0008 Chapter 70 School Aid
Narragansett	5,344,674
Nashoba	4,521,115
Nashoba Valley	1,842,193
Nauset	2,304,672
New Salem Wendell	623,505
Norfolk County	624,441
North Middlesex	14,435,829
North Shore	1,180,744
Northhampton Smith	762,642
Northboro Southboro	1,191,844
Northeast Metropolitan	4,928,615
Northern Berkshire	2,269,709
Old Colony	1,954,356
Old Rochester	1,250,220
Pathfinder	1,862,974
Pentucket	7,388,014
Pioneer	2,914,811
Quabbin	9,058,254
Quaboag	6,005,476
Shawsheen Valley	3,045,134
Silver Lake	7,203,203
South Middlesex	2,237,022
South Shore	1,692,584
Southeastern	7,192,048
Southern Berkshire	1,464,890
Southern Worcester	4,057,479
Southwick Tolland	5,329,276
Spencer East Brookfield	9,434,396
Tantasqua	3,730,915
Tri County	2,404,717
Triton	6,117,136
Up-Island	316,096
Upper Cape Cod	1,400,767
Wachusett	13,294,094
Whitman Hanson	14,869,732

Regional Schools	7061-0008 Chapter 70 School Aid
Whittier	4,391,606
Worcester Trade	6,955,334
Regional Total	375,438,871

NO SECTION 4.

SECTION 5. Notwithstanding the provisions of any general or special law to the contrary, expenditures made from the AA subsidiary, so-called, of the items of appropriation in sections two and two B of this act which are listed below for the personnel costs associated with the programs funded in each of the items listed below shall not exceed the amounts specified herein for each such item. Notwithstanding the provisions of any general or special law to the contrary, the number of full time equivalent positions compensated from the AA subsidiary, so-called, of each of the items listed below shall not exceed the number of authorized positions specified below for each such item; provided, however, that for the purposes of this section board and commission members and seasonal employees shall not be classified as full time equivalent positions. Nothing in this section shall be construed so as to make any further appropriation of funds. Notwithstanding the provisions of any general or special law to the contrary, fiscal year nineteen hundred and ninety-seven collective bargaining costs associated with collective bargaining units two, five, eight and ten are hereby deemed to be fully funded; provided further, that the costs associated with fiscal year nineteen hundred and ninety-seven salary adjustments for unit and non-unit employees, so-called, compensated from items 7066-0000 through 7518-0100, inclusive, are hereby deemed to be fully funded.

Account	Total Authorized AA Subsidiary Spending	Total Authorized Full Time Equivalent Positions
0320-0001	$757,990	7
0320-0003	$2,632,822	58.27
0320-0010	$580,148	13
0321-0001	$181,795	4
0321-0100	$174,925	8
0321-1500	$3,252,185	100.5
0321-1502	$6,696,175	141
0321-1503	$377,224	10
0321-1504	$328,729	8
0321-2000	$266,827	8
0322-0100	$4,395,073	84
0330-0101	$6,921,657	72

Account	Total Authorized AA Subsidiary Spending	Total Authorized Full Time Equivalent Positions
0330-0102	$15,856,791	165
0330-0103	$4,038,190	42
0330-0104	$386,820	4
0330-0105	$1,056,790	11
0330-0106	$578,239	6
0330-0107	$3,175,707	33
0330-0300	$4,856,758	110
0330-0301	$70,326	1
0330-0315	$169,175	5
0330-0317	$199,226	4
0330-2000	$1,534,449	45.8
0330-2205	$8,532,772	267.66
0330-2410	$198,971	5.5
0330-3200	$21,395,225	647
0330-3700	$179,562	5
0331-0100	$4,611,304	128.2
0331-0600	$7,470,188	196.53
0331-2100	$411,347	11
0331-2200	$234,668	6
0331-2300	$1,020,789	26
0331-2400	$109,702	2
0331-2500	$1,384,966	39
0331-2600	$233,439	6
0331-2700	$1,258,521	33.6
0331-2800	$314,371	8
0331-2900	$3,242,693	92.33
0331-3000	$109,702	2
0331-3100	$1,067,133	27.5
0331-3200	$1,078,454	30.03
0331-3300	$3,166,654	100
0331-3400	$1,947,384	44.1
0331-3404	$81,106	3
0331-3500	$1,405,580	33
0332-0100	$1,200,344	26
0332-1100	$1,634,786	45.8
0332-1200	$884,632	24.8
0332-1203	$750,069	24
0332-1300	$553,950	13
0332-1400	$998,648	27
0332-1500	$416,987	10

Account	Total Authorized AA Subsidiary Spending	Total Authorized Full Time Equivalent Positions
0332-1600	$1,209,851	34
0332-1700	$2,001,177	64.5
0332-1800	$1,924,359	57
0332-1900	$900,904	25
0332-2000	$316,265	8
0332-2100	$1,597,331	42
0332-2300	$230,169	6
0332-2400	$1,407,982	37.6
0332-2500	$747,633	21
0332-2600	$2,222,940	70
0332-2700	$2,272,178	64
0332-2800	$1,018,391	28
0332-2900	$1,049,723	29
0332-3000	$918,977	27
0332-3100	$374,237	11
0332-3200	$744,183	20.52
0332-3300	$814,039	23
0332-3400	$597,046	16
0332-3500	$3,497,711	107
0332-3600	$679,175	19
0332-3700	$1,542,358	44
0332-3800	$483,855	12
0332-3900	$2,877,087	85
0332-4000	$2,041,258	58
0332-4100	$868,521	22
0332-4200	$914,399	25
0332-4300	$743,866	19
0332-4400	$1,900,851	53.5
0332-4500	$1,351,081	37.6
0332-4600	$3,034,033	83
0332-4700	$1,810,767	53
0332-4800	$1,067,994	29
0332-4900	$1,787,304	48.5
0332-5000	$1,069,938	29.08
0332-5100	$180,915	4
0332-5200	$1,765,399	48.4
0332-5300	$3,830,957	112
0332-5400	$1,216,757	31
0332-5500	$1,406,277	39.5
0332-5600	$753,898	18.87

Account	Total Authorized AA Subsidiary Spending	Total Authorized Full Time Equivalent Positions
0332-5700	$2,432,254	71.9
0332-5800	$1,400,114	39
0332-5900	$1,524,065	39
0332-6000	$1,258,867	34
0332-6100	$992,480	24.47
0332-6200	$711,715	16
0332-6300	$1,658,852	44
0332-6400	$3,786,462	105.5
0332-6500	$1,359,382	36.6
0332-6600	$3,480,709	91
0332-6700	$892,658	22
0332-6800	$1,783,736	45
0332-6900	$3,242,297	95
0332-7000	$1,039,204	29
0332-7100	$684,986	17
0332-7200	$151,618	3
0332-7300	$866,393	22
0332-7400	$882,722	26
0332-7500	$422,204	13
0332-7600	$919,161	24
0332-7700	$520,825	15
0332-7800	$816,439	20
0332-7900	$699,680	19
0333-0002	$950,722	25
0333-0100	$902,681	26
0333-0200	$568,950	15
0333-0300	$1,532,961	45
0333-0400	$173,584	3
0333-0500	$1,877,701	56.5
0333-0600	$461,826	14
0333-0700	$1,978,871	62
0333-0711	$48,000	1
0333-0800	$731,116	19.69
0333-0900	$3,283,427	105
0333-0911	$213,023	8
0333-1000	$138,058	2
0333-1100	$2,244,341	64
0333-1111	$128,444	3
0333-1200	$1,699,827	51.6
0333-1300	$2,817,303	87

Account	Total Authorized AA Subsidiary Spending	Total Authorized Full Time Equivalent Positions
0333-1400	$1,868,728	53
0334-0001	$2,113,416	58
0335-0001	$6,289,334	166.8
0336-0002	$111,094	2
0336-0100	$828,489	23
0336-0200	$427,870	12
0336-0300	$413,242	11
0336-0400	$615,530	20
0336-0500	$370,967	10
0337-0002	$463,476	9
0337-0003	$3,151,955	334
0337-0100	$3,275,577	86.4
0337-0200	$1,732,587	47
0337-0300	$1,258,057	33
0337-0400	$1,095,391	30
0337-0500	$1,162,448	38
0339-1001	$2,660,897	60
0339-2100	$992,423	31
0340-0100	$9,145,428	271.5
0340-0200	$6,822,219	212
0340-0300	$4,711,544	138
0340-0400	$5,152,939	130
0340-0500	$4,390,704	130
0340-0600	$2,260,228	68
0340-0700	$4,586,930	105.6
0340-0800	$3,970,991	104.5
0340-0900	$3,509,267	103
0340-1000	$1,932,368	53
0340-1100	$1,480,293	42
0340-2100	$186,043	3
0511-0000	$5,555,029	164.5
0511-0200	$462,845	15.4
0511-0230	$159,541	3.8
0511-0250	$329,115	10.6
0511-0260	$157,765	4.1
0517-0000	$309,568	8
0521-0000	$768,951	17
0521-0001	$336,414	12.1
0524-0000	$77,889	1.8
0526-0100	$632,915	18.3

Account	Total Authorized AA Subsidiary Spending	Total Authorized Full Time Equivalent Positions
0527-0100	$12,500	0
0528-0100	$34,237	1
0610-0000	$4,387,104	103.53
0612-0100	$1,041,560	27.25
0630-0000	$67,000	1
0640-0000	$20,419,818	451.98
0640-0300	$836,522	23
0710-0000	$10,309,615	284.4
0710-0010	$922,600	19.9
0710-0100	$653,906	17.82
0810-0000	$13,020,758	342
0810-0014	$684,114	15.8
0810-0021	$1,067,104	28
0810-0045	$2,008,956	52.7
0810-0201	$541,373	19
0810-0338	$212,250	6
0810-0399	$305,395	8
0840-0100	$230,055	6
0840-0101	$37,000	1
0900-0100	$1,092,119	24.82
0910-0200	$1,440,919	33.17
0920-0300	$579,084	15.86
1000-0001	$4,890,565	112
1100-1100	$2,142,851	47.55
1100-1103	$140,135	2.8
1100-1111	$0	7.6
1101-2100	$1,753,036	38.8
1102-3210	$4,341,077	130.4
1107-2400	$354,763	9
1107-2501	$1,135,225	27
1108-4010	$1,204,149	32.4
1108-5100	$1,743,808	47.3
1108-6100	$1,837,312	47.3
1110-1000	$461,703	9.5
1150-5100	$931,672	21.3
1201-0100	$67,067,146	1500.23
1201-0130	$2,383,160	60
1201-0160	$28,251,369	763
1231-0100	$4,117,174	97
1310-1000	$1,019,012	24

Account	Total Authorized AA Subsidiary Spending	Total Authorized Full Time Equivalent Positions
1410-0010	$1,329,385	34
1599-2373	$1,121,729	0
1750-0100	$4,094,909	88.23
1775-0100	$5,669,838	148.7
1775-0800	$0	8
1775-1000	$0	14
1790-0100	$6,021,942	135
1790-0200	$0	12.8
1790-0400	$0	12
1790-0600	$498,000	9.5
2000-0100	$1,721,026	39
2010-0100	$59,941	0
2020-0100	$1,181,331	25.5
2060-0100	$337,796	7
2100-0005	$629,276	14
2100-1000	$1,268,102	30.2
2100-2030	$14,557,091	452.35
2100-2040	$1,000,000	33
2100-3010	$3,299,908	0
2100-3011	$1,217,699	0
2200-0100	$20,593,795	438.77
2210-0100	$864,701	17.88
2220-2205	$1,036,511	23
2220-2207	$58,600	0
2220-2208	$374,863	0
2220-2209	$37,248	0
2220-2210	$128,093	0
2250-2000	$1,150,800	25
2260-8870	$12,398,065	260
2260-8881	$208,931	4
2300-0100	$492,283	10.5
2300-0101	$172,671	4
2310-0200	$4,203,890	124.24
2310-0500	$167,222	4
2315-0100	$195,573	4
2320-0100	$210,524	5.75
2330-0100	$2,974,796	72
2330-0120	$264,375	6
2350-0100	$6,356,668	143.43
2350-0101	$174,895	5

Account	Total Authorized AA Subsidiary Spending	Total Authorized Full Time Equivalent Positions
2410-1000	$620,592	17.92
2420-1400	$6,751,256	166.5
2440-0010	$16,500,000	342.3
2440-2000	$300,001	0
2440-3000	$250,000	0
2440-4000	$145,179	1
2440-4500	$214,006	1
2440-5000	$2,162,831	0
2440-6000	$484,907	0
2460-1000	$2,173,979	60.6
2511-0100	$473,686	10
2511-2000	$313,061	8.53
2511-3000	$1,290,061	31
2511-4000	$546,616	13.94
2520-0100	$38,197	1
2520-0300	$602,220	19
2520-0900	$95,588	2
2520-1000	$431,991	13
2520-1100	$41,229	1
2520-1200	$311,895	9
2520-1300	$256,624	10
2520-1400	$357,284	10
2520-1500	$200,772	6
4000-0100	$1,660,085	31.91
4000-0190	$382,713	9
4000-0300	$29,796,153	766
4000-0350	$701,111	11
4100-0060	$6,032,319	135.97
4110-0001	$502,803	11.48
4110-1000	$1,450,503	41.5
4110-1020	$364,451	10.85
4110-2000	$312,044	8
4110-4000	$656,379	45
4120-1000	$117,306	2
4120-3000	$139,896	4
4120-4000	$442,481	11
4120-5000	$414,278	11.64
4120-6000	$364,867	9
4125-0100	$1,945,000	46
4130-0001	$173,152	4

Account	Total Authorized AA Subsidiary Spending	Total Authorized Full Time Equivalent Positions
4130-0002	$293,150	6.53
4130-0005	$4,862,680	131
4180-0100	$12,255,444	391
4180-0101	$446,744	12.3
4190-0100	$9,961,188	306
4190-0101	$137,345	4.98
4200-0010	$1,121,730	51.8
4237-1010	$6,339,676	174.29
4238-1000	$14,804,230	471.3
4400-1000	$31,403,793	869.5
4400-1100	$58,427,037	1700
4510-0100	$7,218,794	162.15
4510-0600	$2,546,538	60.6
4510-0710	$4,878,088	93.72
4510-0750	$120,590	3
4512-0103	$1,179,908	26.94
4512-0200	$148,650	4
4513-1000	$880,224	20.31
4513-1002	$66,820	2
4513-1005	$176,693	5
4516-1000	$4,575,689	129
4518-0100	$853,108	28
4540-0900	$20,266,691	1793.85
4570-1500	$31,822	1.6
4580-1000	$691,512	14.93
4590-0902	$344,899	7.2
4800-0015	$15,624,932	353
4800-0025	$1,876,949	45.98
4800-0050	$459,567	15.8
4800-0150	$9,201,506	280.29
4800-1100	$79,234,307	2223
5011-0100	$17,888,373	400
5042-1000	$1,276,110	37.4
5042-5000	$2,389,202	63
5046-0000	$27,303,139	774
5051-0100	$47,347,967	1307
5055-0000	$3,018,309	60.7
5095-0000	$74,410,341	2160
5911-1000	$3,068,630	90.23
5911-2000	$176,670	5.56

Account	Total Authorized AA Subsidiary Spending	Total Authorized Full Time Equivalent Positions
5920-1000	$33,464,780	920.32
5920-2010	$55,279,137	2065
5920-2040	$10,050,255	242.6
5930-1000	$146,722,050	4872.88
5930-2000	$4,342,583	152.18
6000-0100	$269,011	4.8
6006-0003	$307,748	7
6010-0001	$42,164,854	1117.1
6010-1010	$362,975	0
6010-1016	$1,074,008	41
6010-1017	$1,988,245	72
6010-1018	$2,298,564	87
6020-2505	$63,792	2
7000-9101	$682,346	17
7002-0100	$267,486	5.95
7002-0101	$214,876	6.42
7002-0200	$907,516	24
7002-0400	$781,195	16
7002-0500	$12,756,966	333
7002-0600	$877,328	19
7002-0700	$332,751	7
7002-0800	$597,189	11.6
7003-0100	$75,000	2
7003-0601	$198,625	0
7003-0800	$400,000	0
7003-0901	$22,000	0
7003-2055	$25,000	0
7004-0001	$42,433	1
7004-0099	$4,143,890	101.87
7005-0001	$250,000	7
7006-0000	$974,378	26
7006-0010	$7,266,518	184
7006-0020	$4,811,368	115
7006-0030	$1,115,437	33.5
7006-0040	$3,542,076	103.7
7006-0050	$199,017	3
7006-0060	$415,367	11
7006-0070	$3,396,973	81.5
7006-0080	$546,626	15
7006-0100	$870,789	21.5

Account	Total Authorized AA Subsidiary Spending	Total Authorized Full Time Equivalent Positions
7006-0110	$1,673,371	44
7006-0120	$454,315	11
7006-0130	$1,525,464	38.2
7007-0100	$220,703	4
7007-0300	$1,853,101	43
7007-0600	$487,764	10
7007-0700	$158,810	4
7007-0900	$1,127,924	29
7007-1500	$463,661	11
7010-0005	$5,703,888	142.2
7028-0031	$2,461,512	62.63
7066-0000	$2,159,710	41
7070-0031	$849,402	24.78
7070-0065	$954,177	15
7100-0200	$372,313,119	6576.57
7109-0100	$23,446,414	535.28
7109-1202	$250,000	7
7110-0100	$19,784,808	466.06
7112-0100	$16,496,136	353.64
7113-0100	$10,878,985	226.2
7114-0100	$24,612,065	580.8
7115-0100	$15,603,770	340.93
7116-0100	$16,018,351	350.17
7117-0100	$10,071,239	238.85
7118-0100	$8,922,189	167
7220-0004	$1,763,114	10.85
7502-0100	$7,440,832	162.46
7503-0100	$9,884,691	236
7504-0100	$7,068,229	187
7504-0101	$34,934	1
7505-0100	$6,762,177	148.05
7506-0100	$11,736,343	284.94
7507-0100	$8,768,376	187.03
7508-0100	$15,039,815	335.46
7509-0100	$6,980,586	192.27
7510-0100	$12,811,992	266.09
7511-0100	$14,902,442	324.54
7512-0100	$9,437,861	237.29
7514-0100	$16,766,072	374.63
7515-0100	$8,605,210	172

Account	Total Authorized AA Subsidiary Spending	Total Authorized Full Time Equivalent Positions
7515-0120	$437,500	15
7516-0100	$13,091,047	309.97
7518-0100	$12,587,077	289
8000-0000	$417,456	7.75
8000-0020	$219,671	5
8000-0105	$2,153,811	46.4
8000-0110	$1,775,100	46.95
8000-0160	$291,578	6
8000-0161	$71,319	2
8000-0500	$162,390	4
8100-0000	$112,803,761	2396
8100-0002	$2,000,000	0
8100-0007	$12,964,692	0
8100-0100	$1,305,939	30
8100-0200	$444,603	14
8100-0300	$73,720	0
8200-0200	$1,314,570	33.66
8311-1000	$723,780	21.77
8312-1000	$5,854,102	130
8314-1000	$987,661	26
8314-1100	$274,509	7
8314-1300	$301,653	7
8315-1000	$2,980,180	70
8350-0100	$670,632	19
8400-0001	$19,200,956	740.01
8400-0100	$2,188,433	72.4
8600-0001	$273,264	7
8700-0001	$2,534,748	89
8800-0001	$567,890	31
8800-0100	$330,166	8
8800-0200	$218,438	5
8850-0001	$144,228	0
8850-0015	$70,374	2
8900-0001	$188,694,670	4663.2
8900-0002	$3,554,572	77.93
8900-0004	$551,251	12
8900-0007	$45,399	1
8900-0009	$2,513,679	67.5
8900-0010	$879,045	99
8900-0100	$659,233	12

Account	Total Authorized AA Subsidiary Spending	Total Authorized Full Time Equivalent Positions
8950-0001	$10,107,199	247.63
8950-0002	$166,012	5
9110-0100	$1,426,189	31
9110-0102	$87,549	3

SECTION 6. 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 7. 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, wastewater 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 projects as may be required; provided, however, that salaries and administrative expenses shall be charged to the accounts funding said project. Such charges shall not exceed two percent of the following appropriation accounts: 1102-7881, 1102-7882, 1102-7885, 1102-7886, 1102-7887, 1102-7890, 1102-7893, 1102-7894, 1102-7895, 1102-7896, 1102-7897, 1102-8801, 1102-8819, 1102-8847, 1102-8869, 1102-8880, 1102-8890, 1102-8891, 1102-8892, 1102-8893, 1102-8895, 1102-8897, 1102-8899 and 1102-9802.

SECTION 8. All sums appropriated under the provisions of this act, including supplemental and deficiency budgets, 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 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. 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 said secretary, 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. The secretary of administration shall report on the status of each agency, board, or division of the commonwealth receiving monies under this act, including supplemental and deficiency budgets, as to compliance or noncompliance with their affirmative action policy to the joint committee on public service and the joint committee on commerce and labor on or before December first, nineteen hundred and ninety-six.

SECTION 9. Section 3 of chapter 6 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Each member of the council shall receive a salary of fifteen thousand six hundred dollars.

SECTION 10. Section 17A of said chapter 6, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The cabinet shall consist of the secretary of administration and finance, the secretary of elder affairs, the secretary of environmental affairs, the secretary of health and human services, the secretary of public safety, the secretary of transportation and construction and such other offices of the executive department as the governor may from time to time designate.

SECTION 11. Section eighteen A of said chapter six is hereby repealed.

SECTION 12. Section 108 of said chapter 6, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 7 and 8 and in lines 25 and 26 the words "secretary of the executive office of communities and" and inserting in place thereof, in each instance, the following words:- deputy director of housing and community.

SECTION 13. Said section 108 of said chapter 6, as so appearing, is hereby further amended by striking out, in lines 13 and 18 the words "executive office of communities and" and inserting in place thereof, in each instance, the following words:- division of housing and community.

SECTION 14. The first paragraph of section 164 of said chapter 6, as so appearing, as amended by section 1 of chapter 285 of the acts of 1995, is hereby further amended by striking out the word "in the executive office of public safety" the following words:- in the department of fire services within the executive office of public safety.

SECTION 15. Section 165A of said chapter 6, as so appearing, is hereby amended by inserting after the word "the", in line 5, the following words:- department of fire services within the.

SECTION 16. Said chapter 6 is hereby further amended by inserting after said section 165A the following section:-

Section 165B. There is hereby established in the executive office of public safety the Massachusetts fire service commission, hereinafter called the commission, to consist of the secretary of public safety, ex officio; and six members to be appointed by the governor, four of whom shall be fire chiefs selected from a list of eight names submitted by the Fire

Chiefs Association of Massachusetts, one of whom shall be selected from a list of two names submitted by the Professional Firefighters of Massachusetts who holds the rank of firefighter and one of whom shall be a representative of the insurance industry.

The four fire chiefs selected from the eight names submitted by the fire chiefs association shall represent the following types of fire departments:

(1) a fully paid fire department

(2) a partially paid part-call fire department

(3) a full-call fire department; and

(4) a community from within metro fire district 13.

The chairman of said commission shall be elected by a majority of the members thereof and shall serve as chairman for a term of one year or until his successor is elected. Said chairman shall be elected annually at the January meeting.

Members of the commission shall be appointed for terms of three years with no limit on the number of terms they may serve. Members shall hold office until a successor is appointed and no member shall serve beyond the time he ceases to hold office or employment by reason of which he was eligible for appointment to the commission.

The commission shall meet monthly except that the chairman, with commission approval, may omit meetings in July and August and the chairman, the governor, or the secretary of public safety may call additional meetings at other times, of which all members shall be given notice in writing at least five days prior to such meeting. Special meetings may be called by the chairman and shall be called by him at the request of the governor or upon the written request of four members of said commission. If any member is absent from three regularly scheduled meetings, exclusive of July and August, in any calendar year, his office as a member shall be deemed vacant. The chairman of the commission shall make an annual report to the governor and the secretary of public safety and shall include in it recommendations for appropriate legislation.

The members of the commission shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

No member of the commission shall serve as a member concurrently on the Massachusetts fire training council established in section one hundred and sixty-four.

The commission shall have responsibility for the following:

(1) the appointment of a fire marshal;

(2) the promulgation of regulations and policies pertaining to the operation of the office of the state fire marshal;

(3) review the annual budget developed by the office of the state fire marshal;

(4) advising the office of the state fire marshal regarding state and national fire codes; and

(5) consulting with the Massachusetts fire training council to develop standards for fire investigation training and certification.

SECTION 17. Section 168 of said chapter 6, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "services", in line 8, the following words:- and the colonel of state police.

SECTION 18. Said chapter 6 is hereby further amended by inserting after section 168A, as so appearing, the following two sections:-

Section 168B. The executive director of the criminal history systems board shall promulgate rules and regulations to ensure the prompt collection, exchange, dissemination and distribution of firearms record information in accordance with sections one hundred and twenty-one to one hundred and thirty-one J, inclusive, of chapter one hundred and forty.

Section 168C. (a) Each public or private degree-granting post-secondary institution of higher education shall submit, on an annual basis, a uniform crime report, consistent with the Federal Bureau of Investigation's Uniform Crime Report, to the criminal history system board. Said board shall file all such reports with the Federal Bureau of Investigation. In addition, said board shall keep a copy of such reports on file for at least five years. Upon submitting such crime report, each such institution shall provide public notice to its campuses that the institution makes such report available, upon request, to an applicant, student or employee of the institution and how any such individuals may obtain a copy of the report from the institution.

(b) In addition, each such institution shall certify that it has a campus security policy that has been made available, upon request, to an applicant, student or employee of the institution. Such policy shall provide information on campus security procedures including, but not limited to, the following: (1) the administrative office responsible for security on the campus; (2) policy regarding the possession, use and sale of alcoholic beverages and enforcement of underage drinking laws; (3) policy regarding the possession, use and sale of illegal drugs and enforcement of federal and state drug laws; (4) policy regarding the unauthorized possession and use of weapons by students and employees; (5) policy regarding access to institutional facilities and programs by students, employees, guests and other individuals; (6) procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports; (7) a description of the communication media used to inform the campus community about security matters as well as the frequency with which the information is usually provided.

(c) Any such campus security policy shall further provide information on security and access to grounds and buildings including, but not limited to, security considerations used in the maintenance of campus facilities.

(d) Any such policy shall further provide information on student housing safety measures, including, but not limited to: (1) policies concerning the identification and admission of visitors in student housing facilities; (2) measures to secure entrances to student housing facilities; (3) standard security features used to secure doors and windows in students' rooms; (4) the type and frequency of programs designed to inform student housing residents about housing security and enforcement procedures; (5) policy and special security

procedures for housing students during low-occupancy periods such as holidays and vacation periods; and (6) policy on the housing of guests and others not assigned to the student housing or not regularly associated with the institution of higher education.

(e) Any such policy shall further provide information on campus law enforcement, including: (1) a description of the type and number of security personnel utilized by the institution and a description of their training; (2) the enforcement authority of security personnel, including their working relationship with state and local police agencies; and (3) policy for reporting criminal incidents to state and local police.

SECTION 19. The fifth paragraph of section 180 of said chapter 6, as amended by section 13 of chapter 38 of the acts of 1995, is hereby further amended by striking out clause (4) and inserting in place thereof the following clause:-

(4) compile and maintain an inventory of underwater archaeological resources reported and recovered under the provisions of this section and section sixty-three of chapter ninety-one, which shall not be a public record; and.

SECTION 20. Section 204 of said chapter 6, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 8, the words "Massachusetts Trades Building Council" and inserting in place thereof the following words:- Massachusetts State Labor Council, AFL-CIO.

SECTION 21. Chapter 6A of the General Laws is hereby amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. There are hereby established the following executive offices, each of which shall serve under the governor: elder affairs, environmental affairs, health and human services, public safety and transportation and construction.

SECTION 22. Sections nine A to thirteen, inclusive, of said chapter six A are hereby repealed.

SECTION 23. Said chapter 6A is hereby further amended by striking out the caption preceding section 16, as so appearing, and inserting in place thereof the following caption:- EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

SECTION 24. Said section 16 of said chapter 6A, as so appearing, is hereby further amended by inserting before the word "human", in lines 2, 42 and 45, each time it appears, the following words:- health and.

SECTION 25. Said chapter 6A is hereby further amended by striking out section 17C, as so appearing, and inserting in place thereof the following section:-

Section 17C. The division of industrial accidents and all other state agencies within said division are hereby declared to be within the department of labor and workforce development, but shall not be subject to the jurisdiction thereof.

Nothing in this section shall be construed as conferring any power or imposing any duties upon the director of labor and workforce development with respect to the foregoing agencies except as expressly provided by law.

SECTION 26. Section 17D of said chapter 6A, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "executive office of labor" and inserting in place thereof the following words:- department of labor and workforce development.

SECTION 27. Said section 17D of said chapter 6A, as so appearing, is hereby further amended by striking out, in line 6, the words "secretary of labor" and inserting in place thereof the following words:- director of labor and workforce development.

SECTION 28. Said chapter 6A is hereby further amended by striking out section 17E, as so appearing, and inserting in place thereof the following section:-

Section 17E. The division of the board of conciliation and arbitration, insofar as it includes subdivisions, boards, commissions, committees and sections subject to its direction and jurisdiction, is hereby declared to be within the department of labor and workforce development but shall, in no respect, be subject to the jurisdiction thereof.

The joint labor-management committee, insofar as it includes subdivisions, boards, commissions, committees and sections subject to its direction and jurisdiction, is hereby declared to be within the department of labor and workforce development but shall, in no respect, be subject to the jurisdiction thereof.

Nothing in this section shall be construed as conferring any powers or duties upon the director of labor and workforce development with respect to the foregoing agencies except as expressly provided by law.

SECTION 29. Said chapter 6A is hereby amended by striking out section 18, as so appearing, and inserting in place thereof the following section:-

Section 18. The following state agencies are hereby declared to be within the executive office of public safety: the department of public safety; the department of fire services; the board of building regulations and standards; the registry of motor vehicles; the governor's highway safety bureau; the Massachusetts criminal justice training council; the criminal history systems board; the statewide emergency telecommunications board; the department of state police; the Massachusetts emergency management agency; the military department; the department of correction, including the parole board and all other agencies and boards within said departments, committees, boards and councils.

SECTION 30. Section 18B of said chapter 6A, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "commissioner of the department of public safety" and inserting in place thereof the following words:- state fire marshal.

SECTION 31. Sections thirty-one through seventy-seven, inclusive, of chapter 6A of the General Laws are hereby repealed.

SECTION 32. Chapter six B of the General Laws is hereby repealed.

SECTION 33. Section 3B of chapter 7 of the General Laws, as so appearing, is hereby amended by inserting after the word "education", in line 42, the following words:- , any fees or charges relative to the forests, parks or other natural resources within the scope of the responsibility of the department of environmental management, pursuant to section one of chapter twenty-one.

SECTION 34. Said chapter 7 is hereby further amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. The governor shall appoint a commissioner of administration who shall also serve as the secretary of administration and finance, and shall have the rank of secretary

for all purposes. He shall serve at the pleasure of the governor, shall receive such salary as the governor may determine and shall devote his full time to the duties of his office. Except in the cases of the agencies named in section four G, he shall be responsible for the exercise of all powers and the performance of all duties assigned by law to the executive office for administration and finance or to any division, bureau or other administrative unit or agency under said office. He shall be the executive and administrative head of said office and every division, bureau, section and other administrative unit and agency within said office other than the agencies named in section four G shall be under his direction, control and supervision.

The commissioner shall act as the executive officer of the governor, in all matters pertaining to the financial, administrative, planning, and policy coordinating functions and affairs of the departments, commissions, offices, boards, divisions, institutions and other agencies within the executive department. He shall inquire into the business affairs of the commonwealth and the laws governing the same; shall supervise program planning and the coordination of the activities and programs of the commonwealth in its dealings with the federal government; shall review and report to the governor and the general court on all proposed legislation affecting the organization, structure, efficiency and administrative functions, services, procedures and practices of the departments, commissions, offices, boards, divisions institutions and other agencies, or any of them, under the executive department; shall conduct studies of the operations of said agencies with a view to effecting improvements in administrative organization, procedures, and practices and to promote economy, efficiency and the avoidance of useless labor and expenses in the said agencies; shall, subject to the approval of the governor, make such rules, regulations and orders as he deems appropriate to regulate and govern the manner and method of the distribution and disposition of audit reports from the department of the state auditor and the house and senate committees on post audit and oversight to all public agencies which are the subjects of such audit reports and shall have such other powers and duties as shall be assigned to him by law and which may from time to time be assigned to him by the governor in accordance with law.

SECTION 35. Said chapter 7 is hereby further amended by striking out section 4A, as so appearing, and inserting in place thereof the following section:-

Section 4A. The executive office for administration and finance shall include a division of capital planning and operations, which shall be headed by a commissioner as provided in section thirty-nine B, and a department of revenue as provided in chapter fourteen. In addition, the executive office for administration and finance shall include the following divisions: human resources, information technology, fiscal affairs and operational services, which divisions shall develop policy and standards to govern the conduct of commonwealth secretariats, departments, agencies, boards and commissions in each of these areas, and shall provide expertise and centralized processing to said secretariats, departments, agencies, boards, commissions and other entities of state government.

(a) The operational services division shall be headed by a state purchasing agent who shall also serve as assistant secretary for operational services. He shall be appointed by the secretary with the approval of the governor. The state purchasing agent shall give bond to the state treasurer in a sum fixed by the governor for the faithful performance of his duties and for the rendering of a proper account of all money entrusted to him for the use of the commonwealth. The purchasing agent may establish within the division such bureaus and other units as are deemed necessary from time to time by the commissioner of administration for the purpose of carrying out the functions of the division. Such functions shall include, but not be limited to, the management of the acquisition of all goods, supplies, equipment, services and real property leases, excepting the acquisition of such goods, supplies, equipment, services and real property leases as otherwise provided for in any general or special law or in any administrative rule or regulation promulgated by the commissioner of administration, the provision of assistance and advice for such acquisitions, the administration of the state and federal surplus property programs, the administration of the collective purchasing program for the political subdivisions of the commonwealth, the administration and management of reproduction facilities, the management of state acquired vehicles including the use and maintenance thereof and such other functions as the purchasing agent, with the approval of the secretary, may from time to time deem necessary for the efficient and economical administration of the work of said division. Within the division of operational services shall be the bureau of state office buildings and the state house library.

(b) The human resources division shall he headed by a personnel administrator who shall also serve as assistant secretary for human resources. He shall be appointed by the secretary with the approval of the governor. Such personnel administrator shall be a person familiar with the principles and experienced in the methods and practices of personnel administration. The personnel administrator shall serve for a term of four years, which term shall end on June thirtieth of the first year of the term of the governor, except that he may be removed by the secretary, with the prior approval of the governor. A person so appointed shall serve until the qualification of his successor; provided, however, that in the case of a person appointed to fill a vacancy occurring during the prescribed term by reason of death, resignation or otherwise, the term of the successor in said office shall end on the next succeeding June thirtieth of the first year of the term of the governor. Within the human resources division shall also be the state office of affirmative action, the office of employee relations, and the office of dispute resolution.

(c) The fiscal affairs division shall be headed by a budget director who shall also serve as assistant secretary for fiscal policy. The budget director shall be appointed by the secretary, with the approval of the governor and may be removed for cause in like manner. He shall be a person of ability and experience and shall devote his entire time to the duties of his office. The budget director may establish, with the approval of the secretary, such administrative units in the fiscal affairs division as he deems appropriate. The budget director, as head of the fiscal affairs division, shall prepare and maintain financial plans and,

under the general direction of and on behalf of the governor, shall prepare operating budget recommendations for all departments, offices, commissions and institutions which receive periodic appropriations from the commonwealth. Such plans and recommendations shall be prepared according to the requirements of chapter twenty-nine. Subject to the approval of the secretary, the budget director shall design and install, and may revise from time to time, a financial planning and budgeting system, including the requisite forms, procedures, information, computer software and such other attributes as he may deem necessary.

(d) The information technology division shall be headed by the chief information officer who shall also serve as assistant secretary for information technology. He shall be appointed by the secretary. The chief information officer shall carry out such functions as the commissioner may from time to time deem necessary for the efficient and economical administration of information technology systems within the executive departments including, but not limited to, setting information technology standards, reviewing and approving secretariat and department information technology strategic plans, reviewing and approving the planning, design, acquisition and operation of information technology systems, assessing the performance of information technology systems and operations, managing central information technology systems, and managing the commonwealth's mailing operations. He may establish such bureaus, offices and other functional units within the division as he may deem appropriate.

Except in the case of agencies named in section four G, the secretary may also from time to time establish within the executive office for administration and finance such other bureaus, sections and other administrative units not otherwise established by law as may be necessary for the efficient and economical administration of the work of said office and, when necessary for such purpose, he may abolish any bureau, section or other unit or he may merge any two or more of them. He shall prepare and keep current a general statement of the organization of said office and of the assignment of functions to its various administrative units, officials and employees. Such statement shall be known as the Description of Organization of said office and shall be kept on file in said office. A copy shall be kept on file in the office of the governor.

SECTION 36. Section 4L of said chapter 7, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "There is hereby established in the executive office of administration and finance a state agency for surplus property," and inserting in place thereof the following words:- The operational services division is hereby.

SECTION 37. Section 43C of said chapter 7, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words "secretary of educational affairs" and inserting in place thereof the following words:- board of higher education.

SECTION 38. Chapter 10 of the General Laws is hereby further amended by inserting after section 28A the following section:-

Section 28B. The commission shall, on a monthly basis, transmit to the department of transitional assistance and to the IV-D agency, as set forth in chapter one hundred and nineteen A, a list of all persons who were the holders of any winning ticket in excess of six hundred dollars in the prior month. The information shall be provided in a format which is

compatible with the automated data processing systems of said departments, to ensure the immediate identification of persons who may be receiving public assistance benefits. The information provided shall include the name, address and social security number of the holder of the winning ticket.

SECTION 39. The General Laws are hereby amended by inserting after chapter 14 the following chapter:-

CHAPTER 14A.

OFFICE OF LABOR, EDUCATION AND ECONOMIC DEVELOPMENT.

Section 1. There shall be within the executive department, an office of labor, education and economic development, hereinafter referred to as the office. Within said office there shall be a department of education which shall be under the supervision and control of a board of education, as established by chapter fifteen; the system of public institutions of higher education which shall be coordinated by a board of higher education, as provided by chapter fifteen A; a department of labor and workforce development, as established by chapter twenty-three; a department of economic development, as established by chapter twenty-three A; and an office of consumer affairs and business regulation, as established by chapter twenty-four A.

Section 2. It is hereby declared to be the policy of the commonwealth to provide, foster and support an integrated and coordinated system of education, workforce training and worker protection and job development which shall be responsive to the academic, vocational and economic needs of the commonwealth and its citizens. The office of labor, education and economic development shall be responsible for fostering communication among the departments, boards and divisions within said office so as to fulfill said policy.

Section 3. There shall be in the office a coordinating council which shall consist of the lieutenant governor, or his designee, who shall be the chair of the coordinating council, the chair of the board of education or his designee, the chair of the board of higher education or his designee, the chair of the Massjobs council or his designee, the director of the department of labor and workforce development, the director of the department of economic development, the director of the department of consumer affairs and business regulation, the chair of the board of library commissioners, or its designee, and the executive director of the Massachusetts corporation for educational telecommunication. The coordinating council shall have the responsibility to foster communication, cooperation and coordination among the departments, boards and divisions within the office and among agencies represented on the council so as to advance the coordination mission of the office. The duties and responsibilities of the coordinating council shall include the following:

(1) to study and report on issues common to all levels of state-supported education, job training, workforce protection and development, and economic development;

(2) to serve as a forum for discussion between the lay boards responsible for overseeing public education;

(3) to serve as a forum for discussion of general education, job training and job retention goals for the commonwealth;

(4) to serve as a forum for developing goals for a coordinated system of education from early childhood through higher education and vocational education, ongoing job training to maintain a highly skilled workforce and mechanisms for preserving and protecting existing employment opportunities and workforce protections;

(5) to encourage and facilitate partnerships among public early childhood, elementary, secondary and vocational-technical schools with institutions of higher learning; and

(6) to encourage and facilitate partnerships among schools, training programs and businesses to improve the delivery of educational and training services.

The coordinating council shall meet at least once a month and may establish subcommittees of the full council when it determines such subcommittees may better enable it to accomplish its goals.

The coordinating council shall not exercise any control or authority over the activities, regulations, rules or policies of the departments, boards or divisions within the office. Nothing in this section shall be construed to grant the council any authority otherwise vested in the boards, departments or divisions within the office.

The coordinating council shall select from among its members a secretary who shall submit quarterly and annual reports to the governor and to the senate and house committees on ways and means which shall describe in detail all activities of the coordinating council which are designed to improve the coordination between, to eliminate duplication of efforts within, and to improve the quality of services provided by the boards, departments and agencies within the office of labor, education and economic development and the agencies represented on the council.

SECTION 40. The first paragraph of section 1E of chapter 15 of the General Laws, as amended by section 3 of chapter 45 of the acts of 1996, is hereby amended by striking out the first three sentences and inserting in place thereof the following two sentences:- There shall be in the department a board of education, in this section and in sections one F and one G called the board, which shall consist of the chairman of the student advisory council established under this section, the chancellor of higher education, one representative of a labor organization selected by the governor from a list of three nominees provided by the Massachusetts State Labor Council, AFL-CIO; one representative of business or industry selected by the governor with a demonstrated commitment to education; and five additional members selected by the governor. In making such additional selections, the governor shall seek to appoint persons who are from geographically diverse regions of the commonwealth and who are familiar with the differing interests, perspectives and needs of urban, rural and suburban school districts.

SECTION 41. Said section 1E of said chapter 15, as appearing in the 1994 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

The board shall meet not fewer than ten times annually at the call of the chairman.

SECTION 42. Section 1F of said chapter 15, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The

commissioner shall receive a salary to be determined by the board.

SECTION 43. The fourth paragraph of section 1 of chapter 15A of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The board of higher education, in this chapter called the board or the council, shall be responsible for defining the mission of and coordinating the state's system of higher education in accordance with the provisions of this chapter.

SECTION 44. Said section 1 of said chapter 15A, as so appearing, is hereby further amended by striking out, in line 36, the words "higher education coordinating council" and inserting in place thereof the following word:- board.

SECTION 45. Said section 1 of said chapter 15A, as so appearing, is hereby further amended by striking out, in lines 45 and 46, the words "The council shall, in its role as a participant on the state's committee on educational policy" and inserting in place thereof the following words:- The board shall, through participation in the coordinating council established by section three of chapter fourteen A.

SECTION 46. Said chapter 15A is hereby further amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. There shall be a director of education who shall be appointed by the governor and shall devote full time to the duties of the office. The director shall receive a salary as determined by the governor. The director shall advise the governor on matters relating to public education, shall endeavor to coordinate public education programs from early childhood through the university or college level by facilitating coordination and communication between the board of education and the board of higher education, and shall serve as an advocate for public support of public education. Nothing in this section shall be construed as conferring any powers upon the director with respect to the board of education, the department of education, or the board of higher education, provided, however, that the governor may appoint the director to be a member of the board of education, as established by section one E of chapter fifteen, and a member of the board of higher education, as established by section four.

SECTION 47. The first paragraph of section 4 of said chapter 15A, as so appearing, is hereby amended by striking out the first four sentences and inserting in place thereof the following three sentences:- The board of higher education shall be composed of eleven voting members appointed by the governor who shall reflect 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. Of the appointed members, at least one shall be a representative of organized labor, at least one shall be a representative of the business community, at least one shall be appointed from among three former members of the boards of trustees of the state colleges nominated by the council of state colleges, at least one shall be appointed from among three former members of the boards of trustees of the community colleges nominated by the council of community colleges, and one shall be a member whom the governor shall choose from among no more than three full-time undergraduate students who shall be nominated and currently enrolled in a public institution as set forth in section five.

SECTION 48. Section 9 of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words "consistent with general goals that may be established by the committee on educational policy,".

SECTION 49. Clause (f) of the first paragraph of said section 9 of said chapter 15A, as most recently amended by section 28 of chapter 38 of the acts of 1995, is hereby further amended by striking out the words ", as well as the general goals established by the committee on educational policy".

SECTION 50. The last sentence of clause (i) of said first paragraph of said section 9 of said chapter 15A, as most recently amended by said section 28 of said chapter 38, is hereby further amended by striking out the words "the secretary and".

SECTION 51. Clause (cc) of the first paragraph of said section 9 of said chapter 15A, as amended by said section 28 of said chapter 38, is hereby further amended by inserting after the third sentence the following sentence:- Monies received in repayment shall be retained by HEFA for the administration of the program without further appropriation.

SECTION 52. Said chapter 15A is hereby further amended by inserting after section 15D the following section:-

Section 15E. It is hereby declared to be the policy of the commonwealth to encourage private fundraising by the state university and public colleges and to assist such fundraising through a matching program to be known as the public higher education endowment incentive program which shall not result in direct or indirect reductions in the commonwealth's appropriations to such institutions for operations or for capital support.

Subject to appropriation, the commonwealth shall contribute funds to each institution's recognized foundation in an amount necessary to match private donations in the previous fiscal year to the institutions or a foundation's endowment based on the following matching formula. Subject to appropriation, the commonwealth's contribution shall be equal to one dollar for every two dollars, or one dollar for such greater number of dollars as may be established by the board of higher education, privately contributed to the university's board of trustees or a foundation, provided that the maximum total contributions from the commonwealth shall be twenty-five million dollars; one dollar for every two dollars, or one dollar for such greater number of dollars as may be established by the board of higher education, privately contributed to each state college's board of trustees or foundation, provided that the maximum total contributions from the commonwealth shall be two million five hundred thousand dollars for each institution; one dollar for every two dollars, or one dollar for such greater number of dollars as may be established by the board of higher education, privately contributed to each community college's board of trustees or foundation, provided that the maximum total contributions from the commonwealth shall be one million dollars for each institution.

Private contributions to the endowment for purposes of this program shall be limited to donations to an endowment for academic purposes including, but not limited to, scholarships and endowed chairs.

Said program shall terminate for the university when its foundation has received twenty-five million dollars in appropriated matching funds according to the formula prescribed above, or on July first, two thousand and three, whichever is sooner. Said program shall terminate for any state college when its foundation has received two million five hundred thousand dollars in appropriated matching funds according to the formula prescribed above or on July first, two thousand and three, whichever is sooner. Said program shall terminate for any community college when its foundation has received one million dollars in appropriated matching funds according to the formula prescribed above or on July first, two thousand and three, whichever is sooner.

For each institution the program shall be administered by its foundation, as defined in section thirty-seven, in accordance with procedures established by the board of trustees and filed with the house and senate committees on ways and means no later than January first, nineteen hundred and ninety-seven. Such procedures shall include a method for each board of trustees to certify to the house and senate committees on ways and means the amount received in private donations to the endowment in each fiscal year. Such procedures shall also include safeguards for protecting the anonymity of donors who indicate their desire not to be identified.

SECTION 53. Section 19A of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "secretary of education in accordance with guidelines promulgated by the higher education coordinating council" and inserting in place thereof the following words:- board of education in accordance with guidelines promulgated by the board of higher education.

SECTION 54. Said section 19A of said chapter 15A, as so appearing, is hereby further amended by striking out, in line 39, the word "secretary" and inserting in place thereof the following words:- board of education.

SECTION 55. Section 34 of said chapter 15A, as so appearing, is hereby amended by striking out, in line 5, the word "may" and inserting in place thereof the following word:- shall.

SECTION 56. Section 34 of said chapter 15A, as so appearing, is hereby amended by striking out, in line 7, the words "higher education coordinating council" and inserting in place thereof the following words:- board of higher education.

SECTION 57. Section 34 of said chapter 15A, as so appearing, is hereby further amended by striking out, in lines 11 and 12, the words "the secretary of education,".

SECTION 58. Said section 34 of said chapter 15A, as so appearing, is hereby further amended by striking out, in line 16, the word "ninety-three" and inserting in place thereof the following word:- ninety-nine.

SECTION 59. Said chapter 15A is hereby further amended by striking out section 37, as so appearing, and inserting in place thereof the following section:-

Section 37. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Foundation", an organization which is (a) either (i) a corporation within the meaning of clause (c) of section two of chapter one hundred and eighty and subject to the provisions of said chapter one hundred and eighty, except as herein provided, or (ii) a public charitable trust constituted and operating as such and subject to the requirements of law governing such trusts, except as herein provided; (b) organized and operated exclusively for the benefit of an institution of public higher education; and (c) certified by the board of trustees of the institution which it supports to be operating in a manner consistent with the goals and policies of the institution.

"Institution", a public college or university in the commonwealth.

(b) A corporation or trust which is not certified as provided herein or whose certification has been revoked by the board of trustees of the institution which it supports, shall not use the name of such institution (i) for fundraising without written permission of the board of trustees of such institution, or (ii) in the name of such corporation or trust.

(c) Each foundation shall have a governing board to oversee its operation. In no event shall institutional trustees and employees constitute one-half or more of the voting members of such foundation's governing board. The governing board of such foundation shall annually file a list of the members and officers of such board with the institution's board of trustees.

(d) The board of trustees of an institution which a foundation supports is authorized to permit the use without compensation of facilities and personnel services of the institution by the foundation; provided, however, that in no event shall an employee of the institution spend more than twenty-five percent of his work hours engaged in services for a foundation.

(e) All gifts from a foundation to an institution shall be approved for acceptance by the board of trustees in accordance with applicable institutional policies. A person soliciting funds or any other thing of value on behalf of a foundation from a person, firm, corporation or other entity shall, at the time of the solicitation, clearly and conspicuously disclose to the potential donor that the donations are to be provided to the foundation and not to an institution and that the donor may request in writing that the donor's identity not be publicly disclosed.

(f) Each foundation shall provide an annual report of its financial accounts prepared in accordance with generally accepted accounting principles to the board of trustees of the institution which it supports. The board of trustees may require any supplemental data relative to the operations of the foundation. The identity of donors who wish to remain anonymous shall be protected and anonymity of such donors shall be maintained in all audit reports. The annual financial report when received by a board of trustees shall be considered a public record as defined in clause twenty-sixth of section seven of chapter four.

(g) The state auditor shall have the authority, upon request by the institution or upon his own initiative, to audit transfers to or expenditures from foundation accounts of public funds, use of employees paid with public funds to staff the foundation and the existence of contracts or agreements between a foundation and an institution.

(h) A foundation certified by an institution's board of trustees under the provisions of this section shall not be deemed to be an agency, board, bureau, department, division, commission, authority or other subdivision of the commonwealth. Members of the governing boards of a foundation who are not already state employees shall not be considered to be state employees for the purposes of chapters two hundred and sixty-eight A and two hundred and sixty-eight B.

SECTION 60. Paragraph (a) of subsection (2) of section 40 of said chapter 15A, as so appearing, is hereby amended by adding the following sentence:- Professional employees not under the jurisdiction of the department of personnel administration classification system shall also be eligible to participate in the optional retirement program provided by this section.

SECTION 61. Section 18A of chapter 18 of the General Laws, inserted by section 20 of chapter 5 of the acts of 1995, is hereby amended by striking out the second paragraph and inserting in place thereof the following two paragraphs:-

The IV-D agency shall determine whether an applicant or recipient has cooperated and is continuing to cooperate with the IV-D agency. An applicant or recipient shall be deemed to have cooperated if the applicant or recipient furnishes (1) a sworn statement setting forth all verifiable information known to, possessed by or reasonably obtainable by the applicant or recipient at the time of the submission of the statement about the noncustodial parent or, if more than one person may be the noncustodial parent, about each such person, and (2) a sworn statement setting forth an explanation for the lack of any such information.

The verifiable information known to, possessed by or reasonably obtainable by the applicant or recipient, if any, shall include the name and social security number of the noncustodial parent or the name of the noncustodial parent and at least two of the following items for the noncustodial parent: date of birth; last known address; last known telephone number; name and address of last known employer; names of parents and the manufacturer, model and license number of any motor vehicle owned by the noncustodial parent. An applicant or recipient who knowingly provides false information to the IV-D agency shall be subject to prosecution for perjury and the department shall so inform each applicant or recipient prior to the submission of any sworn statement by the applicant or recipient.

SECTION 62. Section 11 of chapter 18B of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "therein", in line 4, the following words:- including, but not limited to, the development, in consultation with the regional advisory council and the area directors within the region, of an annual plan for the operation and development of a regional program. Such plan shall provide, as far as practicable, a comprehensive regional program in social services.

SECTION 63. Said section 11 of said chapter 18B, as so appearing, is hereby further amended by inserting after the word "appropriation", in line 5, the following words:- and with the advice of the regional advisory board and the approval of the secretary of health and human services, in this chapter called the secretary.

SECTION 64. Section 13 of said chapter 18B, as so appearing, is hereby amended by striking out, in line 5, the word "commissioner" and inserting in place thereof the following words:- secretary of the executive office of health and human services, with the approval of the governor.

SECTION 65. Said section 13 of said chapter 18B, as so appearing, is hereby further amended by striking out, in line 8, the word "four" and inserting in place thereof the following word:- six.

SECTION 66. Said section 13 of said chapter 18B, as so appearing, is hereby further amended by striking out, in line 9, the word "Three" and inserting in place thereof the following word:- Not more than two.

SECTION 67. Said section 13 of said chapter 18B, as so appearing, is hereby further amended by inserting after the word "skills", in line 18, the following words:- , one member of said board at the time of appointment shall be a social worker from the area office elected by a majority of the social workers in such office.

SECTION 68. Said section 13 of said chapter 18B, as so appearing, is hereby further amended by inserting after the word "member", in line 26, the following words:- , except the one social worker elected by the area office,.

SECTION 69. Said section 13 of said chapter 18B, as so appearing, is hereby further amended by striking out, in lines 30, 34, 38 and 40 and 41, each time it appears, the word "commissioner" and inserting in place thereof, in each instance, the following word:- secretary.

SECTION 70. Section 14 of said chapter 18B, as so appearing, is hereby amended by striking out in lines 2, 7, 8 and 9 and 11, each time it appears, the word "commissioner" and inserting in place thereof, in each instance, the following word:- secretary.

SECTION 71. Said section 14 of said chapter 18B, as so appearing, is hereby further amended by inserting after the word "in", in line 4, the following words:- and knowledgeable about.

SECTION 72. Said section 14 of said chapter 18B, as so appearing, is hereby further amended by striking out the last sentence.

SECTION 73. Section 15 of said chapter 18B, as so appearing, is hereby amended by inserting after the word "commissioner", in line 7, the following words:- with the approval of the secretary.

SECTION 74. Said section 15 of said chapter 18B, as so appearing, is hereby further amended by inserting after the word "director", in line 8, the following words:- for a period not to exceed three months.

SECTION 75. Said section 15 of said chapter 18B, as so appearing, is hereby further amended by inserting after the word "commissioner", in line 15, the following words:- and area director.

SECTION 76. Said section 15 of said chapter 18B, as so appearing, is hereby further amended by inserting after the word "policies", in line 16, the following words:- within the area.

SECTION 77. Said section 15 of said chapter 18B, as so appearing, is hereby further amended by striking out, in line 24, the words "four regular meetings in each year" and inserting in place thereof the following words:- one regular meeting per month.

SECTION 78. Said section 15 of said chapter 18B, as so appearing, is hereby further amended by striking out, in lines 26 and 27, the words "The area director shall be notified of, and may participate in, all meetings, but shall not vote" and inserting in place thereof the following words:- The area director shall be notified of and may attend all meetings, and shall attend at least the first regular meeting of each quarter, but shall not vote. The president of the board shall report to the commissioner and the secretary any failure of the area director to attend such regular meetings without good cause.

SECTION 79. Said section 15 of said chapter 18B, as so appearing, is hereby further amended by striking out, in line 32, the words "for approval" and inserting in place thereof the following words:- and the area director for their information.

SECTION 80. Said section 15 of said chapter 18B, as so appearing, is hereby further amended by adding the following paragraph:-

A member of the area board selected by the president of the board shall be a full and equal member of any search committee established by the department in connection with the selection of an area director. If no search committee is created, the commissioner shall, before appointing an area director, meet with the area board, provide the board with information concerning the candidates and their qualifications and provide the board with a reasonable opportunity to meet with the candidates of its choice and to make timely recommendations to the commissioner concerning the appointment. At the time of submission of the name of the selected candidate to the secretary for approval, the commissioner shall notify the members of the board of the selection. Before approving the appointment, the secretary shall review any written comments of the area board which are submitted to the secretary within five days of the commissioner's submission of the selected candidate to the secretary.

SECTION 81. Said chapter 18B, as so appearing, is hereby further amended by inserting after section 15 the following section:-

Section 15A. There shall be in each region established pursuant to section three of this chapter a regional advisory council, the members of which shall be two members from each area advisory board within the region selected by a majority of the members of each area advisory board. The regional advisory boards shall have the following powers and duties:

(a) to act as the representative of the citizens of the region;

(b) to advise regarding the regional needs and resources in the development of comprehensive social services;

(c) to advise in the recruitment and selection of the regional director to be appointed by the commissioner, with the approval of the secretary of human services, as provided in section eleven;

(d) to review and approve the annual regional plan and to make recommendations concerning the annual budget for the comprehensive social services of the region;

(e) to review and submit comments concerning arrangements and contracts for programs and services which are part of the program of the region;

(f) to consult with the commissioner and the regional director in personnel recruitment and appointment policies for the region, in the establishment of program priorities for the region, and in policies regarding relationships with other agencies and organizations;

(g) to receive funds under contracts or other agreements from community sources, including municipalities and counties, as authorized for rendering of services in collaboration with such municipal, county or other community or private agencies providing cooperative or complementary services;

(h) to discuss any matters concerning the regional program;

(i) to hold at least one regular meeting in each quarter of each year and to convene special meetings called by the president or ten members of the council or the regional director. The regional director shall be notified of and may attend all meetings and shall attend all regular meetings, but shall not vote. The president of the council shall report to the commissioner and the secretary any failure of the regional director to attend such regular meetings without good cause;

(j) to select from their members annually a president and such other officers as they deem appropriate. The regional councils shall adopt rules for their proper organization and for procedures at meetings. Such rules and any subsequent amendments thereto shall be submitted to the commissioner and the regional director for their information.

A member of the regional advisory council shall be a full and equal member of any search committee established by the department in connection with the selection of a regional director. If no search committee is created, the commissioner shall, before appointing a regional director, meet with the regional advisory council, provide the council with information concerning the candidates and their qualifications and provide the council with a reasonable opportunity to meet with the candidates of its choice and to make timely recommendations to the commissioner concerning the appointment. At the time of submission of the name of the selected candidate to the secretary for approval, the commissioner shall notify the council of the selection. Before approving the appointment, the secretary shall review any written comments of the regional advisory council which are submitted to the secretary within five days of the commissioner's submission of the selected candidate to the secretary.

SECTION 82. Chapter 19C of the General Laws is hereby amended by striking out section 2, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 2. There is hereby established a commission for the protection of disabled persons, to be known as the disabled persons protection commission. The purpose of the commission shall be to provide for the investigation and remediation of instances of abuse of disabled persons in the commonwealth. The commission shall consist of three members

to be appointed by the governor, one of whom he shall designate as chairman. Members of the commission shall serve for terms of no more than five years. No person shall be appointed to more than one full five-year term on the commission. The term of any commissioner shall not be coterminous with that of another. Members of the commission may be removed by the governor for gross misconduct, substantial neglect of duty, inability to discharge the powers and duties of office, or conviction of a felony. Any vacancy occurring on the commission shall be filled within ninety days by the original appointing authority. A person appointed to fill a vacancy occurring other than by expiration of a term of office shall be appointed for the unexpired term of the member he succeeds, and shall be eligible for appointment to one full five-year term. Any member whose term has expired shall continue to serve until such member's successor has been duly appointed and qualified. Members of the commission shall be compensated for work performed for the commission at such rate as the secretary of administration and finance shall determine and shall be reimbursed for their expenses. The commission shall annually report to the general court and the governor concerning the action it has taken; the names and salaries and duties of all individuals in its employ and the money it has disbursed; and shall make such further reports on matters within its jurisdiction as may appear necessary. Subject to the provisions of clause (a) of section three, the commission shall employ an executive director and a general counsel. The executive director shall be responsible for the administrative operation of the commission and shall perform such other tasks as the commission shall determine. The general counsel shall be the chief legal officer of the commission.

SECTION 83. Section 38 of chapter 21 of the General Laws, as so appearing, is hereby amended by inserting after the third sentence the following sentence:- The commissioner shall also provide training and technical assistance to municipalities and other public entities in the implementation and administration of title 5 of 310 CMR 15.00 and in the development, implementation and administration of other wastewater management and water resource protection programs, including providing funding for the transfer of related technologies such as, but not limited to, computers, software and alternative wastewater treatment systems, and shall require as a condition of receipt of such training and technical assistance that municipalities and other public entities, including the local boards of health, provide advice and other reasonable assistance to homeowners in their efforts to conform with the provisions of said title 5 and to minimize the financial impact of such compliance.

SECTION 84. Section 18A of chapter 21A of the General Laws, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) All receipts shall be deposited in the Safe Drinking Water Act Fund established pursuant to section two P½ of chapter twenty-nine, and used solely for the purposes set forth therein; provided, however, that receipts shall be used solely for administering said 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.

SECTION 85. Section 1 of chapter 21J of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the words "public safety" and inserting in place thereof the following words:- fire services.

SECTION 86. The first paragraph of section 8 of said chapter 21J, as amended by section 42 of chapter 38 of the acts of 1995, is hereby further amended by striking out the fourth sentence and inserting in place thereof the following sentence:- The board shall be comprised of the following members: the state fire marshal, or his designee, who shall serve as chairman; the commissioner of the department of environmental protection, or his designee; and seven members to be appointed by the governor who are knowledgeable in the remediation and prevention of problems resulting from the operation of underground storage tanks and tank systems, one of whom shall be a representative of the Massachusetts Petroleum Council; one of whom shall be a representative of the Independent Oilmen's Association of New England; one of whom shall be a representative of the Bay State Gasoline Retailers Association; one of whom shall be a representative of an insurance institution or organization; one of whom shall be a representative of a financial institution or organization; and one of whom shall be a representative from a statewide environmental public interest organization.

SECTION 87. The first paragraph of said section 8 of said chapter 21J, as so appearing, is hereby amended by striking out, in lines 24 and 25, the words "and no such member shall be eligible to serve for more than two terms".

SECTION 88. Section 3 of chapter 22 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- There shall be in the department a division of inspection as established by section four A, under the charge of a director to be known as the chief of inspections.

SECTION 89. Section four of said chapter twenty-two is hereby repealed.

SECTION 90. Section 6 of said chapter 22, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 7, 8 and 9, the words "like those requiring members of the state police to be of a certain height and weight".

SECTION 91. Said section 6 of said chapter 22, as so appearing, is hereby further amended by striking out the last paragraph.

SECTION 92. Section fourteen of said chapter twenty-two is hereby repealed.

SECTION 93. Section fifteen of said chapter twenty-two is hereby repealed.

SECTION 94. Section fifteen A of said chapter twenty-two, inserted by section sixty-seven of chapter two hundred and eighty-six of the acts of nineteen hundred and ninety-two, is hereby repealed.

SECTION 95. Section 1 of chapter 22A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the definition of "Commissioner" and "Department" and inserting in place thereof the following definition:-

"Director", the executive director of the criminal history systems board.

SECTION 96. Said section 1 of said chapter 22A, as so appearing, is hereby further amended by inserting before the definition of "Central register" the following definition:-

"Board", the criminal history systems board.

SECTION 97. Section 2 of said chapter 22A, as so appearing, is hereby amended by striking out, in line 1, the word "commissioner" and inserting in place thereof the following words:- director in consultation with the colonel of state police.

SECTION 98. Said section 2 of said chapter 22A, as so appearing, is hereby further amended by striking out, in line 4, the word "department" and inserting in place thereof the

SECTION 99. Section 3 of said chapter 22A, as so appearing, is hereby amended by striking out, in line 1, the word "commissioner" and inserting in place thereof the following words:- director with the advice and consent of the colonel of state police.

SECTION 100. Said section 3 of said chapter 22A, as so appearing, is hereby further amended by striking out, in line 10, the word "department" and inserting in place thereof the following word:- board.

SECTION 101. Section 4 of said chapter 22A, as so appearing, is hereby amended by striking out, in line 9, the word "commissioner" and inserting in place thereof the following words:- colonel of state police.

SECTION 102. Section 5 of said chapter 22A, as so appearing, is hereby amended by inserting after the word "department", in lines 1 and 2, the following words:- of the state police.

SECTION 103. Said section 5 of said chapter 22A, as so appearing, is hereby further amended by inserting after the word "department", in line 10, the following words:- of the state police.

SECTION 104. Said section 5 of said chapter 22A, as so appearing, is hereby further amended by inserting after the word "department", in line 14, the following words:- of the state police.

SECTION 105. Said section 5 of said chapter 22A, as so appearing, is hereby further amended by inserting after the word "department", in line 16, the following words:- of the state police.

SECTION 106. Said section 5 of said chapter 22A, as so appearing, is hereby further amended by inserting after the word "department", in line 17, the following words:- of the state police.

SECTION 107. Said section 5 of said chapter 22A, as so appearing, is hereby further amended by inserting after the word "department", in line 21, the following words:- of the state police.

SECTION 108. Section 6 of said chapter 22A, so as appearing, is hereby amended by inserting after the word "department", in lines 6 and 8, each time it appears, the following words:- of the state police.

SECTION 109. The General Laws are hereby amended by inserting after chapter 22C the following chapter:-

CHAPTER 22D.

DEPARTMENT OF FIRE SERVICES.

Section 1. There shall be within the executive office of public safety a department of fire services under the supervision and control of a state fire marshal.

Section 2. The state fire marshal shall be the executive and administrative head of the department. There shall be within the department, a division of training, including the Massachusetts fire training council, established by section one hundred and sixty-four of chapter six, the Massachusetts firefighting academy, established by section one hundred and sixty-five A of said chapter six; a division of underground storage tanks, including the Underground Storage Tank Petroleum Product Cleanup Fund Administrative Review Board as established by chapter twenty-one J; a division of fire safety under the charge of a director to be known as the director of fire safety; and a division of hazardous materials under the charge of a director to be known as the director of hazardous materials, the director of hazardous materials shall administer the regional hazardous material response teams.

Section 3. The state fire marshal, or his successor, shall be appointed by the Massachusetts fire service commission, established in section one hundred and sixty-five B of chapter six and shall serve at the pleasure of said commission. The position of state fire marshal shall be classified in accordance with section forty-five of chapter thirty and the salary shall be determined in accordance with section forty-six C of said chapter thirty and the state fire marshal shall devote his full time during business hours to the duties of his office.

Section 4. There shall be in the department, but not under the control of the state fire marshal except as provided under rules and regulations promulgated pursuant to the provisions of section ten of chapter one hundred and forty-eight, a board to be known as the board of fire prevention regulations, which shall consist of the state fire marshal, ex-officio, who may designate from time to time a person serving in the department to act temporarily as a member of such board, with the same powers and duties as other members of said board and thirteen members to be appointed by the governor, for terms of six years each. Three of the members shall be the head of a fire department, as such term is defined in section one of chapter one hundred and forty-eight, one of whom shall be from a community with a population of less than twenty-five thousand, one of whom shall be from a community with a population of more than twenty-five thousand but less than fifty thousand, and one of whom shall be from a community with a population in excess of fifty thousand; provided, however, that the Fire Chiefs' Association of Massachusetts may recommend to the governor such heads of fire departments for such membership. The remaining ten members shall be appointed as follows: one shall be a member of the Massachusetts Fire Prevention Association, one shall be registered professional fire protection engineer as provided in chapter one hundred and twelve, one shall be a registered professional chemical engineer as provided in chapter one hundred and twelve, one shall be a registered professional mechanical engineer as provided in chapter one hundred and twelve, one shall be a registered

professional electrical engineer as provided in chapter one hundred and twelve, one shall be a person representative of the public, one shall be a graduate chemist with fire testing experience and a full member of a national organization of chemists, one shall be an inspector of wires who holds an electrician's license under chapter one hundred and forty-one and has been an inspector of wires under the provisions of chapter one hundred and sixty-six for a period of not less than ten years, one shall be a representative of a national, regional or state association of the blasting industry who shall have been actively engaged for a period of not less than ten years in the keeping, storage, use, handling or transportation of explosives and one shall be an electrical contractor who has held a master electrician's license under chapter one hundred and forty-one for a period of not less than ten years.

The governor shall from time to time designate one member of said board as chairman. Such chairman shall act as a nonvoting member of said board, except in the case of a tie vote.

Said board, subject to the provisions of chapter thirty A, shall promulgate a comprehensive fire safety code.

No member shall act as a member of the board or vote as such, in connection with any matter as to which his private right, distinct from the public interest, is immediately concerned.

The majority of said board may transact business but a lesser number may adjourn from time to time.

The fire marshal and the heads of fire departments shall receive no compensation for their service as members of the board but shall receive from the commonwealth all expenses necessarily incurred by them in connection with their official duties. All other members of said board shall each be paid thirty-one dollars and twenty-five cents for each day while in the actual performance of his duties as such member but such pay shall not exceed twelve hundred and fifty dollars in any fiscal year for each member and shall also receive from the commonwealth all expenses necessarily incurred by him in connection with his official duties as such member.

The board may, subject to appropriation and with the approval of the state fire marshal, employ an executive secretary who shall not be subject to the provisions of chapter thirty-one and may employ such clerical, technical and other assistants as may be required by said board.

SECTION 110. Chapter 23 of the General Laws is hereby amended by striking out the title, as appearing in the 1994 Official Edition, and inserting in place thereof the following title:- DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT.

SECTION 111. Said chapter 23 is hereby further amended by striking out sections 1 and 2, as so appearing, and inserting in place thereof the following two sections:-

Section 1. (a) Within the office of labor, education and economic development, there shall be a department of labor and workforce development, in this chapter called the department. Subject to appropriation, the department shall be provided with such offices in Boston and elsewhere in the commonwealth as may be approved by the governor and may

expend sums for the travel expenses of its officers and employees incurred in the performance of their duties and for other necessary expenses of said department. Said department may accept gifts or grants of money or property, whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the department in the discharge of its duties.

(b) Within the department, there shall be a division of industrial accidents, as established and empowered by section seventeen C of chapter six A and chapter twenty-three E; the labor relations commission, as established and empowered by section seventeen D of chapter six A, sections nine O to nine R, inclusive, of chapter twenty-three and by chapter one hundred and fifty A; the board of conciliation and arbitration, as established and empowered by section seventeen E of chapter six A, chapter twenty-three C and chapter one hundred and fifty; and the joint-labor management committee, as established and empowered by section seventeen E of chapter six A and sections four A and four B of chapter one thousand and seventy-eight of the acts of nineteen hundred and seventy-three. In addition, the duties of the department shall include, and the department shall have authority and responsibility over, the administration and enforcement of sections three, five, nine H and eleven A; the provisions of chapter one hundred and eleven F; the provisions of chapter one hundred and fifty-one A; the provisions of chapter one hundred and forty-nine and one hundred and fifty-one; and the provisions of subsections (b), (c), (e) and (f) of section one hundred ninety-seven B of chapter one hundred and eleven; provided, however, that, notwithstanding any general or special law to the contrary, the attorney general shall have exclusive authority to conduct field investigations, inspections and prosecutions with respect to, and otherwise to enforce, said chapters one hundred and forty-nine and one hundred and fifty-one, all regulations of the department thereunder, and all other laws pertaining to wages, hours and working conditions, child labor and workplace safety and fair competition for bidders on public construction, except the laws pertaining to lead and asbestos hazards and workplace hygienic standards which the department shall enforce. Notwithstanding any other provisions of this paragraph, the division of industrial accidents, the labor relations commission, the joint-labor management committee, and the board of conciliation and arbitration shall not be subject to the jurisdiction of the office of labor, education and economic development or the department of labor and workforce development, except to the extent of compliance with reasonable requests from the coordinating council established by chapter fourteen A for the sharing of information which do not interfere with the efficient and independent functioning of said offices, divisions or agencies.

Section 2. The department shall be under the supervision and control of a director of labor and workforce development, hereinafter referred to as the director, who shall be appointed by the governor for a term coterminous with that of the governor. The director may appoint a deputy director for each division within the department which is subject to the director's control. Upon expiration of the term of office of the director or in the event of a vacancy, a successor shall be appointed by the governor for a term coterminous with that

of the governor. The director shall receive such salary as determined by the governor, provided that such salary is equivalent to the salaries received by the director of economic development and the director of consumer affairs and business regulation. The director, as well as all deputy directors, inspectors and other permanent or full-time employees of the department shall devote their full time during business hours to the duties of their office and shall not engage in other employment or business activities during such hours. In accordance with the provisions of chapter thirty A, and with the advice of the deputies of the various divisions within the department, the director may promulgate regulations with respect to the divisions under the department's control.

SECTION 112. Section 3 of said chapter 23, as so appearing, is hereby amended by striking out the third, fourth, fifth and sixth sentences, and inserting in place thereof the following sentence:- The director shall organize those portions of the department which are subject to the director's control into the following divisions: a division of workforce development, which shall administer the provisions of section five; a division of employment and training, which shall administer and enforce the provisions of chapter one hundred and fifty-one A; a division of labor market information, which shall administer the provisions of section six; a division of occupational safety, which shall administer section eleven A and the department's obligations under subsections (b), (c), (e) and (f) of section one hundred and ninety-seven B of chapter one hundred and eleven, the provisions of chapter one hundred and eleven F and the provisions of chapter one hundred and forty-nine relating to workplace safety and health; a division of apprenticeship, which shall administer sections eleven E to eleven L, inclusive; and such other divisions as the director deems necessary to administer and enforce the department's other obligations pursuant to section nine H and pursuant to chapters one hundred and forty-nine and one hundred and fifty-one.

SECTION 113. Said chapter 23 is hereby further amended by striking out sections 4, 5 and 6, as so appearing, and inserting in place thereof the following three sections:-

Section 4. (a) There shall be within the department, within the division of workforce development, a Massjobs council, hereinafter referred to as the council, which shall consist of the commissioner of education, the director of education, the director of labor and workforce development, the deputy director of the division of workforce development, the deputy director of employment and training, and the secretary of the executive office of health and human services or his designee who shall have knowledge of the employment-related training programs administered by said executive office. The governor shall appoint fourteen additional members, including four from organized labor from among eight nominees of the Massachusetts state labor council, AFL-CIO, two educators from among four nominees selected jointly by the Massachusetts Teachers Association and the Massachusetts Federation of Teachers, six from business and industry, and two persons selected from the general public. Not more than seven of the fourteen persons so appointed shall be from the same political party. In making these appointments, the governor shall make reasonable efforts to include among the appointed members at least two chairs of regional employment boards, at least two training service providers and at least two persons

representing training recipients, to the extent consistent with the requirements of federal law. The members appointed by the governor shall serve for a term of three years. Upon expiration of the term of a member, a successor shall be reappointed for a three-year term. A member shall be eligible for reappointment. Vacancies shall be filled for the remainder of the unexpired term. The chair of the council shall be one of the members of the general public selected by majority vote of the members of the council. The director of the department of labor and workforce development, or his designee, shall serve as secretary to the council. The commissioner of transitional assistance and the commissioner of correction, or their designees, shall be notified of meetings of the council and may participate in such meetings on a nonvoting basis.

(b) The council shall serve in an advisory capacity to the division of workforce development and make recommendations for the establishment of policies and procedures for coordinating and implementing, to the extent consistent with federal law, all state or federally funded employment-related training and education programs within the commonwealth, including, but not limited to, training and employment-related education programs sponsored by the Job Training Partnership, employment programs under the federal Wagner-Peyser Act, adult basic education programs, employment-related secondary education programs, state-sponsored technical skills training programs, employment-related community college programs, vocational educational programs, transitional assistance employment-related programs, unemployment benefit employment-related programs and all other job training, employment-related education and placement programs serving adults, youth and targeted groups.

(c) The duties of the council shall be, subject to the approval of the governor, to recommend system-wide policies and performance goals with respect to employment-related training and education, recommend uniform policies, goals and delivery of information to all agencies administering training programs within the commonwealth, recommend structural and procedural changes in the delivery of training services, review industrial and occupational trends, recommend methods of reconciling diverse goals and priorities among the agencies which delivery training-related services, and to fulfill any other functions required of a state job training coordinated council pursuant to the Job Training Partnership Act.

(d) Each member of the council not otherwise compensated by the commonwealth shall be reimbursed for transportation and other necessary expenses incurred in the performance of his duties. The council shall meet at least eight times annually.

(e) There shall be a study committee of the Massjobs council, the members of which shall be the commissioner of education, the director of higher education, the director of labor and workforce development, the deputy director of the division of workforce development and the secretary of health and human services or the designee thereof who is a member of the Massjobs council. The study committee shall meet not less than four times per year and shall continuously study the feasibility and desirability of transferring into the division of workforce development additional employment-related training programs from the various

state and local agencies which administer training-related programs but which have not been consolidated under the division pursuant to section five including, but not limited to, the programs promoted, developed or coordinated by the commission on employment of people with disabilities, as established by section one hundred and five of chapter six, and the programs administered by the agencies and departments of the executive office of human and community services and the executive office of public safety. The study committee shall study and determine the feasibility and desirability of, and the resources needed to, consolidate existing training programs and to create one-stop career center offices on the state, local or regional level. The study committee shall provide comprehensive reports of the results of its analyses to the governor and the house and senate committees on ways and means not later than the thirty-first day of December of each year. Said reports shall contain the recommendations of the study committee for or against the transfer of additional training programs into the department of workforce training and shall include, but not be limited to, the committee's analysis of the relationship between such transfers and federal funding opportunities or requirements, the reasons for the recommendations and any proposed alternatives to strengthen, consolidate and increase the efficient delivery of employment-related training programs.

Section 5. There shall be within the department of labor and workforce development a division of workforce development. The director, with the approval of the governor, shall appoint a deputy director of workforce development who shall serve as the secretary to the Massjobs council and who shall be the chief job training officer for the commonwealth. The position of deputy director 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 deputy director, as well as all permanent or full-time employees of the division, shall devote their full time during business hours to the duties of the office and shall not engage in other employment or business during such hours.

The duties of the division of workforce development shall be to coordinate, oversee and administer the following training programs or offices: the Industrial Service Program, established by section two of chapter twenty-three D; the Tactical Training Initiative; the reemployment assistance program and services established and authorized by sections seventy-one A to seventy-one H, inclusive, of chapter one hundred and fifty-one A, the commission on employment of people with disabilities established by section one hundred and five of chapter six, local career center offices and the regional employment boards established pursuant to section one hundred and five of chapter one hundred and sixty-four of the acts of nineteen hundred and eighty-eight.

The deputy director shall prepare for the consideration of the director proposed rules and regulations with regard to the training programs within the department's jurisdiction.

Section 6. There shall be within the department a division of labor market information which shall be responsible for collecting and maintaining current labor market information including, but not limited to, regional-specific data concerning potential and actual emerging, mature and critical industries throughout the commonwealth. The division

shall provide to the director, to the Massjobs council, to the director of economic development and to the coordinating council of the office of labor, education and economic development, quarterly reports summarizing and evaluating such information. Such reports shall be public records.

SECTION 114. Section 9H of said chapter 23, as so appearing, is hereby amended by striking out, in line 5, the words "secretary of labor" and inserting in place thereof the words:- director of labor and workforce development.

SECTION 115. Sections nine I, ten D, ten E, ten F, twelve, thirteen and thirteen A of said chapter twenty-three are hereby repealed.

SECTION 115A. Said chapter 23 is hereby amended by striking out the caption preceding section 10A.

SECTION 116. Section 9J of said chapter 23, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 1, the word "commissioner" and inserting in place thereof the following words:- director, in consultation with the deputy director of the division of employment and training,.

SECTION 117. Section 9 O of said chapter 23, as so appearing, is hereby amended by striking out, in line 1, the words "executive office of labor" and inserting in place thereof the following word:- department of labor and workforce development.

SECTION 118. Said chapter 23 is hereby further amended by striking out section 11E, as so appearing, and inserting in place thereof the following section:-

Section 11E. As used in this section and sections eleven F to eleven L, inclusive, "department" shall mean the department of labor and workforce development and "commissioner" shall mean the director of labor and workforce development. There shall be in the department an apprenticeship council which shall consist of nine members, one of whom shall be the deputy director of employment and training, one of whom shall be the deputy director of workforce development, one of whom shall be the chair of the Massjobs council, one of whom shall be a designee of the commissioner of education with expertise in the vocational education programs administered by the department of education, three of whom shall be persons appointed by the commissioner, with the approval of the governor, who, on account of previous vocation, employment, occupation or affiliation, can be classified as employers, and three of whom shall be representatives of employees who shall be appointed by the governor from a list of ten nominees submitted by the Massachusetts State Labor Council, AFL-CIO. Each member representing employers and employees shall be appointed for a term of three years. A member appointed to fill a vacancy occurring before the expiration of the term of his predecessor shall be appointed for the remainder of such term. Each member of the council not otherwise compensated by the commonwealth shall be reimbursed for transportation and other necessary expenses incurred in the performance of his duties. Said council shall not meet more than fifteen days in any year.

Said council shall meet at least twice per year and at other times at the call of the commissioner, and shall aid the commissioner in formulating policies for the effective administration of sections eleven F to eleven L, inclusive. Said council shall suggest to the commissioner standards for apprenticeship agreements which in no case shall be lower than

those prescribed by said sections eleven F to eleven L, inclusive, and such rules and regulations as, in its opinion, are necessary to carry out the intent and purposes of said sections eleven F to eleven L, inclusive, and shall perform such other functions as the commissioner may direct.

SECTION 119. Section 11F of said chapter 23, as so appearing, is hereby amended by inserting after the word "a", in line 2, the word "deputy".

SECTION 120. Said chapter 23 is hereby further amended by striking out section 11G, as so appearing, and inserting in place thereof the following section:-

Section 11G. The commissioner and the deputy director of apprenticeship, with the advice and guidance of the apprenticeship council, shall administer sections eleven E to eleven L, inclusive, and, with the approval of the apprenticeship council, may establish local and state joint apprenticeship committees, may set up and establish conditions and training standards for apprentice agreements, which conditions or standards shall in no case be lower than those prescribed by said sections eleven E to eleven L, inclusive, may act as secretary of the apprenticeship council and of each state joint apprenticeship committee, may approve, if in the commissioner's or deputy director's opinion such approval is in the best interest of the apprentice, an apprentice agreement which meets the standards established under said sections, may terminate or cancel an apprentice agreement in accordance with any provision of any such agreement; shall keep a record of apprentice agreements and their disposition; may issue certificates of completion of apprenticeship, shall cooperate with the state department of education and the local school authorities in regard to the education of apprentices in accordance with the standards established by the commissioner for the same trade or group of trades, may act in an advisory capacity with employers and employees in matters regarding schedule of operations, application of wage rates and working conditions for apprentices and may suggest the number of apprentices to be employed locally in the trade under apprentice agreements under said sections and shall perform such other duties as are necessary to carry out the intent of said sections eleven E to eleven L, inclusive, subject to the approval and directives of the commissioner and the deputy director of apprenticeship.

SECTION 121. Chapter 23A of the General Laws is hereby amended by striking out the title, as so appearing, and inserting in place thereof the following title:- DEPARTMENT OF ECONOMIC DEVELOPMENT.

SECTION 122. Said chapter 23A is hereby further amended by striking out section 1, as so appearing, and inserting in place thereof the following section:-

Section 1. (a) There shall be in the office of labor, education and economic development a department of economic development, hereinafter referred to as the department, which shall be under the supervision and control of a director of economic development, hereinafter referred to as the director. The director shall be appointed by the governor for a term coterminous with that of the governor and shall not be subject to the provisions of chapter thirty-one or section nine A of chapter thirty. Upon expiration of the term of office of the director or in the event of a vacancy, a successor shall be appointed by

the governor for a term coterminous with that of the governor. The director shall devote his full time during business hours to the duties of his office. The director shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the provisions of law relative to the department and to each administrative unit thereof. The director shall receive such salary as the governor shall determine, provided that such salary is equivalent to the salary received by the director of labor and workforce development and the director of consumer affairs and business regulation.

(b) There shall be within the department the Massachusetts office of business development hereinafter referred to as MOBD, and all other entities within said office, the office of travel and tourism, the office of film and video development, the office of science and technology, the office of international trade and investment, the office of minority and women business development and employment and all entities within said office, and the division of energy resources. MOBD shall be under the direct supervision and control of the director.

SECTION 123. Section 13C of said chapter 23A, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following two paragraphs:-

There shall be an advisory commission on travel and tourism to the director of economic development for the purpose of developing budget recommendations and marketing strategies for the promotion of travel and tourism to the commonwealth. The executive director of the office of travel and tourism shall convene the advisory commission quarterly. The advisory commission shall report its recommendations to the director of economic development not later than November first of each year. The advisory commission shall file its recommendations with the clerks of the senate and house of representatives not later than November first of each year. A chair shall be elected annually by the membership of the commission.

The advisory commission shall have twenty-eight members; one representative of each of the following organizations: the Massachusetts Restaurant Association, the Massachusetts Lodging Association, the Massachusetts Camping Ground Association, the New England Bus Association, the Massachusetts Cultural Council and the Massachusetts Historical Commission; one representative of a professional sport franchise located in Massachusetts, two representatives of the Massachusetts Visitor Industry Council; the chairmen of the boards of directors or their designees of the thirteen regional tourism councils: the Berkshire Hills Visitors Bureau, Bristol County Convention and Visitors Bureau, Cape Cod Chamber of Commerce, Franklin County Chamber of Commerce, Greater Boston Convention and Visitors Bureau, Worcester County Convention and Visitors Bureau, Martha's Vineyard Chamber of Commerce, Greater Merrimack Valley Convention and Visitors Bureau, Mohawk Trail Association, North of Boston Convention and Visitors Bureau, Greater Springfield Convention and Visitors Bureau, Plymouth County Development Council, Inc., and Nantucket Island Chamber of Commerce, and the following, who shall not serve as chair: the executive director of the Massachusetts Office of Travel and Tourism, the executive director of the Massachusetts Convention Center Authority or

his designee, the executive director of Massport or his designee, the commissioner for the department of environmental management or his designee, and the designees of house and senate chairs of the joint committee on commerce and labor.

SECTION 124. Chapter 23B of the General Laws, as so appearing, is hereby amended by striking out the title and inserting in place thereof the following title:- DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT.

SECTION 125. Said chapter 23B is hereby further amended by striking out sections 1 and 2, as so appearing, and inserting in place thereof the following two sections:-

Section 1. There shall be in the department of economic development within the office of labor, education and economic development a division of housing and community development, hereinafter referred to as the division, which shall be under the supervision and control of a deputy director of housing and community development, hereinafter referred to as the deputy director. The division shall not be subject to the direct supervision or control of the director of economic development, except as otherwise provided in this section; provided, however, that the deputy director shall comply with all reasonable requests from the director for information and for participation in policy coordination activities within the department. The deputy director shall be appointed by the governor for a term coterminous with that of the governor. The deputy director shall devote his full time during business hours to the duties of his office. In case of a vacancy in the office of deputy director, or in the deputy director's absence or disability, the governor shall designate an associate director to serve as deputy director until such vacancy is filled or until the absence or disability ceases and the associate director so designated shall have all the powers and duties of the deputy director. The deputy director shall be the executive and administrative head of the division and shall be responsible for administering and enforcing the provisions of law relative to the division and to each administrative unit thereof. Powers and duties given to any administrative unit of the division by any general or special law shall be exercised and discharged subject to the direction, control and supervision of the deputy director. The deputy director may authorize an officer of the division to exercise in his name any power, or to discharge in his name any duty, assigned to him by law and he may at any time revoke such authority. The position of deputy director of housing and community development shall not be subject to the provisions of chapter thirty-one or section nine A of chapter thirty. There shall be within the division the Massachusetts housing finance agency, the Massachusetts home mortgage finance agency, the Massachusetts housing partnership, the community economic development assistance corporation, the community development finance corporation, the manufactured homes commission, the commission on Indian affairs and the American and Canadian French Cultural Exchange Commission. The division shall provide general policy guidance for these public instrumentalities which shall not be otherwise subject to the supervision and control of the division.

Section 2. There shall be in the division such subdivisions as the deputy director may establish for its efficient operation. Each subdivision shall be under the charge of an associate director who shall be appointed by the deputy director, with the approval of the director

of economic development, and who shall be subject to the direction, control and supervision of the deputy director. Each associate director shall be a person of skill and experience in the field of his appointment and shall be appointed and may be removed by the deputy director, with the approval of the director of economic development, and shall serve until so removed. The position of associate director shall not be subject to the provisions of chapter thirty-one or section nine A of chapter thirty. Each associate director shall devote his full time during business hours to the duties of his office.

SECTION 126. Said chapter 23B is hereby further amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. There shall be established within the division such bureaus as the deputy director shall from time to time deem necessary. All such bureaus shall be under the direction, control and supervision of the deputy director who may abolish or merge any such bureaus as he may deem advisable. The deputy director shall prepare and maintain on a current basis a general statement of the organization of the division, of the assignment of functions to its various administrative units, officers and employees and of the established places at which and the methods whereby the public may receive information or make requests. Such statement shall be known as the division's description of organization. A current copy of the description of organization shall be on file in the office of the state secretary and in the executive office for administration and finance. Each bureau, subject to appropriation, shall be under the charge of a bureau chief, who shall be a person of skill and experience in the field of his appointment. The position of bureau chief shall not be subject to the provisions of chapter thirty-one or section nine A of chapter thirty and persons shall be appointed to and may be removed from such position by the deputy director, with the approval of the director and the governor.

SECTION 127. Said chapter 23B of the General Laws is hereby further amended by inserting after section 24A the following section:-

Section 24B. The division shall, subject to appropriation, operate a low-income sewer and water assistance program to provide assistance in paying the sewer and water bills of homeowners earning less than one hundred and fifty percent of the federal poverty level, as defined by the federal government. Said program may be administered in coordination with the Low-income Home Energy Assistance Act, 42 United States Code sections 8621 et seq., or any successor acts thereto, subject to the following provisions:

(a) benefits under this program shall be made available in all communities in the commonwealth which are adversely affected, as determined by the division, by excess increases in sewer and water rates;

(b) the benefit level provided to any individual household eligible under this program shall not be greater than twenty-five percent of the total annual water and sewer bill for the household; provided, that the division shall establish benefit rates and maximum benefits such that total benefits paid do not exceed the amount appropriated for this benefit;

(c) households which receive benefits under this program shall not unreasonably refuse to cooperate with any demand-side water conservation programs which are provided at no expense to the household by any local agency or authority.

SECTION 128. Section 1 of chapter 23D of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "project", in line 4, the following words:- , or, as used in section twenty-four, an educational institution which has made application for a grant-in-aid as authorized by section twenty-four.

SECTION 129. Said section 1 of said chapter 23D, as so appearing, is hereby further amended by inserting after the definition of "Business" the following definition:-

"Business and industry", a private corporation, institution, firm or person or group or association of the same, concerned with commerce, trades, manufacturing or the provision of services within the commonwealth, or a public or nonprofit hospital licensed by the department of public health.

SECTION 130. Said section 1 of said chapter 23D, as so appearing, is hereby further amended by inserting after the definition of "Director" the following definition:-

"Educational institution", a public secondary or post-secondary institution, proprietary trade, business, vocational, technical, professional or correspondence school licensed by the department of education under the provision of chapters seventy-five C, seventy-five D, and ninety-three, or an independent nonprofit institution within the commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level.

SECTION 131. Said section 1 of said chapter 23D, as so appearing, is hereby further amended by inserting after the definition of "Employer" the following definition:-

"Equipment", tangible personal property which will further the objectives of the supported program and for which a definite value and evidence in support thereof have been provided by the donor.

SECTION 132. Said section 1 of said chapter 23D, as so appearing, is hereby further amended by inserting after the definition of "Financing agreement" the following two definitions:-

"Financial support", any thing of value contributed by business and industry to an educational institution which is reasonably calculated to support directly the development and expansion of a particular program as defined herein and which represents an addition to any financial support previously or customarily provided to such educational institutions by the donor, including, but not limited to: funds, equipment as provided in this chapter, facilities, faculty, and scholarships for matriculating students and trainees.

"Grant-in-Aid," funding that is provided to an educational institution by the industrial service program for the development or significant expansion of a program as provided in this chapter.

SECTION 133. Said section 1 of said chapter 23D, as so appearing, is hereby further amended by striking out the definition of "Program" and inserting in place thereof the following four definitions:-

"Program" or "Program of skills training or education consistent with employment need", the industrial service program, or, as used in sections twenty-four and twenty-four A, a coordinated course of instruction which is designed to prepare individuals upon completion

for employment in a specific trade, occupation or profession. Such instruction may include: (a) classroom instruction; (b) classroom related field, shop, factory, office and laboratory work; and (c) entry level training, job upgrading, retraining and advance training.

"Severe economic dislocation", a permanent discontinuance of operations or reduction in force by an employer or by a number of employers located within a city or town of the commonwealth, whether caused by economic conditions, natural catastrophe or otherwise, which results in the permanent loss of employment of seventy-five or more employees who are residents of the commonwealth. In the case of a public employer, severe economic dislocation shall include the loss of employment of fifty or more employees due to economic conditions resulting from the operation of chapter five hundred and eighty of the acts of nineteen hundred and eighty.

"Targeted individuals", residents of the commonwealth who become unemployed as a result of a severe economic dislocation, and individuals receiving public assistance from the commonwealth, including recipients of aid to families with dependent children, and individuals between the ages of sixteen and twenty-one inclusive, who are unemployed and economically disadvantaged residents of urban areas of the commonwealth.

"Technical assistance", professional and any other assistance provided by business and industry to an educational institution, which is reasonably calculated to support directly the development and expansion of a particular program as defined herein and which represents an addition to any technical assistance previously or customarily provided to such educational institutions by the donor.

SECTION 134. Said chapter 23D is hereby further amended by inserting after said section 1 the following section:-

Section 1A. It is hereby found and declared that:

There exists in the commonwealth a critical shortage of training and education programs necessary to meet the growing needs of business and industry for skilled employees and the corresponding needs of our people for opportunities for new or more rewarding employment.

As a result of this shortage, business and industry is unable to obtain sufficient numbers of qualified employees for continued operation and expansion within the commonwealth, of our people, particularly those who are victims of economic dislocation, and those minority and economically disadvantaged groups, are denied significant and substantial employment opportunities.

The loss of economic and employment activity from the commonwealth contributes to a decline in the tax base, leads to unemployment and underemployment of our people, causes an increase in welfare and unemployment costs, and constitutes a threat to the general welfare of the entire commonwealth.

This shortage is occasioned by the inability of educational institutions to secure the resources necessary for the development and substantial expansion of programs of skills training and education which are consistent with employment need;

Business and industry is the primary source of employment information, technical assistance and financial support required for such program development and expansion;

Business and industry supports educational institutions, through increased and more comprehensive relationships of cooperation and assistance, is necessary to enable educational institutions to meet the needs of business and industry for skilled employees and the needs of our people for new or more rewarding employment opportunities;

Educational institutions are unable to attract sufficient support from business and industry within the limits of their existing resources and through the normal operation of the private enterprise system.

It is an important function of government to increase opportunities for gainful employment, to assist in promoting a productive and expanding economy, to encourage the flow of business and industry support to educational institutions, and otherwise to improve the prosperity and general welfare of the inhabitants of the commonwealth.

Therefore, it is found that it is in the public interest of the commonwealth to promote the prosperity and general welfare of its citizens, a public purpose for which public money may be expended, to encourage and facilitate the formation of comprehensive cooperative relationships between business and industry and educational institutions which provide for the development and significant expansion of programs of skills training and education consistent with employment needs, and to make interested individuals aware of the employment opportunities presented thereby.

SECTION 135. Section 2 of said chapter 23D, as appearing in the 1994 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

A Massachusetts industrial service program shall be established in the division of workforce development, under the joint supervision of the deputy director thereof, the director of economic development, and the director of labor and workforce development.

SECTION 136. Said section 2 of said chapter 23D, as so appearing, is hereby further amended by striking out, in line 5, the words "secretary of economic affairs and the secretary of labor" and inserting in place thereof the following words:- director of economic development, the director of labor and workforce development, and the deputy director of the division of workforce development.

SECTION 137. Said section 2 of said chapter 23D, as so appearing, is hereby further amended by striking out, in lines 7 and 8, the words "two to six" and inserting in place thereof the following words:- two to seven, inclusive, and sections twenty-four to twenty-six.

SECTION 138. Section 3 of said chapter 23D, as so appearing, is hereby amended by striking out, in lines 1 to 3, the words "secretary of the executive office of economic affairs and the secretary of the executive office of labor" and inserting in place thereof the following words:- director of economic development and the director of labor and workforce development.

SECTION 139. Said section 3 of said chapter 23D, as so appearing, is hereby further amended by striking out, in lines 6 and 7, the words "secretary of labor and said secretary of economic affairs" and inserting in place thereof the following words:- director of economic development and the director of labor and workforce development.

SECTION 140. Said section 3 of said chapter 23D, as so appearing, is hereby further amended by striking out, in lines 19 to 21, the words "department of employment and training, the executive office of communities and development" and inserting in place thereof the following words:- division of workforce development and the division of housing and community development.

SECTION 141. Section 4 of said chapter 23D, as so appearing, is hereby amended by inserting after the word "The", in line 1, the following words:- powers and.

SECTION 142. Said section 4 of said chapter 23D, as so appearing, is hereby further amended by inserting after the word "inclusive", in line 38, following words:- ;

(i) entering into agreements or transactions with any federal, state or municipal agency or other institutions;

(j) accepting any and all donations, grants, bequests, and devises, conditional or otherwise, of money, property, service, or other things of value which may be received from the United States or any agency thereof, any governmental agency, any institution, person, firm or corporation, public and private, to be held, used or applied for any or all the purposes specified in this act, in accordance with the terms and conditions of any such grant. Receipt of each such donation or grant shall be detailed in the annual report of the corporation. Such report shall include the identity of the donor or lender, the nature of the transaction and any conditions attaching thereto;

(k) collecting and disseminating to interested individuals, in cooperation with and through any agencies of federal, state and municipal government, information concerning areas of present and projected employment need, programs of skills training and education consistent therewith and any other relevant information;

(l) providing grants-in-aid to educational institutions to encourage and facilitate the formation of comprehensive cooperative relationships with business and industry which secure for such institutions the information, technical assistance and financial support necessary for the development and significant expansion of programs of skills training and education consistent with employment need;

(m) preparing, publishing and distributing, with or without charge as the director may determine, such technical studies, reports, bulletins and other materials as it deems appropriate;

(n) organizing, conducting, sponsoring or cooperating in and assisting the conduct of special institutes, conferences, demonstrations, international education programs for students in kindergarten and at the primary and secondary levels, and studies which increase communications and cooperation among agencies of federal, state, and municipal government, and all interested institutions, persons, firms, or corporations, public or private concerned with business and industry, economic development, public assistance, employment, skills training and education;

(o) establishing a technology extension service program to provide 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 program 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 cost of which to private-sector firms shall be determined by the following formula: (1) firms in Phase I of said program, a thirty percent share of the total costs; and (2) 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; and

(p) doing any and all things necessary or convenient to carry out the purposes of this chapter, to the extent consistent with law.

SECTION 143. Section 8 of said chapter 23D, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be in the department of labor and workforce development, but not subject to its jurisdiction, an economic stabilization trust which shall be administered by the director of labor and workforce development and the director of economic development.

SECTION 144. Section 9 of said chapter 23D, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "secretary of the executive office of economic affairs, the secretary of the executive office of labor," and inserting in place thereof the following words:- director of economic development and director of labor and workforce development.

SECTION 145. Section 10 of said chapter 23D, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words "secretary of economic affairs and the secretary of labor" and inserting in place thereof the following words:- director of the economic affairs and the director of labor and workforce development.

SECTION 146. Said chapter 23D is hereby further amended by striking out section 24, as so appearing, and inserting in place thereof the following ten sections:-

Section 24. The industrial service program may, subject to appropriation or from funds made available from any other public or private source and pursuant to rules and regulations adopted pursuant to section two, provide grants-in-aid to educational institutions, not in excess of two hundred thousand dollars per grant-in-aid; provided, however, that such grants-in-aid shall be used exclusively for programs which are consistent with the provisions of this chapter; and provided, further, that the program shall make a grant-in-aid to a particular educational institution only after:

(a) receipt of an application from the educational institution which contains a proposal for a program of skills training and education, including a description of the program, the type of skills training or education to be provided, a statement of the total cost of the program and a breakdown of the costs associated with equipment, personnel, facilities and materials, a statement of the employment needs for the program and evidence in support thereof, a statement of the technical assistance and financial support for the program received or to be received from business and industry, and such other information as the board shall request; and

(b) approval of the grant-in-aid by the director, provided that the director shall find, based upon the application submitted by the educational institution and such additional investigation as the staff of the program shall make, and incorporate in a written determination, that:

(1) the program is within the scope of this chapter and may reasonably be expected to succeed and thereby increase employment within the commonwealth;

(2) the grant-in-aid will only be used to cover the costs directly associated with the program;

(3) the program involves an area of skills training and education concerning which there is a demonstrable need by business and industry within the commonwealth;

(4) the applicant has made provisions for the utilization of existing federal and state resources for student financial assistance;

(5) the grant-in-aid is essential to the success of the program as the resources of the applicant are inadequate to attract the technical assistance and financial support necessary for the program from business and industry;

(6) the applicant has obtained from business and industry a firm commitment for that information, technical assistance and financial support which, together with the requested grant-in-aid, the resources of the applicant, and support from any other source, is sufficient to ensure the probable success of the program. In addition, the commitment of financial support from business and industry shall be equal to or greater than the amount of the requested grant-in-aid except that the director may waive the requirement for such matching financial support upon finding that the program funded by the grant-in-aid will materially increase the employment opportunities for targeted individuals and that the businesses and industries participating in the program have agreed to contribute personnel, facilities, equipment, supplies, stipends or other items of financial value to the program in an amount approved by the director;

(7) binding commitments have been made to the industrial service program by the applicant for adequate reporting of information and data regarding the program to the director, particularly information concerning the recruitment and employment of trainees and students, and including a requirement for an annual or other periodic audit of the books of the applicant directly related to the program, and for such control on the part of the industrial service program as the director shall consider prudent over the management of the program,

so as to protect the use of public funds, including, in the discretion of the director and without limitation, right of access to financial and other records of the applicant directly related to the programs;

(8) adequate provision has been made by the applicant for the active recruitment for participation in the program of those who are the victims of economic dislocation and those of minority and economically disadvantaged groups, particularly recipients of public assistance;

(9) binding commitments have been made to the industrial service program by the applicant for compliance with the monitoring and evaluation rules and regulations of the program.

Such findings by the industrial service program and the director thereof shall be conclusive.

Section 25. Upon approval of a grant-in-aid application by the director, the program shall immediately provide notification of its decision to the department of transitional assistance and the department of labor and workforce development. Such notification shall include the following information regarding the supported program: the trade, occupation or profession with which the program is concerned; a description of the curriculum, the requirements for participation, and the procedures for making application; the duration of the program; a description of support services available to participants in the program; and any other information relevant to encouraging and facilitating the participation in the program of those in economic need.

Section 26. As used in sections twenty-seven to twenty-nine, inclusive, the following term shall have the following meaning:- "Displaced homemaker", an individual who has worked in the home for a substantial number of years providing unpaid household services for family members, has had, or would have, difficulty in securing employment; has been dependent on the income of another family member but is no longer supported by such income, has been dependent on government assistance but is no longer eligible for such aid, or is supported as the parent of minor children by government assistance or spousal child support payments but whose children are within two years of reaching their majority; and is not gainfully employed or is underemployed.

Section 27. The director of the industrial service program shall appoint members of a state-wide advisory council on displaced homemakers hereafter referred to as the advisory council established for the purpose of making recommendations relative to the implementation and monitoring of a state-wide plan for displaced homemakers. The advisory council, from time to time, shall suggest to said director new programs for displaced homemakers and report its evaluations of existing displaced homemaker programs, services and activities together with recommendations for any necessary changes for the purpose of assisting said director in coordinating, promoting and establishing a state plan for displaced homemakers. The advisory council shall provide the director with recommendations regarding the funding and emergency assistance of regional multi-purpose service centers; shall provide the director with recommendations regarding the coordination of state, the division of occupational education, the job training partnership act and other available funding.

The advisory council shall be composed of representatives from social service agencies, community based organizations, education, business and training agencies. Membership should also include displaced homemakers, ethnic minorities and a geographic distribution. The director or his designee shall be the executive secretary of said advisory council and a non-voting member.

Section 28. The director with advice from the displaced homemaker advisory council shall provide for the establishment of not less than five multi-purpose service centers, designed to meet the demographic and geographic needs of the displaced homemaker population. These multi-purpose service centers shall provide services including but not limited to:

(1) job counseling services specifically designated for a person seeking employment after a number of years as a homemaker and shall operate to counsel displaced homemakers with respect to appropriate job opportunities including crises intervention, peer support, life skills training such as confidence building, problem solving and decision making;

(2) job training referrals, career counseling, job placement services developed by working with government agencies and private employers; training and placement programs for jobs in the public and private sectors; assistance to displaced homemakers in gaining admission to existing public and private job training programs and opportunities;

(3) prevocational training and educational services including outreach and information about such other programs which are determined to be of interest and benefit to such displaced homemakers by the advisory council;

(4) outreach and information services with respect to government employment, education, health, legal and unemployment assistance programs which the advisory council determines would be of interest and benefit to such displaced homemakers;

(5) a clearinghouse providing resource libraries including films and books; area program planning; in-service training for center staff and directories of existing counseling, educational and job training programs.

Supervisory, technical and administrative positions relating to multi-purpose service centers established under this act shall, to the extent feasible, be filled by such displaced homemakers.

Section 29. The director shall report annually to the governor and file a copy thereof with the clerk of the house of representatives and the clerk of the senate and the advisory council on the work of the program. Such report shall include the number of people served at each center, the type of services received, the number of people placed in employment, training and educational programs and follow-up data on such programs, and the cost effectiveness of center programs.

Section 30. (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 industrial service program, hereinafter referred to as "the program," 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 program shall provide manufacturing network grants based on criteria established by its director. The program 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 program 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 program 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 program shall work cooperatively with the university of Massachusetts and the department of labor and workforce development.

Section 31. The industrial service program shall annually submit a complete and detailed report of the program's activities within ninety days after the end of the fiscal year to the clerk of the house of representatives, the clerk of the senate, and the governor. The annual report shall include, but not be limited to, descriptions of all programs funded, an evaluation of the performance of each program, a summary of the public monies expended,

and detailed descriptions of the individuals trained, educated and employed, including, in particular, the number of minority and economically disadvantaged individuals. The report shall include: (a) a description of the activities of the program of employee involvement and ownership; (b) any recommendations to improve the performance of said program; and (c) a description and evaluation of state-wide employee involvement and employee ownership programs undertaken by and in the commonwealth.

Section 32. The books and records of the industrial service program shall be subject to a biennial audit by the auditor of the commonwealth.

Section 33. This chapter shall be liberally construed to effect its purpose.

SECTION 147. Section 1 of chapter 23E of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words "department of industrial accidents" and inserting in place thereof the following words:- division of industrial accidents, hereinafter referred to as the department.

SECTION 148. The General Laws are hereby amended by inserting after chapter 23F the following chapter:-

CHAPTER 24A.

OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION.

Section 1. (a) There shall be in the office of labor, education and economic development an office of consumer affairs and business regulation, hereinafter referred to as the office. The office shall be headed by a director of consumer affairs and business regulation, hereinafter referred to as the director, who shall be appointed by and serve at the pleasure of the governor and who shall not be subject to the provisions of chapter thirty-one or section nine A of chapter thirty. The director shall receive such salary as the governor may determine, provided that such salary is equivalent to the salary received by the director of labor and workforce development and the director of economic development. The director shall devote full time during business hours to the duties of his office, and shall have the powers and duties provided in sections four to seven, inclusive, of chapter six A.

(b) There shall be within the office the following divisions containing the following state agencies or functions: (1) the division of business regulation, including the department of public utilities and all other state agencies within said department, the department of banking and insurance and all other state agencies within said department, including the small loans regulatory board and the trustees of the General Insurance Guaranty Fund, the alcoholic beverages control commission, the state racing commission; and the community antenna television commission; (2) the division of consumer affairs, including the division of registration established by section eight of chapter thirteen, including the several boards of registration serving therein, the board of registration in medicine and the approving authority established by section two of chapter one hundred and twelve, and the functions established by section two; and (3) the division of standards, established by section five. Nothing in this section shall be construed as conferring any power or imposing any duties upon the director with respect to the foregoing agencies except as expressly provided by law.

Section 2. In addition to its other duties, the office shall:

(a) maintain a telephone information service;

(b) conduct surveys of consumer needs;

(c) investigate consumer problems in cooperation with the attorney general;

(d) publish educational brochures;

(e) establish programs and services to assist consumers in understanding their rights and responsibilities in consumer transactions;

(f) recommend and implement consumer protection policies;

(g) monitor the marketplace to promote fair and honest competition; and

(h) establish a trust fund for the purpose of consumer education and to further the office's other purposes and, to such extent the director shall have the powers provided in section six of chapter six A. Nothing herein shall restrict any official or agency not within said office from performing consumer-related responsibilities assigned to him or it by law.

Section 3. The director is hereby authorized to make an annual assessment against each electric, gas, telephone and telegraph company doing business in the commonwealth and subject to the supervision of the department of public utilities, based upon intrastate operating revenues of each of such companies derived from the sales of electric, gas, telephone and telegraph services, respectively, as shown on the annual report or annual statement of each such company filed with the appropriate supervising agency. Such assessment shall be in such amount as determined and certified annually by the director to be sufficient to produce one million three hundred fifty-five thousand one hundred and forty-five dollars in revenue to the commonwealth and shall be assessed proportionately against each such company on the basis of such intrastate operating revenues of each such company; provided, however, that in addition to such assessment amount, the assessment shall include amounts to be credited to the General Fund for fringe benefit costs including, but not limited to, group life and health insurance and retirement benefits, paid vacations and holidays and sick leave, not to exceed twenty-two percent of the amount attributable to personnel costs of the attorney general's office subject to assessment under the provisions of this section and under section eleven E of chapter twelve in the fiscal year in which such assessment is made; and, provided further, that if the attorney general fails to expend in any fiscal year the total amount of one million three hundred fifty-five thousand one hundred and forty-five dollars for the purposes set forth under the provisions of said section eleven E of said chapter twelve, any amount unexpended in such fiscal year shall be credited against the assessment to be made in the following year and the assessment in such following year shall be reduced by such unexpended amount.

Assessments made under this section may be credited to the normal operating costs of each such company and shall be utilized by the attorney general solely for the purposes set forth under the provisions of section eleven E of chapter twelve. The director is hereby authorized to make a further annual assessment for the purpose of providing funds to the attorney general for the representation of consumer interests in proceedings held pursuant to section ninety-four G of chapter one hundred and sixty-four and such other proceedings

as may be reasonably related to said section ninety-four G. Such assessments shall be assessed proportionately against each electric company under the jurisdictional control of the department of public utilities based upon the intrastate operating revenues of each such company derived from wholesale and retail sales of electricity within the commonwealth as shown in the annual report of such company to the department. Such assessment shall be made at a rate which shall be determined and certified annually by the director as sufficient to produce not more than seventy-five thousand dollars in revenue to be credited to the General Fund for each fiscal year for which such assessment is made.

Section 4. On or before the first day of October of the year in which an assessment is made pursuant to the provisions of section nine A, the director shall certify to the commissioner of revenue the amount of the assessment to be made and the name and address of each company against whom such assessment is made. Such assessments shall be collected by said commissioner in accordance with applicable provisions of chapter sixty-three; provided, however, that each such company shall pay the amount assessed against it within thirty days from the receipt of notice of assessment from said commissioner. The amount so collected shall be credited to the General Fund.

Section 5. (a) There shall be a division of standards within the office of consumer affairs and business regulation. The director of the office, with the approval of the governor, shall appoint a deputy director of standards and, with like approval, may remove him. The deputy director of standards shall have charge of the division of standards and shall, in addition to the powers and duties conferred and imposed upon him by law, perform such other duties as may be assigned to him by the director of the office of consumer affairs and business regulation.

(b) Except as otherwise provided, the director of the office may employ and remove such inspectors, investigators, clerks and other assistants as the work of the division of standards may require. He may employ, for periods not exceeding ninety days, such experts as may be necessary to assist said division in the performance of any duty imposed upon it by law and such employment shall be exempt from the provisions of chapter thirty-one.

(c) The deputy director of standards and all inspectors and other permanent employees of the division of standards, shall devote their full time to the affairs of said division. Said deputy director, all such inspectors and such other employees of said division as may be designated by the director of the office shall, before entering upon their duties, be sworn to the faithful performance thereof. All such inspectors shall aid the deputy director of standards in the performance of his duties, shall have all necessary powers therefor and shall give bond for the faithful performance of their duties. Whoever hinders, obstructs or in any way interferes with the deputy director of standards or any such inspector in the performance of any official duty imposed by law shall, except as otherwise provided, be punished by a fine of not more than three hundred dollars or by imprisonment for not more than two months.

SECTION 149. Section 2A of chapter 25 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 8 and 9, the words "Massa-

chusetts Trades Building Council" and inserting in place thereof the following words:- Massachusetts State Labor Council, AFL-CIO.

SECTION 150. Section 12M of said chapter 25, as so appearing, is hereby amended by striking out, in line 14, the words "public safety" and inserting in place thereof the following words:- fire services.

SECTION 151. Section 8B of chapter 26 of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the words "commissioner of public safety" and inserting in place thereof the following words:- director of the state rating bureau.

SECTION 152. Said section 8B of said chapter 26, as so appearing, is hereby further amended by striking out, in line 37, the words "to the proper district attorney or to the commissioner of public safety" and inserting in place thereof the following words:- or to the proper district attorney.

SECTION 153. Section 4 of chapter 28A of the General Laws, as so appearing, is hereby amended by striking out, in lines 38 and 39, the words "executive offices of educational affairs, economic affairs and communities and development" and inserting in place thereof the following words:- office of labor, education and economic development, and the division of workforce development.

SECTION 154. Section 8 of said chapter 28A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "secretaries of the executive offices of human services, economic affairs, communities and development and educational affairs" and inserting in place thereof the following words:- secretary of health and human services, the director of economic development, the deputy director of housing and community development and the chairman of the board of education.

SECTION 155. Section 10 of said chapter 28A, as so appearing, is hereby amended by striking out, in lines 28 to 30, the words "executive offices of educational affairs, economic affairs, public safety, communities and development, and the departments of" and inserting in place thereof the following words:- board of education, the executive office of public safety, the division of housing and community development, and the departments of economic development,.

SECTION 156. Section 2G of chapter 29 of the General Laws, as so appearing, is hereby amended by striking out, in line 46, the words "secretary of educational affairs" and inserting in place thereof the following words:- board of higher education.

SECTION 157. Said chapter 29 is hereby further amended by inserting after section 2P the following section:-

Section 2P½. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Safe Drinking Water Act Fund. There shall be credited to such fund any amounts collected pursuant to section eighteen A of chapter twenty-one A and any income derived from the investment of amounts credited to such fund. Amounts credited to such fund shall be used, subject to appropriation, for the purposes set forth in said section eighteen A of said chapter twenty-one A, including the payment of personnel fringe benefit costs pursuant to section five D of this chapter.

SECTION 158. Section 2U of said chapter 29, as so appearing, is hereby amended by striking out, in line 4, the words "four hundred and fifty" and inserting in place thereof the following words:- seven hundred.

SECTION 159. Section 2Y of said chapter 29, inserted by section 83 of chapter 110 of the acts of 1993, is hereby amended by striking out, in line 4, the words "three hundred" and inserting in place thereof the following words:- four hundred and fifty.

SECTION 160. Said chapter 29 is hereby further amended by inserting after section 2DD, inserted by section 1 of chapter 102 of the acts of 1995, the following section:-

Section 2EE. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Second Century Fund. There shall be credited to said fund all amounts generated by any increase in fees or charges or any new fees or charges approved after July first, nineteen hundred and ninety-six for use of the commonwealth's system of parks, forests or other natural resources subject to the oversight of the department of environmental management pursuant to section two of chapter twenty-one. The board of environmental management established pursuant to said section two of said chapter twenty-one is authorized to establish fees for the use of the forests and parks within the department's scope of responsibility. Amounts credited to said fund shall be available for expenditure, subject to appropriation, by the department of environmental management for all costs associated with the enhancement, improvement and maintenance of said forest and park system, including costs of personnel; provided, however, that the general court hereby declares that revenues credited to such fund shall be appropriated solely for the purposes stated herein and no funds shall be transferred from said fund to any other fund and the comptroller shall not assess said fund for any fringe or overhead costs.

SECTION 161. Section 7D of said chapter 29, as so appearing, is hereby amended by striking out, in line 10, the words "secretary of educational affairs" and inserting in place thereof the following words:- board of higher education.

SECTION 162. Said chapter 29 is hereby further amended by inserting after section 7M the following two sections:-

Section 7N. The speaker of the house of representatives and the president of the senate, acting jointly, may transfer funds, as needed, among the items of appropriation for joint legislative expenses.

Section 7 O. The speaker of the house of representatives and the president of the senate, acting jointly, may transfer funds, as needed, from the items of appropriation for joint legislative expenses to the items of appropriation for the house of representatives and the senate.

SECTION 163. Section 29 of said chapter 29, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "such", in line 5, the following word:- scheduled.

SECTION 164. The first paragraph of said section 29 of said chapter 29, as so appearing, is hereby amended by inserting at the end the following sentence:- Under no cir-

cumstance shall such an interchange be allowed if, in the opinion of the budget director, said interchange is projected to result in a deficiency in said appropriation or subsidiary account and a plan to remedy such a deficiency has not been adopted by said department, office, commission or institution with the approval of the budget director.

SECTION 165. Section 66 of said chapter 29, as so appearing, is hereby amended by adding the following sentence:- Any sheriff who expends funds in excess of the budget approved by the county government finance review board pursuant to section twelve of chapter sixty-four D shall be punished as provided in this section.

SECTION 166. Section 6 of chapter 29A of the General Laws, as so appearing, is hereby amended by striking out, in line 15, the words "Massachusetts Trades Building Council" and inserting in place thereof the following words:- Massachusetts State Labor Council, AFL-CIO.

SECTION 167. Section 44B of chapter 30 of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words "public safety" and inserting in place thereof the following words:- fire services.

SECTION 168. Said chapter 30 is hereby further amended by striking out section 51, as so appearing, and inserting in place thereof the following section:-

Section 51. All goods, supplies, equipment, services and real property leases, except for legislative or military purposes, needed by the various executive and administrative departments and for other activities of the commonwealth shall be purchased by or under the direction of the operational services division in the manner set forth in section fifty-two, and in sections twenty-two to twenty-six, inclusive, of chapter seven. Said division shall be furnished with such general supply appropriations, in addition to its departmental supply accounts, as may be necessary in order to place blanket contracts or advance orders and thereby take advantage of favorable market conditions.

SECTION 169. Section 52 of said chapter 30, as so appearing, is hereby amended by striking out, in line 1, the words "supplies, equipment or other property" and inserting in place thereof the following words:- goods, supplies, equipment, services or real property leases.

SECTION 170. Section 48 of chapter 31 of the General Laws, as so appearing, is hereby amended by inserting after the word "safety", in line 12, the following words:- ; laborers in the department of fire services.

SECTION 171. The third paragraph of section 61A of chapter 31 of the General Laws, as most recently amended by chapter 206 of the acts of 1995, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- No person appointed to a permanent, temporary or intermittent, or reserve police or firefighter position after November first, nineteen hundred and ninety-six shall perform the duties of such position until he shall have undergone initial medical and physical fitness examinations and shall have met such initial standards; and is hereby further amended by striking out, in lines 47, 49, and 50, the words "January first, nineteen hundred and eighty-eight" and inserting in place thereof the following words:- November first, nineteen hundred and ninety-six.

SECTION 172. Said section 61A of said chapter 31, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 80, the words "Within fifteen days of said referral, said" and inserting in place thereof the following word:- The.

SECTION 173. Paragraph (e) of subdivision (3) of section 5 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in lines 296 and 297, the words "January first, nineteen hundred and eighty-eight" and inserting in place thereof the following words:- November first, nineteen hundred and ninety-six.

SECTION 174. Subsection (2) of section 6 of said chapter 32, as so appearing, is hereby amended by inserting after paragraph (c) the following paragraph:-

(d) Payments to a member retired under the provisions of this section who is incarcerated for having been convicted of a felony committed on or after the effective date of this paragraph shall cease for the period of such member's incarceration. Under no circumstances shall such payments be recoverable by such member after such period of incarceration.

SECTION 175. Subsection (2) of section 7 of said chapter 32, as so appearing, is hereby amended by inserting after paragraph (c) the following paragraph:-

(d) Payments to a member retired under the provisions of this section who is incarcerated for having been convicted of a felony committed on or after the effective date of this paragraph shall cease for the period of such member's incarceration. Under no circumstances shall such payments be recoverable by such member after such period of incarceration.

SECTION 176. Section 22 of said chapter 32, as so appearing, is hereby amended by inserting after the word "eighty-four", in line 45, the following words:- but before July first, nineteen hundred and ninety-six; and withhold on each pay day nine percent of the regular compensation of each employee who is a member in service of the system, which is received on such day by such member on account of service rendered by him on or after July first, nineteen hundred and ninety-six, and not later than the date of his attaining the maximum age for his group in the case of an employee who entered the service of the commonwealth or a political subdivision thereof on or after July first, nineteen hundred and ninety-six; and withhold on each pay day twelve percent of the regular compensation of each employee who is a member of the state police appointed pursuant to section ten of chapter twenty-two C, and is a member in service of the system, which is received on such day by such member on account of service rendered by him on or after July first, nineteen hundred and ninety-six, and not later than the date of his attaining the maximum age for his group in the case of such employee who entered the service of said state police on or after July first, nineteen hundred and ninety-six.

SECTION 177. Paragraph (d) of subsection (1) of section 23 of chapter 32, as so appearing, is hereby amended by striking clause (ii) and inserting in place thereof the following clause:-

(ii) if the investment committee elects to invest in banks, financial institutions or any companies doing business in South Africa, the investment committee shall review the plat-

form of guiding principles defined in subsection (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 178. Said chapter 32 is hereby further amended by inserting after section 65I the following section:-

Section 65J. Upon retirement, a judge shall be paid an amount equal to the vacation allowance as earned in the vacation year prior to such retirement; provided, however, that no monetary or other allowance has already been awarded for such vacation allowance.

Upon retirement, a judge who has accrued unused sick leave credit shall be paid an amount equal to twenty percent of the value of such credit as determined by the rate of compensation received at the time of retirement; provided, however, that such payment for accrued unused sick leave shall not affect the amount of retirement allowance available to such judge.

SECTION 179. Section 91A of said chapter 32, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "dollars", in line 14, the following words:- or such amount as is allowable under subsection (a) of section ninety-one.

SECTION 180. Section 3 of chapter 32A of the General Laws, as so appearing, is hereby amended by striking out, in lines 9 and 10 and in line 12, the words "Massachusetts Trades Building Council" and inserting in place thereof, in each instance, the following words:- Massachusetts State Labor Council, AFL-CIO.

SECTION 181. Section 3 of chapter 32A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first three sentences and inserting in place thereof the following three sentences:- There shall be established within the executive office of administration and finance, but not under its jurisdiction, a special unpaid commission, to be known as the group insurance commission, consisting of the commissioner of administration and finance, the commissioner of insurance, the attorney general or his designee, and eight members to be appointed by the governor, one of whom shall be a health economist, one of whom shall be a retired state employee selected from a pool of two candidates nominated by the retired state, county and municipal employees' association of Massachusetts, three of whom shall be full-time state employees selected from a pool of six candidates nominated by the Massachusetts state labor council, AFL-CIO, one of whom shall be a member of the Massachusetts Teachers Association selected from a pool of two candidates nominated by said association, one of whom shall be a member of the Massachusetts Nurses Association selected from a pool of two candidates nominated by said association, and one of whom shall be a physician, selected from a pool of two candidates nominated by the Massachusetts Medical Society. No appointed member of the commission shall be an insurance agent, broker, employee or officer of any insurance company. Six members of the commission shall constitute a quorum, and the affirmative vote of six members shall be necessary for any action to be taken by the commission.

SECTION 182. Said section 3 of said chapter 32A, as so appearing, is hereby further amended by inserting after the word "shall", in line 29, the following words:- include any modifications or amendments made to contracts executed under this chapter and shall.

SECTION 183. The first paragraph of section 4 of said chapter 32A, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- The commission shall serve as the trustee of funds contributed by employees and retirees for its use and in carrying out all its duties under this chapter shall take into account to the maximum extent possible the interests of said employees and retirees.

SECTION 184. Said section 4 of said chapter 32A, as so appearing, is hereby further amended by inserting after the word "commonwealth", in line 22, the following words:- and all persons to whom this chapter applies;.

SECTION 185. Said section 4 of said chapter 32A, as so appearing, is hereby further amended by adding the following sentence:- Prior to commencement of a new contract period, the commission shall publish a request for proposals. Where it is determined by the commission that it would not be in the best interest of the commonwealth and all persons to whom this chapter applies to select a vendor on the basis of such a request for proposals, the commission may decline to publish such request; provided, however, that, within thirty days after such a determination is made, the commission shall submit a report to the clerks of the senate and house of representatives and the joint committee on public service specifically detailing all reasons for declining to publish such request.

SECTION 186. Said chapter 32A is hereby further amended by adding the following new section:-

Section 4B. Prior to the purchase of any policy or as defined in this chapter or entering into any contract or agreement for insurance as defined herein or the adoption of an amendment or changes to a previously purchased policy or contract entered into, or the implementation of changes by the commission that would decrease the level of benefits accorded to persons covered under this chapter under such a policy or contracts or agreements for insurance or entering into a contract or agreement as defined in section four A, the commission shall refer such policy, contract or agreement or amendments or changes thereto to the joint committee on public service, which shall hold a public hearing on the same within thirty days of their referral to said committee. Within forty-five days of their referral to the joint committee on public service, said committee shall transmit in writing to the commission its recommendations, if any, for modifications to such policy, contract or agreement or any amendments or changes thereto.

SECTION 187. Said chapter 32A is hereby further amended by adding the following new section:-

Section 20. The commission is hereby authorized and directed to establish and implement a vendor quality improvement program for purposes including, but not limited to: the evaluation and improvement of all health care services as applied to those contracts and the promotion of customer-oriented quality management techniques. Said program shall

include both long and short term objectives, quantifiable improvement goals, benchmarks for evaluating vendors and mechanisms to promote collaboration between the commission and health care vendors to improve health care services. The commission shall file an annual report with the clerk of the house of representatives, the clerk of the senate and the governor not later than September thirtieth of each year concerning said vendor quality improvement program.

SECTION 188. Section 5 of chapter 38 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 12, each time they appear, the words "public safety" and inserting in place thereof, in each instance, the following words:- state police.

SECTION 189. Section 36A of chapter 40 of the General Laws, as so appearing, is hereby amended by striking out, in line 25, the words "department of public safety" and inserting in place thereof the following words:- criminal history systems board.

SECTION 190. Section 43A of said chapter 40, as so appearing, is hereby amended by striking out, in line 4, the words "public safety" and inserting in place thereof the following words:- fire services.

SECTION 191. Section 24 of chapter 40B of the General Laws, as so appearing, is hereby amended by striking out, in lines 14 and 15, the words "the commissioner of public safety,".

SECTION 192. Section 3 of chapter 40E of the General Laws, as so appearing, is hereby amended by striking out, in line 12, the words "Massachusetts Trades Building Council" and inserting in place thereof the following words:- Massachusetts State Labor Council, AFL-CIO.

SECTION 193. Section 2 of chapter 40F 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 CDFC is hereby placed in the division of housing and community development and shall not be subject to the supervision and control of any executive office, department, commission, board, bureau or agency except to the extent and in the manner provided by law.

SECTION 194. The third paragraph of said section 2 of said chapter 40F, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The corporation shall consist of nine directors, one of whom shall be the deputy director of housing and community development, one of whom shall be the director of economic development and one of whom shall be the secretary of administration or his designee.

SECTION 195. Subsection (a) of section 3 of chapter 40H 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 corporation is hereby placed in the division of housing and community development and shall not be subject to the supervision or control of any executive office, department, division, commission, board, bureau or agency except to the extent and in the manner provided by law.

SECTION 196. Chapter forty I of the General Laws is hereby repealed.

SECTION 197. Section 9 of chapter 40N of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "sixty", in line 93, the following words:- ; provided, however, that any lien or taking of property, or foreclosure of the right of redemption undertaken pursuant to this section shall be subordinated only to a municipality's lien on the property, and shall not interfere with any tax sale, distraint, taking or foreclosure of the right of redemption or other remedy exercised by the municipality, regardless of when the municipality's lien arose.

SECTION 198. Said section 9 of said chapter 40N, as so appearing, is hereby further amended by striking out the fourth sentence and inserting in place thereof the following sentence:- If such demand is made within the time specified in section forty-two B of chapter forty and section sixteen B of chapter eighty-three during which liens arising thereunder remain in effect, said liens shall continue in effect for the period specified in section thirty-seven of chapter sixty, provided, however, that the year of assessment shall be deemed to be the year in which such demand is made.

SECTION 199. Section 98 of chapter 41 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 22 to 24, the words "according to the system of the bureau of identification in the department of public safety" and inserting in place thereof the following words:- in accordance with the protocol of the identification system of the department of the state police.

SECTION 200. Section 72 of chapter 44 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking the last sentence and inserting in place thereof the following sentence:- 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, provided, that for any such amounts received in fiscal nineteen hundred and ninety-eight and in each fiscal year thereafter year, a city or town shall deposit in a separate account for expenditure by the school committee fifty percent of any such amount that exceeds the amount said city or town received in fiscal year nineteen hundred and ninety-seven; provided further, that a school committee may make expenditures from said separate account for any lawful educational purpose without further appropriation; provided further, that any expenditures from said account on items qualifying as net school spending shall supplement, and not substitute for, the net school spending requirement of the district; and provided further that the receipt of such funds shall not affect the calculation of the minimum required local contribution and state school aid as defined in section two of chapter seventy.

SECTION 201. Section 87 of chapter 48 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words "public safety" and inserting in place thereof the following words:- fire services.

SECTION 202. Said section 87 of said chapter 48, as so appearing, is hereby further amended by striking out, in line 5, the words "and submit them to the commissioner of public safety".

SECTION 203. Section 3 of chapter 55B of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "twenty-five hundred" and inserting in place thereof the following words:- five thousand.

SECTION 204. 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:-

(11) An amount equal to the amount by which tuition payments by the taxpayer to a two or four-year college in which the taxpayer or a dependent of said taxpayer, pursuant to subparagraph three of paragraph b of subsection B, is enrolled, less any scholarships, grants or financial aid received, exceeds twenty-five percent of the taxpayer's Massachusetts adjusted gross income, exclusive of this deduction.

SECTION 205. Section 2 of chapter 62B of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

If, at the time an unemployment compensation payment, as defined in section 85(b) of the Internal Revenue Code, is made to any person, an election by such person is in effect under clause (3) of subsection (a) and under subsection (c) of section twenty-nine E of chapter one hundred and fifty-one A to subject such payment to voluntary withholding of personal income tax, then for purposes of this chapter such payment shall be treated as if it were a payment of wages by an employer to an employee. The amount to be deducted and withheld under this chapter from such payments shall be the amount set forth in said subsection (c) of said section twenty-nine E.

SECTION 206. Subsection (b) of section 21 of chapter 62C of the General Laws, as amended by section 68 of chapter 38 of the acts of 1995, is hereby further amended by inserting after clause (14) the following clause:-

(15) the disclosure to the commissioner of correction upon said Commissioner's written request, of the name, social security number, current address, or the name, identification number, or address of the employer of, an escaped prisoner for whom an outstanding warrant for arrest has been issued.

SECTION 207. Section 31A of chapter 63 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out paragraphs (k) and (l) and inserting in place thereof the following two paragraphs:-

(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 July first, nineteen hundred and ninety-nine.

(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 the taxable years beginning on or after July first, nineteen hundred and ninety-nine; provided, however, that a corporation shall not be eligible for said credit for more than nine taxable years.

SECTION 208. Subsection (k) of section 38 of said chapter 63, added by section 2 of chapter 280 of the acts of 1995, is hereby amended by striking out paragraph (5) and inserting in place thereof the following paragraphs:-

(5) For the purpose of determining compliance with the provisions of paragraphs (2), (3) and (4), each defense corporation with more than twenty-five employees, as part of its tax return for each taxable year, shall submit a report, whose form and substance shall be determined by the commissioner of revenue, that describes for each taxable year as of the last day of such taxable year the following: (i) the number, nature and wages of jobs added or lost in the commonwealth and worldwide from the previous taxable year; (ii) the number of contracts with the Armed Forces of the United States or a foreign government for which a bid was (a) submitted, (b) awarded or (c) lost during the taxable year; (iii) the number of contracts with the Armed Forces of the United States or with foreign governments that were terminated during the taxable year; (iv) the nature and amount of any change in the property factor during the taxable year; (v) the nature and amount of any change in the payroll factor in the taxable year; (vi) the dollar amount of revenue foregone by the adoption and utilization of the single sales factor pursuant to this section as compared to the apportionment method in effect for the first taxable year beginning on or after January first, nineteen hundred and ninety-five; (vii) volume of sales in the commonwealth and worldwide; (viii) taxable income in the commonwealth and worldwide; (ix) book value of plant, land and equipment in the commonwealth and worldwide; (x) net capital investments in the commonwealth and worldwide; (xi) net assets; (xii) capacity utilization; and (xiii) debts, itemized by the following categories: (a) loans; and (b) mortgages.

The commissioner of revenue shall annually prepare a comprehensive report utilizing the information received in this paragraph and other sources describing and evaluating the impact, if any, of the utilization of the single sales factor only upon the defense industry. Said report shall contain only cumulative information for all defense corporations submitting reports. Said report shall set forth for all defense corporations submitting reports the cumulative totals worldwide and, where applicable, in the commonwealth of the items specified in clauses (i) to (xiii) and the changes in such aggregate totals from the previous taxable year. The commissioner's report shall be filed not later than October first of each year with the clerk of the senate and the clerk of the house of representatives who shall forward the same to their respective committees on ways and means and to the joint committee on taxation. Said report of the commissioner shall be a public record.

SECTION 209. Subsection (l) of said section 38 of said chapter 63, added by said section 2 of said chapter 280, is hereby amended by striking out paragraph (3) and inserting in place thereof the following paragraphs:-

(3) Each manufacturing corporation with more than twenty-five employees, apportioning its income in accordance with the provisions of this subsection, as part of its tax return for each year, shall submit a report, whose form and substance shall be determined by the commissioner of revenue, that describes for each taxable year as of the last day of such taxable year the following: (i) the number, nature and wages of jobs added or lost in the

commonwealth and worldwide from the previous taxable year; (ii) the nature and amount of any change in the property factor during the taxable year; (iii) the nature and amount of any change in the payroll factor in the taxable year: (iv) the dollar amount of revenue foregone by the increased weighting of the sales factor pursuant to this section as compared to the apportionment method in effect for the first taxable year beginning on or after January first, nineteen hundred and ninety-five; (v) volume of sales in the commonwealth and worldwide; (vi) taxable income in the commonwealth and worldwide; (vii) book value of plant, land and equipment in the commonwealth and worldwide; (viii) net capital investment in the commonwealth and worldwide; (ix) net assets; (x) capacity utilization; and (xi) debts, itemized by the following categories: (a) loans; and (b) mortgages.

The commissioner of revenue shall annually prepare a comprehensive report utilizing the information received in this paragraph and other sources describing and evaluating the impact, if any, of the utilization of the increased weighting of the sales factor upon the manufacturing industry. Said report shall contain only cumulative information for all manufacturing corporations submitting reports. Said report shall set forth for all manufacturing corporations submitting reports the cumulative totals worldwide and, where applicable, in the commonwealth of the items specified in clauses (i) to (xi) and the changes in such aggregate totals from the previous taxable year. The commissioner's report shall be filed not later than October first of each year with the clerk of the senate and the clerk of the house of representatives who shall forward the same to their respective committees on ways and means and to the joint committee on taxation. Said report of the commissioner shall be a public record subject to the provisions of section ten of chapter sixty-six.

SECTION 210. Section 10 of chapter 66 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 51, the words "commissioner of public safety and his" and inserting in place thereof the following words:- executive director of the criminal history systems board, the criminal history systems board and its.

SECTION 211. The third paragraph of section 1A of chapter 69 of the General Laws, as so appearing, is hereby amended by striking out, in line 15, the words "secretary of education who shall review and transmit said budget to the".

SECTION 212. Section 1B of said chapter 69, as so appearing, is hereby amended by striking out, in line 35, the words "the secretary of education and".

SECTION 213. The twenty-second paragraph of said section 1B said chapter 69, as so appearing, is hereby amended by adding the following sentence:- Notwithstanding the provisions of any special or general law or executive order to the contrary, the board of education shall notify the joint committee on education, arts, and humanities of any amendments or revisions to regulations in effect on April first, nineteen hundred and ninety-six at least ninety days before the effective date of such amendments or revisions; provided, however, that if federal law should require that amendments to regulations be made in less than ninety days to ensure continued federal funding, notification to the committee shall be made as soon as possible, but failure to provide ninety days' notice shall in no manner affect the legality or validity of said regulations.

SECTION 214. Section 1F of said chapter 69, as so appearing, is hereby amended by adding the following paragraph:-

The board is hereby authorized to expend a sum, not exceeding five million dollars in any one academic year, for a public-private partnership to link high school students with economic and learning opportunities on the job as part of the school-to-work transition program. Said funds shall be made available, subject to board approval, as matching grants to regional employment boards or other local recognized public-private partnerships involving local community job commitments and work site learning opportunities for students; provided, however, that such grants shall require at least a two hundred percent match in wages for such students from private sector participants. The program shall include, but not be limited to, a provision that those business leaders who commit resources to pay salaries, provide mentoring and instruction on the job and to work closely with teachers and public funds shall assume the cost of connecting schools and businesses to work with such students to ensure that they serve productively on the job.

SECTION 215. Section 2 of chapter 70 of the General Laws is hereby amended by striking out the definition of "Base aid", as so appearing, 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; provided, however, that for any district in which the previous year net school spending is less than the current year 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 the amount by which the amount to be deducted in the current fiscal year pursuant to the provisions of section eighty-nine of chapter seventy-one or of section twelve B of chapter seventy-six exceeds the amount that had been deducted pursuant to said sections in the previous fiscal year.

SECTION 216. Said section 2 of said chapter 70 is hereby further amended by striking out the definition of "Foundation gap", as so appearing, and inserting in place thereof the following definition:-

"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, charter school reimbursement as defined in section eighty-nine of chapter seventy-one, minimum aid, federal impact aid and the larger of (1) the preliminary local contribution for that year or (2) the standard of effort for such year. The foundation gap shall be calculated separately for each municipality's share of each district to which it belongs.

SECTION 217. Said section 2 of said chapter 70 is hereby further amended by striking out the definition of "Standard of effort", as so appearing, 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, minimum

aid, school choice reimbursement, as defined in section twelve B of chapter seventy-six, charter school reimbursement, as defined in section eighty-nine of chapter seventy-one, 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 218. The definition of "Minimum required local contribution" in said section 2 of said chapter 70, as so appearing, is hereby amended by striking out, in lines 423 to 424, the words "and the excess debt service amount, if any".

SECTION 219. Said section 2 of said chapter 70 is hereby further amended by striking out the definition of "Municipal revenue growth factor", as so appearing, and inserting in place thereof the following definition:-

"Municipal revenue growth factor", the change in local general revenues calculated by subtracting one from the quotient calculated by dividing the sum of (1) the maximum levy 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 adjustments over the last three available years as certified by the department of revenue or as otherwise estimated by the division of local services of the department of revenue where it appears that a municipality may not be entitled to increase its minimum levy limit by two and one-half percent; provided, however, that if the highest percentage during such 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 such calculation; (2) the amount of general revenue sharing aid for the fiscal year; and (3) other budgeted recurring receipts not including user fees or other charges determined by said division of local services to be associated with the provision of specific municipal services for the prior fiscal year, minus the excess debt service amount for the 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 such division of municipal services to be associated with the provision of specific municipal services budgeted by the municipality for the fiscal year preceding the prior fiscal year, minus the excess debt service amount for the prior fiscal year, if any; 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; provided, however, that such 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; and, provided further, that in making any of the calculations required by this definition, said division of local services may substitute more current information or such

other information as would produce a more accurate estimate of the change in a municipality's general local revenues and the department shall use such growth factor to calculate preliminary contribution, minimum contribution and any other factor that directly or indirectly uses the municipal growth factor.

SECTION 220. Section 16B of chapter 71 of the General Laws, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

The members of a regional school district, including a vocational regional school district, may elect to reallocate the sum of their required local contributions to the district in accordance with the regional agreement; provided, however, that the total sum of their required contributions shall not be decreased. Election shall be by approval of all members of the district. Approval of each member shall be given by majority vote at an annual or special town meeting, in the case of towns, or by majority vote of the council, in the case of cities. The commissioner of education shall be notified upon the adoption of this section by this district. Nothing in this section shall be construed to affect the calculation of the members' required local contributions for any succeeding year as provided by chapter seventy of the General Laws.

SECTION 221. Section 38Q of said chapter 71, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words "secretary of education and the higher education coordinating council" and inserting in place thereof the following words:- board of higher education.

SECTION 222. Section 55C of said chapter 71, as so appearing, is hereby amended by striking out, in line 9, the word "safety" and inserting in place thereof the following word:- health.

SECTION 223. The first paragraph of section 89 of said chapter 71, as so appearing, is hereby amended by striking out, in line 2, the words "secretary of education" and inserting in place thereof the following words:- board of education, in this section called the board.

SECTION 224. Said section 89 of said chapter 71, as so appearing, is hereby further amended by striking out, in lines 5, 23, 29, 31, 42, 57, 58, 92, 143, 148, 158, 160, 161, 162, 164 and 168, the word "secretary", each time it appears, and inserting in place thereof, in each instance, the following word:- board.

SECTION 225. The fifth sentence of the ninth paragraph of said section 89 of said chapter 71, as inserted by chapter 72 of the acts of 1996, is hereby amended by striking out the word "secretary" and inserting in place thereof the following word:- board.

SECTION 226. Section 3 of chapter 71B of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "psychiatric", in line 59, the following words:- provided, however, that the division of health care finance and policy established by section two of chapter one hundred eighteen G shall establish rates for educational assessments conducted or performed by psychologists and other trained certified educational personnel notwithstanding the provisions of any other special or general law or rule or regulation to the contrary.

SECTION 227. Section 10 of chapter 71B of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 4, the words "and with the approval of the secretary of educational affairs".

SECTION 228. The first paragraph of section 7C of chapter 74 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Said tuition shall be returned to the member communities of the regional district in the year following receipt of the payment, in proportion to the assessment levied against each member community.

SECTION 229. Section 1A of chapter 75 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the words "Massachusetts Trades Building Council" and inserting in place thereof the following words:- Massachusetts State Labor Council, AFL-CIO.

SECTION 230. The first paragraph of said section 1A of said chapter 75, as so appearing, is hereby amended by striking out the last sentence.

SECTION 231. Section 36C of said chapter 75, as so appearing, is hereby amended by striking out, in line 35 and in lines 41 and 42, in each instance, the words ", the secretary of education".

SECTION 232. Section 11A of chapter 85 of the General Laws, as so appearing, is hereby amended by striking out, in lines 36 and 37, the words "the commissioner of public safety to all".

SECTION 233. Section 1 of chapter 90 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "ninety B", in lines 107 and 111, in each instance, the following: "or any violation of the comparable laws of any other jurisdiction".

SECTION 234. The eighth paragraph of section 2 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out the fifth sentence and inserting in place thereof the following two sentences:- There shall be a twenty-five dollar fee for said plate in addition to the established registration fee for passenger motor vehicles. Within thirty days after receipt of said fee, the portion of the fee remaining after the deduction of costs directly attributable to issuing said plate shall be transferred, in amounts proportional to the number of vehicles registered in each county, to the county commissioners of Dukes and Nantucket counties and, in the case of Barnstable county, eighty percent to the Cape Cod Economic Development Council and twenty percent to the Lower Cape Community Development Corporation, provided that all amounts so transferred shall be used to promote tourism and economic development, and provided further that twice annually the Cape Cod Economic Development Council and the Lower Cape Community Development Corporation shall furnish to the Barnstable county commissioners a full accounting of the expenditures of said funds.

SECTION 235. Section 7D of said chapter 90, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The provisions of this section, excluding the seatbelt requirement, shall not apply to the transportation of school pupils in vehicles not exceeding fourteen passengers in addition to the operator which is provided (a) by an operator who is uncompensated for his or her service and is either a parent and one adult (monitor) of one of the passengers or is a person chosen by the parents of all the passengers; or (b) for activities related to a private school, day care center, camp, school-age child care program, or a special needs program as defined by section one of chapter seventy-one B, who would not be picked up or discharged on a fixed route, provided, that for the purpose of this section, the term fixed route shall be defined as the transportation of a school pupil on a pre-determined daily basis to and from a set location, for the length of the pupils school year, provided the operator is a person whose primary relationship to the passenger is that of teacher, coach, director, or caregiver, and not as an operator. Such vehicles shall not be considered school buses, school pupil transport vehicles or livery vehicles and shall be registered as private passenger motor vehicles.

SECTION 236. The last sentence of paragraph (e) of subdivision (1) of section 24 of said chapter 90, as amended by section 110 of chapter 38 of the acts of 1995, is hereby further amended by striking out the words "public safety" and inserting in place thereof the following words:- the state police.

SECTION 237. Subsection (j) of section 3 of chapter 90B of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following four sentences:- An original certificate of number may be renewed by mail or by facsimile. An applicant who is seeking the renewal of said certificate must state his name, present address, telephone number, facsimile number and social security number on the respective correspondence. The division shall inform said applicant by mail or facsimile as to whether the renewal is or is not approved. If approval is granted, the division shall mail the renewed certificate to the address of said applicant. In implementing this procedure, the director shall seek to avoid all duplicative administrative steps. The director may promulgate such regulations as he deems necessary to implement such a renewal procedure.

SECTION 238. Paragraph (2) of subsection (a) of section 8 of said chapter 90B, as so appearing, is hereby amended by striking out subparagraph (A) and inserting in place thereof the following subparagraph:-

(A) If a person arrested for operating a vessel while under the influence of intoxicating liquor refuses to submit to such test or analysis, after having been informed that his license, permit or right to operate motor vehicles shall be suspended and any certificate or numbers may be revoked for a period of one hundred and twenty days for such refusal, no such test or analysis shall be made, but the officer before whom such refusal was made shall immediately prepare a written report of such refusal. Each such report shall be made on a form approved by the registrar, and shall be sworn to under the penalties of perjury by the officer before whom such refusal was made. Each such report shall set forth the grounds for the officer's belief that the person arrested had been operating a vessel while under the

influence of intoxicating liquor, and shall state that such person had refused to submit to such chemical test or analysis when requested by such officer to do so such refusal having been witnessed by another person other than the defendant. Each such report shall identify which police officer requested said chemical test or analysis, and the other person witnessing said refusal. Each such report shall be sent forthwith to the registrar and to the director along with a copy of the notice of intent to suspend in any form, including electronic or otherwise, that the registrar deems appropriate. Upon receipt of such report, the registrar shall suspend any license or permit to operate motor vehicles issued to such person under chapter ninety or the right of such person to operate motor vehicles in the commonwealth under section ten for a period of one hundred and twenty days, and the director may revoke any and all certificates of number of any vessel such person and may refuse to issue any certificate of number to such vessels for a period of one hundred and twenty days. Said report shall constitute prima facie evidence of the facts set forth therein at any administrative hearing regarding any suspension specified in this section.

SECTION 239. Said section 8 of said chapter 90B, as so appearing, is hereby further amended by inserting after the word "admissible" in line 279, the following words:- , and such failure or refusal shall be admissible in any action by the registrar under this section or in any proceedings provided for in section twenty-four N of chapter ninety,.

SECTION 240. Said section 8 of said chapter 90B, as so appearing, is hereby further amended by striking out the word "ten", in lines 304 and 305, and inserting in place thereof, in each instance, the word:- eight.

SECTION 241. Said section 8 of said chapter 90B, as so appearing, is hereby further amended by striking out, in lines 308 and 309, the words "public safety or by a chemist of a laboratory certified by said department" and inserting in place thereof the following words:- state police or by a chemist of a laboratory certified by the department of public health.

SECTION 242. Said section 8 of said chapter 90B, as so appearing, is hereby further amended by striking out the word "registrar", in lines 363 and 706, and inserting in place thereof, in each instance, the word:- director.

SECTION 243. Said section 8 of said chapter 90B, as so appearing, is hereby further amended by striking out the word "six", in lines 403, 493, 509 and 527, and inserting in place thereof, in each instance, the word:- ten.

SECTION 244. Said section 8 of said chapter 90B, as so appearing, is hereby further amended by striking out the word "certificate", in lines 661, 663 and 667, and inserting in place thereof, in each instance, the word:- certificates.

SECTION 245. Section 49 of chapter 91 of the General Laws, as so appearing, is hereby amended by striking out, in line 17, the words "public safety" and inserting in place thereof the following words:- state police.

SECTION 246. Section 59 of said chapter 91, as so appearing, is hereby amended by striking out, in line 11, the words "public safety" and inserting in place thereof the following words:- state police.

SECTION 247. Section 123 of chapter 94 of the General Laws, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words "Massachusetts Trades Building Council" and inserting in place thereof the following words:- Massachusetts State Labor Council, AFL-CIO.

SECTION 248. The third paragraph of subsection (d) of section 47 of chapter 94C of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following two sentences:- Not later than January fifteenth of each year, each district attorney and 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. Said reports shall detail said deposit and expenditure of all monies for the preceding fiscal year and the current fiscal year through December thirty-first.

SECTION 249. The fourth paragraph of subsection (d) of said section 47 of said chapter 94C, as so appearing, is hereby amended by adding the following two sentences:- Not later than January fifteenth of each year, each chief 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 the 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. Said reports shall detail such deposits and expenditure of all monies for the preceding fiscal year and the current fiscal year through December thirty-first.

SECTION 250. Section 47A of said chapter 94C, as so appearing, is hereby amended by striking out, in lines 12 and 37, the words "public safety", each time that they appear, and inserting in place thereof, in each instance, the following words:- state police.

SECTION 251. Section 3 of chapter 100 of the General Laws, as so appearing, is hereby amended by striking out, in line 56, the words "National Auctioneers Association" and inserting in place thereof the following word:- director.

SECTION 252. Section 3A of said chapter 100, as so appearing, is hereby amended by inserting after the word "auctioneer", in line 20, the following words:- ; provided, however, that an auctioneer licensed by the commonwealth as of July first, nineteen hundred and ninety-six shall retain such license.

SECTION 253. Section 3C of said chapter 100, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A license shall be valid for a period of one year from the date of issue unless sooner suspended or revoked and shall be renewed by the division annually thereafter without examination, upon payment of the fee prescribed in section three.

SECTION 254. Said chapter 100 is hereby further amended by inserting after section 3C the following new section:-

Section 3D. Any corporation conducting business within the commonwealth may appoint an officer of the corporation who is duly licensed under the provisions of this chapter to act as an auctioneer in behalf of such corporation. Notwithstanding the provisions of any general or special law to the contrary, any licensed auctioneer conducting business within the commonwealth shall be required to maintain an escrow account for all items held on consignment; provided, however, that such escrow shall terminate not later than sixty days from the date of auction of said items.

SECTION 255. Section 34 of chapter 101 of the General Laws, as so appearing, is hereby amended by striking out, in line 92, the words "department of public safety" and inserting in place thereof the following words:- criminal history systems board.

SECTION 256. Said section 34 of said chapter 101, as so appearing, is hereby further amended by striking out, in line 98, the words "department of public safety" and inserting in place thereof the following words:- the chief of police.

SECTION 257. Chapter 111 of the General Laws is hereby amended by inserting after section 24E the following 2 sections:-

Section 24F. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Health Care Access Fund. There shall be credited to said fund the following: (a) all fees assessed or generated from programs authorized pursuant to this section; (b) revenues generated pursuant to paragraph (a) of section twenty-eight of chapter sixty-four C; (c) to the extent available, federal financial participation made available under Title XIX of the Social Security Act, or its successor statute, to match the costs of the uncompensated care pool and to the extent such monies are authorized to be transferred to said fund pursuant to general or special law; (d) all interest earned on monies within said fund; and (e) and voluntary contributions and premiums paid by enrollees in said programs.

Amounts credited to the Health Care Access Fund shall be used for the following purposes, subject to appropriation:

(i) to fund a program of primary and preventive health care for the benefit of dependent and adoptive children from birth through age twelve established pursuant to section twenty-four G of chapter one hundred and eleven, as added in this act;

(ii) to establish a program of managed care within community health centers pursuant to regulations promulgated by the department;

(iii) to fund a universal immunization program to be administered by the department; and

(iv) a program of medical respite services provided by the Boston health care for the homeless program

Section 24G. There is hereby established a program of managed care to provide primary and preventive health care services for uninsured dependent and adopted youths from birth through age twelve. Said program shall be administered by the department subject to appropriation from the health care access fund established pursuant to section twenty-four F of chapter one hundred and eleven and other appropriated funds. Services available from the 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 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) first-aid treatment and follow up care, including the changing or removal of casts, burn dressings or structures, in a participating doctor's office, community health center, health maintenance organization or school-based clinic;

(4) the provision of smoking prevention educational information and materials to the parent, guardian or person with whom an enrollee resides.

Services made optionally available under said program may include the following:

(1) prescription drugs up to one hundred dollars per year, provided that enrollees shall be responsible for a co-payment of three dollars for each interchangeable drug prescription and four dollars for each brand-name drug prescription;

(2) urgent care visits in the outpatient department of a participating hospital when an enrollee's primary care practitioner is not available to provide such services, and emergency care in the outpatient department or emergency department of a participating hospital of up to one thousand dollars per year, including related laboratory and diagnostic radiology services for said urgent and emergency care, provided that rates of reimbursement for such urgent care and emergency services are negotiated by participating hospitals with the department or its designated vendor;

(3) outpatient surgery and anesthesia which is medically necessary for the treatment of inguinal hernia and ear tubes, but not including the professional component for related radiology or pathology services; provided that rates of reimbursement for such urgent care and emergency services are negotiated by participating hospitals with the department or its designated vendor;

(4) medically necessary eye examinations

(5) medically necessary outpatient mental health services not to exceed thirteen visits per year.

The department shall establish cost-containment measures designed to ensure that only medically necessary services are reimbursed by said program. The schedule, scope, maximum dollar coverage and duration of the optional benefits established by this section may be revised by the department to ensure that the costs of said program are limited to the funds appropriated therefor.

The cost of said program shall be funded in part by premiums contributed by enrollees according to the following eligibility categories: households earning less than two hundred percent of the federal poverty level shall not be responsible for contributing to program premium costs; households earning between two hundred and four hundred percent

of the federal poverty level, inclusive, shall contribute not less than twenty percent and not more than thirty percent of the monthly premium cost according to a sliding scale established by the department; provided, that additional contributions shall not be required for any enrollee after the third enrollee in such a household; and provided further, that enrollees in households earning more than four hundred percent of the federal poverty level shall pay the full premium cost of said program. Household earnings may be defined on the basis of gross earnings, or on an adjusted basis according to criteria deemed appropriate by the department. The department shall base premium costs on an actuarially sound methodology. Premiums contributed by enrollees shall be deposited in the health care access fund established pursuant to section twenty-four F of chapter one hundred and eleven and may be used for the said program subject to appropriation.

Notwithstanding the premium contribution requirements established by this section, no enrollee shall be exempt from the co-payment requirements established herein or by the department. Said co-payments shall be designed to encourage the cost-effective and cost conscious use of said services.

The department shall promulgate regulations necessary to implement the requirements of this section. The division of medical assistance shall assist said department to maximize federal financial participation for state expenditures made on behalf of program enrollees.

The department shall report quarterly to the house and senate committees on ways and means and to the joint committee on health care on enrollment demographics, claims expenditures and the annualized costs of said program. The department shall file notice with said committees and the secretaries of the executive office of administration and finance and family services not less than thirty days before modifying program benefits and eligibility standards that are intended to ensure that program costs are limited to the funds appropriated therefor.

The program established by this section shall not give rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein and nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement.

SECTION 258. Section 25C of chapter 111 of General Laws, as so appearing, is hereby amended by adding the following paragraph:-

No long term care facility located in an underbedded urban area shall be replaced or the license for said facility transferred outside an underbedded urban area. For the purposes of this paragraph, an underbedded urban area shall mean a city or town in which: (a) the per capita income is below the state average; or (b) the percentage of the population below one hundred percent of the federal poverty level is above the state average; or (c) the percentage of the population below two hundred percent of the federal poverty level is above the state average.

SECTION 259. Section 127B½ of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

At any time prior to or during the course of proceedings conducted pursuant to section one hundred and twenty-seven B, resulting solely from a residential underground fuel storage tank or the detection of dangerous lead paint levels, as determined under the authority of section one hundred and ninety-four, or in the event the state environmental code pursuant to section thirteen of chapter twenty-one A requires the repair, replacement and/or upgrade of a septic system the owner of a structure used for human habitation may petition the board of health in a city or town to make findings consistent with its authority under this chapter and may enter into an agreement, subject to appropriation, authorizing such board of health or such owner to cause the premises to be properly serviced by a septic system, removal or a residential underground fuel storage tank or to have removed any dangerous levels of lead paint, as determined under the authority of section one hundred and ninety-four, at the owners expense. An owner who enters into such an agreement shall be responsible for all expenses incurred by the board of health, directly or indirectly, or required by the board of health and incurred by the owner for such repairs, replacement, and/or upgrade of a septic system, removal of a residential underground fuel storage tank or removal of dangerous levels of lead paint. A notice of such agreement shall be recorded as a betterment and be subject to the provisions of chapter eighty relative to the apportionment, division, reassessment and collection of assessment, abatement and collections of assessments, and to interest; provided, however, that for purposes of this section, such lien shall take effect by operation of law on the day immediately following the due date of such assessment or apportioned part of such assessment and such assessment may bear interest at a rate determined by the city or town treasurer by agreement with the owner at the time such agreement is entered into between the board of health and the property owner. In addition to remedies available under chapter eighty, the property owner shall be personally liable for the repayment of the total costs incurred by the city or town under this section; provided, however, that upon assumption of such personal obligation to a purchaser or other transferee of all of the original owners interest in the property at the time of conveyance and the recording of such assumption, the owner shall be relieved of such personal liability.

SECTION 260. Subsection (b) of section 197A of chapter 111 of the General Laws, as so appearing, is hereby amended by inserting after paragraph (2) the following paragraph:-

(3) Notwithstanding any general or special law or regulation to the contrary, all persons selling premises shall, before signing a purchase and sale agreement, provide to the prospective purchaser written notice of the type and general condition of any septic system on said premises.

SECTION 261. Section 197B of said chapter 111, as so appearing, is hereby amended by striking out, in lines 26, 29, 50, 59, 76, 79, 83, 91, 101, 105 and 106, and 117, each time they appear, the words "and industries" and inserting in place thereof the words:- and workforce development.

SECTION 262. Section 7 of chapter 111C of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of state police.

SECTION 263. Section 1 of chapter 111F of the General Laws, as so appearing, is hereby amended by striking out the definition of "DLI" and inserting in place thereof the following definition:-

"DOL", the department of labor and workforce development.

SECTION 264. Section 2 of said chapter 111F, as so appearing, is hereby amended by striking out, in lines 10 and 20, the word "DLI", each time it appears, and inserting in place thereof, in each instance, the following word:- DOL.

SECTION 265. Section 4 of said chapter 111F, as so appearing, is hereby amended by striking out, in line 4, the word "DLI" and inserting in place thereof the following word:- DOL.

SECTION 266. Section 13 of said chapter 111F, as so appearing, is hereby amended by striking out, in lines 14, 17, 18, 22, 30 and 41, the word "DLI", each time it appears, and inserting in place thereof, in each instance, the following word:- DOL.

SECTION 267. Section 17 of said chapter 111F, as so appearing, is hereby amended by striking out, in line 2, the word "DLI" and inserting in place thereof the following word:- DOL.

SECTION 268. Section 12A of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of the state police.

SECTION 269. Said section 12A of said chapter 112, as so appearing, is hereby further amended by striking out, in line 11, the words "commissioner of public safety" and inserting in place thereof the following words:- state fire marshal.

SECTION 270. Section 12A½ of said chapter 112, as so appearing, is hereby amended by striking out, in line 5, the words "commissioner of public safety" and inserting in place thereof the following words:- criminal history systems board.

SECTION 271. Chapter 118E of the General Laws is hereby amended by striking section 13, as appearing in the 1994 Official Edition, and inserting in place thereof the following two sections:-

The commissioner shall review, and approve or disapprove, any change in Title XIX rates or Title XIX rate methodology proposed by the division of health care finance and policy established by chapter one hundred and eighteen G, which shall be called the "division" only for purposes of this section. The commissioner shall review such proposed rate changes for consistency with agency policy and federal requirements, and within the level of funding available as authorized by the general appropriation act prior to the certification of such rates by the division; provided, that the commissioner 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 commissioner shall, when disapproving a rate increase, submit the reasons for disapproval to the division together with

any recommendations for changes. Such disapproval and recommendations, if any, shall be submitted after the commissioner is notified that the division 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 division regarding such rate change; provided, that no rates shall take effect without the approval of the commissioner. The division and the commissioner 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 division shall supply the commissioner with all statistical information necessary to carry out his duties under this section. Notwithstanding the foregoing, the commissioner 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 commissioner to exceed the amount of funding appropriated for such purpose in the general appropriation act in any fiscal year, the division and the commissioner shall jointly prepare and submit to the Governor a proposal for the minimum amount of supplemental funding necessary to satisfy the requirements of the under Title XIX state plan.

SECTION 272. Chapter 118E of the General Laws, as so appearing, is hereby further amended by inserting after section 13, the following new section:-

Section 13A. For hospital fiscal years beginning on or after October first, nineteen hundred and ninety-seven, rates and terms of payment established by the division with non-acute hospitals for services rendered to patients entitled to medical assistance under this chapter shall be established by contract between the division and such hospitals, unless otherwise required by law. Prior to said October first, for those non-acute hospitals whose rates and terms of payment have not been established by contract with the division, said rates and terms of payment shall be based on the system of reimbursement in effect immediately prior to the effective date of this section. This section shall not be construed preventing said division and a non-acute hospital from agreeing to such a contract prior to such date. Any medical necessity and administratively necessary determinations the division may establish for non-acute hospitals shall be based on the screening criteria and procedures applied by peer review organizations as are duly authorized under the Social Security Act.

For any hospital fiscal year subsequent to nineteen hundred and ninety-eight, the division of medical assistance may elect, solely at its discretion, that public payor-dependent non-acute hospitals shall be subject to the provisions of the preceding paragraph; provided, that reimbursement so established by said section shall include an administratively necessary day adjustment for any patient that a public payor-dependent non-acute hospital is unable to place in a more appropriate facility based on said screening criteria and procedures; provided further that the terms of payment for any such patient shall reflect the reasonable costs of any such hospital in providing care to recipients of medical care and assistance; and provided further, that reimbursement so established shall reflect the reasonable costs of treating a disproportionate share of public payor patients.

SECTION 273. Section 36 of said chapter 118E is hereby amended by striking out clause (5), as so appearing, and inserting in place thereof the following clause:-

(5) participation in the programs as a skilled nursing or acute or non-acute hospital 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 274. Chapter one hundred and eighteen F of the General Laws is hereby repealed.

SECTION 275. The General Laws are hereby further amended by inserting after chapter 118F the following chapter:-

CHAPTER 118G.

HEALTH CARE FINANCE AND POLICY.

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

"Actual costs", all direct and indirect costs incurred by a hospital or a community health center in providing medically necessary care and treatment to its patients, determined in accordance with generally accepted accounting principles.

"Acute hospital", the teaching hospital of the University of Massachusetts Medical School and any hospital licensed under section fifty-one of chapter one hundred and eleven and which contains a majority of medical-surgical, pediatric, obstetric, and maternity beds, as defined by the department of public health.

"Bad debt", an account receivable based on services furnished to any patient which (i) is regarded as uncollectable, following reasonable collection efforts consistent with regulations of the division, which regulations shall allow third party payers to negotiate with hospitals to collect the bad debt of its enrollees, (ii) is charged as a credit loss, (iii) is not the obligation of any governmental unit or of the federal government or any agency thereof, and (iv) is not free care.

"Case mix", the description and categorization of a hospital's patient population according to criteria approved by the division including, but not limited to, primary and secondary diagnoses, primary and secondary procedures, illness severity, patient age and source of payment.

"Charge", the uniform price for specific services within a revenue center of a hospital.

"Child", a person who is under eighteen years of age.

"Commissioner", the commissioner of the division of health care finance and policy.

"Community health centers", health centers operating in conformance with the requirements of Section 330 of United States Public Law 95-626 and shall include all community health centers which file cost reports as requested by the division.

"Comprehensive cancer center", the hospital of any institution so designated by the national cancer institute under the authority of 42 USC sections 408(a) and 408(b) organized solely for the treatment of cancer, and offered exemption from the medicare diagnosis related group payment system under 42 C.F.R. 405.475(f).

"Dependent", the spouse and children of any employee if such persons would qualify for dependent status under the Internal Revenue Code or for whom a support order could be granted under chapters two hundred and eight, two hundred and nine or two hundred and nine C.

"Disproportionate share hospital", any acute hospital that exhibits a payer mix where a minimum of sixty-three per cent of the acute hospital's gross patient service revenue is attributable to Title XVIII and Title XIX of the federal Social Security Act other government payors and free care.

"Division", the division of health care finance and policy in the executive office of health and human services.

"DRG", a patient classification scheme which provides a means of relating the type of patients a hospital treats, such as its case mix, to the cost incurred by the hospital.

"Eligible person", a person who qualifies for financial assistance from a governmental unit in meeting all or part of the cost of general health supplies, care or rehabilitative services and accommodations.

"Employee", a person who performs services primarily in the commonwealth for remuneration for a commonwealth employer. A person who is self-employed shall not be deemed to be an employee.

"Employer", an employer as defined in section one of chapter one hundred and fifty-one A.

"Enrollee", a person who becomes a member of an insurance program of the division either individually or as a member of a family.

"Financial requirements", a hospital's requirement for revenue which shall include, but not be limited to, reasonable operating, capital and working capital costs, the reasonable costs of depreciation of plant and equipment and the reasonable costs associated with changes in medical practice and technology.

"Fiscal year", the twelve month period during which a hospital keeps its accounts and which ends in the calendar year by which it is identified.

"Free care", unpaid hospital charges of medically necessary services to (1) patients deemed financially unable to pay, in whole or in part, for their care, pursuant to regulations of the division; (2) uninsured patients who receive emergency care in a hospital emergency room or who receive other hospital care associated with such emergency care services, for which the costs have not been collected after despite reasonable efforts in accordance with regulations of the division; or (3) patients in situations of medical hardship in which major expenditures for health care have depleted or can reasonably be expected to deplete the financial resources of the individual to the extent that medical services cannot be paid, as determined by regulations of the division. For purposes of this section, "emergency care" shall include, but not be limited to: hospital services provided after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity which include, but not be limited to, severe pain which pain reasonably appears may result in jeopardizing the patients' health if immediate medical attention is withheld; serious impairment to bodily

functions or serious dysfunction of any bodily organ or part, examination or treatment for emergency medical condition; active labor in women; or any such other service rendered to the extent required pursuant to 42 USC 1395(dd).

"General health supplies, care or rehabilitative services and accommodations", all supplies, care and services of medical, optometric, dental, surgical, podiatric, psychiatric, therapeutic, diagnostic, rehabilitative, supportive or geriatric nature, including inpatient and outpatient hospital care and services, and accommodations in hospitals, sanatoria, infirmaries, convalescent and nursing homes, retirement homes, facilities established, licensed or approved pursuant to the provisions of chapter one hundred and eleven B and providing services of a medical or health-related nature, and similar institutions including those providing treatment, training, instruction and care of children and adults; provided, however, that rehabilitative service shall include only rehabilitative services of a medical or health-related nature which are eligible for reimbursement under the provisions of Title XIX of the Social Security Act.

"Governmental unit", the commonwealth, any department, agency board or commission of the commonwealth, and any political subdivision of the commonwealth.

"Gross inpatient service revenue", the total dollar amount of a hospital's charges for inpatient services rendered in a fiscal year

"Gross patient service revenue", the total dollar amount of a hospital's charges for services rendered in a fiscal year.

"Health care services", supplies, care and services of medical surgical, optometric, dental, podiatric, chiropractic, psychiatric, therapeutic, diagnostic, preventative, rehabilitative, supportive or geriatric nature including, but not limited to, inpatient and outpatient acute hospital care and services; services provided by a community health center or by a sanatorium, as included in the definition of "hospital" in Title XVIII of the federal Social Security Act, and treatment and care compatible with such services or by a health maintenance organization.

"Health insurance company", a company as defined in section one of chapter one hundred and seventy-five which engages in the business of health insurance.

"Health insurance plan", the medicare program or an individual or group contract or other plan providing coverage of health care services and which is issued by a health insurance company, a hospital service corporation, a medical service corporation or a health maintenance organization.

"Health maintenance organization", a company which provides or arranges for the provision of health care services to enrolled members in exchange primarily for a prepaid per capita or aggregate fixed sum as further defined in section one of chapter one hundred and seventy-six G.

"Hospital", any hospital licensed under section fifty-one of chapter one hundred and eleven, the teaching hospital of the University of Massachusetts Medical School and any psychiatric facility licensed under section nineteen of chapter nineteen.

"Hospital agreement", an agreement between a nonprofit hospital service corporation and the hospital signatory thereto approved by the division under section five of chapter one hundred and seventy-six A.

"Hospital service corporation", a corporation established for the purpose of operating a nonprofit hospital service plan as provided in chapter one hundred and seventy-six A.

"Managed health care plan", a health insurance plan which provides or arranges for, supervises and coordinates health care services to enrolled participants, including plans administered by health maintenance organizations and preferred provider organizations.

"Medicaid program", the medical assistance program administered by the division of medical assistance pursuant to chapter one hundred and eighteen E and in accordance with Title XIX of the Federal Social Security Act or any successor statute.

"Medical assistance program", the medicaid program, the Veterans Administration health and hospital programs and any other medical assistance program operated by a governmental unit for persons categorically eligible for such program.

"Medically necessary services", medically necessary inpatient and outpatient services as mandated under Title XIX of the Federal Social Security Act. Medically necessary services shall not include: (1) non-medical services, such as social, educational and vocational services; (2) cosmetic surgery; (3) canceled or missed appointments; (4) telephone conversations and consultations; (5) court testimony; (6) research or the provision of experimental or unproven procedures including, but not limited to, treatment related to sex-reassignment surgery, and pre-surgery hormone therapy; and (7) the provision of whole blood; and provided, however, that administrative and processing costs associated with the provision of blood and its derivatives shall be payable.

"Medical service corporation", a corporation established for the purpose of operating a nonprofit medical service plan as provided in chapter one hundred and seventy-six B.

"Medicare program", the medical insurance program established by Title XVIII of the Social Security Act.

"Non-acute hospital", any hospital which is not an acute hospital.

"Patient", any natural person receiving health care services from a hospital.

"Private sector charges", gross patient service revenue attributable to all patients less gross patient service revenue attributable to Titles XVIII and XIX, other publicly aided patients, free care and bad debt.

"Provider", any person, corporation partnership, governmental unit, state institution or any other entity qualified under the laws of the commonwealth to perform or provide health care services.

"Publicly aided patient", a person who receives hospital care and services for which a governmental unit is liable, in whole or in part, under a statutory program of public assistance.

"Public payer-dependent non-acute hospital", any non-acute hospital that (1) was certified by the Secretary of the United States Department of Health and Human Services as participating in the federal medicare program pursuant to clause (iv) of 42 USC section 1395ww (d)(1)(B) on January first, nineteen hundred and ninety-six; (2) is not owned

by the commonwealth; and (3) exhibits a payor mix in which a minimum of fifteen per cent of such hospital's gross patient service revenue, as reported on the RSC-403 for hospital fiscal year nineteen hundred and ninety-four, was attributable to Title XIX of the federal Social Security Act. Such term does not include a hospital that was reimbursed for services provided to individuals entitled to medical assistance under chapter one hundred and eighteen E for fiscal year nineteen hundred and ninety-six pursuant to a contract between the hospital and the division of medical assistance.

"Purchaser", a natural person responsible for payment for health care services rendered by a hospital.

"Revenue center", a functioning unit of a hospital which provides distinctive services to a patient for a charge.

"Resident", a person living in the commonwealth, as defined by the division by regulation; provided, however, that such regulation shall not define a resident as a person who moved into the commonwealth for the sole purpose of securing health insurance under this chapter. Confinement of a person in a nursing home, hospital or other medical institution shall not in and of itself, suffice to qualify such person as a resident.

"Self-employed", a person who, at common law, is not considered to be an employee and whose primary source of income is derived from the pursuit of a bona fide business.

"Self-insurance health plan", a plan which provides health benefits to the employees of a business, which is not a health insurance plan, and in which the business is liable for the actual costs of the health care services provided by the plan and administrative costs.

"Small business", a business in which the total number of full-time employees, when averaged on an annual basis, does not exceed fifty, including only of the self-employed.

"Sole community provider", any acute hospital which qualifies as a sole community provider under medicare regulations or under regulations promulgated by the division, which regulations shall consider factors including, but not limited to, such as isolated location, weather conditions, travel conditions, percentage of Medicare, Medicaid and free care provided and the absence of other reasonably accessible hospitals in the area. Such hospitals shall include those which are located more than twenty-five miles from other such hospitals in the commonwealth and which provide services for at least sixty percent of their primary service area.

"Specialty hospital", an acute hospital which qualifies for an exemption from the medicare prospective payment system regulations or any acute hospital which limits its admissions to patients under active diagnosis and treatment of eyes, ears, nose and throat or to children or patients under obstetrical care.

"State institution", any hospital, sanatorium, infirmary, clinic and other such facility owned, operated or administered by the commonwealth, which furnishes general health supplies, care or rehabilitative services and accommodations.

"Third party payer", an entity including, but not limited to, Title XVIII and Title XIX programs, other governmental payers, insurance companies, health maintenance organizations and nonprofit hospital service corporations. Third party payer shall not include a pur-

chaser responsible for payment for health care services rendered by a hospital, either to the purchaser or to the hospital.

"Title XIX," Title XIX of the Social Security Act, 42 USC 1396 et seq., or any successor statute enacted into federal law for the same purposes as Title XIX.

"Uninsured patient", a patient who is not covered by a health insurance plan, a self-insurance health plan, or a medical assistance program.

Section 2. There is hereby established a division of health care finance and policy under the supervision and control of the commissioner. The secretary of health and human services shall appoint the commissioner, with the approval of the governor, 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 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 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.

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 to fulfill the following duties:

(a) to collect, analyze and disseminate health care data to assist in the formulation of health care policy and in the provision and purchase of health care services;

(b) to establish certain rates of payment for health care services. The division shall have the sole responsibility for establishing rates to be paid providers of health care services by governmental units, including the division of industrial accidents which are reasonable and adequate to meet the costs which are incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal law, regulations and quality and safety standards, and which are within the financial capacity of the commonwealth. The division shall have the sole responsibility for establishing fair and adequate charges to be used by state institutions for general health supplies, care or rehabilitative services and accommodations, which charges shall be based on the actual costs of each state institution reasonably related, in the circumstances of each institution, to the efficient production of such services in such institution;

(c) to administer the uncompensated care pool established by section eighteen; and

(d) to provide, on a basis calculated to reduce or contain the costs of the program, a program of insurance coverage for health care services for persons in the commonwealth who are not otherwise eligible for or covered by a health insurance plan, a self-insurance health plan, a medical assistance program or any other plan or program which provides for payment by a third-party payer for health care services;

The division shall adopt and amend rules and regulations, in accordance with chapter thirty A, for the administration of its duties and powers and to effectuate the provisions and

purposes of this chapter. Such regulations shall be adopted, after notice and hearing, only upon consultation with representatives of nonprofit hospital service corporations established under chapter one hundred and seventy-six A, elected representatives of health systems agencies designated pursuant to Title XV of the federal public health service act, representatives of companies authorized to sell accident and health insurance under chapter one hundred and seventy-five and the Massachusetts Hospital Association.

Section 3. In addition to the 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 the carrying on of 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 design and to revise, consistent with this chapter, a basic schedule of health care services that enrollees in any health insurance program implemented by the division shall be eligible to receive. Such covered services shall include those which typically are included in employer-sponsored health benefit plans in the commonwealth. The division may promulgate schedules of covered health care services which differ from the basic schedule and which apply to specific classes of enrollees. The division may promulgate a schedule of premium contributions, co-payments, co-insurance, and deductibles for said programs, including reduced premiums based on a sliding fee, and other fees and revise them from time to time, subject to the approval of the division of insurance; and provided, however, that such schedule shall provide for such enrollees to pay one hundred per cent of such premium contributions if their income substantially exceeds the non-farm poverty guidelines of the United States office of management and budget;

(f) to maintain a prudent level of reserve funds to protect the solvency of any trust funds under the operation and control of the division.

Section 4. The commissioner shall make an annual report to the secretary of the executive office of health and human services and to the general court the first Wednesday in November specifying the management of its affairs, an analysis of reimbursement policy for each class of providers of services and for state institutions, a projection of the percentage change and fiscal impact of any changes in rates or regulations for every provider and program under its jurisdiction for the fiscal year beginning July first in the year following such November first, a detailed analysis of the factors influencing each increase and an explanation for any rate increase in excess of the consumer price index. Said report shall further detail efforts of the division to coordinate its rate making function with rule making functions of other state agencies regulating said providers and institutions, and its recommendations for legislation, if any.

Section 5. Each acute hospital shall pay to the commonwealth an amount for the estimated expenses of the division. Such amount shall be equal to the amount appropriated by the general court for the expenses of the division of health care finance and policy minus amounts collected from (1) filing fees, (2) fees and charges generated by the division's publication or dissemination of reports and information, and (3) federal matching revenues received for such expenses or received retroactively for expenses of predecessor agencies. Each acute hospital shall pay such net amount multiplied by the ratio of the hospital's gross patient service revenues to the total of all such hospital's gross patient services revenues. Each acute hospital shall make a preliminary payment to the division on October first of each year in an amount equal to one-half of the previous year's total assessment. Thereafter, each hospital shall pay, within thirty days notice from the division, the balance of the total assessment for the current year based upon its most current projected gross patient service revenue. The division shall subsequently adjust the assessment for any variation in actual and estimated expenses of the division of health care finance and policy and for changes in hospital gross patient service revenue. Such estimated and actual expenses shall include an amount equal to the cost of fringe benefits, as established by the division of administration pursuant to section six B of chapter twenty-nine. In the event of late payment by any such hospital, the treasurer shall advance the amount of due and unpaid funds to the division prior to the receipt of such monies in anticipation of such revenues up to the amount authorized in the then current budget attributable to such assessments, and the division shall reimburse the treasurer for such advances upon receipt of such revenues. The provisions of this paragraph shall not apply to any state institution or to any acute hospital which is operated by a city or town.

Section 6. The division shall promulgate such regulations as may be necessary to ensure the uniform reporting of revenues, charges, costs and utilization of health care services delivered by institutional and non-institutional providers. Such uniform reporting shall enable the division to identify, on a patient-centered and provider-specific basis, statewide and regional trends in the cost, availability and utilization of medical, surgical, diagnostic and ancillary services provided by acute hospitals, nursing homes, chronic care and rehabilitation hospitals, other specialty hospitals, clinics, including mental health clinics, and such ambulatory care providers as the division may specify.

The division shall, before adopting such regulations, consult with other agencies of the commonwealth, and the federal government, affected providers, as applicable, to ensure that the reporting requirements imposed from time to time under such regulations are not duplicative, excessive or costly. To the extent that any requirements imposed by the division result in additional costs to the reporting providers, such additional costs shall be included in any rates promulgated by the division for such providers. The division may specify, by regulation, categories of information which may be furnished under an assurance of confidentiality to the provider. Such assurance may only be extended by the division if the data furnished is not to be used for setting rates. The division shall work with other state agencies including, but not limited to, without limitation, the departments of public health

and mental health and the divisions of medical assistance and insurance to collect and disseminate data concerning the cost of health insurance in the commonwealth, the health status of individuals and to publish such data and make it available to the public.

With respect to any acute or non-acute hospital, the division shall, by regulation, designate information necessary to effect the purposes of this chapter including, but not be limited to, the filing of a charge book, the filing of cost data and audited financial statements and the submission of merged billing and discharge data. The division shall, by regulation, designate standard systems for determining, reporting and auditing volume, case-mix, proportion of low income patients and any other information necessary to effectuate the purposes of this chapter and to prepare reports comparing acute and non-acute care hospitals by cost, utilization and outcome. Such regulations may require such hospitals to file required information and data by electronic means; provided, however, that the division shall allow reasonable waivers from such requirement. The division shall, at least annually, publish a report analyzing such comparative information for the purpose of assisting third-party payers and other purchasers of health services in making informed decisions. Such report shall include comparative price and service information relative to outpatient mental health services.

Section 7. The division (1) shall determine, after public hearing, at least annually for institutional providers, and at least biennially for non-institutional providers, the rates to be paid by each governmental unit to providers of health care services; (2) shall determine, after public hearing, at least annually, the rates to be charged by each state institution for general health supplies, care or rehabilitative services and accommodations; (3) shall certify to each affected governmental unit the rates so determined; (4) shall determine, after public hearing, at least annually, and certify to the division of industrial accidents of the department of labor and industries, rates of payment for general health supplies, care or rehabilitative services and accommodations, which rates shall be paid for services under the workmen's compensation act; (5) shall, upon request of the division of insurance, assist the division of insurance in the performance of its duties as set forth in section four of chapter one hundred and seventy-six B; (6) may establish fair and reasonable classifications upon which any rates may be based for rest homes, nursing homes and convalescent homes; provided, however, that the division shall not cause a decrease in a rate or add a penalty to a rate because such home has an equity position which is less than zero.

Such rates for nursing homes and rest homes, as defined under section seventy-one of chapter one hundred and eleven, shall be established as of October first of each year for facilities whose rate is set on a retrospective basis and as of January first of each year for facilities whose rate is set on a prospective basis. In setting such prospective or retrospective rates of reimbursement, the division shall use as base year costs for rate determination purposes the reported costs of the calendar year not more than three years prior to the current rate year, adjusted for reasonableness and to incorporate any audit findings applicable to said base year costs; provided, however, that no base year cost shall be incorporated unless a comprehensive desk audit has been completed for the costs incurred in that base year. In any

appeal of any matter arising out of the setting of such prospective rates of reimbursement, the aggrieved party shall not be permitted to introduce into the record of such an appeal evidence of costs for any year other than the base year used to establish the rate. Notwithstanding any other general or special law or regulation to the contrary, except as provided in chapter one hundred and eighteen E, each governmental unit shall pay to a provider of services and each state institution shall charge as a provider of health care services, as the case may be, the rates for general health supplies, care and rehabilitative services and accommodations determined and certified by the division.

In establishing rates of payment to providers of services, the division shall control rate increases and shall impose such methods and standards as are necessary to ensure reimbursement for those costs which must be incurred by efficiently and economically operated facilities and providers. Such methods and standards may include, but are not limited to the following: peer group cost analyses; ceilings on capital and operating costs; productivity standards; caps or other limitations on the utilization of temporary nursing or other personnel services; use of national or regional indices to measure increases or decreases in reasonable costs; limits on administrative costs associated with the use of management companies; the availability of discounts for large volume purchasers; the revision of existing historical cost bases, where applicable, to reflect norms or models of efficient service delivery; and other means to encourage the cost-efficient delivery of services. Rates produced using these methods and standards shall be in conformance with Title XIX, including the upper limit on provider payments.

In determining rates to be paid by governmental units to providers of services, the division shall include as an operating expense of a provider of services any contribution made in lieu of taxes by such provider of services to a city or town and shall establish by regulation those expenses treated as business deductions under the Internal Revenue Code, which shall be included as allowable operating expenses in determining rates of reimbursement. Except for ceilings or maximum rates of reimbursement, which are determined in accordance with rate determination methods imposed on nursing homes, any ceiling or maximum imposed by the division upon the rate of reimbursement to be paid to rest homes shall reflect the actual costs of rest home providers and shall not prevent any such rest home provider from receiving full payment for costs necessarily incurred in the provision of services in compliance with federal or state regulations and requirements.

No hospital shall receive reimbursement or payment from any governmental unit for amounts paid to employees, as salary, or to consultant or other firms, as fees, where the primary responsibility of the employees or consultants is, either directly or indirectly, to persuade or seek to persuade the employees of the hospital to support or oppose unionization. Attorney's fees for services rendered in dealing directly with a union, in advising hospital management of its responsibilities under the National Labor Relations Act, or for services at an administrative agency or court or for services by an attorney in preparation for the agency or in court proceeding shall not be deemed to be support or opposition to unionization.

The division shall establish rates on a prospective basis, subject to rules and regulations promulgated by the division whenever possible; provided, however, that whenever the division by regulation provides that a final rate for a reporting period shall be computed on the actual cost of a provider of services, or a state institution, for such period, it shall establish an interim rate for said provider or institution within twenty-one days of the beginning of said interim rate period, from which interim rate said provider may appeal as provided under section thirty-six.

The division shall also adopt regulations to enable each provider or institution to secure adjustment in said interim rate from time to time to meet current reasonable costs. Said provider or institution shall have the right at any time to petition the division for an increase in said interim rate. A petition for an adjustment in an interim rate shall include a certified statement that such a petition is not interposed for delay, a detailed explanation, under oath, of the basis upon which said increase is sought, together with a sworn statement of an independent licensed accountant or independent certified public accountant that he has examined the pertinent data relative to the accounts forming the basis of the petition and that in his opinion, said accounts are as represented by the petitioner. The petitioner shall provide such other information as the division shall require. The division, subject to such rules and regulations as it may establish, may waive the required independent audit for non-institutional providers whenever the division determines that such audit would create a financial hardship. The commissioner shall report in writing his recommendations to the petitioner, giving his reasons therefore in detail, and the petitioner shall have ten days to file objections, arguments and comments to the division. The division shall thereupon make a rate determination which shall become effective when filed with the state secretary. No appeal under section nine of this chapter shall be allowed from an interim rate determined under the provisions of this paragraph.

Whenever a final rate for a filing period is to be determined after the end of such period, the division shall calculate a preliminary final rate within sixty-days after receipt of a satisfactory financial and operating cost report from a provider of services or state institution for such filing period. If such reports provide all the information required by the division and are attested to by an independent licensed accountant or an independent certified public accountant in such a manner and form as the division may require, the division may, prior to a field audit, establish such preliminary final rate on the basis of such information submitted. No appeal may be taken from such preliminary final rate. Ninety per cent of the difference between the interim rate and said preliminary final rate shall become payable by or to governmental units when certified to the state secretary. Said preliminary final rate may be promulgated as the final rate of a provider of services or state institution if the division is satisfied with a provider's report. In the event that a final rate is determined without a field audit, the division shall institute such procedures, including random field audits, as are required to assure accurate reporting by providers of health care services and state institutions. If the division is not satisfied with the provider's report, the division shall within six months and after a field audit promulgate a different rate of payment.

In establishing rates for nursing pools pursuant to section seventy-two Y of chapter one hundred and eleven, the division shall take into consideration wages and benefits paid by the pool to the medical personnel supplied to a health care facility and that portion of the rate attributable to wages and benefits shall not exceed the prevailing wages and benefits allowed for permanent medical personnel of the same type at such health care facilities. Such rate shall also take into consideration the reasonable administrative expenses and an allowance which shall provide a reasonable return on equity. The division shall establish procedures whereby nursing pools shall submit accountable cost reports, which may be subject to audit, to the division for the purpose of establishing such rates. The division shall establish interim rates for nursing pools until such time as said reports are complete.

The division shall set rates for rest homes, nursing homes and convalescent homes, beginning with interim rates for the rate year beginning October first, nineteen hundred and eighty-nine, by recalculating the base year whenever estimated costs for payments to nursing pools are no longer reflective of or are higher than actual costs to such facilities for such payments.

Notwithstanding the provisions of any general or special law or any rule or regulation to the contrary, the division, in determining the rate of payment for prescribed drugs dispensed to publicly-aided or industrial accident patients by pharmacy providers, shall not apply or use, either directly or indirectly, a discount from the primary standard used by the division in establishing such rate.

Except as otherwise provided in this section any person aggrieved by any rate determination made under this section shall have a right of appeal as provided under section nine.

The division may enter into such contracts or agreements with the federal government, a political subdivision of the commonwealth, or any public or private corporation or organization, as it deems necessary; provided, however, that the division shall not enter into any contract or agreement with a private corporation or organization to furnish information and statistical data to be used by said division as its sole basis for setting rates, if such private corporation or organization is to make or receive payments based upon the rates so set.

Each governmental unit shall cooperate with the division at all times in the furtherance of the division's purposes. Each state institution shall permit the division or any designated representatives thereof, to examine its books and accounts and shall file with the division from time to time or upon request such data, statistics, schedules or other information as the division may reasonably require.

Each rate established by the division shall be deemed a regulation and shall be subject to review as hereinafter provided. The division shall promulgate rules and regulations for the administration of its duties and the determination of rates as are herein required subject to the procedures prescribed by chapter thirty A. Every rate, classification and other regulation established by the division shall be consistent where applicable with the principles of reimbursement for provider costs in effect from time to time under Titles XVIII and XIX of the Social Security Act governing reimbursements or grants available to the

commonwealth, its departments, agencies, boards, divisions or political subdivisions for general health supplies, care, and rehabilitative services and accommodations.

In the event that any aggregate rates certified by the division exceed the upper limit of payment in effect for any period under Titles XVIII or Title XIX of the Social Security Act or any other requirement of said Titles, where applicable, the division shall redetermine and recertify any such aggregate rates in order to bring them into compliance with such federal requirement for the entire period during which such upper limit is effective.

The provisions of this section shall not apply to acute or non-acute hospitals.

Section 8. Any provider of health care services, other than an acute or non-acute care hospital, which receives reimbursement or payment from any governmental unit for general health supplies, care and rehabilitative services and accommodations, or who receives reimbursement or payment for treatment of injured workers under chapter one hundred and fifty-two shall, as a condition of the receipt of such reimbursement or payment: (1) permit the division, or any designated representative thereof or the attorney general, or his designee, to examine such books and accounts as may reasonably be required in the performance of the division's duties or the attorney general's duties; and (2) file with the division from time to time or upon request, such data, statistics, schedules or other information as it may reasonably require, including outcome data and information regarding the costs, if any, of such provider for research in the basic biomedical or health care delivery areas or for the training of health care personnel which are included in its charges to the public for health care services, supplies and accommodations. Any such provider that receives reimbursement or payment from any governmental unit for general health supplies, care and rehabilitative services and accommodations shall accept reimbursement or payment at the rates established by the division, subject to a right of appeal under section nine, as discharging in full any and all obligations of an eligible person and the governmental unit to pay, reimburse or compensate the provider of health care services in any way for general health supplies, care and rehabilitative services or accommodations provided.

Any provider of health care services that knowingly fails to file with the division data, statistics, schedules or other information required pursuant to this section or by any regulation promulgated by the division or knowingly falsifies the same shall be punished by a fine of not less than one hundred nor more than five hundred dollars.

If, upon application by the division or its designated representative, the superior court upon summary hearing determines that a provider of health care services has, without justifiable cause, refused to permit any examination or to furnish information, as required in this section, it shall issue an order directing all governmental units to withhold payment for general health supplies, care and rehabilitative services and accommodations to such provider of services until further order of the court.

In addition, the appropriate licensing authority may suspend or revoke, after an adjudicatory proceeding in accordance with chapter thirty A, the license of any provider of services that knowingly fails to file with the division data, statistics, schedules or other information required by this section or by any regulation of the division or that knowingly falsifies the same.

Section 9. Except for rates established pursuant to section eleven, any person, corporation or other party aggrieved by an interim rate or a final rate established by the division, or by failure of the division to set a rate or to take other action required by law and desiring a review thereof shall, within thirty days after said rate is filed with the state secretary or may, at any time, if there is a failure to determine a rate or take any action required by law, file an appeal with the division of hearings officers established by section four H of chapter seven. Any appeal filed under this section shall be accompanied by a certified statement that said appeal is not interposed for delay. On appeal, the rate determined for any provider of services shall be adequate, fair and reasonable for such provider, based upon, the costs of such provider, but not limited thereto.

On an appeal from an interim rate or a final rate the division of hearings officers shall conduct an adjudicatory proceeding in accordance with chapter thirty A, and said division shall file its decision with the commissioner and the state secretary within thirty days after the conclusion of the hearing.

Said decision shall contain a statement of the reasons therefore, including a determination of each issue of fact or law upon which such decision was based. If such decision results in a recommendation for a rate different from that certified, the division shall establish a new rate based upon such statement of reasons. If the commissioner determines that the statement of reasons is inadequate to determine a fair, reasonable and adequate rate, it may remand the appeal to the hearing officer for further investigation. Any party aggrieved by a decision of the division may, within thirty days of the receipt of such decision, file a petition for review in superior court for the county of Suffolk, which shall have exclusive jurisdiction thereof.

A provider may appeal as an aggrieved party in accordance with the provisions of the preceding sentence, in the event that a remand by the division to a hearing officer does not result in a final decision by the division within twenty-one days of the date of remand.

The petition shall set forth the grounds upon which the decision of the division should be set aside. The aggrieved party shall, within seven days after the petition for review is filed, notify the division and all the parties to the appeal before said division that a petition for review has been filed by sending each a copy thereof. Within forty days after the petition for review is filed, or within such further time as the court may allow, the division of hearings officers shall file in court the original or a certified copy of the record under review. The court may affirm, modify or set aside the decision of the division in whole or in part, remand the decision to the division for further proceedings, or enter such other order as justice may require. Nothing herein shall be construed to prevent the division from granting temporary relief if, in its discretion, such relief is justified nor, from informally adjusting or settling controversies with the consent of all parties.

Judicial review shall be governed by section fourteen of chapter thirty A to the extent not inconsistent with the provisions of this section.

Section 10. All purchasers and third party payers may enter into contractual arrangements with acute and non-acute hospitals for services. No such arrangement, includ-

ing but not limited to prices or charges which may be charged for non-contracted services or which may be negotiated in individual contracts between such purchasers or third party payers and such acute or non-acute hospitals, shall be subject to prior approval by any public agency; provided, however, that charges established by an acute or non-acute hospital for health care services rendered shall be uniform for all patients receiving comparable services.

Any acute or non-acute hospital that makes a charge or accepts payment based upon a charge in excess of that filed required or approved by the division or that fails to file any data, statistics or schedules or other information required under this chapter or by any regulation promulgated by the division or which falsifies the same, shall be subject to a civil penalty of not more than one thousand dollars for each day on which such violation occurs or continues, which penalty may be assessed in an action brought on behalf of the commonwealth in any court of competent jurisdiction. The attorney general shall bring any appropriate action, including injunctive relief, as may be necessary for the enforcement of the provisions of this chapter.

Section 11. All rates of payment to acute hospitals and non-acute hospitals under Title XIX shall be established by contract between the provider of such hospital services and the division of medical assistance, except as provided in subsections (a) and (b), or otherwise permitted by law. All rates shall be subject to all applicable Title XIX statutory and regulatory requirements.

All such rates for non-acute hospitals shall be effective as of the date specified in section thirteen A of chapter one hundred and eighteen E of the General Laws, unless otherwise specified by law.

(a) For disproportionate share hospitals, the division of health care finance and policy shall establish rates that equal the financial requirements of providing care to recipients of medical assistance.

(b) The division shall establish rates of payment which shall apply to emergency services and continuing emergency care provided in acute hospitals to medical assistance program recipients, including examination or treatment for an emergency medical condition or active labor in women or any other care rendered to the extent required by 42 USC 1395(dd), unless such services are provided pursuant to an agreement between the division of medical assistance and the acute hospital. Such rates of payment shall reflect the reasonable costs of providing such care and shall take into account the characteristics of the hospital in which such care is provided, including, but not limited to, its status as a teaching hospital, specialty hospital, disproportionate share hospital or sole community provider. An acute hospital shall, when a medical assistance program recipient requires post emergency room care and, after screening and stabilizing the patient's condition, notify the division of medical assistance or its designated representative and assist said division, to the extent possible, in transferring the recipient to an appropriate medical setting in accordance with said division's direction. Nothing herein shall be construed to require the hospital to breach its obligation under said 42 USC 1395(dd) or require the recipient to forego any right to refuse transfer pursuant to said 42 USC 1395(dd). If an acute hospital is unable or prohibited

by law or regulation from transferring the patient in accordance with said division's direction, said division shall pay for any and all care associated with such patient's treatment including, but not limited to, care or services provided in the emergency room or in an inpatient or outpatient setting. Whenever said division is required to pay for such care rendered in a non-emergency room setting, said division shall pay all reasonable costs for such services in such hospital, as determined by the division of health care finance and policy pursuant to this chapter and consistent with the provisions of Title XIX laws.

No acute hospital may charge to a governmental unit for services provided to publicly aided patients at a rate higher than the rate payable by the division of medical assistance under Title XIX for the same service, unless such service is provided by said division pursuant to a unique arrangement such as a selective contract or a managed care contract.

Nothing in this chapter shall be construed to conflict with the provisions of a waiver of otherwise applicable federal requirements which the division of medical assistance may obtain from the secretary of health and human services for the purpose of implementing a primary care case management system for delivering services, or for the purpose of implementing any other type of managed care service delivery system in which the eligible recipient is directed to obtain services exclusively from one provider or one group of providers.

If the division of medical assistance contracts with any third party payer for the provision of medical benefits for medical assistance recipients under Title XIX, said division shall assure that on a quarterly basis such contracted third party payers notify each acute hospital of the number of inpatient days of service provided by the hospital to such recipients covered by such contracts.

(c) The division shall establish rates of payment which shall apply to community hospitals located in rural and isolated areas where access to other such providers is not reasonably available. Such hospitals, specially designated by the commonwealth as sole community providers, shall receive payment rates calculated to reflect the rural characteristics of such community hospital and the essential nature of the services they provide, which rates shall not be less than ninety-seven per cent of such hospitals' reasonable financial requirements.

Section 12. The division shall not consider the following as resources of such hospitals in the establishment, review or approval of acute and non-acute hospital rates and charges: restricted and unrestricted grants; gifts; contributions; bequests; fund principle; term endowments and endowment balances; restricted gifts; unrestricted gifts and all income from any of the foregoing, including unrestricted income from endowment funds and income and gains from investment of unrestricted funds. The following words shall have the following meanings as used in this paragraph:

"Income and gains from investment of unrestricted funds", interest, dividends, rents or other income on investments, including net gains or losses resulting from investment transactions.

"Term endowment", funds available upon termination of restrictions.

"Unrestricted gifts", gifts, grants, contributions and bequests, upon which there are no restrictions imposed by the donor.

"Unrestricted income from endowment funds", income earned on investment of endowment funds which have no restrictions on income.

An acute or non-acute care hospital aggrieved by any action or failure to act by the division under this chapter may file an appeal pursuant to the provision of section nine.

Section 13. No acute hospital shall deny access to care and services which the hospital would provide under chapter one hundred and eighteen E to recipients of benefits under chapter one hundred and seventeen A.

Section 14. Notwithstanding any provisions of this chapter to the contrary, all costs and charges for patients who are residents of other countries shall, as provided herein, be exempted from the limitations imposed by this chapter. Any hospital shall be allowed to impose a surcharge on the normal charges that would otherwise be allowed for such residents of other countries. Such surcharges shall not be included in the calculation of gross patient service revenues. The normal charge and the patient discharge statistics shall otherwise be included under the provisions of this chapter.

Section 15. A health maintenance organization organized under chapter one hundred and seventy-six G may (i) negotiate directly with any hospital with respect to such health maintenance organization's rate of payment for hospital services and (ii) enter into an agreement with such hospital reflecting such rate of payment without the approval of the division of health care finance and policy established under chapter one hundred eighteen G. The specification in this section of contracting rights of health maintenance organizations shall not be construed as affirming or denying such rights with respect to any other third party payer.

Section 16. The division shall review and comment upon all capital expenditure projects requiring a determination of need pursuant to the provisions of section twenty-five of chapter one hundred and eleven of the General Laws, including, but not limited to, less costly or more effective alternative financing methods for such projects; the immediate and long-term financial feasibility of such projects; the probable impact of the project on costs of and charges for services; and the availability of funds for capital and operating needs. The division shall transmit to the department of public health its written recommendations on each project which shall become part of the written record compiled by said department during its review of such project. The division shall appear and comment on any application for a determination of need where a public hearing is required pursuant to the provisions of said section twenty-five C of said chapter. To carry out the purposes of this paragraph, the division shall appoint a senior professional employee to act as a liaison with said department.

Section 17. Upon petition of a receiver appointed under section seventy-two N of chapter one hundred and eleven, the division shall, in accordance with regulations to be promulgated hereunder, adjust the facility's rate, if necessary, to insure compensation of the

receiver and payment for a bond. Such adjustment shall not be in effect if the licensee is under the jurisdiction of the United States Bankruptcy Court.

Section 18. There is hereby established an Uncompensated Care Trust Fund, which shall be administered and expended by the division without further appropriation. The fund shall consist: of all amounts paid by hospitals for the purposes of the uncompensated care pool pursuant to this section; all appropriations for the purpose of uncompensated hospital care; all property and securities acquired by and through the use of monies belonging to the trust fund and all interest thereon; less payments therefrom for the purposes of the pool established by this section. All interest earned on the amounts in said trust fund shall be deposited or retained in said trust fund. The commissioner shall from time to time requisition from said trust fund such amounts as the commissioner deems necessary to meet the current obligations of the division for the purposes of said trust fund and estimated obligations for a reasonable future period.

Within said trust fund, the division shall administer an uncompensated care pool consisting of revenues produced by hospital assessments calculated by the division pursuant to this section, federal funds as may be appropriated from federal financial participation made available for uncompensated care payments to certain hospitals, and any sums paid by hospitals pursuant to paragraph (viii) of section fifty-one of chapter four hundred and ninety-five of the acts of nineteen hundred and ninety-one. For purposes of this paragraph, "revenues produced by hospital assessments" shall equal the value of and have the same meaning as "a hospital's liability to the pool" as established pursuant to this section.

The division shall calculate for each hospital a cost to charge ratio to determine the uncompensated care pool's liability to the hospital. In the case of non-disproportionate share hospitals, such calculation shall represent the ratio of the reasonable actual costs of patient care services, as determined by the division, to gross patient service revenue for the most recent year for which audited financial statements for the hospital are available. In the case of disproportionate share hospitals, such calculation shall represent the ratio of the hospital's reasonable financial requirements, as determined by the division, to gross patient service revenue for the most recent year for which audited financial statements for such hospital are available. The division shall, throughout the year, update each acute hospital's ratio in the event more current audited financial statement information becomes available. Said division shall further establish, for each non-disproportionate share acute hospital for any given fiscal year, a final ratio using the reasonable costs for patient care services and gross patient service revenues as appearing in the audited financial statements for the fiscal year. For disproportionate share hospitals, said division shall establish a final ratio based upon its reasonable financial requirements, as defined by the division, and actual gross patient service revenues as appearing in the audited financial statements for the fiscal year.

A hospital's liability to the pool shall equal the product of: (a) the ratio of its private sector charges to all hospitals' private sector charges; and (b) the private sector liability to the uncompensated care pool as determined by the general court. In calculating said ratio,

the division shall exclude from the numerator and the denominator private sector charges attributable to non-contracting, non-insured individuals which have exceeded the applicable price cap calculated pursuant to said section fifty-one of said chapter four hundred and ninety-five and other private sector charges in excess of a hospital's maximum gross inpatient service revenue limitation calculated pursuant to said section fifty-one of said chapter four hundred and ninety-five. Prior to the beginning of each hospital fiscal year, the division shall establish each hospital's liability to said pool using the most recent four quarters' private sector charge information available. The division shall update each hospital's liability to said pool as updated information becomes available. For any fiscal year, a hospital's final liability to said pool shall be based upon its actual private sector charges as filed with the division and as adjusted by audit.

The pool's liability to a hospital shall be calculated periodically by the division based on the best data available. Such data shall include, but not be limited to, allowable free care charges as determined by the division and the cost-to-charge ratio calculated by the division for each hospital. The division shall specify by regulation an appropriate mechanism for interim determination and payment of a hospital's liability to said pool. The final settlement of the pool's liability to a hospital shall equal the product of allowable actual free care charges, adjusted for any audit findings, multiplied by its final cost-to-charge ratio.

The division shall administer said pool and require payments to the pool and disburse funds from the pool consistent with the hospital's liability to the pool and the pool's liability to the hospital. The division shall specify by regulation appropriate mechanisms that provide for interim determination and payment of a hospital's liability to and from the pool during each fiscal year and for final settlement of the pool for each fiscal year.

The division shall not at any time make payments from the pool for any period in excess of amounts that have been paid into or are available in the pool for such period; provided, however, that the division may temporarily prorate payments from the pool for cash flow purposes. In the event that there exist a shortfall of pool revenue in any fiscal year to cover allowable free care payments, the division shall allocate such payments so that those hospitals with the greatest proportional requirement for pool income shall receive a greater proportional payment from the pool.

The division shall establish an appropriate mechanism for enforcing a hospital's obligation to the pool in the event that a hospital does not make a scheduled payment to the pool. Such enforcement mechanism shall include notification to the division of medical assistance requiring an offset of payments on a hospital's Title XIX claims from the division of medical assistance in the amount of payment owed to the pool plus a surcharge of five per cent on the amount, and to transfer the withheld funds into said pool. If the division of medical assistance offsets claims payments as ordered by the division, it shall be deemed not to be in breach of contract or any other obligation for payment of non-contracted services, and hospitals to which payment is offset under order of the division shall serve all Title XIX recipients in accordance with the contract then in effect with the division of transitional assistance, or, in the case of a non-contracting or disproportionate share hospital, in accord-

ance with its obligation for providing services to Title XIX recipients pursuant to this chapter. In no event shall the division direct the division of medical assistance to offset claims unless the hospital has maintained an outstanding obligation to the uncompensated care pool for a period longer than forty-five days and has received proper notification of the division's intention in accordance with regulations to be developed by the division.

Payments by acute hospitals to the pool, state revenues appropriated for the purposes of the pool and federal financial participation funds deposited in the pool shall be placed in an uncompensated care trust fund established in section eighteen. Amounts placed in the fund may be expended by the division for the purposes of said pool; provided, however, that the division shall establish mechanisms to make payments from the pool to community health centers for free care expenses. Such payments for such free care expenses shall be at the level of actual cost.

The division shall manage the pool in order to encourage maximum efficiency and appropriateness in the utilization of acute hospital services and may require utilization review in accordance with section six. Said division may refuse to allow payments to hospitals for free care for which reimbursement is available from other sources including, but not limited to, the medicare program. Said division may adopt regulations prohibiting payments from the pool for the costs of health care provided to residents of foreign countries. Said division may adopt regulations requiring disproportionate share hospitals to use a portion of payments received from the pool to reimburse physicians for the costs of free care which such physicians provide in such hospitals. Said division shall promulgate regulations detailing the definition of free care, including regulations setting standards for reasonable efforts to collect costs of emergency care and standards to determine medical hardship. Said division shall also adopt any other regulations necessary to manage said pool including, but not limited to, regulations providing audit standards for said pool, regulations establishing enforcement mechanisms consistent with this section, and regulations containing reasonable controls on utilization.

For fiscal year nineteen hundred and ninety-two only, a hospital's liability to the pool shall equal the product of the uniform statewide allowance previously in effect, multiplied by private sector patient care costs established pursuant to the most recent hospital agreement. This liability shall be calculated net of all payments made by the hospital to the extent it participated in the uncompensated care pool on a voluntary basis prior to the calculations made in accordance with this chapter. For fiscal year nineteen hundred and ninety-two, payments by purchasers and third party payers exclusive of Titles XVIII and XIX and publicly aided patients for purposes of said pool, shall be made using the allowance previously in effect and included in charges. For the purposes of this section, the word "hospital" shall mean "acute hospital" as defined in section one.

Section 19. Consistent with this chapter, the division shall establish health insurance programs to improve the access to health care for all residents of the commonwealth who are not covered by a health insurance plan, a self-insurance plan, or a medical assistance program. In establishing said programs, the division shall not operate as an insurance com-

pany but shall make health insurance plans available through the purchase of health insurance coverage, including managed health care plans, from private health insurance companies, a hospital service corporation, a medical service corporation or health maintenance organizations, and through the brokering of health insurance for employers and consumers of health care services. The division shall endeavor to purchase health insurance plans in an economical manner, and shall enroll individuals in managed health care plans wherever practicable.

Subject to appropriation or subject to the availability of unappropriated funds, the division shall negotiate with and purchase, on such terms as it deems to be in the best interest of the commonwealth and its enrollees, from one or more insurance companies, hospital service corporations, medical service corporations, or health maintenance organizations, a policy or policies of group general or blanket insurance providing hospital, surgical, medical, and other health insurance benefits covering the following persons: (1) employees and their dependents not eligible for group health insurance partially or fully paid for by employers and who are not enrolled in any other health insurance plans, self-insurance health plans, or medical assistance programs, and (2) all other residents of the commonwealth not enrolled in health insurance plans, self-insurance health plans, or medical assistance programs.

The division shall execute all agreements or contracts pertaining to said policies or any amendments thereto for and on behalf and in the name of the division. Said division may negotiate any contract for such term not exceeding three years as it may, in its discretion, deem to be the most advantageous to the division and its enrollees. The division shall endeavor to contract with such insurance companies, a hospital service corporation, or medical service corporations only for managed health care plans or for health insurance plans which employ other methods to reduce costs of health care services. The division shall ensure that every enrollee shall have a choice of at least two plans providing health care insurance benefits. The division shall not allow not more than thirty per cent of the enrollees to be enrolled in a health insurance plan of a single health insurance company, hospital service corporation or health maintenance organization.

The division shall promulgate regulations regarding eligibility criteria, enrollment, and termination policies. The division shall establish procedures consistent with the provisions of chapter thirty A by which individuals who participate or are seeking to participate in the health insurance program of the division may appeal determinations of non-eligibility, enrollment, and termination. The division shall allow, on an annual basis, an opportunity for enrollees to transfer their enrollments among participating health insurance plans.

The division shall require that any insurance company, hospital service corporation, medical service corporation, or health maintenance organization, that provides health care benefits to enrollees shall establish grievance procedures which are approved by said division and, in the case of actions taken directly by the division, the division shall establish its own grievance procedures. Such procedures shall not be subject to the requirements of chapter thirty A.

Any health insurance plan provided by the division to its enrollees through a contract with a health insurance company, hospital service corporation, medical service corporation, or health maintenance organization, shall provide a reasonable range of health care services to enrollees, shall ensure access to an adequate range of health care providers, shall include any mandated benefits otherwise required by law. Such plan not include access to or coverage of psychiatric and substance abuse providers of non-emergency services delivered in a state other than the commonwealth, unless such services are not provided for or available within the commonwealth. Any such health insurance plan which constitutes a managed health care plan shall provide, at a minimum, the following benefits: inpatient and outpatient acute hospital services, inpatient and outpatient physician services, diagnostic and screening tests, preventive care, prenatal and well-baby care; medically necessary emergency health services; and all other benefits which health maintenance organizations are required by law to provide. For the purposes of this chapter, the term "physician" shall include a podiatrist acting within the limitations imposed by section thirteen of chapter one hundred and twelve.

The division may, consistent with business practices in the health insurance industry, pay in advance for any health insurance plan purchased from a health insurance company, hospital service corporation, medical service corporation, or health maintenance organization.

The division shall require that any health insurance plan, including a managed health care plan, with which it contracts under this section must submit annually to the division a report of the demographics and utilization patterns of the enrollees. The division shall have the authority to conduct a financial and program audit of any such health insurance plan.

Section 20. There is hereby established a Medical Security Trust Fund, which shall be administered and expended by the division without further appropriation. Said fund shall consist of all premiums, fees, contributions, and other monies paid into the state treasury and credited to the trust fund as provided in this chapter; all property and securities acquired by and through the use of monies belonging to the trust fund and all interest thereon; less payments therefrom for payments to health insurance companies, nonprofit hospital and medical service companies and health maintenance organizations, for refunds or abatements for enrollees or former enrollees. All monies appropriated for the use of the department for the purpose of providing health insurance for the uninsured and all monies earned on the amounts in said trust fund shall be deposited or retained in said trust fund.

There shall be within said security trust fund at least two separate accounts as follows:

(a) a medical security contribution account which shall consist of all employer contributions required pursuant to subsection (b) of section fourteen G of chapter one hundred and fifty-one A, premiums paid by enrollees, other voluntary contributions by other persons or entities, and appropriations from the commonwealth and which shall be used exclusively for the payments of premiums for health insurance plans provided to eligible employees and their families; and

(b) a public sector responsibility account which shall consist of all premiums paid by enrollees, voluntary contributions by other persons and entities, and appropriations from the commonwealth and which shall be used for payments of premiums for health insurance plans provided to all other residents of the commonwealth who lack health insurance.

Amounts in said accounts shall be kept separate and not commingled, unless approved by the rate review board established pursuant to paragraph (h) of section fourteen G of chapter one hundred and fifty-one A and a finding by said board that temporary commingling of said accounts is a short-term measure necessary to ensure the solvency of the trust fund. Any amounts so commingled shall be restored to the appropriate account within ninety days.

The commissioner shall from time to time requisition from said trust fund such amounts as he deems necessary to meet the current obligations of the department and estimated obligations for a reasonable future period.

Section 21. The division may establish programs to enable small businesses to purchase health insurance for their employees at rates which are as equivalent as possible to the rates at which large employers can purchase health insurance. Such programs shall include, but not be limited to, the following:

(1) the study of the insurance market and the practices of insurance companies, hospital service corporations, medical service corporations and health maintenance organizations, to determine the causes of the relative unavailability of health insurance plans for small businesses and of disproportionate health insurance premium costs for small businesses and to recommend and develop initiatives and strategies to improve the availability and reduce the relative cost of health insurance for small businesses;

(3) the awarding of technical assistance grants to private organizations to assist them to act as brokers on behalf of small businesses seeking to procure health insurance plans;

(4) the establishment of a small business health insurance pool for businesses consisting of six or fewer full-time employees, for the purpose of purchasing health insurance plans for employees and their dependents of businesses in the pool, and the study of the expansion of such pool to cover small businesses of up to ten full-time employees; provided, however, that not more than thirty per cent in the aggregate of the employees may be enrolled in a health insurance plan of a single health insurance company, hospital service corporation, or health maintenance organization;

(5) the evaluation of the effectiveness of the initiatives of the division and tax incentives in reducing the cost of health insurance to small businesses and the impact of such voluntary incentives on the number of small businesses offering health insurance to their employees; and

(6) the management of the health insurance hardship trust fund to protect certain businesses from being overburdened by the contribution required pursuant to section fourteen G of chapter one hundred and fifty-one A.

Any small business health insurance pool program established by the division may, subject to appropriation or the availability of unappropriated funds, establish by negotiation with private third-party payors, and purchase on such terms as it deems to be in the best

interest of the commonwealth and enrollees in said program, from one or more insurance companies, hospital service corporations, medical service corporations, or health maintenance organizations, a policy of group general or blanket insurance providing hospital, surgical, medical, and other health insurance benefits covering persons who are the employees and their dependents of small businesses in which the number of full-time employees does not exceed six. The division shall execute all agreements or contracts pertaining to said policies or any amendments thereto for and on behalf of and in the name of the division. Said division may negotiate a contract for such term not to exceed three years as it may, in its discretion, deem to be the most advantageous to the division and the eligible small business employees. The division shall endeavor to purchase health insurance plans in an economical manner and shall enroll individuals in managed health care plans whenever practicable; and provided, further, that the division shall ensure that every enrollee shall have a choice of at least two policies providing health care insurance benefits. The division shall promulgate regulations regarding eligibility criteria, enrollment, and termination policies. The division shall allow, on an annual basis, an opportunity for enrollees to transfer their enrollments among participating health insurance plans. The division shall establish a schedule of premium contributions, co-payments, deductibles, or co-insurance amounts to be paid by eligible small businesses and individual enrollees; provided, however that such schedule shall provide for enrollees to pay one hundred per cent of such premium contributions if their income substantially exceeds the non-farm poverty guidelines of the United States Office of Management and Budget.

Section 22. There is hereby established an advisory council to the division to advise on the overall operation and policy of the division. The council shall consider any item recommended by the commissioner, the chairman of the council, a majority of the council members or by a subcommittee of the council and shall have the right to at least sixty days prior review and comment on any proposed rule or regulation of the division, with the exception of regulations promulgated on an emergency basis. The council shall consist of the commissioner, the commissioners of the departments of medical assistance, transitional assistance, social services, public health and education and the secretaries of the executive offices of health and human services, elder affairs, and administration and finance or their respective designees and sixteen members to be appointed by the commissioner for terms of three years. The commissioner shall fill any vacancy of members so appointed which may occur in the council for the remainder of the unexpired term. Of the appointed members, eight shall be providers of, or representatives of provider organizations, whose rates of reimbursement are determined by the commissioner and eight shall be non-providers with demonstrated experience in the field of consumer advocacy and with no financial interest in any provider of services whose rates of reimbursement are determined by the division. The provider appointees shall reflect the interests and concerns of all providers rendering services for which rates of reimbursement are established by the division. No single provider group, organization of providers, or class of provider shall have more than one representative on said council unless each provider group or class of provider is represented on the council. Two of the non-provider members shall be selected from recommendations by state-wide

organizations representing the interests of the elderly and two non-provider members shall be selected from recommendations made by state-wide labor organizations; provided however, that one of the two non-provider members so selected from recommendations made by state-wide labor organizations shall be selected from recommendations made by the Massachusetts State Labor Council, AFL-CIO. All appointed members shall be reimbursed for their necessary travel expenses incurred in the performance of their duties.

The council shall meet at least three times annually and upon the call of the chairman or upon written application to the chairman by any eight members. The council shall annually elect a chairman from among its non-provider members. The council may appoint subcommittees; provided, however, that at all times there are at least four council members on each subcommittee, two of whom are providers and two of whom are non-providers; and provided, further, that at all times the total subcommittee membership consists of equal numbers of providers and non-providers. The subcommittees shall from time to time make recommendations to the division on matters of policy and operation of the division. The council shall be notified at least ten days in advance of any public meeting or hearing scheduled by the division.

There shall be an advisory board to advise the division relative to small business access to affordable health care. Such board shall consist of nine members appointed by the commissioner, five of whom shall represent small businesses, one of whom shall be an agent or broker of health insurance, one of whom shall represent a hospital service corporation, one of whom shall represent a health insurance company, and one of whom shall represent a health maintenance organization. Said board shall meet from time to time and shall advise the commissioner on all matters concerning small businesses for which the division is authorized to establish programs, and shall review menu or cafeteria plans, so-called, for the purpose of recommending whether such plans ought to be included as an allowable deduction under subsection (c) of section fourteen G of chapter one hundred and fifty-one A. Said board shall further advise the division on all matters relating to small business health insurance reform in relation to chapter one hundred and seventy-six J.

There shall be an advisory board to advise the division on matters relative to the uninsured. Such board shall consist of nine members appointed by the commissioner, three of whom shall be consumer representatives, one of whom shall be an organized labor representative, one of whom shall be a hospital representative, one of whom shall be a community health center representative, one of whom shall be a physician representative, one of whom shall be a health insurance representative, and one of whom shall be a business representative. Such board shall advise the division on all matters relative to the programs of the division to provide health insurance to the uninsured.

The commissioner may establish such other advisory boards as he deems necessary to advise it in matters relating to the functions, duties and powers set forth in this chapter.

Section 23. The division shall establish a continuing program of investigation and study of the uninsured and underinsured in the commonwealth, including the health insurance needs of the residents of the geographically isolated or rural areas of the commonwealth. Said continuing investigation and study shall examine the overall impact

of programs developed by the division and the division of medical assistance on the uninsured, the underinsured, and the role of employers in assisting their employees in affording health insurance.

SECTION 276. The last paragraph of section 21 of chapter 119 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Evidence may include testimony of foster parents or pre-adoptive parents concerning the welfare of a child if such child has been in the care of the foster or pre-adoptive parents for six months or more, and may include the testimony of the child if the court determines that the child is competent and willing, after consultation with counsel, if any, to testify.

SECTION 277. Said chapter 119 is hereby further amended by inserting after section 33A, as so appearing, the following section:-

Section 33B. Prior to placing a child in family home care, the department, or any private charitable or child-care agency, shall determine whether the child has been adjudicated delinquent for a sexual offense, the commission of arson or any other offense of violence, has admitted to such behavior, or is the subject of a substantiated report of such behavior. If so, the department or agency shall not place the child in any non-secure setting, group home or foster home, unless and until the child has been referred to and evaluated by a qualified diagnostician and such diagnostician determines that the placement is appropriate and safe. If the diagnostician determines that the placement, including situations in which the child remains at home, is appropriate and safe the department or agency responsible for placing the child must prepare and implement a plan to ensure the safety of other children in the home or residence. Such plan must include notification to all adults responsible for supervising the child in the home or residence that the child previously may have engaged in such behavior; education of all persons living in the home or residence about the dangers and methods of preventing such behavior; and provision for appropriate treatment for the child who is being placed. Where the department or other agency makes a referral of such a child to foster home, residential facility, other agencies or organizations, or individuals for the purpose of receiving services, the department or agency shall disclose to the designated recipient of the referral, prior to placement or referral, that the child previously may have engaged in such behavior.

SECTION 278. Section 51B of said chapter 119, as so appearing, is hereby amended by adding the following paragraph:-

In all cases in which the department determines that a report of abuse or neglect is not substantiated, the department shall notify in writing any and all sources or recipients of information in connection with the investigation that the report of abuse or neglect has not been substantiated, unless the target of the investigation requests that such notification not occur.

SECTION 279. Section 1 of chapter 121B of the General Laws, as so appearing, is hereby amended by striking out the words "department of community affairs", in line 69, and inserting in place thereof the following words:- division of housing and community development.

SECTION 280. Section twenty-eight of said chapter one hundred and twenty-one B is hereby repealed.

SECTION 281. Section 6A of chapter 123A of the General Laws, as so appearing, is hereby amended by striking out, in line 34, the words: "commissioner of public safety" and inserting in place thereof the following words:- colonel of state police.

SECTION 282. Section 9 of said chapter 123A, as so appearing, is hereby amended by striking out, in line 46, the words "public safety" and inserting in place thereof the following words:- the colonel of state police,- and by striking out, in line 45, the word "commissioners" and inserting in place thereof the word:- commissioner.

SECTION 283. Section 1 of chapter 124 of the General Laws, as so appearing, is hereby amended by striking out, in line 15, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of state police.

SECTION 284. Chapter 127 of the General Laws is hereby amended by inserting after section 16 the following section:-

Section 16A. The commissioner may include in the rules and regulations promulgated pursuant to the provisions of section forty-eight provisions for the reimbursement of medical expenses by persons incarcerated in department of correction pre-release facilities.

SECTION 285. Section 23 of said chapter 127, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 10, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of state police.

SECTION 286. Section 25 of said chapter 127, as so appearing, is hereby amended by striking out, in line 10, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of state police.

SECTION 287. Section 27 of said chapter 127, as so appearing, is hereby amended by striking out, in line 4, the words "public safety" and inserting in place thereof the following word:- correction.

SECTION 288. Section 29 of said chapter 127, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of state police.

SECTION 289. Section 14 of chapter 131 of the General Laws, as most recently amended by section 25 of chapter 15 of the acts of 1996, is hereby further amended by striking out, in line 4, the word "January" and inserting in place thereof the following word:- July.

SECTION 290. Said chapter 131 is hereby further amended by striking out section 31 and inserting in place thereof the following section:-

Section 31. The director is authorized to issue permits for the operation of commercial shooting preserves. Any person desiring to operate a commercial shooting preserve shall make application therefor on forms to be furnished by the director. The director may, upon receipt of a fee, the amount of which shall be determined annually by the

commissioner of administration and finance under the provisions of section three B of chapter seven of the General Laws, issue to such applicant a commercial shooting preserve permit. A commercial shooting preserve shall consist of a single parcel of land containing not less than one hundred acres nor more than five hundred acres. A permit to operate a commercial shooting preserve shall, notwithstanding any provision of law to the contrary, entitle the holder and his guests to kill and take on such preserve, by shooting or falconry only, such native or non-native game birds as shall be determined by the director. Every person hunting on such commercial shooting preserve or participating in a shoot held on a commercial shooting preserve permit shall possess a valid resident or nonresident hunting or sporting license or a resident or nonresident commercial shooting preserve license, good only on commercial shooting preserves; provided, however, that a person purchasing a resident or nonresident commercial shooting preserve license shall be exempt from the provisions of section fourteen; provided, further, that such exemption shall be applicable only to one who purchases a resident or nonresident commercial shooting preserve on no more than four separate occasions in any calendar year. Tags and posters, if used, shall be supplied by the director at a cost to be determined annually by the commissioner of administration and finance under the provision of said section three B of said chapter seven. The director may, with the approval of the fisheries and wildlife board, establish rules and regulations relating to commercial shooting preserves including but not limited to species of game birds hunted, liberation requirements, posting, period of operation, record keeping and classes of preserves, and may in like manner alter, amend, or repeal the same. Any permit issued under this section may be revoked by the director for violation of any provision of this section or any rule or regulation established hereunder.

SECTION 291. The last paragraph of section 77 of said chapter 131, as amended by chapter 290 of the acts of 1995, is hereby further amended by adding the following two sentences:- Said regulations shall include provisions requiring the purchaser of a ferret to insure that the required treatment and inoculations specified in this section are received by the ferret if as a result of domestication of the ferret such procedures and inoculations are impractical and not accomplished before sale. Said regulations shall require the seller of such ferrets to maintain records which document the purchaser and the date of purchase and such records shall be kept available for inspection by the director.

SECTION 292. Chapter 132 of the General Laws is hereby amended by adding the following section:-

Section 51. Mount Wachusett Community College is hereby authorized to establish a Forest and Wood Products Education and Development Center and to establish experimental sites throughout the commonwealth for the purpose of achieving its mission. Said center shall be established for the purposes of (1) promoting the effective management of the private and public forests of the commonwealth and assisting private enterprise in the creation, maintenance, expansion and marketing of forest-related and wood-related products, and (2) promoting education in the skills, technologies and sciences relevant to the creation

maintenance and improvement of both commercial wood products and a healthy and sustainable forest resource, in consultation and conjunction with the state extension service, the department of forest and wildlife management at the university of Massachusetts, the department of environmental management, the metropolitan district commission, the Forest Service of the United States Department of Agriculture, school systems within the north central Massachusetts region, students in secondary, post-secondary and graduate levels, timber harvesters, foresters, wood product industry owners, managers and employees, forest land owners, and municipal officials.

There shall be an advisory board constituted for the general purpose of oversight of said center. Said board shall consist of not more than seventeen members, including the president of Mount Wachusett community college, the chief forester of the department of environmental management, the chief forester of the metropolitan district commission, the extension forester at the university of Massachusetts; the forest industry specialist at the Massachusetts office of business development, and the forest products and processing specialist of the Northeastern division of the division of state and private forestry of the United States Forest Service. The president of Mount Wachusett community college shall appoint six additional members from the following organizations: the Massachusetts Wood Products Manufacturers Association, the Massachusetts Wood Producers Association, and the Massachusetts Timber Harvesters Association. Said board shall also include a member of the senate appointed by the senate president and a member of the house of representatives appointed by the speaker of the house of representatives. Upon his election, the advisory board chairman shall appoint two additional members concerned with the issues of private forest landowners, and four additional members from the general public who have an interest in furthering the goals and workings of the center. All members shall serve two-year terms.

SECTION 293. Clause (50) of section 6 of chapter 136 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 162 and 163, the words "department of labor and industries" and inserting in place thereof the following words:- office of the attorney general.

SECTION 294. Section 23 of chapter 138 of the General Laws, as so appearing, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

Whenever, in the opinion of the local licensing authorities, any applicant for a license under section twelve, fourteen, fifteen or thirty A fails to establish to their satisfaction his compliance with the requirements of this chapter, or any other reasonable requirements which they may from time to time make with respect to licenses under said sections, respectively, or to the conduct of business by any licensee thereunder, said authorities may refuse to issue or reissue to such applicant any such license; and whenever in their opinion any holder of such a license fails to maintain compliance with this chapter or it appears that alcoholic beverages are being or have been sold, served or drunk therein in violation of any provision of this chapter, they may, after hearing or opportunity therefor, modify, suspend, revoke or cancel such license, or may levy a fine in accordance with regulations as stipulated

by the alcoholic beverage control commission not to exceed two thousand dollars; provided, however, that no local licensing authority shall require the holder of a license issued under the provisions of section fifteen, for the sale of wines and malt beverages only, to cover such beverages on Sundays or legal holidays. The local licensing authorities shall transfer the amount of any fines to the treasurer and receiver general within thirty days of receipt for deposit into the local aid fund. Each local licensing authority shall submit a quarterly report to the alcoholic beverage control commission identifying the name and address of each person or entity from whom a fine was collected, the amount of the fine, the violation for which the fine was assessed, and the date on which the fine was transferred by the local licensing authority to the treasurer. Whenever the local licensing authorities deny an application for a new license, refuse to issue a license or modify, suspend, revoke or cancel a license, deny an application for transfer of location or between persons or change of a description of the licensed premises, or levy a fine, the licensing authorities shall mail a notice of such action to the applicant or licensee, stating the reasons for such action and shall at the same time mail a copy of such notice to the commission.

SECTION 295. The fifth paragraph of section 23 of said chapter 138, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- In investigating any violation by a licensee, the commission shall endeavor to avoid duplicating similar investigations by local licensing authorities.

SECTION 296. Section 23A of said chapter 138, as so appearing, is hereby amended by adding the following sentence:- In investigating any violation by a licensee, the commission shall endeavor to avoid duplicating similar investigations by local licensing authorities.

SECTION 297. Section 51 of said chapter 138, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of the state police.

SECTION 298. Said section 51 of said chapter 138, as so appearing, is hereby further amended by striking out, in line 4, the word "commissioner" and inserting in place thereof the following word:- colonel.

SECTION 299. Section 87 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of the state police.

SECTION 300. Section 121 of said chapter 140, as so appearing, is hereby amended by striking out, in line 2, the word "thirty-one F" and inserting in place thereof the following word:- thirty-one J.

SECTION 301. Said section 121 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 45 and 46, the words "commissioner of the department of public safety and the commissioner" and inserting in place thereof the following words:- colonel of the state police and the colonel.

SECTION 302. Section 121A of said chapter 140, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "firearms identification section of the

department of public safety" and inserting in place thereof the following words:- department of the state police.

SECTION 303. Section 122 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 11 and 12, the words "commissioner of public safety" and inserting in place thereof the following words:- department of the state police.

SECTION 304. Said section 122 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 15 and 16, the word "commissioner" and inserting in place thereof the following words:- department of the state police.

SECTION 305. Said section 122 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 17, the word "commissioner" and inserting in place thereof the following word:- colonel of state police.

SECTION 306. Said chapter 140 is hereby further amended by striking out section 122A, as so appearing, and inserting in place thereof the following section:-

Section 122A. The licensing authority, under section one hundred and twenty-two, shall record all issued licenses in books, forms or electronic files kept for that purpose, and upon the granting of any such license or renewal thereof or renewal of an expired license shall send notice thereof to the criminal history systems board in a manner prescribed by the executive director of said criminal history systems board; provided, however, that said executive director shall promulgate rules and regulations to ensure the prompt collection, exchange, dissemination, and distribution of such license information. The executive director of the criminal history systems board, upon the application of the licensee, at a price not in excess of the cost thereof, shall furnish said licensee with the necessary sales record books to be kept by him as provided in section one hundred and twenty-three.

SECTION 307. Section 122B of said chapter 140, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words "commissioner of public safety" and inserting in place thereof the following words:- executive director of the criminal history systems board.

SECTION 308. Said section 122B of said chapter 140, as so appearing, is hereby further amended by striking out, in line 25, the words "commissioner of public safety" and inserting in place thereof the following words:- secretary of the executive office of public safety.

SECTION 309. Section 123 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 7 and 8, and 25 and 26, the words "commissioner of public safety", each time they appear, and inserting in place thereof, in each instance, the following words:- executive director of the criminal history systems board.

SECTION 310. Said section 123 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 56, the words "commissioner of public safety" and inserting in place thereof the following words:- executive director of the criminal history systems board.

SECTION 311. Said section 123 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 59, the word "commissioner" and inserting in place thereof the following words:- executive director.

SECTION 312. Section 125 of said chapter 140, as so appearing, is hereby amended by striking out, in line 11, the words "commissioner of public safety" and inserting in place thereof the following words:- executive director of the criminal history systems board.

SECTION 313. Section 127 of said chapter 140, as so appearing, is hereby amended by striking out, in line 6, the words "commissioner of public safety" and inserting in place thereof the following words:- executive director of the criminal history systems board.

SECTION 314. Section 128A of said chapter 140, as so appearing, is hereby amended by striking out, in line 27, the words "commissioner of public safety" and inserting in place thereof the following words:- executive director of the criminal history systems board.

SECTION 315. Said section 128A of said chapter 140, as so appearing, is hereby further amended by striking out, in line 28, the word "commissioner" and inserting in place thereof the following words:- executive director.

SECTION 316. Section 128B of said chapter 140, as so appearing, is hereby amended by striking out, in line 11, the words "commissioner of public safety" and inserting in place thereof the following words:- executive director of the criminal history systems board.

SECTION 317. Section 129B of said chapter 140, as so appearing, is hereby amended by striking out, in lines 50, 55 and 62, the words "commissioner of public safety", each time it appears, and inserting in place thereof, in each instance, the following words:- executive director of the criminal history systems board.

SECTION 318. Section 129C of said chapter 140, as so appearing, is hereby amended by striking out, in line 13, the words "commissioner of public safety" and inserting in place thereof the following words:- executive director of the criminal history systems board.

SECTION 319. Said section 129C of said chapter 140, as so appearing, is hereby further amended by striking out, in line 16, the word "commissioner" and inserting in place thereof the following words:- executive director of the criminal history systems board.

SECTION 320. Said section 129C of said chapter 140, as so appearing, is hereby further amended by striking out, in line 29, the word "commissioner" and inserting in place thereof the following words:- colonel of the state police.

SECTION 321. Said section 129C of said chapter 140, as so appearing, is hereby further amended by striking out, in line 31, the word "commissioner" and inserting in place thereof the following words:- colonel of the state police.

SECTION 322. The fourth paragraph of said section 129C of said chapter 140, as so appearing, is hereby amended by adding the following clause:-

(u) Any nonresident who is eighteen years of age or older at the time of acquiring a rifle or shotgun from a licensed firearms dealer; provided, however, that such nonresident must hold a valid firearms license from his state of residence; provided, further, that the licensing requirements of such nonresident's state of residence are as stringent as the requirements of the commonwealth for a firearm identification card, as determined by the

colonel of the state police who shall, annually, publish a list of those states whose requirements comply with the provisions of this clause.

SECTION 323. Section 129D of said chapter 140, as so appearing, is hereby amended by striking out, in line 22, the word "commissioner" and inserting in place thereof the following words:- colonel of the state police.

SECTION 324. Said section 129D of said chapter 140, as so appearing, is hereby further amended by striking out, in line 26, the word "commissioner" and inserting in place thereof the following words:- secretary of the executive office of public safety.

SECTION 325. Section 131 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 2 and 23, the words "commissioner of public safety", each time they appear, and inserting in place thereof, in each instance, the following words:- colonel of the state police.

SECTION 326. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 3 and 9, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following word:- colonel.

SECTION 327. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 37, 60, 79, 88, 96, 97 and 104, the words "commissioner of public safety", each time they appear, and inserting in place thereof, in each instance, the following words:- executive director of the criminal history systems board.

SECTION 328. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 94, the words "commissioner of public safety" and inserting in place thereof the following words:- department of the state police.

SECTION 329. Said section 131 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 120, the words "commissioner of the department of public safety" and inserting in place thereof the following words:- executive director of the criminal history systems board.

SECTION 330. Section 131A of said chapter 140, as so appearing, is hereby amended by striking out, in line 6, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of the state police.

SECTION 331. Said section 131A of said chapter 140, as so appearing, is hereby further amended by striking out, in line 13, the words "commissioner of public safety" and inserting in place thereof the following words:- executive director of the criminal history systems board.

SECTION 332. Said section 131A of said chapter 140, as so appearing, is hereby further amended by striking out, in line 15, the word "commissioner" and inserting in place thereof the following words:- executive director.

SECTION 333. Section 131F of said chapter 140, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of the state police.

SECTION 334. Said section 131F of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 7 and 10, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following word:- colonel.

SECTION 335. Section 131H of said chapter 140, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of the state police.

SECTION 336. Said section 131H of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 7, 10, 15 and 17, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following word:- colonel.

SECTION 337. Section 145A of chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after the word "any", in line 2, the word:- uninsured.

SECTION 338. Section 24 of chapter 147 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the word "commissioner" and inserting in place thereof the following words:- colonel of the state police.

SECTION 339. Section 25 of said chapter 147, as so appearing, is hereby amended by striking out, in lines 1, 13 and 19, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- colonel of the state police.

SECTION 340. Said section 25 of said chapter 147, as so appearing, is hereby further amended by striking out, in line 21, the word "commissioner" and inserting in place thereof the following word:- colonel.

SECTION 341. Section 27 of said chapter 147, as so appearing, is hereby amended by striking out, in line 13, the word "commissioner" and inserting in place thereof the following words:- colonel of the state police.

SECTION 342. Section 28 of said chapter 147, as so appearing, is hereby amended by striking out, in line 18, the word "commissioner" and inserting in place thereof the following words:- colonel of the state police.

SECTION 343. Section 29 of said chapter 147, as so appearing, is hereby amended by striking out, in lines 7 and 15 the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- colonel of the state police.

SECTION 344. Section 31 of said chapter 147, as so appearing, is hereby amended by striking out, in lines 3 and 5, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- executive director of the criminal justice training council.

SECTION 345. Section 1 of chapter 148 of the General Laws, as so appearing, is hereby amended by striking out the definition of "Commissioner".

SECTION 346. Said section 1 of said chapter 148, as so appearing, is hereby further amended by striking out, in line 6, the words "public safety" and inserting in place thereof the following words:- fire services.

SECTION 347. Said section 1 of said chapter 148, as so appearing, is hereby further

amended by striking out, in lines 7 and 8, the words "prevention of the department of public safety" and inserting in place thereof the following words:- safety of the department of fire services.

SECTION 348. Said section 1 of said chapter 148, as so appearing, is hereby further amended by striking out the definition of "Inspector".

SECTION 349. Said section 1 of said chapter 148, as so appearing, is hereby further amended by inserting after the word "marshal" in line 33, the second time it appears, the following words:- or his designee.

SECTION 350. Said section 1 of said chapter 148, as so appearing, is hereby further amended by striking out, in line 35, the words "fourteen of chapter twenty-two" and inserting in place thereof the following words:- four of chapter twenty-two D.

SECTION 351. Section 2 of said chapter 148, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words "in his office" and inserting in place thereof the following words:- or cause to be kept.

SECTION 352. Section 3 of said chapter 148, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "some person designated by the commissioner" and inserting in place thereof the following words:- his designee.

SECTION 353. Section 4 of said chapter 148, as so appearing, is hereby amended by striking out, in line 1, the words "an inspector".

SECTION 354. Said section 4 of said chapter 148, as so appearing, is hereby further amended by striking out, in lines 7 and 8, the words "fourteen of chapter twenty-two" and inserting in place thereof the following words:- four of chapter twenty-two D.

SECTION 355. Section 10 of said chapter 148, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "fourteen of chapter twenty-two" and inserting in place thereof the following words:- four of chapter twenty-two D.

SECTION 356. Said section 10 of said chapter 148, as so appearing, is hereby further amended by striking out, in line 8, the word "commissioner" and inserting in place thereof the following word:- marshal.

SECTION 357. Section 10A of said chapter 148, as so appearing, is hereby amended by striking out, in line 16, the word "commissioner" and inserting in place thereof the following word:- marshal.

SECTION 358. Section 11 of said chapter 148, as so appearing, is hereby amended by striking out, in lines 1 and 7, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following word:- marshal.

SECTION 359. Section 30 of said chapter 148, as so appearing, is hereby amended by striking out, in line 11, the words "the commissioner,".

SECTION 360. Section 33 of said chapter 148, as so appearing, is hereby amended by inserting after the word "jurisdiction", in line 12, the following words:- and may order the director of the division of fire safety to assist.

SECTION 361. Section 37 of said chapter 148, as so appearing, is hereby amended by striking out, in lines 4, 5 and 9, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following word:- marshal.

SECTION 362. Section 38B of said chapter 148, as so appearing, is hereby amended by striking out the definition of "Department" and inserting in place thereof the following definition:-

"Department", the department of fire services.

SECTION 363. Said section 38B of said chapter 148, as so appearing, is hereby further amended by striking out, in line 50, the words "commissioner of public safety" and inserting in place thereof the following words:- state fire marshal.

SECTION 364. Section 50 of said chapter 148, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words "an inspector" and inserting in place thereof the following words:- a police officer, the marshal.

SECTION 365. Section 1 of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out the definition of "Commissioner" and inserting in place thereof the following definition:-

"Commissioner", the director of labor and workforce development.

SECTION 366. Said section 1 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 28, the word "industries" and inserting in place thereof the words:- workforce development.

SECTION 367. Said section 1 of said chapter 149, as so appearing, is hereby further amended by striking out the definition of "Inspector" and inserting in place thereof the following definition:-

"Inspector", an inspector of the department or of the office of the attorney general.

SECTION 368. Section 2 of said chapter 149, as so appearing, is hereby amended by striking out, in line 1, the word "department" and inserting in place thereof the following words:- attorney general.

SECTION 369. Section 3 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 1 and 2, the word "department" and inserting in place thereof the following words:- attorney general.

SECTION 370. Section 5 of said chapter 149, as so appearing, is hereby amended by striking out, in line 1, the word "department" and inserting in place thereof the following words:- attorney general.

SECTION 371. Said section 5 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 4, the word "It" and inserting in place thereof the following word:- He.

SECTION 372. Said section 5 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 6, the word "its" and inserting in place thereof the following word:- his.

SECTION 373. Section 6 of said chapter 149, as so appearing, is hereby amended by inserting after the word "shall", in lines 1 and 9, the following words:- or the attorney general may.

SECTION 374. Section 10 of said chapter 149, as so appearing, is hereby amended by inserting after the word "department", in line 2, the following words:- or the attorney general's office.

SECTION 375. Section 17 of said chapter 149, as so appearing, is hereby amended by striking out, in line 4, the words "industrial safety" and inserting in place thereof the following words:- occupational safety.

SECTION 376. Section 20E of said chapter 149, as so appearing, is hereby amended by inserting after the word "department", in line 39, the following words:- or the attorney general.

SECTION 377. Section 29 of said chapter 149, as so appearing, is hereby amended by striking out, in line 114, the word "department" and inserting in place thereof the following words:- attorney general.

SECTION 378. Section 30 of said chapter 149, as so appearing, is hereby amended by striking out, in line 22, the words "commissioner of labor and industries" and inserting in place thereof the following words:- attorney general.

SECTION 379. Section 44A of said chapter 149, as so appearing, is hereby amended by striking out, in lines 138 and 139, the words "commissioner of labor and industries" and, in lines 144 and 145, the words "commissioner of the department of labor and industries" and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 380. Said section 44A of chapter 149, as so appearing, is hereby further amended by striking out, in line 147, the words "commissioner or commissioners" and inserting in place thereof the following word:- officers.

SECTION 381. Section 44C of said chapter 149, as so appearing, is hereby amended by striking out, in line 3, the word "twenty-three" and inserting in place thereof the following word:- twenty-nine.

SECTION 382. Section 44D of said chapter 149, as so appearing, is hereby amended by striking out, in line 95, the words "commissioner of labor and industries", and, in lines 97, 98 and 101, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 383. Subsection (1) of section 44F of said chapter 149, as so appearing, is hereby amended by striking out, in line 1, the word "Every" and inserting in place thereof the following words:- (a) Every.

SECTION 384. Said subsection (1) of said section 44F of said chapter 149, as so appearing, is hereby further amended by adding the following paragraph:-

In order to submit a sub-bid in connection with a contract subject to section forty-four A for a sub-trade designated in item 2 of the general bid form in section forty-four E, a sub-bidder must customarily perform the work of that sub-trade with employees on his own payroll who are mechanics or laborers as referred to in section twenty-six, except for any part of that sub-trade customarily performed by subcontractors. Upon entering into the subcontract, the sub-bidder shall perform the work of that sub-trade with employees on his own payroll who are mechanics or laborers as referred to in section twenty-six, except for any part of that sub-trade customarily performed by subcontractors.

SECTION 385. Subsection (2) of said section 44F of said chapter 149, as so appearing, is hereby amended by striking out, in line 53, the word "forty-four F" and inserting in place thereof the following word:- forty-four E.

SECTION 386. Section 44H of said chapter 149, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "commissioner of labor and industries" and inserting in place thereof the following words:- attorney general.

SECTION 387. Subsection (7) of section 44J of said chapter 149, as so appearing, is hereby amended by inserting after the word "section", in line 44, the following words:- , or of the third paragraph of subsection (1) of section forty-four F,.

SECTION 388. Section 51A of said chapter 149, as so appearing, is hereby amended by striking out, in line 1, the word "commissioner" and inserting in place thereof the following words:- attorney general.

SECTION 389. Section 52C of said chapter 149, as so appearing, is hereby amended by striking out, in lines 66 and 67 and in lines 78 and 79, the words "Department of Labor and Industries", each time they appear, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 390. Section 54 of said chapter 149, as so appearing, is hereby amended by striking out, in line 1, the word "department" and inserting in place thereof the following words:- attorney general.

SECTION 391. Section 56 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 14, 63 and 67, the word "department", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 392. Said section 56 of said chapter 149, as so appearing, is hereby further amended by striking out, in lines 29, 35, 45, 50, 70, 83 and 84, and 85, the word "commissioner" and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 393. Section 60 of said chapter 149, as so appearing, is hereby amended by striking out, in line 22, the word "commissioner" and inserting in place thereof the following words:- attorney general.

SECTION 394. Section 63 of said chapter 149, as so appearing, is hereby amended by striking out, in line 1, the word "department" and inserting in place thereof the following words:- attorney general.

SECTION 395. Section 74 of said chapter 149, as so appearing, is hereby amended by striking out, in line 13, the word "commissioner" and inserting in place thereof the following words:- attorney general.

SECTION 396. Section 75 of said chapter 149, as so appearing, is hereby amended by striking out, in line 1, the words "department, after approval by the".

SECTION 397. Section 83 of said chapter 149, as so appearing, is hereby amended by inserting after the words "police officer", in line 11, the following word:- , inspector.

SECTION 398. Section 94 of said chapter 149, as so appearing, is hereby amended by inserting after the word "attendance", in line 1, the following words:- , representatives of the office of the attorney general.

SECTION 399. Section 101 of said chapter 149, as so appearing, is hereby amended by striking out, in line 3, the word "commissioner" and inserting in place thereof the following words:- attorney general.

SECTION 400. Section 105A of said chapter 149, as so appearing, is hereby amended by striking out, in lines 20 and 25, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 401. Section 105B of said chapter 149, as so appearing, is hereby amended by striking out, in line 5, the word "commissioner" and inserting in place thereof the following words:- attorney general.

SECTION 402. Section 105C of said chapter 149, as so appearing, is hereby amended by striking out, in line 3, the word "commissioner" and inserting in place thereof the following words:- attorney general.

SECTION 403. Section 111 of said chapter 149, as so appearing, is hereby amended by striking out, in line 4, the word "department" and inserting in place thereof the following words:- attorney general.

SECTION 404. Section 113 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 9 and 15, the word "department", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 405. Said section 113 of said chapter 149, as so appearing, is hereby further amended by striking out, in lines 14 and 16, each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 406. Section 114 of said chapter 149, as so appearing, is hereby amended by striking out, in line 7, the word "department" and inserting in place thereof the following words:- attorney general.

SECTION 407. Section 115 of said chapter 149, as so appearing, is hereby amended by striking out, in line 6, the word "department", each time it appears, and inserting in place thereof the following words:- attorney general.

SECTION 408. Section 116 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 3 and 5, the word "department", each time it appears, and inserting in place thereof, in each instance, the following words:- office of the attorney general.

SECTION 409. Section 120 of said chapter 149, as so appearing, is hereby amended by striking out, in line 11, the word "department" and inserting in place thereof the following words:- attorney general.

SECTION 410. Section 126 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 2 and 13, the word "department", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 411. Said section 126 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 12, the words "public safety" and inserting in place thereof the following words:- fire services.

SECTION 412. Section 129A of said chapter 149, as so appearing, is hereby amended by striking out, in line 7, the word "department" and inserting in place thereof the following words:- attorney general.

SECTION 413. Section 135 of said chapter 149, as so appearing, is hereby amended by striking out, in line 4, the word "department" and inserting in place thereof the following words:- attorney general.

SECTION 414. Section 142G of said chapter 149, as so appearing, is hereby amended by striking out, in line 1, the words "department of labor and industries" and inserting in place thereof the following words:- attorney general.

SECTION 415. Section 145 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "commissioner may, and on petition of fifty or more residents of the commonwealth shall," and inserting in place thereof the following words:- attorney general may.

SECTION 416. Said section 145 of said chapter 149, as so appearing, is hereby further amended by striking out, in lines 11 and 17, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 417. Section 146 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 1, 8, 9 and 11, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 418. Section 147 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 5, 8, 12, 17, 23, 25, 27, 32 and 33, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 419. Section 147A of said chapter 149, as so appearing, is hereby amended by striking out, in lines 3, 6, 9, 16, 23 and 26, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 420. Section 147C of said chapter 149, as so appearing, is hereby amended by striking out, in lines 4 and 5, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 421. Section 147D of said chapter 149, as so appearing, is hereby amended by striking out, in line 4, the word "commissioner" and inserting in place thereof the following words:- attorney general.

SECTION 422. Section 147E of said chapter 149, as so appearing, is hereby amended by striking out, in line 1, the word "department" and inserting in place thereof the following word:- attorney general.

SECTION 423. Said section 147E of said chapter 149, as so appearing, is hereby further amended by striking out, in lines 6 and 7, the words ."commissioner and the authorized representatives of the department" and inserting in place thereof the following words:- attorney general or his authorized representatives.

SECTION 424. Section 147F of said chapter 149, as so appearing, is hereby amended by striking out, in lines 3, 8, 12, 14, 15, 18 and 21, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 425. Section 147G of said chapter 149, as so appearing, is hereby amended by striking out, in lines 6, 11 and 14, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 426. Section 148 of said chapter 149, as so appearing, is hereby amended by striking out, in line 32, the word "commissioner" and inserting in place thereof the following words:- attorney general.

SECTION 427. Said section 148 of said chapter 149, as so appearing, is hereby further amended by striking out, in lines 95 and 96, the words "commissioner of labor and industries" and inserting in place thereof the following words:- attorney general.

SECTION 428. Section 150 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 1 and 20, the word "department", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 429. Section 183 of said chapter 149, as so appearing, is hereby amended by striking out the definitions of "Commissioner" and "Department".

SECTION 430. Said section 183 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 129, the word "department" and inserting in place thereof the following words:- attorney general.

SECTION 431. Said section 183 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 136, the words "department of labor and industries" and inserting in place thereof the following words:- attorney general.

SECTION 432. Said section 183 of said chapter 149, as so appearing, is hereby further amended by striking out subsection (h) and inserting in place thereof the following subsection:-

(h) The attorney general may promulgate such rules and regulations as may be required for the implementation of this section.

SECTION 433. Section 184 of said chapter 149, as so appearing, is hereby amended by striking out the definitions of "Commissioner" and "Department".

SECTION 434. Said section 184 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 98, the word "department" and inserting in place thereof the following words:- attorney general.

SECTION 435. Said section 184 of said chapter 149, as so appearing, is hereby further amended by striking out, in lines 105 and 106, the words "department of labor and industries" and inserting in place thereof the following words:- attorney general.

SECTION 436. Said section 184 of said chapter 149, as so appearing, is hereby further amended by striking out subsection (h) and inserting in place thereof the following subsection:-

(h) The attorney general may promulgate such rules and regulations as may be required for the implementation of this section.

SECTION 437. Section 3 of chapter 150B of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the word "commissioner" and inserting in place thereof the following words:- secretary of the executive office.

SECTION 438. Section 1B of chapter 151 of the General Laws, as so appearing, is hereby amended by striking out, in lines 16 and 17 and in lines 20 and 21, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 439. Section 2 of said chapter 151, as so appearing, is hereby amended by striking out, in lines 4 to 6, the definition of "Commissioner".

SECTION 440. Said section 2 of said chapter 151, as so appearing, is hereby further amended by striking out, in line 10, the words "and the wage board".

SECTION 441. Said section 2 of said chapter 151, as so appearing, is hereby further amended by striking out, in lines 25 and 26, the words "and industries", each time they appear, and inserting in place thereof the words:- and workforce development.

SECTION 442. Section 3 of said chapter 151, as so appearing, is hereby amended by striking out, in lines 1 and 14, the words ", or his authorized representative", each time they appear, and inserting in place thereof, in each instance, the following words:- or the attorney general, or their authorized representatives.

SECTION 443. Said section 3 of said chapter 151, as so appearing, is hereby further amended by inserting after the word "commissioner", in line 11, the following words:- or the attorney general.

SECTION 444. Section 15 of said chapter 151, as so appearing, is hereby amended by striking out, in line 5, the words "in his" and inserting in place thereof the following words:- or the attorney general in their.

SECTION 445. Said section 15 of said chapter 151, as so appearing, is hereby further amended by striking out, in lines 9 and 12, the word "his", each time it appears, and inserting in place thereof, in each instance, the following words:- the attorney general, or their.

SECTION 446. Said section 15 of said chapter 151, as so appearing, is hereby further amended by inserting after the word "commissioner", in line 13, the following words:- or the attorney general.

SECTION 447. Section 17 of said chapter 151, as so appearing, is hereby amended by inserting after the word "department", in line 2, the following words:- or of the attorney general.

SECTION 448. Section 20 of said chapter 151, as so appearing, is hereby amended by striking out, in lines 12 and 16, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 449. Section 1 of chapter 151A of the General Laws, as so appearing, is amended by striking out subsection (e½) and inserting in place thereof the following subsection:-

(e½) "Commissioner", the director of the department of labor and workforce development established pursuant to the provisions of section one of chapter twenty-three, acting by and through the deputy director of the division of employment and training established by section three of chapter twenty-three.

SECTION 450. Section 1 of said chapter 151A, as so appearing, is hereby further amended by inserting a new subsection (g):-

(g) "Department", the division of employment and training within the department of labor and workforce development.

SECTION 451. Section 14G of chapter 151A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 67, the words "chapter one hundred and eighteen F" and inserting in place thereof the words:- subsection (l).

SECTION 452. The second paragraph of subsection (h) of said section 14G of said chapter 151A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- On or before November thirtieth of each year, the department shall certify to said board the estimated costs for the subsequent year of health insurance coverage provided for individuals and their families who (1) are eligible for the health insurance program established by subsection (l) for individuals receiving unemployment compensation and or (2) are eligible for the health insurance program established by section nineteen of chapter one hundred and eighteen G.

SECTION 453. Subsection (i) of said section 14G of said chapter 151A, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 454. Subsection (k) of said section 14G of said chapter 151A, as so appearing, is hereby amended by striking out, in lines 187 and 188, the words "and the provisions of section nine of chapter one hundred and eighteen F,- by striking out, the last sentence.

SECTION 455. Said section 14G of said chapter 151A, as so appearing, is hereby further amended by adding the following two subsections:- (l) The department shall establish and may operate a health insurance program for the benefit of persons who meet both of the following criteria: (1) the person is receiving or is eligible to receive unemployment compensation benefits under this chapter, including extended benefits under the provisions of section thirty A or extended unemployment compensation benefits, hereinafter referred to as EUC benefits, under the federal Emergency Unemployment Compensation Act of 1991 or any other federal act; and (2) the gross income of the person and the person's spouse, if any, including any income received from unemployment benefits, extended benefits or EUC benefits as provided in clause (1), is less than or equal to four times the non-farm poverty guidelines of the United States Office Of Management and Budget. The health insurance program administered by the department shall consist of the following options: a buy-in option called the continuation plan under which the department shall subsidize a qualified person's continued enrollment in the health insurance plan to which they belonged at the time of, or prior to, applying for unemployment compensation benefits, including persons whose continued eligibility for said enrollment is based on the federal COBRA law, so-called; as well as an option called the direct coverage plan which shall consist of a limited plan of health care services and benefits to be administered by the department. To qualify for benefits under this section, the department shall require that ap-

plicants maintain continued enrollment in the health insurance plan in which they were enrolled prior to applying for unemployment compensation benefits, or as permitted by the federal COBRA law. Persons so qualified shall be ineligible for enrollment in the direct coverage plan and the department shall subsidize enrollees' continued health insurance plan by reimbursing said enrollees for a portion of their premium cost in accordance with the department's benefits schedule. Persons unable to qualify for COBRA benefits, so-called, due to lack of access to prior health insurance coverage through their former employer or their spouse's employer or a hardship determined by the department, shall be eligible for the direct coverage plan pursuant to the eligibility requirements of this section. The department shall establish a schedule of co-payments and deductibles within the direct coverage plan which shall promote the cost-effective use of services by participants in the program. The department shall establish procedures for the calculation of the gross income of an applicant or the applicant's spouse, if any, for the purposes of determining eligibility under a health insurance plan established under this section. Such procedures shall provide that in determining the income of the applicant or the applicant's spouse, if any, the department shall examine the gross income of the applicant and the applicant's spouse, if any, in the six months prior to application, and a projection of the gross income of the applicant and the applicant's spouse, if any, including a calculation of the maximum benefits payable to the applicant and the applicant's spouse, if any, from unemployment benefits, extended benefits or EUC benefits, for the six months after application. Such procedures shall also make provisions for the redetermination of eligibility for an enrollee or the enrollee's family. The department shall establish grievance procedures under which any decision, action or inaction of the department which directly affects an enrollee or the enrollee's family, and is related to the receipt of benefits under this section can be revived. The department shall establish appeal procedures under which an applicant may appeal a denial of benefits in whole or in part or may appeal a determination of income, or under which an enrollee may appeal termination from the program. For the purposes of this section the words "family members" of the applicant or enrollee shall include the applicant or enrollee, a spouse, and any legal dependents. The department shall prepare reports on the status of the program established in this section, and submit such reports annually on the first Wednesday in January, April, July, and October to the joint committee on health care and the house and senate committees on ways and means. Such report shall include, but not be limited to, the number of enrollees in the program for the previous quarter, the amount of benefits paid out in the previous quarter, and the end of quarter balance in the Medical Security Trust Fund established in subsection (m). The commissioner is hereby authorized to delegate, by means of an interagency service agreement, to another state agency the authority to manage and administer the health insurance program established by this subsection. (m) There is hereby established a medical security contribution trust fund, which shall be administered and expended by the department without further appropriation. Said trust fund shall consist of employer unemployment health insurance contributions required by subsection (a) and pre-

miums paid by enrollees. Said fund shall be used exclusively for the payments of premiums for health insurance plans provided to persons receiving unemployment compensation. The commissioner shall from time to time requisition from said trust fund such amounts as he deems necessary to meet the current obligations of the department and estimated obligations for a reasonable future period.

SECTION 456. Chapter 151A of the General Laws is hereby further amended by inserting after section 29D the following new section:-

Section 29E. (a) The deputy director shall notify in writing each individual who files a new initial claim for benefits under this chapter, at the time of filing such claim, that: (1) any payments of unemployment compensation as defined in section 85(b) of the Internal Revenue Code received under this chapter are subject to federal and state income tax; (2) receipt of such payments may require the individual to make quarterly estimated payments of federal and state income tax; and (3) the individual may elect, in accordance with the procedures prescribed by the commissioner, to have federal and state income tax deducted and withheld from such payments of unemployment compensation.

(b) If an individual has made an election in accordance with subsection (a) to have federal income tax deducted and withheld from such individual's payments of unemployment compensation, the deputy director shall have an amount equal to fifteen percent of the amount payable to such individual under the provisions of subsection (a), (b) or (d) of section twenty-nine, whichever is applicable, including any amount payable under subsection (c) of said section twenty-nine, rounded to the next lower full dollar amount if it includes a fractional part of the dollar, deducted and withheld from any payment of unemployment compensation under this chapter.

(c) If an individual has made an election in accordance with subsection (a) to have state income tax deducted and withheld from such individual's payments of unemployment compensation, the deputy director shall have an amount equal to five and ninety-five hundredths percent of the amount payable to such individual under the provisions of subsection (a), (b) or (d) of section twenty-nine, whichever is applicable, including any amount payable under subsection (c) of said section twenty-nine, rounded to the next lower full dollar amount if it includes a fractional part of a dollar, deducted and withheld from any payment of unemployment compensation under this chapter.

(d) Any amounts deducted and withheld under this section shall remain in the Unemployment Compensation Fund until transferred to the federal and state taxing authority.

(e) The deputy director shall allow any individual who has made an election in accordance with subsection (a) to change such election.

(f) The deputy director, with the approval of the director of labor and workforce development, shall deduct and withhold any amounts under this section only after amounts are deducted and withheld for any overpayments of unemployment compensation, child support obligations or any other amounts required to be deducted and withheld under this chapter. Where the amount deductible under either subsection (b) or subsection (c) of this

section is greater than the amount payable after applying all other deductions, the amount deductible shall not exceed such payable amount. The commissioner shall promulgate regulations, consistent with the provisions of the foregoing paragraph, establishing the priorities of amounts to be deducted and withheld under this section.

(g) The deputy director shall follow all procedures specified by the United States Department of Labor, the Federal Internal Revenue Service and the Massachusetts department of revenue pertaining to the deducting and withholding of income tax.

(h) Notwithstanding section forty-six of this chapter, the commissioner may disclose to the appropriate taxing authorities such information as necessary to carry out the purposes of this section.

SECTION 457. Section 71A of said chapter 151A, as so appearing, is hereby amended by striking out the definition of "Commissioner" and inserting in place thereof the following definition:-

"Commissioner", the director of the department of labor and workforce development, established by section one of chapter twenty-three.

SECTION 458. Section 1 of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out, in line 34, the word "department", the second time it appears, and inserting in place thereof the following word:- division.

SECTION 459. Section 3A of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words ", to the proper district attorney or to the commissioner of public safety," and inserting in place thereof the following words:- or to the proper district attorney.

SECTION 460. Section 113B of said chapter 175, as so appearing, is hereby amended by striking out, in lines 111 and 112, the words "fifteen of chapter twenty-two" and inserting in place thereof the following words:- four A of chapter ninety A.

SECTION 461. Section 10A of chapter 175A of the General Laws, as so appearing, is hereby amended by striking out, in lines 34 and 35, the words ", in conjunction with the department of public safety,".

SECTION 462. Section 14 of chapter 185 of the General Laws is hereby amended by striking out the first paragraph, as amended by section 159 of chapter 38 of the acts of 1995, and inserting in place thereof the following paragraph:-

The salary of the recorder of the land court department shall be seventy-five and forty-seven hundredths percent of the salary of the chief justice of said department and shall be paid, subject to appropriation, by the commonwealth. The salaries of the deputy recorder and the chief title examiner of said department shall be eighty-three and one-half percent of said recorder's salary and shall be paid, subject to appropriation, by the commonwealth. The salaries of the assistant clerks of said department shall be seventy-seven percent of said recorder's salary and shall be paid, subject to appropriation, by the commonwealth. The salaries of the title examiners of said 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.

SECTION 463. Subsection (d) of section 14 of Chapter 194A, of the most recent edition of the General Laws, as amended by Section 54 of Chapter 460 of the Acts of 1993 is hereby amended by striking the words "one hundred dollars for each violation", and inserting in place thereof the words:- five hundred dollars for the first violation and one thousand dollars for each subsequent violation.

SECTION 464. Section 6 of chapter 201 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 5 and 6, the words "offices of human services or educational affairs" and inserting in place thereof the following words:- office of health and human services or the boards of education or higher education.

SECTION 465. Section 14 of said chapter 201, as so appearing, is hereby amended by striking out, in line 2, the words "offices of human services or educational affairs" and inserting in place thereof the following words:- office of health and human services or the boards of education or higher education.

SECTION 466. Section 10 of chapter 209A of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words "three hundred" and inserting in place thereof the following words:- three hundred and fifty.

SECTION 467. Section 13 of chapter 209C of the General Laws, as so appearing, is hereby amended by inserting after the word "them", in line 9, the following words:- , and the department of social services, when the child who is or was the subject of the complaint is within the care and protection of the department of social services, is the subject of a petition for such care or protection pursuant to chapter one hundred and nineteen, or is the subject of a petition to dispense with consent for adoption, pursuant section to subsection (b) of section three of chapter two hundred and ten.

SECTION 468. Section 2 of chapter 210 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "of the mother only if the child was born out of wedlock and not previously adopted" and inserting in place thereof the following words:- of the mother if the child was born out of wedlock and not previously adopted, and of the father of the child born out of wedlock if the father has been adjudicated the father of the child pursuant to chapter two hundred and nine C, has acknowledged paternity in a manner prescribed by said chapter two hundred and nine C, or has been adjudicated the father of the child pursuant to the laws of any other state or country. If there is no one who has been adjudicated the father or has acknowledged paternity of the child born out of wedlock as described above, then notice of any petition to adopt a child shall be given to a putative father of such child only if the child was not previously adopted and the putative father (a) has filed a parental responsibility claim under section four A; (b) has filed an action to establish paternity under chapter two hundred and nine C and has not been determined not to be the father; (c) has acknowledged paternity of a child who at the time of such acknowledgment was under the age of six months; (d) has been identified as the child's father on the child's birth certificate; (e) has lived openly with the child and has consistently held himself out to be the child's father; (f) has been identified as the father of the child by the mother of the child in a sworn written statement; or (g) was married to the mother within three hundred days prior to the date the child was born and no court of

competent jurisdiction has either determined that he is not the biological father of the child or has terminated his parental rights. Notice shall also be given by publication as provided in section four to any unknown father.

SECTION 469. Said section 2 of said chapter 210, as so appearing, is hereby further amended by adding the following paragraph:-

If an agency or person receiving a child born out of wedlock for purposes of a subsequent adoption receives from the child's mother an executed consent form as prescribed by this chapter, and no person has acknowledged paternity of the child in accordance with chapter two hundred and nine C or has been adjudicated the father of the child by any court of competent jurisdiction, then the person or agency shall request that the mother voluntarily provide a sworn written statement, executed before a notary and in the presence of two competent witnesses, one of whom shall be selected by the mother, that identifies the child's father and his current or last known address. Any such statement shall be used solely for the purpose of notifying the person named as the father of the status of the child.

SECTION 470. Section 11 of said chapter 210, as so appearing, is hereby amended by striking out, in line 2, the word "personal".

SECTION 471. Said section 11 of said chapter 210, as so appearing, is hereby further amended by striking out, in line 5, the words "one year" and inserting in place thereof the following words:- one hundred and twenty days.

SECTION 472. Section 1 of chapter 211B of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking, in line 17, the word "forty-one" and inserting in place thereof the following word:- forty-two.

SECTION 473. Section 2 of said chapter 211B, as so appearing, is hereby amended by striking, in line 16, the word "forty-three" and inserting in place thereof the following word:- forty-four.

SECTION 474. Section 9 of chapter 211D of the General Laws, as amended by section 180 of chapter 38 of the acts of 1995, is hereby further amended by adding the following clause:-

(i) qualifications for vendors for the services provided in clauses (d), (e) and (f) and a range of rates payable for said services, taking into consideration the rates, qualifications and history of performance; provided, however, that such ranges may be exceeded with approval of the court. Payment of such costs and fees shall be in accordance with the provisions of section twenty-seven A to G, inclusive, of chapter two hundred and sixty-one.

SECTION 475. Said chapter 211D is hereby further amended by striking out section 12, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 12. The committee shall establish policies and procedures to provide fair compensation to private counsel, which shall include a remedy for an attorney aggrieved by the amount of payment. The committee shall also establish an audit and oversight department to monitor billing and private attorney compensation. All invoices shall be processed for payment within thirty days of receipt by the chief counsel. 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 such fiscal year. Bills submitted after such date need not be processed for payment within thirty days. The committee may further prescribe such policies and procedures for payment as it deems appropriate; provided, however, that the committee may impose interest and penalties, where appropriate, upon overpayment of the private attorney bills recovered from private attorneys.

SECTION 476. Said section 2 of said chapter 217, as so appearing, is hereby further amended by striking out, in line 4, the word "Bristol", and inserting after the word "Norfolk" the following word:- Bristol.

SECTION 476A. Said section 2 of said chapter 217, as so appearing, is hereby further amended by inserting after the word "Norfolk", in line 2, the word:- Bristol,.

SECTION 477. Section 3C of said chapter 217, as so appearing, is hereby amended by striking out, in line 1, the word "five" and inserting in place thereof the following word:- six.

SECTION 478. Section 23A of chapter 217 of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the word "three" and inserting in place thereof the following word:- four.

SECTION 479. Section 28 of said chapter 217, as so appearing, is hereby amended by striking out, in line 7, the words "of six thousand dollars" and inserting in place thereof the following words:- in an amount equal to fifteen percent of the annual salary of the Suffolk county register of probate.

SECTION 480. Section 1 of chapter 218 of the General Laws, as so appearing, is hereby amended by inserting after the word "Boxborough", in line 149, the following words:- , and the Devens Regional Enterprise Zone.

SECTION 481. Said chapter 218 is hereby further amended by striking out section 10, as amended by section 187 of chapter 38 of the acts of 1995, and inserting in place thereof the following section:-

Section 10. The clerk of a district court may, subject to the approval of the chief justice for administration and management as to compliance with personnel standards promulgated pursuant to section eight of chapter two hundred and eleven B, appoint one or more assistant clerks for whose official acts the clerk shall be responsible, who shall be paid by him unless salaries payable by the commonwealth are authorized in this section or in section fifty-three. In courts having one or more assistant clerks, the clerk may designate one as the first assistant clerk. An assistant clerk with salaries payable by the commonwealth may be appointed in courts the judicial districts of which have, according to the national census last preceding, a population of sixty thousand or more, and in the following districts:

district court of Attleboro
second district court of Barnstable
district court of southern Berkshire
district court of northern Berkshire

district court of Chicopee
district court of eastern Essex
district court of Fitchburg
district court of Franklin
district court of Gardner
district court of eastern Hampden
district court of western Hampden
district court of eastern Hampshire
district court of Marlborough
district court of Natick
first district court of eastern Worcester
second district court of southern Worcester.

Two assistant clerks with salaries payable by the commonwealth may be appointed in:

third district court of Barnstable
district court of central Berkshire
fourth district court of Bristol
municipal court of Brookline
district court of Holyoke
district court of Leominster
district court of central Middlesex
first district court of northern Middlesex
district court of western Norfolk
district court of Peabody
first district court of northern Worcester
first district court of southern Worcester
district court of western Worcester.

Three assistant clerks with salaries payable by the commonwealth may be appointed in:

first district court of Barnstable
first district court of Bristol
second district court of Bristol
district court of Hampshire
first district court of eastern Middlesex
second district court of eastern Middlesex
fourth district court of eastern Middlesex
district court of Newburyport
district court of Newton
district court of Southern Norfolk
third district court of Plymouth

Four assistant clerks with salaries payable by the commonwealth may be appointed in:

municipal court of the Brighton district
third district court of Bristol
East Boston district court
district court of Chelsea
first district court of Essex
municipal court of the South Boston district
municipal court of the Charlestown district
central district court of northern Essex
fourth district court of eastern middlesex
district court of northern Norfolk.
second district court of Plymouth
fourth district court of Plymouth
district court of Somerville.

Five assistant clerks with salaries payable by the commonwealth may be appointed in:

district court of southern Essex
district court of Lawrence
district court of Lowell.

Six assistant clerks with salaries payable by the commonwealth may be appointed in:

district court of Brockton
first district court of southern Middlesex
municipal court of the West Roxbury district.

Seven assistant clerks with salaries payable by the commonwealth may be appointed in:

municipal court of the Dorchester district

Eight assistant clerks with salaries payable by the commonwealth may be appointed in:

district court of East Norfolk.

Nine assistant clerks with salaries payable by the commonwealth may be appointed in:

central district court of Worcester

Ten assistant clerks with salaries payable by the commonwealth may be appointed in:

third district court of eastern Middlesex
municipal court of the Roxbury district court.
district court of Springfield.

One of the ten assistant clerks for the municipal court of the Roxbury district shall be appointed for juvenile sessions.

Assistant clerks who were appointed under authority of this section, who are paid by the commonwealth, and who have held said appointment for three consecutive years prior to the effective date of this act shall hold office during good behavior, but subject to applicable retirement laws, and may be removed from office under procedures authorized by section eight of chapter two hundred and eleven B.

Each assistant clerk appointed prior to January first, nineteen hundred and eighty-seven under the authority of this section and serving continuously in such appointment thereafter shall be entitled to thirty days vacation leave and thirty days sick leave in each calendar year. Any such assistant 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 eighty days; and provided, further, that no additional such days shall be accumulated on or after January first, nineteen hundred and eighty-seven 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 assistant 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.

In the following courts, one of the assistant clerks shall be designated in charge of six-man jury sessions and shall be paid by the commonwealth in accordance with the job classification and pay plan established, subject to appropriation, by the chief justice of administration and management:

third district court of eastern Middlesex
district court of Lowell
first district court of southern Middlesex at Framingham
district court of East Norfolk
central district court of Worcester
district court of Newburyport
district court of Springfield
second district court of Plymouth.

In the district court of western Worcester, the central district court of Worcester, the district of Lowell, the district court of East Norfolk and the third district court of eastern Middlesex, the clerk may designate one of his assistant clerks as assistant clerk in charge of the remand list; said list being for the trial of all cases transferred to said court from the superior court under the provisions of section one hundred and two C of chapter two hundred and thirty-one. The salary of said assistant clerk 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.

SECTION 482. The fourth paragraph of section 58 of chapter 218 of the General Laws, as amended by section 10 of chapter 243 of the acts of 1995 is hereby further amended by adding the following sentence:- The Barnstable county and town of Plymouth division of the juvenile court department shall have a first assistant clerk who shall be appointed by the clerk of said court, with such appointments subject to approval by the chief justice for administration and management with respect to personnel standards promulgated under said section eight of said chapter two hundred and eleven B.

SECTION 483. Section 5 of chapter 221 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 8, the word "seven" and inserting in place thereof the following word:- eight.

SECTION 484. Section 8 of chapter 233 of the General Laws, as amended by section 196 of chapter 38 of the acts of 1995, is hereby further amended by striking out the words "Bristol, seven assistant clerks" and inserting in place thereof the following words:- Bristol, nine assistant clerks.

SECTION 485. Section 8 of chapter 258B of the General Laws, as so appearing, is hereby amended by striking out, in line 1 the word "fifty" and inserting in place thereof the following word:- sixty.

SECTION 486. Said section 8 of said chapter 258B, as so appearing, is hereby further amended by striking out, in line 5, the word "thirty" and inserting in place thereof the following word:- thirty-five.

SECTION 487. Section 10 of chapter 269 of the General Laws, as so appearing, is hereby amended by striking out, in line 120, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of the state police.

SECTION 488. Said section 10 of said chapter 269, as so appearing, is hereby further amended by striking out, in line 121, the word "commissioner" and inserting in place thereof the following word:- colonel.

SECTION 489. Section 10A of said chapter 269, as so appearing, is hereby amended by striking out, in lines 5 and 6 and 21, the words "commissioner of public safety", each time it appears, and inserting in place thereof, in each instance, the following words:- colonel of the state police.

SECTION 490. Section 11A of said chapter 269, as so appearing, is hereby amended by striking out, in line 9, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of the state police.

SECTION 491. Section 11B of said chapter 269, as so appearing, is hereby amended by striking out, in line 10, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of the state police.

SECTION 492. Section 11C of said chapter 269, as so appearing, is hereby amended by striking out, in line 18, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of the state police.

SECTION 493. Section 12B of said chapter 269, as so appearing, is hereby amended by striking out, in line 16, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of the state police.

SECTION 494. Section 12D of said chapter 269, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of the state police.

SECTION 495. Section 88 of chapter 272 of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of the state police.

SECTION 496. Section 89 of said chapter 272, as so appearing, is hereby amended by striking out, in line 2, the words "commissioner of public safety" and inserting in place thereof the following words:- colonel of the state police.

SECTION 497. Section 3 of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in lines 24 and 25, the words "commissioner of public safety", each time they appear, and inserting in place thereof the following words:- colonel of the state police.

SECTION 498. Section 3 of chapter 279 of the General Laws, as so appearing, is hereby amended by inserting after the word "sentence", in line 8, the following words:- ; provided however, that in all cases where the probationer is served with notice of surrender and at least one of the underlying crimes for which he is on probation is a felony, then the probation officer shall provide a duplicate copy of the notice of surrender to the district attorney, and the court shall provide to the district attorney the opportunity to be heard and present evidence at the surrender hearing.

SECTION 499. Section 12 of chapter 645 of the acts of 1948, as most recently amended by section 176 of chapter 60 of the acts of 1994, is hereby further amended by striking out the words "nineteen hundred and ninety-six" and inserting in place thereof the following words:- two thousand and one.

SECTION 500. Section 19 of said chapter 645, as most recently amended by section 203 of chapter 38 of the acts of 1995, is hereby further amended by striking out, in line 2, the words "nineteen hundred and ninety-six" and inserting in place thereof the following words:- two thousand and one.

SECTION 501. Chapter 642 of the acts of 1966 is hereby amended by inserting after section 7B, inserted by section 1 of chapter 107 of the acts of 1991, the following section:-

Section 7C. The city may borrow from time to time sums, in addition to those authorized in sections seven, seven A and seven B, not exceeding, in the aggregate, one hundred and fifteen million dollars, for the purpose of planting shade trees, planning, designing, acquiring land for, constructing and originally equipping structures and facilities it is authorized to construct and for remodeling, reconstructing or making major alterations, additions and repairs to existing facilities owned by the city, except as otherwise provided in hundred and fifteen million dollars, for the purpose of planting shade trees, planning, designing, acquiring land for, constructing and originally equipping structures and facilities it is authorized to construct and for remodeling, reconstructing or making major alterations, additions and repairs to existing facilities owned by the city, except as otherwise provided

in section eight, including original equipment and landscaping, paving and other site improvements incidental or directly related to such remodeling, reconstruction or repair.

SECTION 502. The first paragraph of section 3 of chapter 708 of the acts of 1966, as appearing in section 8 of chapter 789 of the acts of 1981, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There is hereby created and placed in the division of housing and community development a body politic and corporate to be known as the Massachusetts Housing Finance Agency, which shall not be subject to the supervision or control of any executive office, department, division, commission, board, bureau or agency except to the extent and in the manner provided by law.

SECTION 503. The second paragraph of said section 3 of said chapter 708, as appearing in section 5 of chapter 264 of the acts of 1982, is hereby amended by striking out in the first sentence the words "secretary of communities and development", and inserting in place thereof the following words:- deputy director of housing and community development.

SECTION 504. The first paragraph of section 3 of chapter 846 of the acts of 1974, as appearing in section 19 of chapter 264 of the acts of 1982, is hereby amended by striking out the first sentence inserting in place thereof the following sentence:- There is hereby created in the division of housing and community development a body politic and corporate to be known as the Massachusetts Home Mortgage Finance Agency, which shall not be subject to the supervision or control of the division of housing and community development or of any other executive office, department, division, commission, board, bureau or agency except to the extent and in the manner provided in this act.

SECTION 505. The second paragraph of section 2 of chapter 212 of the acts of 1975, as most recently amended by section 220 of chapter 351 of the acts of 1981, is hereby further amended by striking out, in the first and third sentences, the words "secretary of development and housing", each time they appear, and inserting in place thereof, in each instance, the following words:- deputy director of housing and community development.

SECTION 506. Paragraph (a) of the second paragraph of section 35 of chapter 405 of the acts of 1985 is hereby amended by striking out the third sentence, inserted by section 36 of chapter 102 of the acts of 1990, and inserting in place thereof the following sentence:- The MHPFB is hereby placed in the division of housing and community development but shall not be subject to the supervision or control of any executive office, department, division, commission, board, bureau or agency of the commonwealth except to the extent and in the manner provided by law.

SECTION 507. The second sentence of the first paragraph of section 2 of chapter 405 of the acts of 1987 is hereby amended by striking out the words "secretary of communities and development" and inserting in place thereof the following words:- deputy director of housing and community development.

SECTION 508. Section 105 of chapter 164 of the acts of 1988 is hereby amended by inserting after the word "Council", in line 3, the following words:- and the department of labor and workforce development.

SECTION 509. Section seventy-four of chapter two hundred and forty of the acts of nineteen hundred and eighty-nine, as most recently amended by section two hundred and nine of chapter thirty-eight of the acts of nineteen hundred and ninety-five, is hereby repealed.

SECTION 510. Chapter 71 of the acts of 1993 is hereby amended by striking out section 79 and inserting in place thereof the following section:-

Section 79. There shall be appointed by the governor an education reform review commission which shall consist of twenty-five members, one of whom the governor shall designate to chair the commission; provided, however, that such members shall not be employees of the executive branch; and provided, further, that two such members shall be the house and senate chairmen of the legislature's joint committee on education, arts and the humanities; and provided, further, that at least four such members shall be parents of children attending public schools, one of whom shall be the chair of the board of higher education, one of whom shall be an educator at an institution of higher education who is knowledgeable in the field of public education, 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, 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 is hereby authorized to request from the board of education and the joint committee on education, arts and the 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 of chapter sixty-nine of the General Laws. The board and the commissioner 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 such report shall be made available to the public. Commission members shall serve for a term of three years; provided, however, that vacancies may be filled as they occur; and, provided further, that members who are 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 511. Section 4 of chapter 603 of the acts of 1967, as appearing in section 1 of chapter 201 of the acts of 1995, is hereby amended by inserting after the word "million", in lines 10 and 11, the following words:- five hundred thousand.

SECTION 512. Paragraph (m) of section 2 of chapter 372 of the acts of 1984 is hereby amended by adding the following words:- provided, however, that amounts paid to or for the account of the Authority as debt service assistance from the Commonwealth Sewer Rate Relief Fund established under section two Z of chapter twenty-nine of the General Laws shall be included in revenues unless in any instance the Authority shall elect that such amount or any portion thereof shall be segregated from other funds of the Authority and applied directly by the Authority or the trustee for the Authority's bonds to the payment of the debt service thereon, in which event, such amount or portions shall not be included in revenues of the Authority for the purposes of this act;.

SECTION 513. Paragraph (a) of section 12 of said chapter 372, is hereby amended by striking out the fifth sentence, as most recently amended by section 5 of chapter 243 of the acts of 1995, and inserting in place thereof the following sentence:- The aggregate principal amount of all bonds issued under authority of this act shall not exceed the sum of three billion four hundred and fifty million dollars outstanding at any one time; provided, however, that bonds for the payment of redemption of which, either at or prior to maturity, refunding bonds shall have been issued, shall be excluded in the computation of outstanding bonds.

SECTION 514. Section 16 of said chapter 372 is hereby amended by striking out the fourth sentence, as most recently amended by section 6 of said chapter 243 of the acts of 1995, and inserting in place thereof the following sentence:- The aggregate principal amount of all bonds issued under authority of this act shall not exceed the sum of three billion four hundred and fifty million dollars outstanding at any one time, provided, however, that bonds for the payment of redemption of which, either at or prior to maturity, refunding bonds shall have been issued, shall be excluded in the computation of outstanding bonds.

SECTION 515. Section 8 of chapter 236 of the acts of 1988 is hereby amended by striking out, in line 11, the words "during the term of such lease".

SECTION 516. Notwithstanding the provisions of chapter four hundred and ninety of the acts of nineteen hundred and eighty, the division of housing and community 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 517. Section 9 of chapter 498 of the acts of 1993, as amended by section 2 of chapter 224 of the acts of 1994, is hereby further amended by adding the following paragraph:-

Notwithstanding any other provision of this act, or of any other general or special law to the contrary, the Commission, for the purposes of this act, shall be deemed a public employer as that term is defined in section one of chapter two hundred and fifty-eight of the

General Laws. The chairman of the Commission shall be the executive officer for presentment purposes under section four of said chapter two hundred and fifty-eight.

SECTION 518. Section 12 of said chapter 498, as amended by section 212 of chapter 38 of the acts of 1995, is hereby further amended by adding the following paragraph:-

Notwithstanding any provision of this act or of chapter two hundred and twelve of the acts of nineteen hundred and seventy-five, as amended, the Bank, in carrying out the provisions of this act, shall be deemed a city or town for the purposes of section two of chapter two hundred and eighty of the General Laws.

SECTION 519. Section 253 of chapter 60 of the acts of 1994 is hereby amended by striking out the words "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" and inserting in place thereof the following words:- an average of six hundred and fifty dollars per month for two bedroom units, and an average of seven hundred and fifty dollars per month for three bedroom units.

SECTION 520. Section 303 of chapter 38 of the acts of 1995 is hereby amended by striking out the words "nineteen hundred and ninety-eight", each time they appear, and inserting in place thereof, in each instance, the following words:- two thousand and one.

SECTION 521. Subsection (e) of section 110 of chapter 5 of the acts of 1995 is hereby amended by adding at the end thereof the following new clause:- ; or *(6) recipients* who are homeless and residing in emergency or transitional housing or shelter including, but not limited to, facilities funded through the program of emergency assistance authorized by subsection D of section two of chapter eighteen, or the program authorized by clause (14) of subsection (A) of section two chapter eighteen B, including facilities for battered women.

SECTION 522. The first paragraph of subsection (j) of section 110 of chapter 5 of the acts of 1995 is hereby amended by striking out the third sentence and inserting in place thereof the following two sentences:- Said work requirement may be met by working in a job for which compensation is paid; by working full-time in the full employment program established in section (1); by regularly attending, as defined by the department, a recognized job training, english as a second language, graduate equivalency degree, literacy, adult basic education or other equivalent program or a program at an accredited institution of higher education, including any appropriate pre-college remedial program; or by participating in community service pursuant to the following provisions. At the discretion of the commissioner, recipients subject to such work requirement who fail to meet such requirements shall not receive assistance.

SECTION 523. The second paragraph of subsection (j) of said section 110 of said chapter 5 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The department shall make payments for child care services to families in which a parent or parents or other grantee relative is working and needs child care services in order to work or needs child care in order to participate in any of the education, training or community service activities listed in this subsection.

SECTION 524. Chapter 166 of the acts of 1995 is hereby amended by striking out the words "one hundred and eighty" and inserting in place thereof the following words:- three hundred and sixty.

SECTION 525. Section 19 of chapter 267 of the acts of 1995 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Said reimbursement shall be equal to fifty percent in the first year of a charter school's operation, forty percent in the second year of a charter school's operation, and thirty percent in the third year of the charter school's operation.

SECTION 526. Chapter 12 of the acts of 1996 is hereby amended in section two, in item 0330-8968, by adding after the word "abusers", the following:- ; provided, that any remaining funds may be expended for the implementation and operation of any approved intermediate sanctions program approved by the Chief Justice of Administration and Management.

SECTION 527. Sections one, two, five and eight of chapter fifty-seven of the acts of nineteen hundred and ninety-six are hereby repealed.

SECTION 528. Sections seventeen, eighteen, twenty-seven, twenty-eight and thirty-two of chapter fifty-eight of the acts of nineteen hundred and ninety-six are hereby repealed.

SECTION 529. The first sentence of section 67 of chapter 15 of the acts of 1996 is hereby amended by inserting after the word "Lynn" the following words:- , one representative from Lawrence.

SECTION 530. Chapter 67 of the acts of 1996 is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. Notwithstanding the provisions of any general or special law to the contrary, any medicaid long term care system subject to the provisions of chapter one hundred and eighteen E of the General Laws which the division of medical assistance has determined would be more comprehensive, cost-effective and coordinated than the system of long term care established by section four B of chapter nineteen A of the General Laws and for which said division has submitted a written finding as required by said section four B shall not take effect unless enacted into law.

SECTION 531. Notwithstanding the provisions of any general or special law or collective bargaining agreement to the contrary, and in accordance with the provisions of section one hundred and two of chapter thirty-two of the General Laws, the retirement allowance, pension, or annuity of every former employee of the commonwealth or any county, city, town, district, housing or redevelopment authority, the Massachusetts Turnpike Authority, the Massachusetts Port Authority, the Blue Hills Regional Vocational School System, the greater Lawrence Sanitary District, the Minutemen Regional Vocational Technical High School District or of the spouse or any other beneficiary of any former employee who is receiving a retirement allowance, pension or annuity, shall, beginning November first, nineteen hundred and ninety-six, be increased by three percent; provided, however, that no individual retiree shall receive an increase greater than two hundred and seventy dollars annually; and provided, further, that for any employee retiring after July first,

nineteen hundred and ninety-six, said employees' health care premium contribution shall be not less than fifteen percent of the total premium paid by the commonwealth or the health care premium contribution paid by active employees, whichever is greater.

SECTION 532. Notwithstanding the provisions of any general or special law to the contrary, the terms of the members of the board of education currently holding office shall expire on the thirtieth day of June, nineteen hundred and ninety-six, and the governor shall appoint the members of said board, as required by section one E of chapter fifteen of the General Laws, as amended by this act, effective as of the first day of July, nineteen hundred and ninety-six; provided, however, that three members shall be appointed for an initial term of five years, three members shall be appointed for an initial term of four years and three members shall be appointed for an initial term of three years. Thereafter, each member shall be appointed for a number of five years, five years being a full term.

SECTION 533. Any member of the higher education coordinating council as of June thirtieth, nineteen hundred and ninety-six, who is a former member of the boards of trustees of the state colleges or is a former member of the boards of trustees of the community colleges shall serve out that member's term as a member of the board of higher education and, during the remainder of that term, shall qualify as the former member of the boards of trustees of the state college or the former member of the boards of trustees of the community colleges required to be a member of the board of higher education by section four of chapter fifteen A of the General Laws. Upon expiration of that member's term, a former member of the board of trustees of the state colleges or a former member of the board of trustees of the community colleges shall be selected according to the procedure specified in said section four.

SECTION 534. Notwithstanding any general or special law to the contrary, the terms of office of the current members of the apprenticeship council shall expire on the thirtieth day of June, nineteen hundred and ninety-six. The members to be appointed pursuant to section eleven E of chapter twenty-three of the General Laws shall be appointed to terms to commence effective on the first day of July, nineteen hundred and ninety-six; and one of each of the employee and employer members appointed pursuant to said section shall be appointed for initial terms of one year, one of each shall be appointed for initial terms of two years and one of each shall be appointed for initial terms of three years. Thereafter, each member representing employers and employees shall be appointed for a term of three years.

SECTION 535. Notwithstanding the provisions of any general or special law to the contrary, except for sections fifty-two to fifty-five, inclusive, of chapter seven of the General Laws, the secretary of administration and finance is hereby authorized and directed to identify and pursue projects to optimize non-tax revenue management and collections by the commonwealth. The secretary or his designee is further authorized to enter into contracts with private vendors and to enter into interagency service agreements with departments to identify and pursue said projects. Private vendors shall be compensated from non-tax revenues collected by such projects in excess of the non-tax revenues established by said contracts as the minimum to be collected by each such project. For the purposes of this section, such payments to vendors for services performed shall be known as "vendor

participation payments" and non-tax revenue collected pursuant to this section, after deduction of vendor participation payments, shall be known as "net additional revenue". For the purpose of this section the terms "departments" or "participating departments" shall mean any department, agency, board, commission, office or institution under the executive control of the governor or other constitutional officers and determined by the secretary to be participating in the revenue optimization projects authorized by this section.

In no case shall a vendor be compensated if the revenues collected for a revenue source do not exceed the highest amount collected for said revenue source for a fiscal year during the base period; provided, however, in the event of revenue sources which are caseload driven federal reimbursements, so called, the vendor shall not be compensated unless the ratio of said revenue source to the reimbursable expenditure has exceeded the highest said ratio during the base period. For the purpose of this section the term "base period" shall refer to the fiscal years beginning on July first, nineteen hundred ninety and ending on June thirtieth, nineteen hundred ninety-six.

In no case shall a department receive an allocation or reallocation for collection of a fee or any other non-tax revenue from which the commonwealth collected revenues in any fiscal year between nineteen hundred and ninety-one through nineteen hundred and ninety-six, inclusive, if the net additional revenue attributable to the collection of said fee or other non-tax revenue is less than the highest amount of revenue collected from said fee or other non-tax revenue in any of the aforementioned fiscal years; provided, however, that said net additional revenues shall only be those amounts collected which are in excess of the amounts projected in section one B for each department, office, commission and agency or successor. The commonwealth shall retain all rights in software programs developed pursuant to any contract executed under this section.

The comptroller shall deposit in the Maximization Fund, established by section two R of chapter twenty-nine of the General Laws, all monies collected pursuant to the provisions of this section. The comptroller is hereby authorized to allocate from said fund, upon direction of the secretary of administration and finance, up to the amount of the appropriation contained in item 1599-0033 of section two to participating departments; provided, however, that any amount so allocated shall be in excess of the first fifty-seven million, five hundred thousand dollars in net additional revenues credited to said fund consistent with this section; provided, further, that the secretary may allocate the first two million five hundred thousand dollars from said item when the net additional revenues credited to said fund in the fiscal year are at least thirty-two million, five hundred thousand dollars; provided, further, said secretary may allocate the second two million five hundred thousand dollars from said item when the net additional revenues credited to said fund in the fiscal year are at least fifty million dollars; and provided, further, the final two million, five hundred thousand dollars may be allocated when the amount credited to said fund in the fiscal year is at least sixty-five million dollars. Eighty-five percent of said appropriation shall be distributed to participating departments in proportion to the amount of revenues collected by said department as a percent of the total amount of revenues collected under the

provisions of this section. The remaining fifteen percent shall be evenly distributed to all participating departments regardless of the amount of revenues collected by each individual department. The comptroller shall transfer to the General Fund, at the close of the fiscal year, after providing for vendor participation payments, the first fifty-seven million, five hundred thousand dollars in net additional revenues and any balance remaining in said fund after providing for said allocations. No expenditure shall be made from said Maximization Fund which would cause said fund to be in deficit at the close of the fiscal year.

Departments receiving allocations pursuant to said item 1599-0033, subject to the provisions of this section, may expend such funds without appropriation after obtaining the written approval of said secretary or his designee of a plan detailing such proposed expenditures, allocations and reallocations and filing the approved plan with the house and senate committees on ways and means which shall be filed with said committees ten days in advance of any allocation or reallocation. All expenditures made pursuant to the provisions of this section and item 1599-0033 shall be for one-time expenses which shall not recur in fiscal year nineteen hundred and ninety-eight or a subsequent fiscal year. No expenditures authorized by the provisions of this section and said item 1599-0033 shall supplant funds appropriated in any item of appropriation in sections two or two B or in sections two or two A of any supplemental appropriations act enacted in fiscal year nineteen hundred and ninety-seven or a subsequent fiscal year. For the purposes of this section, the term "supplant" shall be defined as expenditures made for any purpose which receive an appropriation in this act or a subsequent appropriation act. Any unexpended balance from said allocations at the end of each fiscal year shall revert to the General Fund unless said spending plan has been approved by the secretary as a multi-year expenditure.

The comptroller shall report, on or before the last day of January, to the house and senate committees on ways and means on the results and operations of the revenue optimization projects authorized by this section, for the six month period ending the preceding month. Such information shall detail, by each vendor, project and department: the amount of vendor participation payments paid to each such vendor, the net additional revenues retained by the commonwealth, the amounts allocated or reallocated to each such participating department, pursuant to said item 1599-0033 and this section, and the estimated annual receipts, payments and allocations for the fiscal year.

The comptroller shall report to the house and senate committees on ways and means, on or before July thirty-first of each year, the preceding information for the prior fiscal year and the total of all vendor participation payments made to each vendor and the net commonwealth receipts collected by each project over the duration of the project.

On or before July thirty-first of each fiscal year, the comptroller, after approval of said secretary, shall submit to the house and senate committees on ways and means a plan detailing, by executive office and department, the net additional revenues estimated to be collected under the provisions of this section in the fiscal year.

SECTION 536. The provisions of section five hundred and thirty-five shall remain in effect until June thirtieth, nineteen hundred and ninety-nine.

SECTION 537. Notwithstanding any general or special law to the contrary, the terms of office of the current members of the MASSJOBS council established by section seventy-four of chapter two hundred and forty of the acts of nineteen hundred and eighty-nine, as amended, shall expire on the thirtieth day of June, nineteen hundred and ninety-six, and the governor shall appoint members to the Massjobs council established by section four of chapter fourteen A of the General Laws, to terms commencing on the first day of July, nineteen hundred and ninety-six. Notwithstanding the provisions of said section four, the initial appointments of the members of the Massjobs council shall be staggered so that five of the original appointees shall serve a term of three years, five appointees shall serve a term of two years, and the remaining appointees shall serve a term of one year; provided, however, that no more than one of the two appointees from each of the categories referenced above shall be appointed for an initial term of only one year.

SECTION 538. Notwithstanding the provisions of any general or special law or contract to the contrary if the capital costs incurred under any of the previous department of mental health replacement units contracts, so-called, with Berkshire Medical Center, Pittsfield; Cambridge Hospital, Cambridge; New England Deaconess Hospital, Boston; or Providence Hospital, Holyoke, are not negotiated and paid pursuant to the terms of the interagency service agreement for the joint purchase of certain mental health services between the department of mental health and the division of medical assistance, then the department of mental health is authorized to negotiate and pay capital costs to the entity directly. Any payment made by the department of mental health pursuant to this section, or by the division of medical assistance or its contractor pursuant to the terms of the interagency service agreement, shall be subject to the following: (i) if the entity sells or otherwise transfers a capital asset associated with the replacement unit contract and the asset will not be used by the transferee for similar or like public purposes, then the entity must pay to the commonwealth an amount equal to the gain, if any, attributable to any accelerated depreciation costs paid by the department of mental health or (ii) if the entity ceases to use any capital asset associated with the replacement unit contract for such public or similar public purposes for any other reason attributable to the entity, then the entity must repay to the commonwealth the accelerated depreciation costs paid by the department of mental health.

SECTION 539. Notwithstanding the provisions of any general or special law to the contrary, for state fiscal year nineteen hundred and ninety-seven any specialty hospital, as defined in section one of chapter one hundred and eighteen G of the General Laws, which provides free care, as defined in said section one of said chapter one hundred and eighteen G, shall be exempt from the provisions of section eighteen of said chapter one hundred and eighteen G; provided, that said specialty hospital's gross patient service revenue equals at least eighty percent of its gross patient service revenue as of January first, nineteen hundred and ninety-six. For the purposes of this section "gross outpatient service revenue" shall mean gross patient service revenue minus gross inpatient service revenue. The division of health care finance and policy shall determine the amount owed for fiscal year nineteen hundred and ninety-seven by said specialty hospital. Said division is directed to transfer

from the compliance liability trust fund as established in section fifty-six of chapter four hundred and ninety-five of the acts of nineteen hundred and ninety-one, into the uncompensated care pool trust fund as established in said section eighteen, an amount equal to the amount owed by said specialty hospital for state fiscal year nineteen hundred and ninety-seven for the purpose of ensuring that other participating hospitals' liability to the uncompensated care pool does not increase due to the aforementioned exemption.

SECTION 540. Notwithstanding any general or special law to the contrary, the terms of office of the current members of the group insurance commission appointed by the governor under section three of chapter thirty-two A of the General Laws shall expire on June thirtieth, nineteen hundred and ninety-six, and the terms of members of the commission to be appointed pursuant to said section three, as amended by section one hundred and forty-five of this act shall begin on July first, nineteen hundred and ninety-six. No action shall be taken by the commission until the governor has appointed all of the appointive members pursuant to said section three, as amended.

SECTION 541. The departments of mental retardation, public health, and education are hereby directed to continue the three regional pilot projects to develop networks of support for families with children of school age or younger with developmental disabilities or chronic illness, as authorized in section two hundred and thirty-five of chapter thirty-eight of the acts of nineteen hundred and ninety-five.

SECTION 542. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established a special transition period to accommodate the realignment of accounting operations into the format of the general appropriations act for fiscal year nineteen hundred and ninety-seven. The secretary of administration and finance shall file a plan for the transition period with the house and senate committees on ways and means and the office of the comptroller no later than thirty days after the effective date of this act. Said transition plan shall provide special guidance to the departments receiving an appropriation in the general appropriation act and the oversight entities in matters pertaining to state finance including but not limited to the office of the comptroller, department of personnel and administration, budget bureau, and the department of procurement and general services. The secretary of administration and finance shall guide such transition so that the amount of such interim expenditures accounting is consistent with the annualized appropriation so as to prevent deficiencies in such appropriations. The transition plan shall allow departments to have employees in the positions established by prior position schedules, and conduct payroll accounting activities until new position schedules are established. Upon implementation of a new position schedule, the departments with the approval of the comptroller's office, may execute accounting adjustments retroactive to July first, nineteen hundred and ninety-six to redistribute any interim payroll expenditure accounting to the fiscal year nineteen hundred and ninety-seven appropriation account. The transition plan shall allow the departments in consultation with the department of procurement and general services to amend all encumbrances and contracts as relevant to the new line items of appropriation; and upon completion of such amendments, the departments with the approval of the comptroller's office may execute accounting

adjustments retroactive to July first, nineteen hundred and ninety-six to redistribute any interim encumbrance or contract expenditure activity to the fiscal year nineteen hundred and ninety-seven appropriation account. The transition plan may establish such mechanisms and procedures as deemed relevant to maintain operations during the transition period and create a basis for accounting adjustments as described above to align expenditure to line items of appropriation as set forth in the general appropriations act for fiscal year nineteen hundred and ninety-seven. It is the intention of this section, that all accounting during the transition period will be reconciled, redistributed, and be aligned to the fiscal year nineteen hundred and ninety-seven budget and that ongoing accounting operations for the remainder of fiscal year nineteen hundred and ninety-seven shall be conducted directly to the line item appropriation.

SECTION 543. Notwithstanding the provisions of any general of special law to the contrary, the secretary of the executive office of health and human services is hereby authorized and directed to negotiate the development of a unified medicaid state plan among agencies of the secretariat, in consultation with the secretary of the executive office of elder affairs and the secretary of the executive office of administration and finance. Said state plan shall vest authority for administration of the medicaid program established by Title XIX of the Social Security Act, or its successor federal statute, solely in the division of medical assistance pursuant to section one of chapter one hundred and eighteen E of the General Laws.

Said unified state plan shall be filed for approval with the health care finance administration not later than October first, nineteen hundred and ninety-six. Said unified state plan, and any understandings reached by said agencies relative to its implementation, shall allow for the division to delegate authority to administer certain components, duties and functions of the medicaid program to other state agencies by interagency service agreements, provided such delegation is in conformity with said federal and state laws and promotes the cost-effective administration of said program. In developing and implementing said unified state plan, the secretary shall assure that federally reimbursable services and benefits established in the medicaid state plan in effect on June thirtieth, nineteen hundred and ninety-six as administered by the Massachusetts commission for the blind pursuant to section one hundred and thirty-one E of chapter six of the General Laws are incorporated in said unified state plan. Said unified state plan shall further provide, to the extent permitted by federal law and approved by the health care finance administration, for the continued administration of medicaid eligibility determination functions for blind persons by said commission as said functions were performed on said June thirtieth; provided, that medicaid benefits and services made available to said blind persons shall be managed solely by the division of medical assistance pursuant to said interagency service agreements.

SECTION 544. Notwithstanding any law or regulation to the contrary, section 145A of chapter 140 of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by inserting, in line 2, after the word "any" the word:- uninsured.

SECTION 545. Notwithstanding any general or special law to the contrary, no site may be used as a solid waste handling or processing facility without a valid site assignment and permit as required by solid waste management regulations, 310 CMR 16.00 and solid waste management facility regulations, 310 CMR 19.00, regardless of whether such a facility was operating on such a site prior to December first, nineteen hundred and ninety-five or on the effective date of such regulations.

SECTION 546. Notwithstanding the provisions of section three of chapter sixteen of the General Laws, the commissioner of the department of highways and the secretary of the executive office of transportation and construction shall maintain a Massachusetts highway district one administrative office in the town of Lenox and a Massachusetts highway district two administrative office in the city of Northampton; provided, however, that the commissioner is hereby directed to maintain staffing levels of at least one district highway director, one district construction engineer, one projects development engineer, one maintenance engineer, and one administrative manager in each said office.

SECTION 547. Notwithstanding the provisions of subsections 15.221 through 15.226 of 310 CMR 15.000 of the rule or regulation or any general or special law to the contrary, in site pre-existing metal tanks shall not be cause for automatic inspection failure due to noncompliance with the provisions of Title 5 of the state environmental code, the provisions of this section shall not effect or change the prohibition of metal tanks for the construction of new septic systems or septic tanks not installed within the past twenty years.

SECTION 548. Notwithstanding the provisions any general or special law to the contrary, each individual source of contributions to the state's Highway fund shall be maintained at the current level or higher; provided, however, that this section shall remain in effect until construction of the Central Artery/Tunnel Project is complete, or until any short term bonds issued to meet the cost of construction during the peak construction period, so-called, are paid in full, whichever is later.

SECTION 549. Notwithstanding the provisions of any general or special law to the contrary, no hunting of any kind shall be allowed on Flint's Pond or the approximate eighty-nine acres adjacent to said pond which is owned and operated by the division of fisheries and wildlife in the town of Tyngsborough.

SECTION 550. Notwithstanding the provisions of section nineteen of chapter eighteen B of the General Laws or any other general or special law to the contrary, the department of Social Services may use funds in the Expendable Trust D.C.G. Wards-Payments trust pursuant to the provisions of section eighteen of chapter eighteen B of the General Laws and interest paid on said account on or after July first, nineteen hundred and ninety-three, for the purpose of funding scholarships to be awarded to foster children who are or have been in the care of the department of social services and who are or will be pursuing a degree at an accredited institution of higher education.

SECTION 551. Notwithstanding the provisions of clause Forty-first of section seven of chapter four of the General Laws or any other general or special law to the contrary, the commissioner of revenue or other official responsible for a local reimbursement or assistance program reported by said commissioner pursuant to section twenty-five A of

chapter fifty-eight of the General Laws shall use the nineteen hundred and ninety-four city and town population estimates of the United States Bureau of the Census in calculating distributions or assessments under such local reimbursement or assistance programs. Such distribution programs shall include, but not be limited to, the school aid program established under the provisions of chapter seventy of the General Laws and regional public libraries. Such assessments shall include, but not be limited to, air pollution control districts, the Metropolitan Area Planning Council, the Old Colony Planning Council, the Massachusetts Bay Transportation Authority and any other entity for which said commissioner is required to give notice pursuant to said section twenty-five A.

SECTION 552. Notwithstanding the provisions of any general or special law to the contrary, the state treasurer is hereby authorized to pay for items under section thirty-eight C of chapter twenty-nine of the General Laws from items 0699-0015 and 0699-9100; provided, however, that such payments pertain to the bonds, notes, or other obligations authorized to be paid from each item.

SECTION 553. Notwithstanding the provisions of section seventeen of chapter forty-four of the General Laws, the officers of a city, town or regional school district authorized to issue bonds, notes or certificates of indebtedness for a school construction project, for which it has received notice that it has filed a complete school building assistance application with the department of education and that the project has been placed by the department on the school building assistance priority list, may refund, by the issuance of refunding notes, a temporary loan issued in anticipation of money to be derived from the sale of such bonds, notes or certificates; provided, however, that the period from the date of issue of the original temporary loan to the final maturity of any such refunding notes shall not exceed five years and; provided further, that such refunding notes need not be paid in part from revenue funds of the city, town or regional school district until the end of the fiscal year following the fiscal year in which the board of education approves the project for a school construction grant pursuant to the provisions of chapter six hundred forty-five of the acts of nineteen hundred and forty-eight or any successor school construction grant statute. The time within which the serial bonds, notes or certificates of indebtedness issued to pay refunding temporary notes issued hereunder must be due and payable shall be extended by the period from the date of the original temporary loan to (*a*) the date of issue of such serial bonds, notes or certificates or (*b*) the end of the fiscal year in which the board of education approves the project for a school construction grant, whichever date is earlier.

SECTION 554. Notwithstanding any general or special law to the contrary, authorized representatives of the director of labor and workforce development, shall include auditors from the department of revenue to perform the functions authorized by section forty-five of chapter one hundred and fifty-one A of the General Laws; provided, however, that the commissioner of labor and the commissioner of the department of revenue shall enter into a mutually acceptable arrangement for the assignment of such auditors.

SECTION 555. Notwithstanding any general or special law to the contrary, there is hereby established and set up on the books of the commonwealth and within the office of the treasurer of the commonwealth a fund which shall be called the Pension Adjustment

Fund. During fiscal year nineteen hundred and ninety-seven, the treasurer shall cause to be deposited into said fund an amount of not less than five million dollars, generated by the cost savings resulting from the state treasurer's initiative to reduce the amount of investment manager fees expended by the commonwealth through the reduction of the number of investment advisors or other pension consultants retained by the treasurer with respect to state pension funds or through other means.

SECTION 556. Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the executive office of environmental affairs, and any successor agency, is authorized and directed to extend the deadline for the town of Groveland's use of any land acquisition monies awarded on or about October twenty-fourth, nineteen hundred and ninety-five, including, but not limited to, those monies awarded under the Executive Office of Environmental Affairs Self-Help program for Nun's Hill from June first, nineteen hundred and ninety-six to December thirty-first, nineteen hundred and ninety-six, and is further authorized and directed to extend the deadline for the city of Beverly's use of any land acquisition monies awarded on or about September twenty-ninth, nineteen hundred and ninety-five, including, but not limited to, those monies awarded under the executive office of environmental affairs self-help program for the Geary property on the Beverly waterfront from June first, nineteen hundred and ninety-six to December thirty-first, nineteen hundred and ninety-six.

SECTION 557. Notwithstanding any general or special law to the contrary, in fiscal year nineteen hundred and ninety-seven, the department of revenue shall employ an additional ten field auditors, in the multi-state bureau, so called, and ten additional field auditors in the metro bureau, so called, at a cost of no more than eight hundred and eighty thousand dollars in salary, benefit, equipment and supply expenses in fiscal year nineteen hundred and ninety-seven. Said additional field auditors shall be in addition to the auditors authorized by section two hundred and forty-nine of chapter thirty-eight of the acts of nineteen hundred and ninety-five. Said expenses of such additional auditors shall be paid from the funds appropriated in item 1201-0130 in section two. No person employed by the department as of May first, nineteen hundred and ninety-six, except those auditors authorized by said section two hundred and forty-nine, shall be compensated from said item 1201-0130; provided, however, that the number of persons in field audit positions in the multi-state and metro bureaus, so called, shall increase by sixty when measured against the number of persons in field audit positions in said bureaus as of May first, nineteen hundred and ninety-five. The revenues assessed by these sixty auditors shall be deposited, when collected, in the tax revenue maximization fund, established by said section two hundred and forty-nine. Said fund shall be for the exclusive purpose of the deposit of monies collected by the auditors authorized by this section and said section two hundred and forty-nine. Any monies remaining in said fund at the close of the fiscal year shall be transferred to the general fund. Said fund shall not be subject to any other transfers.

SECTION 558. Notwithstanding any general or special law to the contrary, the office of consumer affairs and business regulation, in consultation with the department of environmental protection, the executive office of public safety, the division of insurance and

the division of standards, shall study the advisability of transferring to the division of registration other state agencies with similar registration and licensing functions, including but not limited to the board of licensed site professionals, the board of motor vehicle damage appraisers, the board of waste water operators, and the examiners of oil burner technicians. The office shall file a report of its recommendations with the governor and the house and senate committees on ways and means not later than January fifteenth, nineteen hundred and ninety-seven.

SECTION 559. Notwithstanding the provisions of any general or special law to the contrary, the criminal justice training council is hereby authorized and directed to charge one thousand eight hundred dollars per recruit for training programs operated by the council for recruits of city and towns police departments who begin training on or after July first, nineteen hundred and ninety-six. The state comptroller is hereby authorized and directed to transfer one thousand eight hundred dollars multiplied by the number of such recruits from each municipality from the local aid payments of the municipality in which said recruit shall serve. Said council shall transmit the required information to the comptroller and the comptroller shall make said transfers in the fiscal quarter immediately following the completion of training. The state comptroller shall certify all such transfers to the house and senate committees on ways and means no later than thirty days after completion of said transfer. Upon completion of training, said training fee of one thousand eight hundred dollars shall be deducted from the recruit's wages in eighteen equal monthly installments or as otherwise negotiated.

SECTION 560. (a) Notwithstanding any general or special law to the contrary, there shall be established upon the books of the commonwealth a separate fund to be known as the Division of Registration Trust Fund. Said fund shall consist of one hundred percent of the additional fee revenue collected in accordance with subsection (*b*) by the division and the various boards serving within the division pursuant to section nine of chapter thirteen. Such fees shall be in addition to any fees for obtaining and renewing a license, certificate, registration, permit or authority as determined by the commissioner of administration and finance under section three B of chapter seven established prior to July first, nineteen hundred and ninety-six. The monies in said fund may be expended, without further appropriation, by the division of registration established by section eight of said chapter thirteen. The director of said division is authorized to approve expenditures from this account including, but not limited to, expenditures for the shared administrative costs of the operations and programs of the division and the boards therein including, but not limited to, the cost of additional shared personnel. The director of said division is hereby directed to ensure that funds from this account shall be expended to provide services in an amount reasonably related to the cost of each board's or unit's administrative and regulatory mandates with consideration to the amount of revenue generated by each such board or unit. Monies in the trust fund that are unexpended at the end of the fiscal year shall remain in the trust fund and not revert to the General Fund; provided, however, that the amount of any such unexpended funds that exceeds, by more than twenty percent, the division's total expenditures for the previous fiscal year shall revert to said General Fund.

(b) The boards of registration serving within the division of registration pursuant to section nine of chapter thirteen are hereby authorized, following a public hearing, to increase fees to be collected by said division for the purpose of obtaining or renewing a license, certificate, registration, permit or authority issued by said boards or division by an amount not to exceed thirty percent of the fees in effect and determined by the commissioner of administration and finance pursuant to section three B of chapter seven as of July first, nineteen hundred and ninety-six. The comptroller is hereby authorized and directed to credit to the Division of Registration Trust Fund any and all amounts thereby collected by said division as a result of an increase in fees in excess of fee rates in effect as of July first, nineteen hundred and ninety-six. The comptroller is hereby further authorized and directed to submit to the house and senate committees on ways and means, on a quarterly basis, a report detailing the amounts credited to and expended from said fund and the sources of and purposes for which said funds have been expended.

SECTION 561. Notwithstanding any general or special law to the contrary, the department of public health, the department of mental health and the department of mental retardation are each hereby authorized and directed to develop a five-year plan regarding the projected operational status of facilities managed or operated by said departments, including state hospitals, state schools, developmental centers for the mentally retarded and community health centers. Said plan shall detail the number of consumers residing in each such facility as of June thirtieth, nineteen hundred and ninety-six, the current average cost of consumer care at each such facility, the number of proposed placements of such consumers into community-based settings and the projected time frames for such placements, an analysis of the availability of community-based settings over the five-year period, and an analysis of the costs of developing and maintaining such community-based placements over the five year period. Said plan shall compare the distribution, per planning population, of the facilities of the departments to that of other similarly populated states. Said plan shall detail any proposed privatization, consolidation or closure of bed capacities at said facilities, the fiscal and policy rationale for any such proposals, and the costs, timetable and description of the proposed replacement sites or service alternatives needed to maintain the same level of services to consumers upon the closure or consolidation of any such facilities. Said plan shall detail the amount of square footage underutilized at each existing facility as of June thirtieth of nineteen hundred and ninety-six and shall detail the projected capital costs associated with the maintenance of the existing and proposed facilities. Said plan shall detail the projected savings from any such consolidation or closure and shall detail the proposed usage of such savings. Said plan shall identify the programs, bed capacities and staffing pattern that would remain state operated after the implementation of any proposed facility consolidation or closure. Said plan shall identify all proposed steps for relocating state employees who would be dislocated as a result of the proposed facility consolidation or closure. Said plan shall be submitted to the secretary of administration and finance and the house and senate committees on ways and means on or before October thirteenth, nineteen hundred and ninety-six.

SECTION 562. Notwithstanding any general or special law to the contrary, four hundred seventy-five thousand dollars from item 5911-1000 of section two and two hundred seventy-five thousand dollars from item 5011-0100 of said section two shall be placed in a reserve to provide funds, pursuant to this section, for an association of human services providers in the commonwealth that have recognized a common exclusive collective bargaining representative of their employees, in this section known as the consortium.

Before the obligation or expenditure of any funds from said reserve, the consortium shall submit to the executive office of health and human services, on or before October first, nineteen hundred and ninety-six, or sixty days after the effective date of this section, whichever comes later, a financial plan describing and attaching copies of: (1) any agreements for joint purchasing of supplies or equipment entered into by the members of the consortium, the effective date of such agreements, and the dollar amount of savings which will thereby be achieved in fiscal years nineteen hundred and ninety-seven and nineteen hundred and ninety-eight; (2) any agreements among consortium members for sharing or pooling of resources to provide increased educational programs for the training of staff who serve clients whose care is paid for by the commonwealth, the effective date of such agreements, and the dollar amount of savings which will thereby be achieved in fiscal years nineteen hundred and ninety-seven and nineteen hundred and ninety-eight; (3) any joint retirement programs established by the members of the consortium, the effective date of such joint programs, and the dollar amount of savings which will be achieved from such joint programs in fiscal years nineteen hundred and ninety-seven and nineteen hundred and ninety-eight; (4) any agreements for cooperative approaches to funding of staff benefits entered into by members of the consortium, the effective date of such agreements, and the dollar amount of savings which will thereby be achieved from such agreements in fiscal years nineteen hundred and ninety-seven and nineteen hundred and ninety-eight; (5) any agreements for increased compensation in fiscal years nineteen hundred and ninety-seven or nineteen hundred and ninety-eight for employees of the members of the consortium designed to attract and retain qualified staff, the effective date of such agreements, and the total dollar amount of increased costs that will thereby be incurred and any amount of savings that will thereby be achieved due to reduced worker turnover or otherwise in fiscal years nineteen hundred and ninety-seven and nineteen hundred and ninety-eight; and (6) grants, administrative measures and changes in work rules that have been agreed upon by members of the consortium to improve efficiency, productivity, and quality of care, the effective date(s) of such changes, and the dollar amount of savings which are predicted to be achieved in fiscal years nineteen hundred and ninety-seven or nineteen hundred and ninety-eight.

A committee comprised of the state auditor, the secretary of health and human services and the director of labor and workforce development shall review the consortium's analysis of the dollar savings, increased costs and improvements in efficiency, productivity and quality of care to be generated by the plan. The committee shall file with the house and senate committees on ways and means and with the division of purchased services a report of its conclusions within thirty days after submission of the plan by the consortium. If the

committee concludes that the consortium's submitted cost figures are generally accurate, and further concludes that the cost increases generated by the increased compensation, training and benefits to employees do not exceed the cost savings generated by the plan by more than seventy-five percent, then the division of purchased services shall, within thirty days after issuance of the committee's report, pay to the consortium from the reserve fund an amount equal to the cost increases associated with increased employee compensation, training and benefits for fiscal year nineteen hundred and ninety-seven, up to the amount appropriated to the reserve fund.

If the committee concludes that the cost figures set forth in the consortium's plan are not generally accurate, or if the committee concludes that the cost increases generated by increased compensation, training and benefits to employees exceeds the amount of cost savings generated by the plan by more than seventy-five percent, then the division of purchased services shall not release any funds from the reserve unless and until the consortium has submitted a supplemental or revised plan and the committee has revised its conclusions. The consortium shall submit any such supplemental or revised plan no later than the January fifth, nineteen hundred and ninety-seven, or thirty days after notification of the committee's initial decision, whichever comes later, and the committee shall file with the house and senate committees on ways and means and with the division of purchased services a report on such supplemental or revised plan within thirty days thereafter. If the committee, upon review of the supplemental or revised plan, concludes that cost figures in the plan are generally accurate and the cost increases generated by the employee compensation, training and benefits increases do not exceed the cost savings which will be generated by the plan by more than seventy-five percent, then the division of purchased services will, within thirty days after the committee's issuance of its revised report, pay to the consortium from the reserve fund an amount equal to the cost increases associated with increased employee compensation, benefits and training for fiscal year nineteen hundred and ninety-seven, up to the amount appropriated to the reserve fund.

Any funds received by members of the consortium through the compact program shall be deemed to be a rate increase for the human service provider receiving said funds under a legislative order pursuant to 808 CMR 1.10 (2) and shall not be considered off-setting revenue as defined in 808 CMR 1.02, nor shall receipt of said funds by a program contract operated by said human service provider serve as a basis for a reduction in a rate, maximum obligation or resource. Nor shall any such funds be construed or deemed to be in lieu of or in substitution for any appropriation increases to human service providers made by the commonwealth. To the extent such funds are applied to increase salaries or fringe benefits of employees of a human service provider, which is a member of the consortium, pursuant to a collective bargaining or other such agreement, said funds shall be added, subject to appropriation, to the maximum obligation of the applicable program contract or contracts, if any, of the human service provider in fiscal year nineteen hundred and ninety-eight.

SECTION 563. Notwithstanding the provisions of section thirty of chapter twenty-nine of the General Laws or any other general or special law to the contrary, the division of energy resources is hereby authorized to procure, in accordance with all applicable procurement and solicitation laws, comprehensive motor vehicle insurance coverage for electric vehicles purchased for use in the commonwealth's electric vehicle demonstration program; provided, however, that nothing in this section shall be construed so as to require any additional state appropriated funds for the division of energy resources; and provided further, that such coverage may continue or be renewed until the conclusion of said electric vehicle demonstration program.

SECTION 564. Notwithstanding the provisions of any general or special law to the contrary, on or before January fifth, nineteen hundred and ninety-seven, the commissioner of the department of social services shall promulgate regulations requiring that all persons employed by the department as social workers obtained a license pursuant to section one hundred and thirty-one of chapter one hundred and twelve of the General Laws and shall attend in-service training programs offered by the department at least two times per year.

The commissioner shall develop such regulations for public notice and comment after consultation with and advice from the secretary of the executive office of health and human services, the state advisory council, the regional directors and regional advisory councils, the area directors and area boards, and the social workers employed by the department or their collective bargaining representatives. The regulations shall be effective as of April first, nineteen hundred and ninety-seven, or such time as the collective bargaining representatives of the commonwealth and of the social workers employed by the department have bargained to agreement or to an impasse as determined by the board of conciliation and arbitration pursuant to section nine of chapter one hundred and fifty E of the General Laws over the impact of such regulations; provided, however, that the department shall pay the fee required by the board of registration of social workers for such licensure for each social worker presently employed by the department on a one-time-only basis, and provided, further, that the regulations shall provide for the "grandfathering", so-called, of social workers employed by the department as of the effective date of the regulations for a period of not less than one year and not more than four years and shall excuse persons with a higher level of licensure as provided in said section one hundred thirty-one of said chapter one hundred and twelve from obtaining the license referred to in the first paragraph of this section. The regulations may provide for different levels of licensure for social workers with different levels of responsibility in the department, provided, however, that any such regulations shall be promulgated pursuant to a staffing plan that specifies the rationale for requiring said different levels of licensure, the projected impact on payroll costs and any adjustments to collective bargaining agreements that said different levels would necessitate, and the projected number of positions, by functional job title, requiring said different levels of licensure that the department deems necessary to meet its management and supervisory needs in fiscal year nineteen hundred and ninety-seven and nineteen hundred and ninety-eight. Said staffing plan shall be filed with the house and senate committees on ways and means at the same time the regulations required by this section are promulgated.

SECTION 565. Notwithstanding the provisions of any general or special law to the contrary, the secretary of administration and finance, in consultation with the secretary of health and human services, shall establish, by regulation or otherwise, to the extent consistent with federal law, a system whereby a consumer of services or benefits provided by more than one agency of the commonwealth may be identified by each such agency through the use of a single or common identifying number.

SECTION 566. On or before the January fifth, nineteen hundred and ninety-seven, the commissioner of the department of social services shall promulgate regulations defining and providing for differing levels of foster family care, including, but not limited to, a level of foster care designed to enable children with special medical, psychological and social needs to be placed in foster family care instead of more structured group care settings. The regulations shall include, but not be limited to, provisions for a tiered-reimbursement system which reflects the added demands on foster families with whom children with special medical, psychological and social needs are placed; provided, however, that the annualized increased cost of implementing said tiered-reimbursement rate shall not exceed eight million dollars. The commissioner shall develop such regulations for public notice and comment after consultation with and advice from the state advisory council, the regional directors and regional advisory councils, the area directors and the area boards. The regulations shall have an effective date of no later than the February fifteenth, nineteen hundred and ninety-seven. The commissioner shall provide a copy of the proposed regulations and an explanation of why the regulations as proposed would not result in an annualized increased cost of more than eight million dollars to the house and senate committees on ways and means on or before January fifteenth, nineteen hundred and ninety-seven.

SECTION 567. (*a*) Notwithstanding the provisions of any general or special law to the contrary, all functions, duties and responsibilities for operation and management of the jail, house of corrections and registry of deeds of Franklin county and all duties and responsibilities for operation and management of property occupied by the courts in Franklin county are hereby transferred to the commonwealth, subject to the provisions of this section.

(*b*) Notwithstanding the provisions of any general or special law to the contrary, pursuant to this section, the county government of Franklin county is hereby abolished, as of July first, nineteen hundred and ninety-seven. Nothing in this section shall affect the existing county boundaries. All powers and duties of Franklin county under any existing regional services agreements or special acts are hereby transferred to the Franklin Council of Governments established pursuant to subsection (*r*).

(*c*) All valid liabilities and debts of Franklin county pertaining to the functions cited in subsection (*a*) which are in force on June thirtieth, nineteen hundred and ninety-seven, are henceforth obligations of the commonwealth, except as may be otherwise provided in this section.

(*d*) All valid leases and contracts of Franklin county pertaining to the functions cited in said subsection (*a*) which are in force on June thirtieth, nineteen hundred and ninety-seven, are henceforth obligations of the commonwealth and the commonwealth shall have authority to exercise all rights and enjoy all interests conferred upon the county by said

leases and contracts except as may be otherwise provided in this section.

(*e*) Notwithstanding the provisions of any general or special law to the contrary, there is hereby transferred to the commonwealth all right, title and interest in real and personal property including without limitation, except as may be otherwise provided in this section, the Franklin county courthouse, the Franklin county registry of deeds, the Franklin county jail and house of corrections, and the land on which they are situated and the parking facilities, fixtures and improvements located thereon or associated therewith. Such transfer shall be subject to the provisions of chapter seven of the General Laws and the jurisdiction of the commissioner of the division of capital planning and operations, or his successor, as provided therein. Personal property of the offices and meeting rooms of the Franklin county commissioners shall become the property of the Franklin Council of Governments. The transfers under this subsection shall be effective and shall bind all persons, with or without notice, without any further action or documentation. The commissioner of the division of capital planning and operations, or his successor, may, from time to time, execute and record and file for registration with such registry of deeds or land court, a certificate confirming the commonwealth's ownership of any interest in the real property formerly held by Franklin county. Funds held in trust by the county of Franklin for specific charitable or program purposes other than those pertaining to the court, jail or registry of deeds shall remain under the custody of the Franklin Council of Governments.

(*f*) Herlihy Park, so called, a parcel of fifteen acres, more or less, located in the town of Whately and under long term lease from the county by said town for use as a recreation area, shall be offered without consideration to the town upon dissolution of the county. If the town declines to take ownership of the property within one hundred eighty days of the offer, the commonwealth shall take possession of said property without abrogation of the lease to the town of Whately.

(*g*) The Franklin Council of Governments may occupy, without consideration, such space as is under the control of the Franklin county commissioners in the Franklin county courthouse as of June thirtieth, nineteen hundred and ninety-seven, or its equivalent, including common use of parking. Not later than February first, nineteen hundred and ninety-eight, the Franklin Council of Governments Committee, the commissioner of the division of capital planning and operations, and the chief justice for administration and management of the trial court shall jointly recommend to the house and senate committees on ways and means alternative methods for providing suitable quarters for the Franklin Council of Governments, including fair compensation for moving expenses.

(*h*) Notwithstanding any general or special law to the contrary, the county commissioners of Franklin county shall on July first, nineteen hundred and ninety-seven, become known as the Franklin Council of Governments Committee and each member may serve until the end of the current term as if a county commissioner and until a successor committee member is elected. Said committee shall be the chief executive officer of the Council of Governments and shall have the powers of selectmen under sections fifty-two and

fifty-six of the chapter forty-one of the General Laws. Two members of the Franklin Council of Governments Committee shall be chosen by the voters of Franklin county at the biennial state election in the year two thousand, and in every fourth year thereafter, and one committee member shall be so chosen at the biennial state election in the year nineteen hundred and ninety-eight, and in every fourth year thereafter, and in addition at each biennial state election such number of members of the committee will be so chosen as may be required to fill vacancies. No more than one of the committee members shall be chosen from the same city or town. If two persons residing in the same city or town shall appear to have been chosen to said offices, only the person receiving the larger number of votes shall be declared elected; but if they shall receive an equal number of votes, neither person shall be declared elected. If a person residing in a city or town where a committee member who is to remain in office also resides, shall appear to have been chosen, he shall not be declared elected. If the person is not declared elected by reason of the above provisions, the person receiving the next highest number of votes for the office, and who resides in another city or town, shall be declared elected.

(*i*) Notwithstanding any special or general law to the contrary, the Franklin county register of deeds in office June thirtieth, nineteen hundred and ninety-seven shall become an employee of the commonwealth under the secretary of the commonwealth effective July first, nineteen hundred and ninety-seven. The register shall remain an elected official retaining local administrative control under the general direction of the state secretary. The salary of such register shall be set at a sum equivalent to sixty percent of the salary of an associate justice of the land court. The operation of the registry shall remain under the control of the register as provided by law. The budget of the registry shall be determined by the secretary of the commonwealth, subject to appropriation by the general court; the register shall appoint employees and subordinates subject to the approval of the secretary. The secretary of the commonwealth shall have the authority, if he determines after consultation with the register that a pattern of conduct, standard, practice or procedure of the registry is contrary to law, to order such official to comply with the law.

(*j*) Notwithstanding any general or special law to the contrary, the sheriff of Franklin county in office June thirtieth, nineteen hundred and ninety-seven, shall become an employee of the commonwealth under the secretary of public safety effective July first, nineteen hundred and ninety-seven. The sheriff shall remain an elected official retaining local administrative control under the general direction of the executive office of public safety. The salary of such sheriff shall be set at a level equivalent to the salary of the superintendent of a comparable state corrections facility, to be determined through a classification study conducted by the state personnel administrator.

(*k*) Notwithstanding any general or special law to the contrary, the Franklin county treasurer, appointed by the county commissioners under chapter twelve of the acts of nineteen hundred ninety-five, shall on July first, nineteen hundred and ninety-seven, become known as the director of finance for the Franklin Council of Governments. The director of finance shall be appointed by the Franklin Council of Governments Committee. The director

of finance shall have the powers and duties of a municipal treasurer under section thirty-five of chapter forty-one and under sections fifty-four, fifty-five and fifty-five A of chapter forty-four of the General Laws. The director may also incur temporary debt in anticipation of revenue for a term not to exceed one year, with the approval of a majority of the Franklin Council of Governments Committee. Such temporary debt shall not exceed one-half of the amount of the Council of Governments assessment under subsection (v). Sections sixteen to nineteen, inclusive, and sections twenty-one to twenty-two C, inclusive, of chapter forty-four of the General Laws shall, so far as apt, apply to debt issued under this subsection. The director of finance shall serve in the same capacity as the county treasurer with respect to the retirement system.

(*l*) Notwithstanding any general or special law to the contrary, effective July first, nineteen hundred and ninety-seven, the commonwealth shall assume all financial control and responsibility over the Franklin county registry of deeds, Franklin county jail and house of corrections and Franklin county courthouse operations.

(*m*) All revenues collected from the operation of the functions cited in subsection (a) shall become revenues of the commonwealth on and after the effective date of this section, subject to the provisions of this section. All revenues collected from the operation of the functions cited in said subsection (a) before the effective date of this section which have not been expended or encumbered on or before June thirtieth, nineteen hundred and ninety-seven, shall be transferred to the commonwealth, subject to the provisions of this section. Deeds excise taxes shall be included as revenue collected for the operation of the functions cited in subsection (a).

(*n*) Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the Franklin county sheriff, all deputies, jailers, superintendents, keepers, officers, assistants and other employees of the sheriff, employed on the effective date of this section in the discharge of their responsibilities set forth in section twenty-four of chapter thirty-seven and in section sixteen of chapter one hundred and twenty-six of the General Laws, transferred by this section to the commonwealth, shall be transferred with no impairment of employment rights held immediately before the effective date of this section, without interruption of service, without impairment of seniority, retirement or other rights of employees, without reduction in compensation or salary grade and without change in union representation. Any collective bargaining agreement in effect immediately before said effective date of the transfer shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. Nothing in this subsection shall be construed to confer upon any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited before such date.

All demands, notices, citations, writs, precepts, and all other notices given by the sheriff, deputies, jailers, superintendents, keepers, officers, assistants or other employees of

a sheriff, as the case may be, before the effective date of this section shall be valid and effective for all purposes unless otherwise revoked, suspended, rescinded, canceled or terminated in accordance with law.

Any enforcement activity imposed by the sheriff, any deputies, jailers, superintendents, keepers, officers, assistants or other employees of the sheriff, before the effective date of this section shall be valid, effective and continuing in force according to the terms thereof for all purposes, unless superseded, revised, rescinded or canceled in accordance with law.

All petitions, hearings, appeals, suits and other proceedings duly brought against, and all petitions, hearings, appeals, suits, prosecutions and other legal proceedings begun by the sheriff, deputies, jailers, superintendents, keepers, officers, assistants or other employees of the sheriff, as the case may be, which are pending immediately before the effective date of this section, shall continue unabated and remain in force notwithstanding the passage of this section.

All records maintained by the sheriff, deputies, jailers, superintendents, keepers, officers, assistants and other employees of the sheriff before the effective date of this section shall continue to enjoy the same status in any court or administrative proceeding, whether pending on the effective date of this section or commenced thereafter, as they would have enjoyed in the absence of the passage of this section.

Employees of the Franklin county registry of deeds shall be transferred to the commonwealth under the office of the state secretary as of the effective date of this section. The rights of such transferred employees will be governed by the same laws and rules generally applicable to employees of the state secretary.

(*o*) In the case of employees of the Franklin county jail or house of correction in the custody and control of the sheriff of Franklin county, the employer, as defined in section one of chapter one hundred and fifty E of the General Laws, shall mean the sheriff of Franklin county or any individual who is designated to represent the sheriff and act in his interest in dealing with employees.

(*p*) Notwithstanding any general or special law to the contrary, the provisions of subsection (*c*) of section seven of said chapter one hundred and fifty E shall apply to the sheriff of Franklin county.

(*q*) Employees of Franklin county who have retired or retire on or before June thirtieth, nineteen hundred and ninety-seven shall remain a part of the Franklin county retirement system and are subject to the health insurance plans, rules and regulations of the Franklin Council of Governments. The Franklin Council of Governments shall be a member of the Franklin county retirement system as successor to Franklin county. The powers, duties and responsibilities of Franklin county with respect to group health insurance under chapter thirty-two B of the General Laws are hereby transferred to the Franklin Council of Governments. The Franklin Council of Governments shall continue to provide health insurance coverage for covered employees transferred to the commonwealth by this section until October first, nineteen hundred ninety-seven. During the period employees continue

to remain covered by the Franklin Council of Governments plan, employee payroll deductions and employer contributions shall be made by the commonwealth and paid over to the Franklin Council of Governments. The Franklin Council of Governments shall pay any necessary premiums in anticipation of reimbursement from the commonwealth. The contribution ratio effective during the transition period shall be the effective ratio for state employees.

(*r*) The Franklin Council of Governments is hereby established within the geographical boundaries of Franklin county. Any powers previously conferred upon the Franklin county and its county commissioners by chapter four hundred and twenty-five of the acts of nineteen hundred and sixty-three as amended shall be retained by the Franklin Council of Governments and the Franklin Council of Governments Committee. The Franklin Council of Governments Committee shall have all the powers and duties of county commissioners under chapters eighty-one to eighty-eight, inclusive, of the General Laws. The Franklin Council of Governments shall retain the powers and duties of counties under chapter one hundred and forty of the General Laws with respect to dogs and other animals.

Any and all regional planning activities or functions established for Franklin county pursuant to the provisions of chapter four hundred and twenty-five of the acts of nineteen hundred and sixty-three, and functions authorized for regional planning commissions by sections five, five A, five B, and fourteen of chapter forty B of the General Laws, shall be the responsibility of the Franklin Council of Governments Committee.

The Council of Governments Committee as the executive body and the Regional Advisory Board as the legislative body shall have and may exercise any and all authority for regional planning as may be authorized by state law and shall be responsible for the establishment of policies to guide all regional planning and development activities of the Franklin Council of Governments.

The Franklin Regional Planning Board shall advise the Council of Governments Committee and Regional Advisory Board on all issues related to planning and shall make recommendations as appropriate.

The Franklin Council of Governments may apply for state, federal or other entities' grant or other programs on such terms as apply to county governments.

(*s*) Notwithstanding any general or special law to the contrary, the county advisory board of Franklin county shall on July first, nineteen hundred and ninety-seven become known as the Franklin Regional Advisory Board. The advisory board shall consist of a member of the board of selectmen of each town. Each town shall have a weighted vote based on that town's assessment for expenses of the Council of Governments. Each town's weighted vote will be computed based on the most recent biennial report of the commissioner of revenue submitting the final equalization and apportionment upon the several towns of the amount of property and the proportion by every one thousand dollars of regional services assessment which should be assessed upon each town, and assessment ratios for classes of property in each town under section ten C of chapter fifty-eight of the General Laws. The advisory board shall be the legislative and appropriating authority of the Council of Governments, and shall each spring adopt a budget for the following fiscal year.

(*t*) The Franklin county planning board shall henceforth be known as the Franklin Regional Planning Board. The board shall continue to be comprised of one member of each town's board of selectmen and planning board, the Council of Governments Committee, and fifteen at-large members from the region selected by the membership pursuant to its bylaws. The regional planning board shall advise the Council of Governments Committee and regional advisory board regarding any regional planning issue and shall act according to its by-laws.

(*u*) Notwithstanding the provisions of any special or general law to the contrary, any political subdivision of the commonwealth may enter into agreement with the Franklin Council of Governments to perform jointly or for the other, or in cooperation with other entities, any service, activity or undertaking which such political subdivision is authorized by law to perform. For the term of such agreement and subject to the terms thereof, said Council of Governments shall be authorized to perform such service, activity or undertaking and the regional service area committee may designate appropriate representatives to oversee such performance, provided that the functions and duties of such representative or representatives are set forth in the agreement.

(*v*) Notwithstanding any special or general law to the contrary, for the fiscal year beginning July first, nineteen hundred and ninety-seven, and all subsequent fiscal years, the Franklin Council of Governments may impose a regional assessment up to one hundred and two and one-half percent of the amount of the county tax assessed under the provisions of chapter thirty-five of the General Laws for the fiscal year beginning July first, nineteen hundred ninety-six. The regional assessment, shall be allocated among the members of the Council of Governments in proportion to their respective equalized valuations as reported to the general court by the commissioner of revenue in accordance with section ten C of chapter fifty-eight of the General Laws. The regional assessment shall be based upon the budget adopted by the regional advisory board, net of estimated revenues. The regional assessment shall be retained by the Franklin Council of Governments and shall be used solely for the purpose of providing regional or municipal services or both, under the authority granted above. The commonwealth shall not assess the towns of Franklin county for the transfer of former County functions either directly, through a reduction in local aid, or by any other means.

During the period July first, nineteen hundred and ninety-seven through June thirtieth, nineteen hundred and ninety-nine, the regional assessment may be reduced or increased from the base year of fiscal nineteen hundred ninety-seven pursuant to the action of the Council of Governments Committee and Regional Advisory Board subject to the same formula and limits of the former county tax. After June thirtieth, nineteen hundred ninety-nine, this subsection may be revised pursuant to subsection (*w*).

(*w*) A Regional Charter Commission, comprised of the Franklin Council of Governments Committee and one representative from each municipality appointed by the board of selectmen, shall be constituted within ninety days of the effective date of the Franklin Council of Governments, and shall report a recommended structure for the Council of Governments not later than December thirty-first, nineteen hundred and ninety-seven.

Each member shall have one vote and proceedings shall be conducted pursuant to Roberts Rules of Order. Matters shall be determined by simple majority vote. Within sixty days of the first meeting of the charter commission, the commission may vote to include other individuals or groups as members of the commission. Such proposal may include changes in the executive and representative bodies, changes in the assessment allocation formula, but not the total amount of the assessment, recommendations for further transfer of functions to the commonwealth, and other related operational rules and procedures. Such proposal shall be placed on the town meeting warrants of each town in the Franklin county region in the spring of nineteen hundred ninety-eight. Such proposal shall make provision for the method of determining approval of the charter proposal, but such method of approval must require at least a majority vote of town meeting in a majority of the towns or a majority vote in a county-wide election. Such proposal shall also include provisions for towns to enter or leave participation in the base assessment and shall include a default option to abolish the Council of Governments in event such charter proposal is not approved. Such charter shall take effect July first, nineteen hundred ninety-eight.

(x) The secretary of administration and finance, in consultation with the Franklin Council of Governments Committee, may issue guidelines to govern the implementation of this section.

(y) Notwithstanding the provisions of any general or special law to the contrary, for the fiscal year beginning July first, nineteen hundred and ninety-six, all net costs incurred by, or attributable to, the operations of the Franklin county jail, registry of deeds and court facilities shall become obligations of the commonwealth, to the extent that they exceed net costs for the fiscal year beginning July first, nineteen hundred and ninety-five and are determined to be reasonable by the county government finance review board.

SECTION 568. Notwithstanding any general or special law, or rule or regulation to the contrary, upon failure to choose or upon a vacancy in the office of district attorney, clerk of the courts or, in Suffolk county, of the supreme judicial or superior court, register of probate or sheriff, the governor shall cause precepts to be issued to the proper officers, directing them to call an election within one hundred and twenty days for the election of such officer.

SECTION 569. Notwithstanding any general or special law to the contrary, the treasurer of the commonwealth shall develop and submit to the house and senate committees on ways and means, on or before September fifteenth, nineteen hundred and ninety-six, a comprehensive implementation plan for consolidating the PRIT and MASTERS funds, so called, on or before April first, nineteen hundred and ninety-seven. Said implementation plan shall address all issues relevant to such merger or consolidation, including, but not limited to, the efficacy of such merger or consolidation, the resulting safety and integrity of the funds, the efficiency and effectiveness of the investment management of the existing funds and any proposals for improvement associated with the proposed merger or consolidation, the proposed asset allocation, the legality of trust instruments, a comparison of the amount of management fees and commissions under the existing systems and under the proposed merged or consolidated systems, an analysis of fiduciary issues raised by the

proposed merger or consolidation, all issues relative to plan qualification, and an analysis of the overall cost effectiveness of such merger or consolidation, verified by an independent source. The plan shall also include the treasurer's recommendations for the appropriate composition of the board which would oversee the operations of the consolidated system so as to provide fair and equitable representation of all affected employee groups, the proposed staffing needed to service a merged or consolidated plan, and a detailed report of the administrative actions required effectively to accomplish said consolidation and a schedule for completing such actions so that the consolidation may be completed in an orderly, fair and efficient manner, on or before April first, nineteen hundred and ninety-seven.

On or before November fifteenth, nineteen hundred and ninety-six, the treasurer shall hold public hearings on the proposed merger or consolidation, with written advance notice to the house and senate committees on ways and means and to each beneficiary of each fund of the date, place, time and subject matter of said hearings. On or before December fifteenth, nineteen hundred and ninety-six, the treasurer shall submit to the clerks of the house and the senate any and all proposed enabling legislation he deems necessary or appropriate for the facilitation of said merger or consolidation. Said clerks shall immediately direct such legislation to the appropriate committees so as to allow due consideration of and action on such legislation prior to April first, nineteen hundred and ninety-seven.

SECTION 570. Notwithstanding the provisions of any general or special law to the contrary, a special committee on electric utility restructuring shall be formed for the purpose of studying the issues surrounding the deregulation of the electric utility industry including, but not limited to, the issues of stranded cost recovery, environmental protection, low income ratepayer protection and the property tax impact on cities and towns currently siting electric generators. Further, said committee is hereby authorized and directed to make an investigation and study of the issues regarding removing the determination of need and cost from the purview of the energy facilities siting board in its review of siting new generators and the policies of electric utility deregulation as they impact the demand of Massachusetts municipal and corporate purchasers of electric power. Said committee shall consist of seven members of the senate, five members to be appointed by the senate president and two members to be appointed by the senate minority leader, and seven members of the house of representatives, five members to be appointed by the speaker of the house of representatives and two appointed by the house minority leader. Such committee shall file its initial report, including proposed legislation reforming the energy facilities siting board and legislation allowing municipal and corporate demand aggregation, with the clerk of the senate and the house of representatives on or before December first, nineteen hundred and ninety-six.

SECTION 571. Not less than one hundred and sixty-six thousand dollars of the funds appropriated for the purposes of a scientific research grant program to investigate the potential environmental contributors to incidents of breast cancer in "areas of unique opportunity," so called, and to examine such environmental components as authorized in item 4570-1500 of chapter thirty-eight of the acts of nineteen hundred and ninety-five shall be made available for said purposes until June thirtieth, nineteen hundred and ninety-seven.

SECTION 572. Notwithstanding the provisions of any general or special law to the contrary, the department of mental health, at the request of the department of social services, shall provide assistance in developing and implementing the treatment plans required pursuant to section thirty-three B of chapter one hundred and nineteen of the General Laws. Such assistance shall be provided from existing appropriations to the department of mental health. Any disputes between the two departments as to the extent of the department of mental health's obligations to provide such assistance shall be resolved on a timely basis by the secretary of health and human services, taking into account the needs of the child at issue.

SECTION 573. Notwithstanding any general or special law to the contrary, neither the department of mental health nor the department of mental retardation shall take any action to reduce the client populations at any institutional facilities currently managed or operated by said departments, including state schools, developmental centers for the mentally retarded and community health centers, as a means of initiating closure of said facilities, and neither of said departments shall take any other steps to close any of said facilities, until (1) the five-year plans required by section five hundred and sixty-one are completed and submitted and a review of any such proposed closing has been completed by the secretary of administration and finance, (2) said departments have conducted a public hearing of which the house and senate committees on ways and means shall be given advance notice, and (3) the legislature has been given at least six months' advance notice of such closure; provided, however, that nothing herein shall be construed to prevent the transfer of any client from a state facility to a facility staffed by state employees or to a community placement when the transfer is both clinically warranted as determined by the client's individual service plan or its equivalent and approved by the client or his guardian, nor prevent the transfer of any state employee at such facility; provided further, that each of the departments shall, prior to August first, nineteen hundred and ninety-six, notify, in writing, each client currently residing at such facilities or his guardian that these facilities shall remain open pending further notice to the contrary and that the client's option of remaining at such a facility or a comparable facility shall be considered in the development of and at the next meeting in regard to the client's individual service plan or its equivalent; and provided further, that nothing in this section shall be construed as a waiver of the requirements of section three of chapter one hundred and twenty-three B of the General Laws.

SECTION 574. Notwithstanding any general or special law to the contrary, the operation of 310 CMR 7.24(2)(c)(2) is hereby suspended. The commissioner of department of environmental protection is hereby authorized and directed to hold a public hearing on or before January first, nineteen hundred and ninety-seven concerning the necessity for and economic costs associated with said regulation, after having provided notice of said hearing to the parties who may be affected by the regulation and who identify themselves as such to the commissioner on or before November fifteenth, nineteen hundred and ninety-six. The commissioner is hereby further directed to submit to the house and senate committees on ways and means and the joint committees on commerce and labor and natural resources on

or before March first, nineteen hundred and ninety-seven a report detailing the commissioner's conclusions concerning the justification for, the economic costs associated with, and a thorough explanation of said department's position as to whether the regulation should be rescinded or the foregoing suspension of said regulation should be repealed.

SECTION 575. Notwithstanding the provisions of any general or special law to the contrary, the registrar of motor vehicles shall not license any person or facility located outside of the commonwealth to conduct emissions inspections or safety inspections of motorcycles registered within the commonwealth.

SECTION 576. (*a*) Notwithstanding any general or special law to the contrary, commencing July first, nineteen hundred and ninety-six, the parties to any proceeding conducted pursuant to section forty-three of chapter thirty-one of the General Laws, shall be afforded the opportunity to forego the hearings before the civil service commission referenced therein and choose to have the matter heard by an impartial and qualified arbitrator selected, at the parties' option, pursuant to the procedures established by the board of conciliation and arbitration as provided by chapter one hundred and fifty of the General Laws or through procedures established by the American Arbitration Association. Submission of the matter to arbitration, in lieu of proceedings before the commission, shall occur only with the voluntary, written and notarized consent of all the parties to the proceeding; provided, however, that once such written and notarized consent is submitted to the commission by all parties to the proceeding, the parties shall be obligated to comply with all procedural requirements necessary to bring the matter to arbitration and shall be bound by the decision of the arbitrator, subject only to the provisions for judicial review pursuant to section forty-four of said chapter thirty-one. Failure of a party, who has consented to arbitration, to comply with the procedural requirements necessary to bring the matter to resolution by an arbitrator shall be grounds for entry of a default judgment by the commission, and the commission is hereby authorized and directed to establish procedures for determining whether such default judgment is warranted.

(*b*) The costs of such arbitration shall be borne by the parties to the proceedings in conformity with the rules and regulations established by the board of conciliation and arbitration or the American Arbitration Association, whichever is applicable. Within twenty days of the commission's receipt of an appeal to the commission pursuant to said section forty-three, the commission shall inform all parties in writing of the availability of the arbitration alternatives, shall provide them with a copy of the applicable rules and regulations of the board of conciliation and arbitration and the American Arbitration Association, shall inform the parties that the costs of the arbitration alternative shall be borne by the parties and not the commission, and shall inform the parties that the election to submit the dispute to arbitration in lieu of a hearing before the commission can be made at any time up to thirty days prior to commencement of the hearing authorized in the first paragraph of said section forty-three.

(*c*) An arbitrator selected pursuant to this section shall have the same authority with respect to such proceedings as the commission has in proceedings conducted pursuant to said section forty-three. The decision of an arbitrator pursuant to this section shall be subject to

judicial review, as provided in said section forty-four. The arbitrator's decision shall be reviewed by the same standards set forth in said section forty-four and shall be subject to the same deference that is afforded to decisions of the commission, provided, however, that in the event of a conflict between a decision of an arbitrator and a prior decision of the civil service commission, the decision of the commission shall be afforded greater deference. The party, who initiated the proceedings before the commission pursuant to said section forty-three, shall file with the commission a copy of the award of the arbitrator, notice of institution of proceedings for judicial review pursuant to said section forty-four and a copy of any decision of the court with respect to the arbitrator's award within ten days of the issuance or filing of such award, appeal or judicial decision.

(*d*) No later than March thirtieth, nineteen hundred and ninety-seven, the commission shall submit a report to the house and senate committees on ways and means documenting the number of cases in which the parties have elected the arbitration option, the number of such cases in which an arbitrator's award has issued, the number of such cases in which judicial review has been sought pursuant to said section forty-four, and the number of cases in which the decision of the arbitrator has been affirmed or reversed by the court.

SECTION 577. (*a*) Notwithstanding any general or special law to the contrary, commencing July first, nineteen hundred and ninety-six, the parties to any proceeding conducted pursuant to section eleven of chapter one hundred and fifty E of the General Laws, shall be afforded the opportunity to forego the hearings before the labor relations commission referenced therein and choose to have the matter heard by an impartial and qualified arbitrator selected, at the parties' option, pursuant to the procedures established by the board of conciliation and arbitration as provided by chapter one hundred and fifty of the General Laws or through procedures established by the American Arbitration Association. Submission of the matter to arbitration, in lieu of proceedings before the commission, shall occur only with the voluntary, written and notarized consent of all the parties to the proceeding; provided, however, that once such written and notarized consent is submitted to the commission by all parties to the proceeding, the parties shall be obligated to comply with all procedural requirements necessary to bring the matter to arbitration and shall be bound by the decision of the arbitrator to the same extent as a decision of the commission, subject only to the provisions for judicial review by the appeals court as provided in the last paragraph of said section eleven. Failure of a party, who has consented to arbitration, to comply with the procedural requirements necessary to bring the matter to resolution by an arbitrator shall be grounds for entry of a default judgment by the commission and the commission is hereby authorized and directed to establish procedures for determining whether such default judgment is warranted.

(*b*) The costs of such arbitration shall be borne by the parties to the proceedings in conformity with the rules and regulations established by the board of conciliation and arbitration or the American Arbitration Association, whichever is applicable. At the time that the commission notifies the parties that it has made a determination that there is probable cause to believe that a practice prohibited by section ten of said chapter one hundred and fifty E has been committed, the commission shall also inform all parties, in

writing, of the availability of the arbitration alternatives, shall provide them with a copy of the applicable rules and regulations of the board of conciliation and arbitration and the American Arbitration Association, shall inform the parties that the costs of the arbitration alternative shall be borne by the parties and not the commission, and shall inform the parties that the election to submit the dispute to arbitration, in lieu of a hearing before the commission, can be made at any time up to thirty days prior to commencement of the hearing authorized in the first paragraph of said section eleven.

(*c*) An arbitrator, selected pursuant to this section, shall have the same authority and responsibilities with respect to such proceedings as the commission has in proceedings conducted under said section eleven. The decision of an arbitrator, pursuant to this section, shall be subject to judicial review as provided in the last paragraph of said section eleven. The arbitrator's decision shall be reviewed by the same standards set forth in said section eleven and shall be subject to the same deference that is afforded decisions of the commission, provided, however, that in the event of a conflict between a decision of an arbitrator and a prior decision of the labor relations commission, the decision of the commission shall be afforded greater deference. The party who initiated the proceedings before the commission pursuant to said section eleven shall file with the commission a copy of the award of the arbitrator, notice of institution of proceedings for judicial review pursuant to said section eleven, and a copy of any decision of the court with respect to the arbitrator's award within ten days of the issuance or filing of such award, appeal or judicial decision.

(*d*) No later than March thirtieth, nineteen hundred and ninety-seven, the commission shall submit a report to the house and senate committees on ways and means documenting the number of cases in which the parties have elected the arbitration option, the number of such cases in which an arbitrator's award has issued, the number of such cases in which judicial review of the arbitrator's award has been sought and the number of cases in which the decision of the arbitrator has been affirmed or reversed by the court.

SECTION 578. 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 the provisions of any general or special law to the contrary, said unit may evaluate and verify the assets, income and expenses of any person 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 transitional assistance, the department of revenue, the department of corrections and such other agencies as may have information relevant to the unit, and said departments and all other state agencies shall comply with any request for records made by said unit, to the maximum extent permitted by federal law. Said unit may contract with providers of asset and credit records and other relevant information for the provisions of such information to the unit.

Any defendant who requests counsel to be appointed pursuant to said section two of chapter two hundred and eleven D shall be informed that the accuracy of the representations made in support of the request for appointment are subject to the verification program operating within the court and that sanctions may be imposed for misrepresentations made in support of said request.

Said chief justice shall prepare and submit to the house and senate committees on ways and means on or before March first, nineteen hundred and ninety-seven, a report evaluating the operations of the unit and making recommendations concerning statewide expansion of the unit.

SECTION 579. Notwithstanding the provisions of any general or special law to the contrary, the division of employment and training is hereby authorized and directed to establish and maintain a toll free telephone number for access to information concerning unemployment benefits and related matters; provided, however, that no regional department of labor office may be closed until such number is established and available.

SECTION 580. Notwithstanding the provisions of any general or special law to the contrary, any private organization or entity receiving a grant of funds appropriated in this act shall, during the fiscal year nineteen hundred and ninety-seven, indicate on its official letterhead or other stationery that said organization or entity receives funding from the commonwealth.

SECTION 581. Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the division of housing and community development is hereby authorized to conduct annual verifications of household income levels based upon state tax returns for the purposes of administering the state and federal housing subsidy programs funded in items 7004-9005, 7004-9024, 7004-9011, 7004-9013, 7004-9014, 7004-9019, 7004-9020 and 7004-9009 in this act; provided, that as a condition of eligibility or continued occupancy by an applicant or a tenant, said executive office may require disclosure of social security numbers by an applicant or tenant and members of the applicant's or tenant's household for use in verification of income eligibility. Said division is hereby further authorized to consult with the department of revenue, the department of transitional assistance, and any other state or federal agency which it deems necessary to conduct such income verification; provided, 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 agency and said division 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. For the purposes of conducting such income verification, the deputy director of the division of housing and community development is hereby authorized 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 in such federally assisted housing programs and members of the participants' households.

SECTION 582. The suggestion awards board, established pursuant to section thirty-one A of chapter seven of the General Laws, may make cash awards, pursuant to the provisions of said section thirty-one A and according to the board's published rules and regulations governing the selection process and criteria, to employees of the commonwealth who are instrumental in identifying or implementing ideas which reduce costs or increase revenues for the commonwealth. Such awards may be paid, in a manner to be approved by the secretary of administration and finance, from the operating appropriations of the agencies which realize reduced costs or, from monies allocated from the maximization fund to agencies which realize increased revenues, as a result of the employees' suggestions or efforts. The amount of any such award shall equal ten percent of the reduced costs or increased revenues generated by the employee's suggestion, up to a maximum of five thousand dollars to any one individual over the term of this section, unless a larger award is approved by the General Court, and all such awards shall be reported quarterly to the house and senate committees on ways and means detailing the recipient of such award, the recipient's department and title, the amount of the award, the reason for the award and the amount of money saved or realized by the commonwealth. No person shall be eligible to receive said award who is in a position classified as M-V or above, as provided in section forty-six C of chapter thirty of the General Laws, or is not a state employee. The provisions of this section shall remain in effect until June thirtieth, nineteen hundred and ninety-eight.

SECTION 583. The department of environmental management and the metropolitan district commission are hereby authorized and directed to develop a plan to cooperate in the management of Abigail Adams state park, Webb state park, Nantasket Beach, Stodders Neck and Wompatuck state park in order to reduce maintenance and administrative costs. Said plan shall be filed with the joint committee on natural resources and agriculture and with the house and senate committees on ways and means no later than December thirty-first, nineteen hundred and ninety-six.

SECTION 584. Notwithstanding any general or special law to the contrary, there is hereby established a special commission for the purpose of studying the existing civil service systems of the commonwealth and its political subdivisions as established by chapter thirty-one of the General Laws and making recommendations for an improved, performance-based merit system. The members of the commission shall be the senate and house co-chairmen of the joint committee on public service, who shall serve as co-chairmen of the commission; the senate and house co-chairmen of the joint committee on commerce and labor; the personnel administrator or his designee; the chair of the civil service commission or his designee; the director of the office of employee relations; the president of the Massachusetts Municipal Association or his designee and three other members selected by the Massachusetts Municipal Association; five representatives of organized labor, including the president of the Professional Firefighters of Massachusetts, AFL-CIO or his designee, the president of the International Brotherhood of Police Officers, NAGE, SEIU, AFL-CIO or his designee, a representative of and selected by the Alliance, AFSCME/SEIU, AFL-CIO, the president of the Massachusetts Organization of State Engin-

eers & Scientists, and one other representative of organized labor selected by the Massachusetts State Labor Council, AFL-CIO. The commission shall submit a comprehensive report to the house and senate committees on ways and means on or before November fifteenth, nineteen hundred and ninety-six, setting forth recommendations for reforming and improving the current civil service system, establishing an improved performance-based merit system, and decreasing the backlog and eliminating inefficiencies in the current system for adjudicating civil service disputes.

SECTION 585. A special commission is hereby established to study the provision of school nursing services in public and non-public schools of the commonwealth. Said commission shall be comprised of thirteen members, including three members of the house of representatives selected by the speaker of the house of representatives, three members of the senate selected by the president of the senate, and seven members selected by the governor, as follows: one representative from the department of public health, one representative from the department of education, two representatives from professional nursing associations, one representative from non-public schools, one representative from the Massachusetts Municipal Association, and one representative from the Coalition for a Healthy Future. Said commission shall study the provision of school nursing services in public and non-public schools and shall attempt to identify funding sources for the establishment of a school nursing services collaborative fund. Said commission shall file a report of its findings and recommendations with the joint committee on education and the house and senate committees on ways and means no later than December thirty-first, nineteen hundred and ninety-six.

SECTION 586. There is hereby established a commission consisting of fourteen members, five of whom shall be members of the senate, including one member of the minority party, all of whom are to be appointed by the senate president, and nine of whom shall be members of the house of representatives, including two members of the minority party, all of whom are to be appointed by the speaker of the house of representatives. Said commission is hereby authorized and directed to study and investigate the possible transfer of the division of law enforcement within the department of fisheries, wildlife and environmental law enforcement within the executive office of environmental affairs to either the office of the secretary of the executive office of environmental affairs or the executive office of public safety. Such study shall include a study of the potential costs savings associated with any such transfer of said division, any possible increase in the efficiency and effectiveness of environmental law enforcement in the commonwealth and the optimization of communication and coordination between the division of law enforcement and other state law enforcement agencies.

Said study shall commence forthwith and the results of said study, together with recommendations for legislation to carry said recommendations into effect, shall be filed with the clerks of the house of representatives and the senate on or before December twenty-first, nineteen hundred and ninety-six.

SECTION 587. Notwithstanding any general or special law to the contrary, the board of education, in cooperation with the division of workforce development and the Massjobs council, is hereby authorized to establish and support a public-private partnership to link high school students with economic and learning opportunities on the job as part of the school-to-work transition program. Said program may include, subject to appropriation, the award of matching grants to regional employment boards or other local recognized public-private partnerships involving local community job commitments and work site learning opportunities for students; provided, however, that such grants shall require at least a two hundred percent match in wages for such students from private sector participants. The program shall include, but not be limited to, a provision that those business leaders who commit resources to pay salaries, provide mentoring and instruction on the job and to work closely with teachers and public funds shall assume the cost of connecting schools and businesses to work with such students to ensure that they serve productively on the job.

SECTION 588. Notwithstanding the provisions of any general or special law to the contrary, the department of education shall submit a report detailing the progress of the following line items towards the goals of education reform: 7061-9300, 7061-9400, 7061-9615, 7061-9620, 7061-9621, 7061-9622, and 7061-9625. Said report shall include but not be limited to a description of the purpose of any grants that are to be used within said items, the names and the amounts of the grants, whether the grants are competitive, and whether there is any local match to said grants. Within the description of the purpose of said grants shall be included a statement which identifies the substantive contribution toward the goals of education reform achieved by said grants. Said report shall also include performance goals and a completion timeline for each project relating to said items, and shall also include a detailed spending plan for the funds appropriated within said items, including but not limited to, funds for the purpose of accounting and posting, printing, contracting and compensation, and hardware and software purchases. Said report shall be submitted to the house and senate committees on ways and means and the joint committee on education, arts and humanities no later than January twentieth, nineteen hundred and ninety-seven.

SECTION 589. (a) Upon the request of the selectmen in a town, the city council in a plan E city or the mayor in any other city, the department of revenue may recalculate the minimum required local contributions, as defined in section two of chapter seventy of the General Laws, in the fiscal year ending on June thirtieth, nineteen hundred and ninety-seven. Based on the criteria outlined in this section, the department shall recalculate the minimum required local contributions for a municipality's local and regional schools and certify the amounts calculated to the department of education. (b) Any city or town that used qualifying revenue amounts in a fiscal year which will not 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, or that has an excessive certified municipal revenue growth factor which is also greater than or equal to one and one-half times the state average municipal revenue growth factor, may appeal to the department of revenue no later than October first, nineteen hundred and ninety-six for an adjustment of its minimum required local contribution and net school spending. (c) If the claim is determined

to be valid, the department of revenue may reduce proportionately the minimum required local contribution amount based on the amount of shortfall in revenue or based on the amount of increase in extraordinary expenditures in the current fiscal year, but no adjustment to the minimum required local contribution on account of an extraordinary expense raised in the budget of the fiscal year ending on June thirtieth, nineteen hundred and ninety-seven, shall affect the calculation of the minimum required local contribution in subsequent fiscal years. Qualifying revenue amounts shall include but not be limited to extraordinary amounts of free cash, overlay surplus, and other available funds. (d) If, upon submission of adequate documentation, the department of revenue determines that the municipality's claim regarding an excessive municipal revenue growth factor is valid, said department shall recalculate said municipal revenue growth factor and the department of education shall use this revised growth factor to calculate preliminary local contribution, minimum required local contribution and any other factor that directly or indirectly uses the municipal revenue growth factor. Any relief granted as a result of an excessive municipal-revenue growth factor shall be a permanent reduction in minimum required local contribution. (e) Upon the request of the selectmen in a town, the city council in a plan E city, or the mayor in any other city, in a majority of the member municipalities, any regional school district which used qualifying revenue amounts in a fiscal year that will not be available for use in the next fiscal year shall appeal to the department of revenue not later than October first, nineteen hundred and ninety-six, 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 based on the amount of the shortfall in revenue and reduce the minimum required local contribution of member municipalities accordingly. Qualifying revenue amounts shall include but not be limited to extraordinary amounts of excess and deficiency, surplus, and uncommitted reserves. (f) Any regional school district which received regional school incentive aid in fiscal year nineteen hundred and ninety-five shall, upon the request of the selectmen in a town, the city council in a plan E city, or the mayor in any other city, in a majority of the member municipalities, appeal to the department of education for an adjustment in the minimum required local contribution of its member municipalities. The department of education may reduce the increased assessment of the member municipalities as a result of the reorganization of the regional school district by using a portion of the regional incentive aid to reduce the prior year local contribution. (g) If the regional school budget has already been adopted by two-thirds of the member municipalities, then upon a majority vote of the member municipalities the regional school committee shall adjust the assessments of the member municipalities in accordance with the reduction in minimum required local contributions approved by the department of revenue or the department of education in accordance with the provisions of this section. (h) Notwithstanding the provisions of clause (14) of section three of chapter two hundred fourteen of the General Laws or any other general or special law to the contrary, the amounts so determined shall be deemed to be the minimum required local contribution described in said chapter seventy; provided, however, that the house and senate committees on ways and means and the joint committee on education, arts and humanities shall be notified by the department of revenue

and the department of education of the amount of any reduction in the minimum required local contribution amount. (i) In the event that a city or town has an approved budget that exceeds the recalculated minimum required local contribution and net school spending amounts for its local school system or its recalculated minimum required local contribution to its regional school districts as provided by this section, the local appropriating authority shall determine the extent to which the community avails itself of any relief authorized under this section. (j) The amount of financial assistance due from the commonwealth in fiscal year nineteen hundred and ninety-seven under chapter seventy or any other provision of law shall not be changed on account of any redetermination of the required minimum local contribution under this section. The department of revenue and the department of education shall issue guidelines for their respective duties under this section. (k) Any city, town or regional school district that has long term debt due to school building construction and is in the first year of receiving School Building Assistance Bureau assistance grant money for a new project may apply for recalculation of the minimum required local contribution to exclude any such first year new grant money from the excess debt service calculation; provided, that eligibility for such recalculation shall not recur in subsequent years.

SECTION 590. Notwithstanding the provisions of section thirty of chapter twenty-nine of the General Laws or any other general or special law to the contrary, the division of energy resources is hereby authorized to procure, in accordance with all applicable procurement and solicitation laws, comprehensive motor vehicle insurance coverage for electric vehicles purchased for use in the commonwealth's electric vehicle demonstration program; provided, however, that nothing in this section shall be construed so as to require any additional state appropriated funds for the division of energy resources; and provided further, that such coverage may continue or be renewed until the conclusion of said electric vehicle demonstration program.

SECTION 591. Notwithstanding the definition of "Net school spending" in section two of chapter seventy of the General Laws, for the purpose of calculating the minimum required local contribution for fiscal year nineteen hundred and ninety-six, pursuant to chapter seventy of the General Laws, the department of education shall consider health care costs for retired teachers to be part of net school spending for any town in which health care costs for retired teachers were considered to be part of net school spending in fiscal year nineteen hundred and ninety-four. The department shall not consider health care costs for retired teachers to be part of net school spending for any district in which such costs were not considered part of net school spending in fiscal year nineteen hundred and ninety-four. If there is any conflict between the provisions of this section and the distributions listed in section three, said section three shall control.

SECTION 592. Notwithstanding the provisions of any general or special law to the contrary, each area director within the department of social services shall provide access to and working space within the area office for one designated representative or employee of the area board, and shall respond promptly to reasonable requests for information from such designated representative or employee. The performance evaluations of each such regional or area director shall include an assessment of the director's success in developing a working

relationship with the regional advisory council or area board in subject areas, including but not limited to development of the annual plans, development of the annual budget, and involvement in recruitment and hiring. The members of the regional advisory council or area board shall be provided an opportunity to submit comments to the commissioner on the director's performance in this regard. Such comments shall be considered in evaluating the director's performance and shall be included in the director's personnel file.

SECTION 593. Notwithstanding the provisions of any general or special law to the contrary, on or before January fifth, nineteen hundred and ninety-seven, the commissioner of the department of social services shall promulgate regulations requiring that all foster homes be licensed by the department and establishing the procedures and requirements for such licensure. The commissioner shall develop such regulations for public notice and comment after consultation with and advice from the secretary of the executive office of health and human services, the state advisory council, the regional directors and regional advisory councils, the area directors and the area boards. The regulations shall have an effective date of no later than the fifteenth day of February, nineteen hundred and ninety-seven, provided, however, that the regulations may provide for "grandfathering", so-called, of existing foster homes for a period not to exceed one year. The licensure requirements shall include, but shall not be limited to minimum standards for qualification as a foster home; provision for development of family profiles and individual assessments of all members of each foster household, including, but not limited to strict compliance with the requirements of section ten A of chapter twenty-eight A of the General Laws and individualized determinations of the maximum number of foster children which can simultaneously be placed in each home; provided, however, that such number may vary depending on the ages, special needs or specialized care needed by the children to be placed in the home; and provided further, that such number shall not exceed the maximum allowed pursuant to section nine of said chapter twenty-eight A.

SECTION 594. The commissioner of the department of social services, in consultation with the statewide advisory council, the regional directors and regional advisory councils, the area director and area boards, and the collective bargaining representatives of the employees of the department, shall study and submit a report to the senate and house committees on ways and means and the joint committee on human services no later than April first, nineteen hundred and ninety-seven, regarding the extent to which graduates of the schools of social work in the commonwealth are or are not prepared to perform the duties of social workers required by the department of social services and the agencies with which the department contracts for services; the areas in which the curricula in such schools are succeeding or failing to prepare graduates for immediate service as social workers in the department of social services and the agencies with which the department contracts for services; and recommendations as to how the schools of social work could better prepare their graduates to fulfill the needs of the department of social services and the agencies with which the department contracts to provide services.

SECTION 595. Notwithstanding the provisions of section nine of chapter twenty-eight A of the General Laws, effective June thirtieth, nineteen hundred and ninety-seven, or at such time as the department of social services certifies to the secretary of human and community services that implementation will not adversely affect the quality and availability of foster care in the commonwealth, whichever occurs first, family foster care shall be defined as a private residence in which no more than a total of six children are living, including four children under eighteen years of age receiving substitute parental care on a regular, twenty-four-hour-a-day, residential basis by anyone other than a relative by blood or marriage; provided, however, that such care may be provided for more than four foster children, and more than a total of six children may live in such residence, where the department determines, on a case-by-case basis, with the approval of the secretary, that such an arrangement is necessary in order to place siblings in the same residence, is necessary in order to provide family foster care for children with special medical, psychological or social needs, or, with respect to foster homes in which more than four foster children and more than a total of six children were living as of the effective date of this section, is necessary in order to preserve continuity and stability of care.

SECTION 596. Notwithstanding the provisions of any general or special law to the contrary, including, but not limited to chapter one hundred and eighteen G of the General Laws, in hospital fiscal years nineteen hundred and ninety-seven and nineteen hundred and ninety-eight, a public payor-dependent non-acute hospital shall be eligible for rates promulgated by the division of health care finance and policy including any administratively necessary day rates and terms of payment from the division of medical assistance that shall, at a minimum, be no less than the rate and terms of payment promulgated for each such hospital based on the system of reimbursement in effect immediately prior to the effective date of this act; provided, however, that said system shall account for (1) the rate of inflation in the economy generally, as measured by a composite price index to be specified in regulations promulgated by the division of health care finance and policy; (2) any increase beyond that allowed by virtue of application of such index resulting from increases in volume not otherwise off-set by decreases in volume, such volume increases or decreases to be measured in a manner specified in said regulations; (3) changes in service intensity; and (4) such increases, not otherwise justified by clauses (1), (2) and (3), which result from cost increases beyond the reasonable control of the individual hospital; provided, that cost increases resulting from expenditures not considered to be a substantial capital expenditure as defined in section twenty-five B of chapter one hundred and eleven of the General Laws shall not be deemed costs beyond the reasonable control of the individual hospital. Such rates of payment so established shall meet all statutory and regulatory provisions of Title XIX of the Social Security Act, as such act existed on September first, nineteen hundred and ninety-five. Said division of health care finance and policy shall, for the hospital fiscal years during which this section is effective, establish the rates required by this section prior to the commencement of the fiscal year for each such public payor-dependent non-acute hospital. Any public payor-dependent non-acute hospital aggrieved by any action or failure to act by

the division of health care finance and policy pursuant to this section may, unless another appeal is provided for by law, file an appeal with the division of administrative law appeals established pursuant to section four H of chapter seven of the General Laws. Said appeal shall be filed within thirty days of a hospital's receipt of notice of any action by the division or at any time in the event of inaction by the division. On any such appeal the division of administrative law appeals shall conduct an adjudicatory proceeding which shall be governed by the provisions of chapter thirty A of the General Laws. The division of administrative appeals shall determine whether the division's application of its regulations to an individual hospital or any other action or failure to act by the division is in conformity with law and, notwithstanding that said regulations may have been correctly applied, that all charges, allowed costs, reasonable financial requirements, rates, and prices meet the provision of this section, are fair, reasonable and adequate, and are otherwise in accordance with law. Judicial review of the division's decision and order shall be governed by section fourteen of chapter thirty A of the General Laws. Any hospital may seek interim relief from the superior court while any such appeal is pending. Any petitions, lawsuits, appeals, and other proceedings filed prior to the effective date of this section by a non-acute hospital, including but not limited to, those filed under former section thirty-two of chapter six A of the General Laws shall continue unabated and remain in force notwithstanding the passage of this act, and shall thereafter be adjudicated or adjudged under the provisions of said laws. For the purposes of this section, a "public payor-dependent non-acute hospital" is any non-acute hospital that (1) was certified by the secretary of the United States department of health and human services as participating in the federal medicare program pursuant to clause (iv) of 42 U.S.C. section 1395ww (d)(1)(B) on January first, nineteen hundred and ninety-six (2) is not owned by the commonwealth; and (3) exhibits a payor mix whereby a minimum of fifteen percent of said hospital's gross patient service revenue, as reported on the RSC-403 for hospital fiscal year nineteen hundred and ninety-four, was attributable to Title XIX of the federal Social Security Act; provided, that such term does not include a hospital that was reimbursed for services provided to individuals entitled to medical assistance under chapter one hundred and eighteen E for fiscal year nineteen hundred and ninety-six pursuant to a contract between the hospital and the division of medical assistance.

SECTION 597. Any reference in a general or special law, rule, or regulation to the department of medical security or to the rate setting commission as constituted prior to the effective date of this act which refers to the duties, functions or activities of the department of medical security or to the rate setting commission shall be deemed to signify the division of health care finance and policy, the department of public health, or the division of employment and training, as applicable, pursuant to the provisions of this act; and any reference in general or special law, rule or regulation to the commissioner of medical security or to the commissioner of rate setting as constituted prior to the effective date of this act which refers to the duties, functions or activities of the head of the department of medical security or to the head of the rate setting commissioner shall be deemed to signify the commissioner of the division of health care finance and policy, department of public health

or the division of employment and training, as applicable, pursuant to the provisions of this act.

SECTION 598. On the effective date of this act, ownership, possession and control of all equipment, papers, plans, books, records and documents which are in the possession of the department of medical security and the rate setting commission or any employee thereof transferred in accordance with the provisions of this act shall pass to and be vested in the division of health care finance and policy without consideration or further evidence of transfer and shall thereafter be in the ownership, possession and control of the division, provided, that the division may designate other agencies to which equipment, papers, plans, books, records and documents may be transferred.

SECTION 599. All petitions, hearings, appeals and other proceedings duly brought before, and all legal and other proceedings duly begun by the department of medical security or the rate setting commission or employee thereof transferred pursuant to the provisions of this act shall continue unabated and remain in force notwithstanding the passage of this act, and shall thereafter be completed by such department, commission or employee.

SECTION 600. Whenever the name of the department of medical security or the rate setting commission or employee thereof which shall be transferred pursuant to the provisions of this act appears in any general or special law, rule, or regulation, such name shall be deemed to mean and be construed as referring to the division of health care finance and policy, the department of public health, or the division of employment and training, as applicable, pursuant to the provisions of this act.

SECTION 601. 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, including administrative 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 section as to the change in calculation of workers' compensation chargebacks from fiscal year nineteen hundred and ninety-six. The commissioner of the division of public employee retirement administration shall notify agencies not later than fourteen days after the effective date of this section as to the amount of their estimated workers' compensation costs for the fiscal year beginning July first, nineteen hundred and ninety-six, 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-six 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-six. Within thirty days after the effective date of this section, 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. Costs to agencies for benefits paid on behalf of their employees shall be allocated as actual expenditures are made. Administrative expenses shall be allocated to agencies based on each agency's percent of total benefits paid in the prior fiscal year. 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 B for the purposes of workers' compensation paid with respect to public employees for any costs, including administrative 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 forty-five million dollars for hospital, physician, benefits, and other costs, including administrative costs, without further appropriation. Not later than fourteen days after the effective date of this section, 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.

SECTION 602. Notwithstanding the provisions of any general or special law to the contrary, no city, town or regional school district shall receive less than seventy-five dollars per student under the provisions of chapter seventy of the General Laws for fiscal year nineteen hundred and ninety-seven.

SECTION 603. 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 shall 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 for administration and finance.

SECTION 604. Notwithstanding the provisions of section two hundred fifty-nine of chapter thirty-eight of the acts of nineteen hundred ninety-five, the revenue maximization pilot project authorized by said section is hereby continued for the fiscal year nineteen hundred and ninety-seven. On or before March first, nineteen hundred ninety-seven, the comptroller shall submit a report evaluating and detailing the operations and revenue collections of the project and making recommendations relative to statewide expansion of the project.

SECTION 605. Notwithstanding the provisions of sections thirty-one of chapter eighty-one of the General Laws or any other general or special law to the contrary, the portion of the Highway Fund allocated for reimbursements to cities and towns for costs actually incurred in constructing, maintaining, and policing city or town streets or roads, as appropriated in item 6005-0017 of section two of this act, shall be distributed in fiscal year nineteen hundred and ninety-seven proportional to the fiscal year nineteen hundred and ninety-six distribution of said Highway Fund reimbursements.

SECTION 606. Notwithstanding the provisions of any general or special law to the contrary, any amounts, including principal, interest and penalties due to the medical security trust fund, established in section twenty of chapter one hundred and eighteen G of the General Laws, and owing as of the effective date of this act from any regional school district or educational collaborative pursuant to section fourteen G of chapter one hundred and fifty-one A of the General Laws, are hereby extinguished and the payment thereof excused. Nothing in this section shall be construed to provide the basis for the refund of payments made by any regional school district or educational collaborative to said fund prior to the effective date of this section.

SECTION 607. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established and set up on the books of the commonwealth a separate fund to be known as the Commonwealth Economic Development Fund. Monies from said fund shall be expended, subject to appropriation, to promote employee and worker training, education and the general economic development of the commonwealth.

SECTION 608. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized to enter into contracts with private vendors to identify and pursue cost avoidance opportunities for programs of the commonwealth and to enter into interagency service agreements with state agencies, as applicable, for said purpose; provided, however, that payments to private vendors on account of said projects shall be made from actual cost savings as certified in writing to the house and senate committees on ways and means by the comptroller and the state budget director that are attributable to such cost avoidance projects; provided, further, that the comptroller may establish procedures in consultation with the state budget director and the affected departments as he deems appropriate and necessary to accomplish the purposes of this section; and, provided further, that nothing herein shall be construed so as to allow the comptroller or the state budget director to establish any accounts without prior statutory approval. The state budget director shall report on a quarterly basis to the house and senate committees on ways and means the status of all cost avoidance opportunities which are undertaken pursuant to the provisions of this section. The comptroller shall report on said projects as a part of his annual report under section twelve of chapter seven A of the General Laws.

SECTION 609. Notwithstanding the provisions of any general or special law to the contrary, the state college building authority is hereby directed to implement competitive bidding policies and procedures prior to awarding contracts for any legal and professional services in order to ensure that all such contracts are awarded to the highest qualified

professional at the lowest possible price.

SECTION 610. Notwithstanding the provisions of any general or special law to the contrary, funds in the Commonwealth Sewer Rate Relief Fund, established by section two Z of chapter twenty-nine of the General Laws, shall be available to mitigate sewer rate increases due to debt service obligations created by issuing eligible indebtedness. For the purposes of this section, eligible indebtedness shall be defined as debt issued on or after January first, nineteen hundred and ninety, which has a final date of maturity greater than five years after the date of issuance and which 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 Water Pollution Control Act, 33 USC Sec. 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, however, that eligible indebtedness shall not include any indebtedness for which the issuer has received assistance provided from state grants; provided further, that notwithstanding any provisions of this section to the contrary, eligible indebtedness shall include indebtedness incurred to finance the metrowest water supply tunnel, so called: provided, further, that eligible indebtedness shall include indebtedness incurred pursuant to loan agreements under the provisions of chapter two hundred seventy-five of the acts of nineteen hundred and eighty-nine, as most recently amended by chapter two hundred three of the acts of nineteen hundred and ninety-two, which exceeded fifty million dollars by June thirtieth, nineteen hundred and ninety-five, and the debt service attributable thereto for any year for purposes of this section shall be the net obligation borne by the issuer after application of any credits, subsidies, or assistance, however characterized, provided under the provisions of the aforementioned statutes; 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 is responsible for the ownership or operation of wastewater treatment projects, and is authorized to finance all or any part of the cost thereof through the issuance 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; and provided further, that funds disbursed in fiscal year nineteen hundred and ninety-seven shall be disbursed on or before March thirty-first, nineteen hundred and ninety-seven. The board, office or commission responsible for setting sewer charges in every city, town, district, or commission that either receives aid itself or is a member of a regional entity that receives aid pursuant to the provisions of this section shall certify to said division of local services that is has reduced sewer charges to reflect its share of any such aid.

SECTION 611. Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the department of mental health is hereby authorized to charge the tenants of the Haskell Building, so-called, on the campus of the former Northampton state hospital rental fees for occupancy in said building. Said commissioner may retain and is hereby authorized to expend an amount not to exceed one hundred thousand dollars from the revenues collected for said rental fees for repairs, improvements, maintenance and operation of said Haskell building, including the costs of personnel.

SECTION 612. The division of health care finance and policy established pursuant to chapter one hundred and eighteen G of the General Laws is hereby authorized and directed to establish a schedule of fees and charges that shall, by fiscal year nineteen hundred and ninety-nine, generate revenues in an amount sufficient to meet twenty-five percent of the projected costs of the division in any fiscal year. Prior to said date, said fees and charges shall be phased in. Said schedule of fees and charges shall be subject to review for reasonableness by the executive office of administration and finance but shall not be subject to the provisions of section three B of chapter seven of the General Laws.

Said fees and charges shall be filed upon the filing of rate information and other information required by the division by providers of general health supplies, care of rehabilitative services and accommodations as defined by said chapter one hundred and eighteen G who are licensed by the department of public health or the department of mental health but shall not apply to individual practitioners and clinicians licensed by said departments. Fees shall be established for parties that use information collected, generated, analyzed or otherwise in the possession of the division. Said fees and charges shall not be applied to or collected from any state or municipal agency making such filings or using such information in the course of its official business. Said fees and charges shall be reasonable and equitable, may vary according to the volume of business any such provider or party conducts with the division and shall be submitted to the house and senate committees on ways and means no later than April fifteenth, nineteen hundred and ninety-seven.

SECTION 613. Subject to the provisions of section seventy-one of chapter seventy-one of the General Laws but notwithstanding the provisions of any other general or special law to the contrary, the department of education is hereby authorized and directed to promulgate regulations which control the utilization of school buildings for multiple purposes. Said regulations shall advocate and encourage the utilization of said school buildings for uses including but not limited to after school programs, day care centers, recreation centers, senior centers and night school programs.

SECTION 614. Notwithstanding the provisions of section six of chapter two hundred and eleven D of the General Laws, the committee for public counsel services is hereby authorized and directed to establish a pilot program serving Essex and Hampden counties utilizing attorneys of its public counsel division to represent indigent persons entitled to be represented in children-family law cases, so called, including but not limited to, care and protection cases pursuant to chapter one hundred and nineteen of the General

Laws, child in need of services cases pursuant to section thirty-nine E of chapter one hundred and nineteen of the General Laws, actions to dispense with parental consent for adoption pursuant to chapter two hundred and ten of the General Laws, and guardianship of minor petitions pursuant to chapter two hundred and one of the General Laws. Said committee for public counsel services shall file with the house and senate committees on ways and means on or before September first, nineteen hundred and ninety-seven, a report detailing the results of said pilot program including cost, quality, and accountability of the provision of counsel through such above authorized pilot program, as compared to contracting out such cases to private counsel through request for proposal procedures and as compared to individual assignments of such cases to certified private counsel of the private counsel division of the committee for public counsel services; provided, that said pilot program shall be limited to the period of July first, nineteen hundred and ninety-six to June thirtieth, nineteen hundred and ninety-seven.

SECTION 615. Notwithstanding any general or special law to the contrary, the secretary of the executive office of administration and finance is hereby authorized and directed to prepare a detailed implementation plan for necessary improvements to the uncompensated care pool administered by the division of health care finance and policy. Said plan shall include, but not be limited to, alternative sources of funding which may include an assessment of insurers. Said plan shall achieve solvency of the uncompensated care pool and shall endeavor, to the maximum extent possible, to alleviate the present financial burden on hospitals. Said implementation plan shall provide for an effective date of no later than February twenty-eighth, nineteen hundred and ninety-seven, and shall be filed with the house and senate committees on ways and means no later than December thirty-first, nineteen hundred and ninety-six. Said plan shall include drafts of all legislation, revised regulations and administrative changes that would need to be enacted, promulgated or adopted in order for the plan to be successfully implemented on or before February twenty-ninth, nineteen hundred and ninety-seven, and a report describing the recommendations encompassed by said plan, and the alternatives that were considered but rejected in developing said plan, and the arguments for said plan as recommended.

In developing the plan, the secretary shall establish and consult with a commission to be comprised of representatives of all affected parties, including but not limited to representatives of private and public hospitals, health maintenance organizations, insurers, physicians, medical service corporations and managed care professionals. Said commission shall also include the commissioners of the division of health care finance and policy and the department public health and the chairs of the joint committees on health care, insurance and human services and elderly affairs. The secretary shall meet with the commission on a regular basis to develop said plan and may create working groups from among the members of the commission to facilitate development of the implementation plan.

SECTION 616. Notwithstanding the provisions of subsection (7) of section forty-six C of chapter thirty of the General Laws, the personnel administrator may determine

rules for the calculation of salary increases for individuals who are initially appointed to management positions classified in accordance with section forty-five of said chapter thirty and who are promoted to other positions in the management salary schedule.

SECTION 617. Notwithstanding the provisions of section fifteen B of chapter two hundred and seventy-five of the acts of nineteen hundred and eighty-nine, the city of North Adams shall be eligible to receive a so-called state revolving loan fund in accordance with the provisions of chapter twenty-nine C of the General Laws.

SECTION 618. Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the joint legislative committee on insurance is hereby authorized and directed to make an investigation and study of the Commonwealth Automobile Reinsurers policies relative to the disbursement and allocation of termination monies, so-called, paid by insurance carriers who sever all or a portion of their coverage of the Massachusetts automobile insurance marketplace. Said investigation and study shall examine the linkage of disbursement allocation with the assumption of a carrier which absorbs the policies of a carrier which withdraws from the Massachusetts automobile insurance market. Said investigation and study shall include an examination of the involvement of the division of insurance relative to the promulgation of rules and regulations relative to such disbursement policies. Said investigation and study shall focus exclusively on prospective disbursement and allocation issues only affecting future termination monies not already allocated.

Said committee shall file its final report, including proposed legislation, with the clerks of the senate and the house of representatives and with the governor on or before the first Monday of December, nineteen hundred and ninety-six.

SECTION 619. Notwithstanding any general or special law to the contrary, the Massachusetts Water Resources Authority is authorized to enter into a contract with Regis College of Weston, a Massachusetts corporation, to provide sewer services to said college, and any political subdivision listed in section eight (c) of chapter three hundred and seventy-two of the acts of nineteen hundred and eighty-four is authorized, as a party to such contract or by separate contract, to provide the conveyance of sewage from the college to the sewer system of the Authority if service to the college is not provided by a direct connection to the Authority's sewer system. The connection authorized hereunder shall be sized for and limited to use by Regis College. Said connection and any discharges into said connection shall be subject to the direction, control and regulation of the Authority pursuant to the provisions of said chapter three hundred and seventy-two. Said contract may permit the Authority to charge the college for all expenses and costs of connection and for sewer services it provides to the college and shall contain other terms and conditions applicable to such connection and the provision of sewer services as determined by the Authority. The political subdivision, if any, may charge the college for the use of its sewer system to convey sewage to the Authority's sewer system. Nothing in this act shall grant the town of Weston any right to receive sewer services from the Authority or otherwise cause said town to have any of the rights or obligations of the political subdivision listed in said section eight (c) of said chapter three hundred and seventy-two.

SECTION 620. Notwithstanding any general or special law to the contrary, a city or town, by its mayor, if a city, or board of selectmen, if a town, may on behalf of the inhabitants of said city or town grant an easement to a private institution of higher learning certified as such by the higher education coordinating council, to construct a sewer pipe or pipes in a public way located in said city or town for the sole use of said institution, provided that the purpose of said construction is to provide a connection for said institution to the sewer system of the Massachusetts Water Resources Authority pursuant to an agreement with said Authority. Said city or town may require as a condition of said easement such maintenance, indemnification and other conditions as may be reasonably appropriate. No other user may be connected to such pipe or pipes except as authorized pursuant to applicable law and regulation and with the agreement of the Authority and of any city or town in which such pipe or pipes are situated.

SECTION 621. Notwithstanding the provisions of any general or special law to the contrary, the department of environmental protection is hereby authorized to maintain its existing use of item 2200-6001, the "Federal Receipt Account" so-called, for the purposes of expending funds received as part of its ongoing federal grant programs.

SECTION 622. Notwithstanding the provisions of this section or any general or special law, rule or regulation to the contrary, for nursing homes that have over seventy-five percent of their residents having a primary diagnosis of multiple sclerosis, the division of health care finance and policy shall implement regulations that recognize as an allowable cost all of the nursing costs of such nursing homes. The division of medical assistance shall approve such regulations. The department of public health shall certify to the division those nursing homes that have over seventy-five percent of their residents having a primary diagnosis of multiple sclerosis.

SECTION 623. Notwithstanding the provisions of any general or special law to the contrary, the department of mental health, the department of public health, the division of medical assistance, hereinafter referred to as the division, and the division of health care finance and policy 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 and public health facilities determined to be disproportionate share hospitals in accordance with requirements 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 eighteen of chapter one hundred eighteen G of the General Laws, for the purpose of making disproportionate share adjustment payments to such qualifying mental health and public health facilities pursuant to relevant division of health care finance and policy regulations and the related Title XIX state plan amendment submitted by the division to the health care financing administration. The division of medical assistance, the department of public health, or the department of mental health may expend amounts transferred to it from said separate account within the Uncompensated Care Trust Fund without further appro-

priation. 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 624. For hospital fiscal year nineteen hundred and ninety-seven, the private sector liability of purchasers and third party payers to the Uncompensated Care Trust Fund, established pursuant to section eighteen of chapter one hundred eighteen G 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 division of health care finance and policy pursuant to section eighteen of chapter one hundred eighteen G of the General Laws, or three hundred and fifteen million dollars. For the state fiscal year nineteen hundred and ninety-seven, 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 reimburse the costs of said trust fund for disproportionate share hospitals shall be deposited into said trust fund.

SECTION 625. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance, hereinafter referred to as the division, and the division of health care finance and policy 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 their liability to the uncompensated care pool pursuant to chapter one hundred and eighteen G of the General Laws. Said appropriate action shall include the establishment or renewal of an interagency agreement between the division and the division of health care finance and policy 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 eighteen of said chapter one hundred and eighteen G or authorize the division of health care finance and policy to transfer uncompensated care fee revenue collected from hospitals pursuant to said chapter one hundred eighteen G or funds otherwise made available to said trust fund by the general court, 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 division of health care finance and policy 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 division of health care finance and policy pursuant to section eighteen of said chapter one hundred and eighteen G of the General Laws. Any federal funds obtained as a result of actions 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 626. The division of medical assistance and the department of public health shall seek federal reimbursement for the payments made by the department of public health for children's medical security plan recipients who were also enrolled in the medicaid program during fiscal year nineteen hundred and ninety-five or fiscal year nineteen hundred and ninety-six. Said revenue shall be deposited in the general fund by the division of medical assistance not later than March first, nineteen hundred and ninety-seven.

SECTION 627. The division of medical assistance is hereby directed to prepare an analysis of the additional costs to the medicaid program, if any, resulting from a proposal to change to June thirtieth, nineteen hundred and ninety-six the date after which the capital allowance methodology for new, replacement and substantial renovations of nursing facilities is reduced from an historic cost basis to a flat per diem rate of five dollars and sixty-one cents pursuant to 114 CMR 5.21. Said estimated cost shall include both the average gross per diem nursing home costs to the medicaid program and the net cost to the commonwealth after accounting for patient paid amounts and federal reimbursements. Said analysis shall consider the impact of said capital allowance reduction on nursing facility owners and developers who receive certificates of need pursuant to section twenty-five of chapter one hundred and eleven between January first, nineteen hundred and ninety-six and said June thirtieth. Said analysis shall identify the facilities to which said change in methodology applies, the maximum capital expenditure for each facility and the difference in capital allowance rates under the flat per diem rate and pursuant to the methodology in effect prior to said change. Said analysis shall include the results of a survey of such owners and developers detailing the likelihood that said rates would enable them to receive financing and complete construction, including the effects of nursing facility availability in urban areas. Said analysis shall identify the effects on regional and localized bed supplies resulting from said changes in capital allowance methodology, including but not limited the effects on urban areas and underbedded areas. Said analysis shall model an underbedded area using a twenty-five mile radius and a fifteen mile radius. Any and all assumptions used by the division for the purpose of said analysis shall be explicitly outlined, including, but not limited to, the projected financing costs of each such facility and projected medicaid utilization rates at each such facility. For the purpose of providing advance notice to other facility owners and developers anticipating the renovation or replacement of aging nursing facilities, the division of medical assistance shall include in said analysis a description of all proposals under consideration by the division to further revise the medicaid capital allowance methodology, the estimated fiscal effects of such changes on the medicaid program and prospective owners and developers and a probable timetable for promulgating such revisions. The division of health care finance and policy and the department of public

health are hereby authorized and directed to assist with said analysis. The division of medical assistance shall file said analysis with the house and senate committees on ways and means and the joint committee on health care not later than September twentieth, nineteen hundred and ninety-six.

SECTION 628. For the duration of a demonstration program conducted by Hebrew Rehabilitation Center for the Aged, located in Roslindale, pursuant to a waiver granted by the federal Health Care Financing Administration, intended to provide a comprehensive integrated system of health care on a capitated basis both to frail elders who are inpatients of the Center and to frail elders whose principal residences are elderly housing or assisted living residences, as defined in section 1 of chapter 19D of the General Laws, the following shall apply: (i) the provisions of chapters 175, 176E through 176G, inclusive, and 176I through 176L, inclusive, of the General Laws shall not apply to the activities of the Center in conducting such program; (ii) the division of medical assistance is authorized to enter into such arrangements as it and the Center deem appropriate and consistent with applicable federal law by which the division may make supplemental payments for participants in the program who are dually eligible for benefits under the federal Medicare program and under the program of medical assistance administered by the division pursuant to chapter 118E of the General Laws; (iii) the executive office of elder affairs or its successor is authorized to enter into arrangements with the Center as it and the Center deem appropriate and consistent with applicable federal law by which the executive office may make payments directly to the Center for home care and other services provided under the program to persons enrolled in the program; (iv) the Center shall submit to the executive office of elder affairs or its successor copies of all reports submitted to the Health Care Financing Administration regarding the implementation and evaluation of the program; (v) provisions of hospital licensure statutes and regulations relating to the limitations on the recipients of drugs dispensed by a hospital pharmacy shall not apply to the Center to the extent its pharmacy supplies prescription drugs to persons enrolled in the program who may not be inpatients or outpatients of the Center; and (vi) the commissioner of public health is authorized to waive such provisions of licensure statutes and regulations as apply to the provision of services within the program as he, in his discretion, deems appropriate in order to effectuate the purposes of the program. Notwithstanding any provision of special or general law to the contrary, the provisions of sections 37 through 44, inclusive, of chapter 6A of the General Laws, relating to budget submissions and the approval by the rate setting commission of charges, new charges and modifications in charges, shall not apply to said Hebrew Rehabilitation Center.

The provisions of this section shall also apply to the Whittier Hospital.

SECTION 629. Notwithstanding any general or special law, rule or regulation to the contrary, the department of education shall include the total of both Aid For Dependent Children recipients and foster children placed by the department of social services in their definition of low income students for purposes of calculating eligibility for Title I funds.

SECTION 630. The division of employment and training and the department of revenue shall enter into an interagency agreement providing mutual access to their computer networks, in order to facilitate the business of both agencies.

SECTION 631. The Massachusetts office of business development and the division of housing and community development shall enter into an interagency agreement, in order to coordinate their respective economic development activities. The division of housing and community development shall also enter into an interagency service agreement with the executive office of health and human services, in order to coordinate the services provided to their common clients.

SECTION 632. The department of consumer affairs and business regulation, in consultation with the department of environmental protection, the executive office of public safety, the division of insurance and the division of standards, shall study the advisability of transferring to the division of registration other state agencies with similar registration and licensing functions, including but not limited to the board of licensed site professionals, the board of motor vehicle damage appraisers, the board of waste water operators, and the examiners of oil burner technicians. The office shall file a report of its recommendations with the governor and the house and senate committees on ways and means not later than March first, nineteen hundred and ninety-seven.

SECTION 633. (a) The secretary of health and human services may organize the executive office into separate units to encourage programmatic cooperation and coordination and to provide a structure for reduction of duplication of administrative and budgetary functions among the constituent agencies in each such unit. Such units, if any, shall include (1) a unit of family services, which shall include the department of social services, including the area advisory boards, the regional advisory councils, and the statewide advisory council established by chapter eighteen B of the General Laws; the office for children, including the councils for children and the statewide advisory council established by sections seven and eight of chapter twenty-eight A of the General Laws; the department of transitional assistance and all other state agencies within said department; the department of youth services, including the several institutions within said department; the nutrition board; and the office for refugees and immigrants and governor's advisory council for refugees and immigrants established in section two hundred five and section two hundred eight of chapter six of the General Laws, (2) a unit of health and disability services, which shall include the department of public health and all other agencies within said department and within the executive office of health and human services; the department of mental health, including the advisory council established by chapter nineteen of the General Laws, the several institutions within said department and their advisory boards, and all other state agencies within said department; the department of mental retardation, including the advisory council established by chapter nineteen B of the General Laws, the several institutions within said department and their advisory boards, and all other state agencies within said department; the Soldiers' Home in Holyoke and the Soldiers' Home in Chelsea and the boards of trustees thereof; the Massachusetts commission for the blind and its advisory board and all other state

agencies within said commission; the Massachusetts commission for the deaf and hard of hearing and its advisory board; the Massachusetts rehabilitation commission and its advisory council; and the health and welfare commission, and (3) a unit of health care financing, which shall include the division of health care finance and policy, the division of medical assistance, the acute hospital conversion board, the commission on supplemental security income, if any, and the health facilities appeals board. (b) The secretary may require the commissioners and directors of the departments and agencies within each such unit to periodically meet or consult with the secretary and one another in order to encourage cooperation and communication among the departments and other agencies within each such unit. The secretary may designate existing employees of said executive office to coordinate such activities within such unit.

(c) The secretary, in consultation with the commissioners or directors of the departments and agencies within the units of family services, health and disability services and health care financing, shall determine whether and to what extent improvements in the delivery of services, administrative efficiencies, or cost savings could be achieved by greater cooperation among or consolidation of the departments or agencies within each such unit or within other units or executive offices, and shall, on or before the fifteenth day of September, nineteen hundred and ninety-six, submit to the senate and house committees on ways and means, the joint committees on health care, human services and elderly affairs, a report of the secretary's determinations and recommendations with respect to such potential improvements, efficiencies or savings.

(d) Notwithstanding any general or special law to the contrary, the secretary is hereby authorized to create congruent regional boundaries for some or all of the departments and agencies within the executive office to become effective on or before January first, nineteen hundred and ninety-seven, to create congruent area boundaries for some or all of the departments and agencies within the executive office to become effective on or before July first, nineteen hundred and ninety-seven, and to create one-stop service centers, to become effective on or before January first, nineteen hundred and ninety-eight in convenient locations throughout the commonwealth from which coordinated in-take, referral and other services from more than one department or agency within the executive office can be provided for the convenience of the agencies' mutual consumers and as a way of reducing bureaucratic duplication and inefficiencies. Thirty days prior to implementing changes in regional or area boundaries or the one-stop service centers referenced in this section, the secretary shall submit a report to the house and senate committees on ways and means describing, in detail, the new systems, the changes from the pre-existing systems that are represented thereby, any cost or efficiency implications of the changes and any conforming changes in general or special laws that may be warranted as a result of the secretary's changes in existing boundaries or service delivery systems.

SECTION 634. (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 personnel administration, as the transferor agency, to the human resources division, as the transferee agency.

(2) The functions of the department of procurement and general services, as the transferor agency, to the operational services division, as the transferee agency.

(3) The functions of the budget bureau, as the transferor agency, to the fiscal affairs division, as the transferee agency.

(4) The functions of the office of management information systems, as the transferor agency, to the information technology division, as the transferee agency.

(5) The functions of the executive office of consumer affairs and business regulation, as the transferor agency, to the office of consumer affairs and business regulation, as the transferee agency.

(6) The functions of the executive office of communities and development and the department of community affairs, as the transferor agencies, to the division of housing and community development, as the transferee agency.

(7) The functions of the executive office of economic affairs, as the transferor agency, except those functions referenced in clause (12), to the department of economic development, as the transferee agency.

(8) The functions of the executive office of human services, as the transferor agency, to the executive office of health and human, as the transferee agency.

(9) The functions of the secretary of education, as the transferor agency, to the board of education, as the transferee agency.

(10) The functions of the higher education coordinating council, as the transferor agency, to the board of higher education, as the transferee agency.

(11) The functions of the MASSJOBS council, established by section seventy-four of chapter two hundred and forty of the acts of nineteen hundred and eighty-nine, as amended, as the transferor agency, to the Massjobs council established by section four of chapter twenty-three of the General Laws as the transferee agency.

(12) The functions of the executive office of labor, the executive office of economic affairs, the department of labor and industries and the department of employment and training as the transferor agencies, to the department of labor and workforce development, as the transferee agency, to the extent set forth in subsection (b) of section one, section three and section five of chapter twenty-three of the General Laws.

(13) The functions of the Bay State Skills Corporation, as the tranferor agency, to the industrial services program, as the transferee agency.

(b) Subject to appropriation, the employees of each transferor agency, including those who immediately before 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 as provided by section nine A of chapter thirty of the General Laws or do not hold such tenure, except the executive director of the MASSJOBS council, are hereby transferred to the respective transferee agency, without interruption of service within the meaning of said section nine A of said chapter thirty-one, 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 each transferor agency or duly begun by each transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the respective transferee agency.

(d) All orders, rules and regulations duly made and all approvals duly granted by each transferor agency, which are in force immediately before 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 respective transferee agency.

(e) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of each transferor agency shall be transferred to the respective transferee agency.

(f) All duly existing contracts, leases and obligations of each transferor agency shall continue in effect but shall be assumed by the respective transferee agency. No existing right or remedy of any character shall be lost, impaired or affected by the provisions of this act.

(g) All references in any general or special law to each transferor agency or the principal officer thereof shall be deemed to refer to the respective transferee agency or the principal officer thereof.

SECTION 635. Notwithstanding the provisions of any general or special law to the contrary, on or before January fifth, nineteen hundred and ninety-seven, the commissioner of the department of social services shall promulgate regulations requiring that all persons employed by the department as social workers have obtained the license referenced in the fourth paragraph of section one hundred and thirty-one of chapter one hundred and twelve of the General Laws, as appearing in the 1994 Official Edition, and shall attend in-service training programs offered by the department at least two times per year.

The commissioner shall develop such regulations for public notice and comment after consultation with and advice from the secretary of the executive office of health and human services, the state advisory council, the regional directors and regional advisory councils, the area directors and area boards, and the social workers employed by the department or their collective bargaining representatives. The regulations shall have an effective date of April first, nineteen hundred and ninety-seven, or such time as the collective bargaining representatives of the commonwealth and of the social workers employed by the department have bargained to impasse or agreement over the impact of such regulations, whichever is earlier; provided, however, that the department shall pay the fee required by the board of registration of social workers for such licensure for each social worker presently employed

by the department on a one-time-only basis, and provided, further, that the regulations shall provide for the "grandfathering", so-called, of social workers employed by the department as of the effective date of the regulations for a period of not less than one year and not more than four years and shall excuse persons with a higher level of licensure as provided in said section one hundred thirty-one of said chapter one hundred and twelve from obtaining the license referred to in the first paragraph of this section.

At the time of promulgation of said regulations, the commissioner shall also submit to the house and senate committees on ways and means a proposed staffing plan for fiscal year nineteen hundred and ninety-eight which shall include: (1) the proposed number and assignments of all entry level social workers; (2) the proposed number, positions, and assignments of all social workers to be assigned and to perform at higher than entry level positions; (3) the commissioner's recommendations concerning requiring licensure of certain social workers at levels higher than the level required by the regulations which shall be promulgated pursuant to the first paragraph of this section; (4) the commissioner's recommendations for revisions to staffing patterns, including but not limited to identification of the job classifications in which additional staffing may be necessary or advisable; and (5) an analysis of the anticipated cost of implementing the recommended staffing plan, including any incremental or increased costs associated with additional licensure requirements or recommended staffing increases.

SECTION 636. Notwithstanding the provisions of any general or special law to the contrary, the department of mental health, at the request of the department of social services, shall provide assistance in developing and implementing the treatment plans required pursuant to section thirty-three B of chapter one hundred and nineteen of the General Laws. Any disputes between the two departments as to the extent of the department of mental health's obligations to provide such assistance shall be resolved on a timely basis by the secretary of health and human services, taking into account the needs of the child at issue.

SECTION 637. The deputy director of the division of housing and community development and the director of economic development are hereby authorized to carry out an interagency agreement for the expenditure of seven hundred fifty thousand dollars of previously transferred funds from the oil overcharge trust fund, so called, for the one and two person program, 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 the Low Income Home Energy Assistance Act of nineteen hundred and eighty-one, as amended; provided, that said amount may be expended from said fund for the fiscal year ending June thirtieth, nineteen hundred and ninety-seven without further appropriation; provided further, that unexpended funds from an interagency agreement between the secretary of communities and development and the director of economic development for the fiscal year ending June thirtieth, nineteen hundred ninety-six are carried forward at and retained by the executive office of communities and development for said programs for low-income elders and families; 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; and, provided further, that funds provided through interagency agreements authorized herein for supplemental energy assistance for low income elders and families do not constitute an ongoing obligation of the commonwealth.

SECTION 638. Notwithstanding the provisions of section 40 of chapter fifteen A of the General Laws and the regulations adopted thereunder, any election made in writing by an eligible employee between October thirtieth, nineteen hundred and ninety-five and April twenty-sixth, nineteen hundred and ninety-six to participate in the Optional Retirement Program authorized by said section shall be deemed valid as of July first, nineteen hundred and ninety-nine.

SECTION 639. Notwithstanding any general or special law to the contrary, the director of the department of economic development may authorize expenditure from the commonwealth economic development fund, established pursuant to section three hundred and one of chapter thirty-eight of the acts of nineteen hundred and ninety-five, of an amount not to exceed three million dollars for grants to an employer of workers displaced by casualty destroying a manufacturing facility or portion thereof employing at least one thousand workers, for the training or retraining of such workers, for re-establishing the jobs affected by such casualty, or for other purposes which will benefit such workers; provided, however, that if any job reestablished after such casualty is eliminated or moved out of state prior to the end of the fifth full year after such grant, then in each year prior to the end of such fifth full year, a pro rata amount, as determined by the director of economic development, shall be repaid to said fund.

SECTION 640. Notwithstanding the provisions of any general or special law to the contrary, all state agencies that permit hunting on public land, of which they have jurisdiction, shall post signs at all major points of entry to said land that clearly states the dates in which hunting is permitted on said land. The signs shall at least measure two feet by two feet. Such posting shall be maintained on a permanent basis.

SECTION 641. The division of capital planning and operations is hereby authorized and directed to provide in consultation with the appropriate district attorney, adequate space allocation to house the district attorney's grand jury unit, superior court staff, appellate unit staff, or any other unit of the district attorney's office and executive and administrative staff where applicable in any existing or newly constructed, reconstructed or renovated courthouse in the commonwealth. No design, redesign, construction or renovation of any court facility referenced herein shall be finalized by the commissioner of the division of capital planning and operations until a formal presentation has been given to the district attorney on the design plans for the new, reconstructed or renovated facility. Further, said division of capital planning and operations is hereby authorized and directed to provide adequate space allocation to house the appropriate county sheriff in any existing or newly constructed, reconstructed or renovated courthouse in the commonwealth. No design, redesign, construction or renovation of any court facility referenced herein shall be finalized

by the commissioner of the division of capital planning and operations until a formal presentation has been given to the county sheriff on the design plans for the new, reconstructed or renovated facility; providing that the provisions in this section are not applicable to the courthouse project in the cities of Brockton and Taunton.

SECTION 642. The division of capital planning and operations is hereby authorized and directed to consult with the director of the George Fingold library for the construction, renovation, design, or redesign of said library. No design, redesign, construction or renovation of said library shall be finalized by the commissioner of the division of capital planning and operations until a formal presentation has been given to said director on the design plans for the new, reconstructed or renovated library; provided, however, that written documentation signed by the director of the George Fingold library and the commissioner of the division of capital planning or his designee of said presentation is submitted to the house and senate committees on ways and means upon final authorization by said commissioner within thirty days of said presentation.

SECTION 643. The secretary of the executive office of health and human services shall notify the house and senate committees on ways and means of any change in federal law affecting the administration, benefits, eligibility, expenditures and reimbursements for the medical care and assistance program established by Title XIX of the Social Security Act, any successor statute thereto and chapter one hundred and eighteen E of the General Laws. Said notice shall be submitted as soon as possible after said changes are enacted into federal law and shall be periodically updated to track the federal implementation of said law changes, including any rules, regulations, guidelines and policies promulgated or issued thereunder. In no event shall any such notice be submitted less than thirty days before a state agency under the authority of the secretary undertakes to implement such changes. Said notice shall describe said changes in relation to existing practices and shall assess their implications for the commonwealth's participation in said program. The secretary is further authorized and directed to prepare recommendations for consideration by the governor and the general court that would propose amendments to the General Laws, modifications of state financial practices and any reexamination of operating budget and revenue assumptions in effect for fiscal years nineteen hundred and ninety-seven and nineteen hundred and ninety-eight in response to such federal changes. The secretary shall promptly identify changes in federal reimbursement affecting the financial basis for state participation in the medicaid program, including, but not limited to, the implications for state cashflow, modification of the federal medical assistance percentage, maintenance of effort requirements, revenue projection methodologies, provider reimbursement rules, especially in the event of adoption of the medigrant, so-called. The description of such changes in federal reimbursement shall be accompanied by a projection of their fiscal impacts, including long term projections of state spending and revenues. In estimating total state revenues for fiscal year nineteen hundred and ninety-seven pursuant to section five B of chapter twenty-nine of the General Laws, the comptroller is hereby authorized and directed to estab-

lish baseline federal revenue for each state agency claiming federal medicaid reimbursements in said fiscal year. Said baseline shall be based on the Title XIX reimbursement methodology in effect on October first, nineteen hundred and ninety-seven. Said baseline shall distinguish between amounts claimed for operating budget expenditures, capital expenditures and revenue maximization projects. Said baseline shall be the official standard for assessing the effects of changes in federal law on state fiscal participation in the medicaid program. In the event that any such federal changes take effect during said fiscal year, the treasurer and receiver general shall deposit into a subfund of the General Fund all federal medicaid reimbursements in excess of said baseline projections. Notwithstanding the provisions of any general or special law to the contrary, the amounts deposited in said subfund shall be subject to specific appropriation from said subfund. No appropriation from said subfund shall be made until state law changes are made to conform to federal law changes with respect to the medicaid program and the secretary of administration and finance has certified to the house and senate committees on ways and means that any such excess federal reimbursements will not be required to maintain funding of the commonwealth's medicaid program without requiring corresponding increases in state medicaid appropriations for said program through fiscal year two thousand and three; provided, the secretary may propose changes to the purposes, structure, operations, eligibility, benefits or other feature of said program that would produce sufficient savings to offset any such corresponding increase in state appropriations in order to make available the monies in said subfund for other purposes.

SECTION 644. Notwithstanding any general or special law to the contrary, there is hereby created a regional tourist council study commission. The members of the commission shall be the commissioner of the department of economic development, the director of the Massachusetts office of travel and tourism, the director of the Massachusetts office for business development, and the chairs of the joint committees on local affairs, natural resources and commerce and labor. The commission shall study the configurations of the existing regional tourist councils, and shall propose additions to or consolidations of the existing number of councils and revisions in the current configurations of such councils, taking into account the changing demographics and population concentrations within the commonwealth. The commission shall analyze the feasibility and desirability of establishing subregions within the tourist council regions, as well as revenue sharing strategies among the regions and subregions, in order to maximize the effectiveness of the regional tourist councils in fulfilling the goal of expanding and supporting tourism throughout all regions of the commonwealth. The commission shall submit a comprehensive report of its findings to the house and senate committees on ways and means on or before January first, nineteen hundred and ninety-seven.

SECTION 645. The office of victim assistance and the parole board, in consultation with the executive office of public safety, shall establish and implement a system for ensuring that victims are given adequate advance notice of the release of a person incarcerated for an offense against such victim and are provided supportive services necessary as a result of such release. On or before March fifteenth, nineteen hundred and

ninety-seven, the office of victim assistance and the parole board shall jointly submit a report to the house and senate committees on ways and means and to the committee on public safety describing in detail the system that has been established and implemented and explaining the features that are designed to ensure that all victims receive adequate notice and support services in connection with such a release.

SECTION 646. The department of highways is hereby authorized and directed to install a flashing school zone light on Route 85 in the town of Southborough at the crosswalk of the St. Mark's School.

SECTION 647. The Metropolitan District Commission is hereby authorized and directed to establish within the department a fire control unit, so as to prevent, manage and suppress wildland and brush fires within the metropolitan park system, in order to ensure the environmental protection and integrity of the properties under the care, custody and control of the commission. The chief fire officer of the commission fire control unit, or his designee, shall administer the coordination and management of brush and wildland fire-ground and fire-fighting activities, within commission parks and reservations; The chief fire officer of the commission fire control unit will manage fire-ground and fire-fighting activities under the overall supervision of, and in consultation with the chief fire officer of the city or town in which the commission property is located. The chief fire officer of said city or town may delegate to the chief fire officer of the commission such authority or responsibility as he sees fit; The commission shall provide such equipment and staff training as is necessary in order to provide safe and effective wildland and brush fire suppression activities; The commission is hereby authorized to make the services of its fire control unit personnel and equipment available to the cities and towns within the metropolitan parks district, for the purposes of assisting with brush and wildland fire suppression on lands outside of commission property, upon the request of the chief fire officer of a city or town. The commission fire control unit is further authorized to respond to major brush and wildland fires outside of the metropolitan parks district if so requested by a city, town or fire district chief fire officer.

SECTION 648. That all grade crossings to be constructed on the Old Colony RR, so-called, shall be guarded by two drop gates on each side of the tracks sufficient to prevent automobile traffic from crossing the tracks when the gates are down.

SECTION 649. The commissioner of the department of revenue shall conduct an audit of the "Unidentified Child Support Payment Fund." The Commissioner must provide the results of the audit to the Child Support Enforcement Division which will in turn make recommendations to the commissioner on how to use said funds in the best interest of obligees and their children dependent on the program. Said recommendations shall include but not be limited to the use of such funds for increased extradition efforts, the transferal of the Unidentified Funds Account to the Child Support Trust Fund, and the redistribution of funds among obligees, as well as the use of the interest accrued. The Commissioner of the Department of Revenue and the Child Support Enforcement Division shall use said recommendations to submit a plan to the House and Senate Committees on Ways and Means no later than the second week of October nineteen hundred and ninety-six.

SECTION 650. There is hereby established on the books of the commonwealth a fund to be known as the Asbestos Cost Recovery Fund. Notwithstanding any general law 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 judgement 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 owned or operated by the commonwealth, and the removal and disposition of asbestos containing materials in such buildings. Any funds deposited in said fund shall not revert to the General Fund, but shall remain available for the purposes provided herein. Any funds deposited as described above may be expended by the division of capital planning and operations, subject to appropriation, consistent with the purposes of this section.

SECTION 651. In fiscal year nineteen hundred and ninety-eight and in each subsequent fiscal year, the minimum aid distributed to each city and town pursuant to the provisions of chapter seventy of the General Laws shall be the sum of (*a*) twenty-five dollars per student and (*b*) an additional amount calculated by apportioning to all minimum aid communities any amount by which the sum of statewide foundation gap, the state overburden obligation, and the statewide equity gaps, as defined in said chapter seventy, are reduced by any increase in lottery formula aid distributed in said year.

SECTION 652. The district attorneys in the Suffolk, Northern, Eastern, Western, Plymouth, Cape and Islands, and Berkshire districts are hereby authorized and directed to continue the operation of the community based juvenile justice program in order to coordinate efforts of the criminal justice system in addressing juvenile violence through cooperation with the schools and local law enforcement representatives, probation and court representatives, and where appropriate the department of social services, department of youth services, and department of mental health. The district attorney's community based juvenile justice program shall identify cases in which the juvenile offender is among those most likely to pose a threat to their community. The program shall treat the identified cases as priority prosecution cases and impose individualized sanctions designed to deter the offender from further criminal or delinquent conduct. The office of the district attorney shall work with the schools and community representatives on development of violence prevention and intervention programs, identification, protocol and curricula.

The office of the district attorney shall continue to conduct weekly working sessions focusing on specific events and particular individuals whose conduct poses a threat to schools, neighborhoods and communities. The office shall be responsible for creating, managing and updating a priority prosecution list of individuals identified as the

community's most serious violent youths and repeat offenders and shall update said list as events may happen and the individual is moved through the criminal justice system. The office of the district attorney shall assign prosecutors to the community based juvenile justice program who will treat the identified cases as their priority cases and shall work with the school, courts and other agencies to deter future violent, criminal or delinquent conduct. The office of the district attorney shall further be responsible for managing the lists, compiling and publishing statistics, coordinating meetings with the assistant district attorneys assigned to the program and local law enforcement agencies, schools, probation and court representatives, and where appropriate the department of social services, department of youth services, and department of mental health.

The district attorneys operating said program shall continue to participate in the community based juvenile justice program task force for the purpose of sharing information on the practices and developments of violence prevention and prosecution in their particular program and said task force shall submit a report on each program, including statistics and findings, to the house and senate ways and means committees by February first, nineteen hundred and ninety-seven.

SECTION 653. The deputy director of the division of housing and community development and the secretary of economic affairs are hereby authorized to carry out an interagency agreement for the expenditure of seven hundred fifty thousand dollars from the oil overcharge trust fund, so called, for the one and two person program, 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 the Low Income Home Energy Assistance Act of nineteen hundred and eighty-one, as amended; provided, that said amount may be expended from said fund for the fiscal year ending June thirtieth, nineteen hundred and ninety-six without further appropriation; provided further, that unexpended funds from an interagency agreement between the deputy director of housing and community development and the secretary of economic affairs for the fiscal year ending June thirtieth, nineteen hundred ninety-five are carried forward at and retained by the division of housing and community development for said programs for low-income elders and families; 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; and, provided further, that funds provided through interagency agreements authorized herein for supplemental energy assistance for low income elders and families do not constitute an ongoing obligation of the commonwealth.

SECTION 654. The division of medical assistance shall pay to reserve the bed in a nursing facility of any medical assistance recipient who is a nursing facility resident who has been transferred to an inpatient hospital for up to ten consecutive days and shall pay for temporary absences for recipients in nursing facilities and units for up to a total of fifteen days per calendar year when the recipient is absent from the facility for nonmedical reasons.

SECTION 655. The division of medical assistance shall not make the regulations, criteria and standards for determining admission to and continued stay in a nursing facility more restrictive than the regulations, criteria and standards in effect on January first, nineteen hundred and ninety-six.

SECTION 656. Subject to appropriation, the department of transitional assistance is hereby authorized to continue the Parents Fair Share Program to the city of New Bedford through an interagency agreement in which the department of revenue shall administer said program.

SECTION 657. No member of the board of registration in medicine as of the effective date of this act shall be disqualified from continuing to act as such by reason of clause (4) of subsection (a) of section nine B of chapter thirteen of the General Laws; provided, however, that such member shall comply in all respects with chapter two hundred and sixty-eight A of the General Laws.

SECTION 658. The Massachusetts Water Resources Authority shall be required to notify on a monthly basis, the board of health in communities within the Massachusetts Water Resources Authority district, so-called, of the quality of drinking water supplied by said authority on a monthly basis.

SECTION 659. The division of capital planning and operations is authorized and directed to enter into a contract with the Massachusetts Water Resources Authority for the purpose of expending such funds as are necessary to remove asbestos and any other hazardous material from the Fore River shipyard; provided that such funds shall be expended from the Asbestos Cost Recovery Fund, created by section sixteen of chapter sixty of the acts of nineteen hundred and ninety-four.

SECTION 660. The Lynnfield water district, by and through its board of water commissioners is hereby authorized to enter into a lease or leases with providers of wireless communications for a term of not more than twenty-five years, for the right to attach antennae and associated equipment to its water storage tanks and a portion of the parcel of land on which said tanks are located on such further terms and conditions as said water commissioners deem to be in the best interests of said district.

SECTION 661. The courthouse building in the city of Lawrence to be built on a parcel of land surrounded by Lawrence, Methuen, Appleton, and Canal streets shall be designated and known as "The Fenton Judicial Center" in honor of the Honorable John E. Fenton, Jr. and the late Honorable John E. Fenton, Sr. and their many contributions to both the judiciary and the city of Lawrence. Suitable markers bearing such designation shall be attached thereto by the division of capital planning and operations or any successor entity.

SECTION 662. Seasonal employees of the department of environmental management who are hired prior to the second Sunday before Memorial Day and whose employment continues beyond the Saturday following Labor Day and who received health insurance benefits in fiscal year nineteen hundred and ninety-six shall continue to receive such benefits in fiscal year nineteen hundred and ninety-seven.

SECTION 663. The special commission, established by section three hundred and seventy-seven of chapter one hundred and ten of the acts of nineteen hundred and ninety-three and revived and continued by chapter two of the resolves of nineteen hundred and ninety-four, is hereby further revived and continued until December thirty-first, nineteen hundred and ninety-seven.

SECTION 664. There shall be established a North Quabbin Domestic Violence Prevention Program to provide counseling advocacy, legal advocacy, community education and a hotline in the Athol area. The Program shall be funded through the Department of Public Health, the Department of Education, and the Department of Social Services. The Program shall develop a community based approach to facilitate the use of direct services and effective community education/prevention work.

SECTION 665. There is hereby established a special commission on siting community-based human service facilities to consist of nine members, including the secretary of the executive office of health and human services or his designee, the commissioner of the department of mental health or his designee, the department of mental retardation or his designee, the chairpersons of the joint housing and urban development committee and the chairpersons of the joint committee on human services and elderly affairs, two members to be appointed by the governor, one whom shall be a relative of an individual currently residing in a community-based human service facility and one of whom shall be an expert in the field of community-based housing to conduct an investigation and study of the laws, policies and practices currently utilized in the siting of community-based human service facilities, including but not limited to a review of the policies relative to neighborhood and community planning, involvement and education. Said special commission shall report the results of its investigation and study including any recommendations by filing the same with the clerks of the senate and house of representatives not later then December thirty-first, nineteen hundred and ninety-six.

SECTION 666. There is hereby established a special education study commission to consist of three members of the senate, one of whom shall be appointed by the minority leader of the senate, four members of the house of representatives, one of whom shall be appointed by the minority leader of the house of representatives; the chairman of the board of education, the secretary of administration and finance, or their respective designees; and six members to be appointed by the governor, one of whom shall be a representative of the Massachusetts municipal association, one of whom shall be a representative of the Massachusetts association of school committees, one of whom shall be a representative of the Massachusetts association of school superintendents, two of whom shall be members of local parents' advisory councils, and one of whom shall be jointly designated by the Children's Law Center of Massachusetts, the Massachusetts Advocacy Center and the Center for Law and Education.

Said commission shall conduct an investigation and study relative to the impacts of special education programs established pursuant to chapter seventy-one B of the General Laws and regulations promulgated thereunder on the students eligible for said programs and on the educational programs and finances of school districts and municipalities.

Said investigation and study shall: perform a comparative analysis of the number of children receiving special education and the costs of such programs in Massachusetts and other states; examine current transportation services for children receiving special education and alternatives available to reduce costs, increase efficiency and improve the quality of said services; examine ways to increase coordination among school districts for the provision of higher quality cost-effective services, including the regionalization of special education programs; examine the system of evaluating, placing, and monitoring students receiving special education, including out-of-district placements; and examine the system of appeals and the system for monitoring school district compliance with the special education laws administered by the department of education.

Said commission shall further examine the cost trends to local and regional school districts of providing special education services, the capacity of said districts to fund such services within the resources required or made available by chapter seventy of the General Laws and the effects of said services on the programmatic and fiscal planning and educational accomplishments of said districts.

Said special commission shall further study issues surrounding the classroom discipline of children with special needs, including the impact, if any, of proposed or enacted federal laws relative to said issues, and identify modifications to laws and regulations of the commonwealth that would be necessary to comply with said proposed or enacted federal law changes.

Furthermore, the department of education, subject to appropriation, shall establish and administer a program to train school personnel in the development of teacher support teams for the implementation of a pre-referral system for districts in the commonwealth with the highest percentage of school age children identified as children with special needs pursuant to said chapter seventy-one B as compared to other similar districts which have a disproportionately high number of limited English proficient students or minority students enrolled in special education programs. The department shall assist said school districts in developing a mechanism for the delivery of appropriate instructional accommodations within the regular education classroom.

Said special commission shall report to the house and senate committees on ways and means the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry said recommendations into effect, by filing the same with the clerks of the house of representatives and senate and the joint committee on education, arts and humanities on or before January twentieth, nineteen hundred and ninety-seven.

SECTION 667. Notwithstanding the provisions of any general or special law to the contrary, the foundation budget review commission established by section four of chapter seventy of the General Laws is hereby authorized and directed in fiscal year nineteen hundred and ninety-seven to study and make recommendations relative to the effects of the education reform financing provisions of said chapter seventy on: (1) the financial capacities of municipalities and the commonwealth to meet the financing schedule established by said chapter, (2) the effects of said provisions on the balance between municipal education

financing and the maintenance of non-education municipal services; (3) the predictability of the chapter seventy financing mechanism for long term municipal financial planning; (4) the ability of municipalities classified as "over-foundation budget" to achieve the purposes of said chapter seventy and (5) the relationship between per pupil expenditure norms established by the foundation budget and the actual marginal costs of educating an additional student. Said study shall update the estimates that were initially used to project the achievement of foundation budgets statewide by school year two thousand and two and the capacity of existing revenue sources of the commonwealth and municipalities to achieve said foundation budgets. Said study shall consider the effects of proposed reductions in federal education aid on achieving the purposes of chapter seventy by said year. Said study shall examine disparities among municipalities resulting from such financing provisions, including municipalities with non-taxable state-owned property, and analyze their effects on the various districts, including those districts experiencing high enrollment growth. Said study shall evaluate the impact of eliminating overburden aid as required by section five of said chapter seventy and examine the impact of increasing minimum aid above seventy-five dollars per pupil on below foundation municipalities. Said study shall evaluate the adjustments to the standard of effort required by said chapter seventy on municipalities with lower than average per capita incomes and equalized valuation that would enable such municipalities to receive not less than the statewide average of chapter seventy per pupil aid. Said study shall develop a marginal cost analysis of student education and examine the relationship between such marginal costs and the calculation of chapter seventy's per pupil foundation expenditures. Said study shall evaluate the department of education's methodology for allocating a municipality's minimum required local contribution between its local school district and any partial regional school district of which it is a member. The department of education and the department of revenue are hereby authorized and directed to assist the commission with any or all components of the study at the request of said commission.

Before filing its recommendations, said commission shall hold a series of no fewer than six public hearings across the regions of the commonwealth for the purpose of accumulating public opinion and information regarding the issues to be included in the report. The commission's report, along with any legislative recommendations, shall be filed with the house and senate committees on ways and means, the clerks of the house of representatives and senate, and the joint committee on education, arts and humanities no later than February fifteenth, nineteen hundred and ninety-seven.

SECTION 668. The Massachusetts Water Resources Authority Advisory Board, established pursuant to Section 23 of Chapter 372 of the acts of 1984, is hereby authorized and directed to undertake a study relative to establishing Massachusetts Water Resources Authority policy and criteria for water and sewer system expansion in non-member communities. The Massachusetts Water Resources Authority Advisory Board shall file said report with the clerks of the Senate and the House of Representatives not later than December thirty-first, nineteen hundred and ninety-six.

SECTION 669. The commissioner of the department of social services, in consultation with the statewide advisory council, the regional directors and regional advisory councils, the area director and area boards, and the collective bargaining representatives of the employees of the department, shall study and submit a report to the senate and house committees on ways and means and the joint committee on human services no later than the first day of April, nineteen hundred and ninety-seven, regarding the department's contracts with private provider agencies to provide direct care services. The report shall include a discussion of the strengths and weaknesses of such contracts in terms of the quality and costs of services thereby provided, and shall include recommendations and proposed timetables for implementation of such recommendations, for improvement of quality, accountability, and for department oversight of the care delivered pursuant to such contractual relationships.

SECTION 670. There is hereby established a special commission for the purpose of reviewing the manner in which telecommunication services are taxed by the commonwealth. The commission shall consist of thirteen members as follows: the chairman of the public utilities commission or designee, the commissioner of revenue or designee, two members of the house of representatives to be appointed by the speaker of the house, two members of the senate to be appointed by the senate president, two members to be appointed by the speaker of the house, one to represent the industry and one to represent the citizens of the commonwealth who shall have no connection to the industry other than as a consumer, two members to be appointed by the senate president, one to represent the industry and one to represent the citizens of the commonwealth who shall have no connection to the industry other than as a consumer, and three members appointed by the governor, one to represent the industry and one to represent the citizens of the commonwealth who shall have no tie to the industry other than as a consumer. The commission shall adopt such rules and establish such procedures as it considers necessary for the conduct of its business. Subject to appropriation the commission may expend funds as necessary to carry out its duties. No action of the commission shall be considered official unless approved by a majority vote of the commission. The commission shall investigate the nature of taxation of telecommunications, including, but not limited to, the definition of telecommunications, sales and use taxation of telecommunication services, sales of tangible personal property or services over the Internet, so called, or other telecommunication networks, cable television, computer software services, taxation of inconsequential tangible personal property and services, federal telecommunication legislation and the impact on the commonwealth and any inequities which may exist due to said taxation.

Said commission shall report to the General Court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary, by filing the same with the governor of the commonwealth and the clerks of the senate and the house of representatives on or before the second Monday of September, nineteen hundred and ninety-seven. Said clerks shall forward copies of said report to the chairs of the joint committee on taxation and the senate and house committees on ways and means.

SECTION 671. Notwithstanding any general or special law to the contrary, a county corrections transfer study committee is hereby created. Said committee is authorized and directed to study and produce a comprehensive report on the financial and programmatic implications and advisability of, and recommended procedures for, transferring corrections functions now performed by county governments to the executive office of public safety. The report shall assume that such transfer is to be accomplished no later than July first, nineteen hundred and ninety-seven. The members of the study committee shall be the secretary of the executive office of public safety, the chair of the Massachusetts Sheriffs' Association, and the director of the division of local services in the department of revenue. The committee shall submit its report to the house and senate committees on ways and means, the joint committee on public safety, and the joint committee on counties, on or before January first, nineteen hundred and ninety-seven.

SECTION 672. Notwithstanding any general or special law to the contrary, a registries of deeds transfer study committee is hereby created. Said committee is authorized and directed to study and produce a comprehensive report on the financial and programmatic implications and advisability of, and recommended procedures for, transferring the registries of deeds in the counties of the commonwealth to the office of the secretary of state. The report shall assume that such transfer is to be accomplished no later than July first, nineteen hundred and ninety-seven. The members of the study committee shall be the secretary of state, the chair of the State Association of the Registers of Deeds, and the director of the division of local services in the department of revenue. The committee shall submit its report to the house and senate committees on ways and means and the joint committee on counties, on or before January first, nineteen hundred and ninety-seven.

SECTION 673. Notwithstanding any general or special law to the contrary, the Massachusetts Water Resources Authority is hereby authorized and directed to conduct a comprehensive study of the water and sewer needs of the towns of South Hadley and Wilbraham and the city of Chicopee and submit a report of the results of said study to the senate and house committees on ways and means no later than December thirty-first, nineteen hundred and ninety-six.

SECTION 674. A special commission is hereby established to conduct a study of the feasibility of bulk storage methods for natural gas in a cryogenic state on land and in off-shore areas. The special commission shall consist of the senate and house chairmen of the joint committee on energy, a member of the house of representatives appointed by the speaker thereof, a member of the house of representatives appointed by the house minority leader, a member of the senate appointed by the president thereof, a member of the senate appointed by the senate minority leader, the chairman of the public utilities commission or his designee, and three representatives of the energy industry appointed by the governor. The commission shall report the results of its study by filing the same with the clerks of the senate and the house of representatives not later than December thirty-first, nineteen hundred and ninety-seven.

SECTION 675. To prepare for the adoption of a new funding schedule pursuant to the provisions of section twenty-two C of chapter thirty-two of the General Laws and to evaluate options to effectively address and reduce the commonwealth's unfunded pension liability, the secretary of administration and finance and the state treasurer are hereby authorized and directed to conduct a study of the commonwealth's retirement systems. The study shall include: an analysis of the pension structure and the teachers' and employees' benefit program of the commonwealth's current systems, including comparisons with other public and private retirement systems; an analysis of the cost of benefits to employees, teachers, and the commonwealth; an analysis of potential alternative benefit systems for commonwealth employees and teachers, including a defined contribution program; and such other issues as the secretary and state treasurer may deem relevant to evaluating options for the commonwealth's systems. Said secretary and state treasurer shall mutually choose and employ an entity to conduct an independent review of said study. Said secretary and state treasurer shall report the results of the study and the independent review to the house and senate committees on ways and means and the joint committee on public service on or before December first, nineteen hundred and ninety-six.

SECTION 676. There is hereby established a smoking prevention and cessation advisory commission to consist of the senate and house chairs of the joint committee on public safety, the senate and house chairs of the joint committee on health care, the secretary of the executive office of public safety or his designee, the commissioner of the department of public health or his designee, the secretary of the executive office of administration and finance or his designee, two representatives of the Massachusetts tobacco control oversight council and two representatives from the coalition for a healthy future.

Notwithstanding the provisions of any general or special law to the contrary, the commission shall conduct an annual investigation and study of the distribution and expenditures pursuant to chapter two hundred and fifty-four of the acts of nineteen hundred and ninety-two, to determine the effectiveness of programs fully or partially funded through the health protection fund. Said commission shall annually report the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry out such recommendations in order to serve the economic and health interests of the public, by filing the same with the clerks of the senate and house of representatives not later than May first, nineteen hundred and ninety-seven.

SECTION 677. There is hereby established a task force consisting of the director of the following quasi-public corporations: Massachusetts Community Development Finance Corporation, Massachusetts Industrial Services Program, Massachusetts Centers of Excellence Corporation, the Massachusetts Corporation for Educational Telecommunications, Government Land Bank, Massachusetts Industrial Finance Agency, Massachusetts Technology Park Corporation, Massachusetts Micro electronics Center, the Thrift Fund for Economic Development, the director of economic development, the director of labor and workforce development and the house and senate chairmen of the joint committee on commerce and labor. The task force shall review current procedures cooperating, collaborating, and sharing information between all quasi-public corporations

and the undersecretary of economic development. The task force shall also propose recommendations for improving said cooperation, collaboration and information sharing including but not limited to exchange of information to ensure on going development projects receive the maximum benefit of state assistance available, to establish a monthly reporting system to said undersecretary of economic development to ensure said cooperation and information exchange is occurring, to establish a confidentiality procedure to protect proprietary business information disclosed to a quasi-public agency and any other recommendations the task force deems appropriate.

The task force shall also undertake an analysis of business financing programs existing and targeted toward small business and ensure an adequate supply of capital is available. Said task force shall meet from time to time but for no more than six months.

Said task force shall make its recommendations, along with any legislative proposals to the general court no later than December thirty-first, nineteen hundred and ninety-six. The task force shall cease to exist after December thirty-first, nineteen hundred and ninety-six.

SECTION 678. There is hereby established a seven member special commission, to consist of the chairmen of the house and senate committees on ways and means and the joint committee on public service, a representative of the Retired State, County and Municipal Employees Association of Massachusetts, a representative of the Massachusetts Municipal Association and a representative of the Massachusetts Association of Contributory Retirement Systems, for the purpose of making an investigation and study of cost-of-living adjustments for all city, town and county retirees. Said study shall include, but shall not be limited to, the fiscal ramifications of continuing the commonwealth's obligation to reimburse local retirement systems for cost-of-living adjustments and the effect on the unfunded pension liabilities of both the state and the local systems. Said study shall also explore alternative methods of funding cost-of-living adjustments for city, town and county retirees, including the possibility of local retirement systems assuming the full obligation of funding all future cost-of-living adjustments for said retirees. Said commission shall report to the general court the results of its study and its 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 first, nineteen hundred and ninety-six.

SECTION 679. Notwithstanding any special or general law, rule or regulation to the contrary, the commissioner of insurance is authorized and directed to examine group automobile insurance discount programs, so-called, and to offer evidentiary findings and recommendations relative to (1) the proliferation of said programs within Massachusetts; (2) the impact of said programs on the rate structure of the Massachusetts automobile insurance market; (3) the impact of said programs on the administrative costs of automobile insurance providers servicing the Massachusetts market. Said examination should include a statement and analysis of the impact of a reduction of the fixed and established rate, so-called, applicable to all insureds, by a rate consistent with the average group discount approved by said commissioner during the past twelve months.

Such examination shall be completed not more than sixty days after the effective date of this section and a copy shall be forwarded to the joint legislative committee on insurance, the committee on ways and means of the house and senate, the attorney general, and the secretary of the commonwealth.

SECTION 680. A special legislative commission shall be established to explore alternatives to local property taxes as the primary source of funding for public education in the commonwealth. The commission shall consist of three members to be named by the speaker of the house of representatives, one member named by the house minority leader, three members to be named by the senate president, and one member named by the senate minority leader. The governor may, in addition, name three members of the commission. The commission shall report to the ways and means committees of the house and senate not later than April thirtieth, nineteen hundred and ninety-seven.

SECTION 681. The secretary of administration and finance, the commissioner of the department of revenue and the secretary of transportation are hereby authorized and directed to review and study methods to grant fuel tax relief for the purchase of gasoline and diesel fuel in Massachusetts. Said study shall include, but not be limited to, an examination of the feasibility of a reduction of the federal fuel excise tax imposed in nineteen hundred and ninety-three, so called, which had the net effect of raising the total tax on gasoline purchases by four and three-tenths cents per gallon and the net effect of such a reduction on state revenue, the impact of the reduction on the state highway fund and the extent to which projects must be delayed, reduced or cancelled due to said reduction in revenue. Said study shall determine methods for reducing the Massachusetts gasoline fuel tax by four and three-tenths cents per gallon up to and until the time that the federal government rescinds the increase in the federal fuel excise tax imposed in nineteen hundred and ninety-three; provided, that said plan shall include a provisions stipulating that said reduction in the commonwealth's fuel excise tax shall automatically revert to the difference between four and three-tenths cents per gallon and the amount by which the federal fuel excise has been reduced by any amount less than four and three-tenths cents per gallon. A report on said study shall be presented to the house and senate committees on ways and means on or before December thirty-first, nineteen hundred and ninety-six; provided, further, that the department of revenue is hereby directed to immediately begin conducting audits of out of state motor carriers to ensure compliance with the International Fuel Tax Agreement.

SECTION 682. The House Committee on Ways and Means is hereby authorized to conduct a study relative to the feasibility of a complete or partial merger of the Department of State Police and the Massachusetts Bay Transportation Authority police department. Said study shall include regular consultation with the colonel of the State Police and the chief of the Massachusetts Bay Transportation Authority Police, and with representatives designated by the State Police Association of Massachusetts and the Massachusetts Bay Transportation Authority police patrolman's union.

Said study shall address all issues relevant to such merger, including, but not limited to the following: the public safety efficacy of such a merger, efficiency and effectiveness of law enforcement operations; differences and similarities among the powers and duties of

the respective forces, including job task analysis; training, health and fitness standards of the respective forces; comparability of rank structure and line of command; comparability of salaries, seniority rights, civil service rights, vacation and sick leave, overtime compensation, and other employee rights and benefits of the employees of the respective police forces; the collective bargaining implications of any proposed merger; the retirement and pension rights of the employees of the respective forces including mandatory retirement and pension liabilities; and the overall cost effectiveness of any proposed merger.

Study recommendations shall be filed with the clerk of the house of representatives and the clerk of the senate by December 15, 1996.

SECTION 683. The executive office of administration and finance is hereby authorized and directed to examine the feasibility and cost effectiveness of instituting a centralized statewide human resources unit, hereinafter referred to as the total human resource unit, so-called, for the purpose of eliminating duplicative human resource duties currently performed in the agencies, departments, institutions and commissions of the commonwealth. Said study shall identify the policies, procedures, duties, regulations and other matters for which said centralized unit would be responsible, and the positive and negative effects of such centralization on the functioning of the agencies, departments, institutions and commissions of the commonwealth. Said study shall identify the number and full time equivalency of positions whose human resource duties might be eligible for transfer to such a centralized unit, the number of personnel in such positions performing other non-human resource duties whose transfer to such a centralized unit would result in an agency's loss of functionality, and savings attributable to instituting said centralized unit by agency, department and commission. Said study shall examine the office space needs of such a unit, amounts to be generated from instituting a chargeback, so-called, for the expenses of such a unit, and a staffing pattern for such a unit. Said study shall further identify the effects of collective bargaining agreements in instituting such a unit and any other matters necessary to resolve for its implementation.

Said study shall be filed by the secretary of administration and finance with the house and senate committees on ways and means not later than September fifteenth, nineteen hundred and ninety-six, to be accompanied by recommendations for any legislation necessary to implement such a system.

For purposes of this section, the following words shall have the following meanings, unless the context clearly requires otherwise:-

"Human resource duties" shall be defined as the selection, placement and training of employees. Such duties also include the formulation of policies, procedures and relations relative to employees or their representatives;

"Human resource positions" shall include, but not be limited to the following job titles as defined by the department of personnel administration, personnel management group's statewide survey of human resources positions: human resource/personnel directors; training directors; classification/compensation managers; recruitment directors; personnel analysts; personnel officers; personnel selection specialists; training program coordinators; training technicians; and any other positions as defined in section one of this

act, except labor relations directors, labor relations officers, affirmative action directors, and affirmative action officers.

SECTION 684. The provisions of section two hundred and fifty-eight shall not apply to an application for transfer that was approved prior to the effective date of this act.

SECTION 685. The provisions of section six hundred and thirty-eight shall take effect as of July first, nineteen hundred and ninety-nine.

SECTION 686. Section one hundred and fifty-seven and one hundred and sixty shall take effect as of July first, nineteen hundred and ninety-seven.

SECTION 687. Section two hundred and four of this act shall take effect on January first, nineteen hundred and ninety-seven. Sections two hundred and five, four hundred and fifty-five and four hundred and fifty-six shall take effect with respect to payment of unemployment compensation occurring on or after January first, nineteen hundred and ninety-seven.

SECTION 688. The provisions of section four hundred and sixty-two shall take effect as of July first, nineteen hundred and ninety-five.

SECTION 689. Section two hundred and thirty-four shall be effective as of May first, nineteen hundred and ninety-six.

SECTION 690. Except as otherwise provided in this act, the provisions of this act shall take effect as of July first, nineteen hundred and ninety-six.

This bill was returned on June 30, 1996, by the Governor to the House of Representatives, the branch in which said bill was originated, with his objections in writing to the following items therein:

Items Disapproved:

SECTION 2:

1599-0033 7001-0010 7003-0100 7006-0090 7009-0001

SECTIONS 5, 33, 39, 46, 47, 60, 61, 62, 63, 64, 67, 68, 69, 70, 72, 73, 77, 78, 79, 80, 81, 84, 87, 113, 118, 157, 163, 164, 181, 183, 184, 185, 186, 200, 214, 215, 216, 217, 218, 219, 228, 248, 249, 254, 260, 280, 384, 387, 460, 468, 509, 521, 522, 523, 524, 533, 534, 535, 536, 537, 539, 540, 544, 548, 555, 560, 562, 568, 569, 572, 579, 580, 590, 592, 596, 606, 615, 627, 635, 638, 641, 645, 646, 647, 653, 679, 681, 685

SECTION 2 *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording Stricken
0332-5300	57,932	3,878,601	"; provided further, that one additional assistant clerk magistrate position shall be appointed and funded from this item during fiscal year nineteen hundred ninety-seven"

Item	Reduce by	Reduce to	Wording Stricken
4400-1000	28,213	62,426,792	"; provided further, that the department shall maintain a transitional assistance office at 294 Bowdoin street in the Dorchester section of the city of Boston"
5011-0100	275,000	19,718,288	"; and provided further, that two hundred seventy-five thousand dollars from this item shall be placed in a reserve for an association known as the consortium, pursuant to the provisions of section five hundred and sixty-two of this act"
5911-1000	475,000	4,497,072	"; provided, that four hundred seventy-five thousand dollars from this item shall be placed in a reserve for an association known as the consortium, pursuant to the provisions of section five hundred and sixty-two of this act"
7010-0005	75,000	8,150,673	"; provided, that not less than seventy-five thousand dollars shall be expended for staff support services for the education reform and review commission established pursuant to the provisions of chapter seventy-one of the acts of nineteen hundred and ninety-three"

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*
4405-2000	1,175,000	194,921,619	"; provided further, that not less than one million two hundred thousand dollars shall be allocated for legal appeal services for emergency aid to the elderly, disabled and children to supplemental security income conversions"
			Wording Inserted "; provided further, that not less than twenty-five thousand dollars shall be allocated for legal appeal services for emergency aid to the elderly, disabled and children to supplemental security income conversions"

SECTION 2 *Items disapproved by striking the wording:*

Item	Wording Stricken
1599-6895	"; provided further, that a study shall be conducted by the division of purchased services in order to examine the feasibility and financial impact of requiring any private human service provider, under contract to any state agency or department of the commonwealth, to compensate direct care workers in ratios of no greater than five to one and no greater than seven and one-half to one in direct proportion to that of the salary at the highest level of administrative position to that of the salary of the entry or lowest level of direct care workers within said private human service provider agency; provided further, that said study shall consider total annual compensation, including, but not limited to, overtime, of direct care workers employed by agencies under contract with the departments of mental retardation, mental health, transitional assistance, social services, and the executive office of elder affairs; and provided further,that said study shall be submitted to the house and senate committees on ways and means on or before the twentieth day of December nineteen hundred and ninety-six"
4513-1000	"; provided further, that the department shall fund not less than thirty-nine full time equivalent employees for the early intervention program"
5920-5000	"; provided further, that not more than one hundred and sixty clients shall receive services funded from this item in fiscal year nineteen hundred and ninety-seven"
5930-1000	"or any other item of"
7003-0901	"; provided further, that the executive office of administration and finance is authorized and directed to submit an allotment and disbursement plan for the funds appropriated herein for approval by the general court, prior to the expenditure of any funds appropriated herein"
7003-9006	"; provided, that, with the exception of career centers located in the Boston service delivery area, not more than five career centers located in two service delivery areas shall operate in the commonwealth during fiscal year nineteen hundred ninety-seven; provided further, that the division of workforce development shall

promptly modify its contractual agreement with the United States department of labor to confirm with said limitations"

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 June 30, 1996 at twelve o'clock and four minutes, P.M.

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 25, 1996 in the House of Representatives and on July 29, 1996 the Senate passed the following Section: **SECTION 679.**

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 31, 1996, the House of Representatives and the Senate in concurrence passed the following section: **SECTION 523**

Chapter 152. AN ACT PROVIDING FOR THE APPOINTMENT OF A TREASURER AND COLLECTOR IN THE TOWN OF ACUSHNET.

Be it enacted, etc., as follows:

SECTION 1. Section 3-1-1 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 striking out, in line 5, the word "treasurer".

SECTION 2. Section 3-4-1 of said charter is hereby amended by inserting after the word "constables", in line 3, the following words:- treasurer, collector.

SECTION 3. Said section 3-4-1 of said charter is hereby further amended by adding the following sentence:- Notwithstanding anything contained herein, the board of selectmen shall have the right to appoint the same person to the positions of treasurer and collector.

SECTION 4. Section 4-1-3 of said charter is hereby amended by striking out, in line 3, the words "except those of the treasurer".

Approved July 1, 1996.

Chapter 153. AN ACT RELATIVE TO WARRANTY REPAIR REIMBURSEMENT FOR MOTOR VEHICLE PARTS AT RETAIL.

Be it enacted, etc., as follows:

SECTION 1. Section 6 of chapter 93B of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "services", in line 13, the following words:- ; provided, however, that fair and adequate compensation shall, for purposes of this section for motorcycles, mopeds and motorized bicycles, be computed at the rate normally charged by the motor vehicle dealer to the public for such labor and materials and shall include a fair charge for diagnostic and test services.

SECTION 2. Said section 6 of said chapter 93B, as so appearing, is hereby further amended by striking out, in line 14, the word "parts" and inserting in place thereof the following word:- materials.

Approved July 1, 1996.

Chapter 154. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR NINETEEN HUNDRED AND NINETY-SIX 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 appropria-

tion act and other appropriation acts for fiscal year nineteen hundred and ninety-six and for certain other activities and projects in said fiscal year, the sums set forth in section two are hereby appropriated from the General Fund, unless specifically designated otherwise herein or in said appropriation acts, for the several purposes and subject to the conditions specified for said items herein or in said appropriation acts and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June thirtieth, nineteen hundred and ninety-six, or for such period as may otherwise be specified. The sums appropriated herein shall be in addition, unless otherwise specified, to the amounts previously appropriated and made available for the purposes of said items.

SECTION 2.

JUDICIARY.

Supreme Judicial Court.

0320-0003	.....	$136,237
0321-0001	.....	$16,189
0321-0100	.....	$28,662

Committee for Public Counsel Services.

0321-2000	.....	$6,000

Trial Court.

0330-0400	.....	$2,319,805
0330-4303	.....	$615,401

DISTRICT ATTORNEYS.

Berkshire District Attorney.

0340-1100	.....	$86,584

District Attorneys Association.

0340-2100	.....	$215,000

TREASURER AND RECEIVER-GENERAL.

Office of the Treasurer and Receiver-General.

0611-5000	.....	$882,000
0611-5800	.....	$43,770

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Civil Service Commission.

1108-1101	.....	$27,396

Group Insurance Commission.

1108-5200	.....	$4,164,925
1108-5500	.....	$133,782

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Department of Environmental Management.

2100-2030	.....	$310,839

Department of Fisheries, Wildlife and Environmental Law Enforcement.

2330-0100 ..... $89,100

Metropolitan District Commission.

2444-9005 ..... $228,000

EXECUTIVE OFFICE OF COMMUNITIES AND DEVELOPMENT.

3222-9005 ..... $2,303,446

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Division of Medical Assistance.

4000-0700 ..... $40,000,000

Department of Youth Services.

4200-9999 ..... $292,295

4202-0003 ..... $438,667

Department of Public Health.

4513-1000 ..... $1,325,000

4513-1005 ..... $146,000

Department of Mental Health.

5046-0000 ..... $2,000,000

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Department of Highways.

6030-7201 ..... $18,447,483

6030-7221 ..... $4,211,854

EXECUTIVE OFFICE OF EDUCATION.

Department of Education.

7061-0012 ..... $5,081,949

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Department of Public Safety.

8314-1200 ..... $37,100,000

Department of Correction.

8900-0010 ..... $300,000

8900-9999 ..... $1,510,000

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth and to meet certain requirements of law, the sums set forth in this section, as said section is designated in section six D of chapter twenty-nine of the General Laws, 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 per-

taining to appropriations acts for the fiscal year ending June thirtieth, nineteen hundred and ninety-six.

TREASURER AND RECEIVER-GENERAL.

Office of the Treasurer and Receiver-General.

0612-1506 For a reserve to meet the commonwealth's obligation for the fiscal year ending June thirtieth, nineteen hundred and ninety-six, pursuant to section twenty-two B of chapter thirty-two of the General Laws, to reduce the unfunded pension liability of public retirement systems, other than state employees' and state teachers' systems; provided, however, that the distribution from this reserve shall be based upon a determination by the secretary of administration and finance of actual payroll costs for the fiscal year ending June thirtieth, nineteen hundred and ninety-six . . . $4,669,038

Local Aid Fund 100.0%

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves.

1599-2200 For a reserve to fund grants to county sheriffs to provide for the continued operation of county jails and houses of correction, and to fund grants to certain county treasurers to provide for the continued operation of county government; provided, however, that funds appropriated herein shall be distributed by the county government finance review board pursuant to a plan of disbursement filed in advance with the house and senate committees on ways and means; provided, further, that the sheriff of Barnstable county shall receive an amount not to exceed four hundred seventy-five thousand dollars, of which amount, seventy-five thousand dollars shall be obligated for payment to the master overseeing resolution of inmate crowding complaints; provided, further, that the sheriff of Bristol county shall receive an amount not to exceed one million two hundred ten thousand dollars; provided, further, that the sheriff of Berkshire county shall receive an amount not to exceed three hundred seven thousand seven hundred ninety-two dollars; provided, further, that the sheriff of Essex county shall receive an amount not to exceed one million three hundred thousand dollars; provided, further, that the sheriff of Franklin county shall receive an amount not to exceed two hundred eighteen thousand dollars; provided, further, that the sheriff of Hampden county shall receive an amount not to exceed one million seven hundred thousand dollars; provided, further, that the sheriff of Hampshire county

shall receive an amount not to exceed two hundred fifty-nine thousand six hundred ninety-seven dollars; provided, further, that the sheriff of Middlesex county shall receive an amount not to exceed seven hundred forty-five thousand dollars; provided, further, that the sheriff of Norfolk county shall receive an amount not to exceed one million five hundred ninety-eight thousand one hundred twenty-three dollars; provided, further, that the sheriff of Worcester county shall receive an amount not to exceed nine hundred forty-six thousand five hundred fifty-two dollars; provided, further, that the treasurer of Franklin county shall receive an amount not to exceed one hundred thousand dollars; provided, further, that the treasurer of Hampden county shall receive an amount not to exceed three million seven hundred thousand dollars; provided, further, that the treasurer of Hampshire county shall receive an amount not to exceed nine hundred thousand dollars; and provided, further, that the treasurer of Worcester county shall receive an amount not to exceed one million nine hundred thousand dollars $15,360,164

Local Aid Fund 100.0%

1599-3784 For a reserve to meet the costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the higher education coordinating council and the Massachusetts Teachers Association/Massachusetts Community College Council; provided, however, 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 fiscal year nineteen hundred and ninety-six such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means $1,813,045

1599-3785 For a reserve to meet the commonwealth's obligations pursuant to the provisions of the collective bargaining agreement between the higher education coordinating council and the Massachusetts Teachers Association/Massachusetts Community College Council, and to meet the cost of supplementary educational needs for certain employees, employed in classified positions which would otherwise be covered by said collective bargaining agreement, and to meet the costs of supplementary educational needs of non-unit managers at the community colleges; provided, however, that the secretary of administration and finance is here-

by authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for the fiscal year nineteen hundred and ninety-six such amounts as are necessary to meet the cost of said adjustments and benefits where the amounts otherwise available are insufficient for the purpose, in accordance with an allocation plan which shall be filed in advance with the house and senate committees on ways and means $2,828,222

1599-3786 For a reserve to meet the commonwealth's obligations pursuant to the provisions of section 21.01 D of Article XXI of the collective bargaining agreement between the higher education coordinating council and the Massachusetts Teachers Association/ Massachusetts Community College Council; provided, 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 fiscal years nineteen hundred and ninety-six through nineteen hundred and ninety-eight such amounts as are necessary to meet the cost of said obligations for said fiscal years where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plans which shall be filed in advance with the house and senate committees on ways and means $858,371

1599-3787 For a reserve to meet the costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the American Federation of State, County and Municipal Employees, Council 93, Locals 507 and 2616, AFL-CIO, the Service Employees International Union, AFL-CIO, Local 285, and the International Brotherhood of Electrical Workers, Local 103, AFL-CIO; provided, however, 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 fiscal year nineteen hundred and ninety-six such amounts as are necessary to meet the cost of said adjustments and benefits for fiscal years nineteen hundred and ninety-five and nineteen hundred and ninety-six where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means $981,517

1599-3800 For a reserve to meet the costs of fiscal year nineteen hundred and ninety-four, nineteen hundred and ninety-five, and nineteen hundred and ninety-six salary and benefit adjustments and other

employee economic benefits authorized for those employees of the supreme judicial court, appeals court and trial court that are covered by the collective bargaining agreements between the Trial Court of the commonwealth and the Office and Professional Employees International Union, Local 6, AFL-CIO, the Service Employees International Union, Local 254, AFL-CIO, the Suffolk County Superior Court Officers' Association and the Middlesex County Superior Court Officers' Association; provided, 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 fiscal year nineteen hundred and ninety-six such amounts as are necessary to meet the cost of said adjustments and benefits where the amounts otherwise available are insufficient for the purpose, in accordance with an allocation plan which shall be filed in advance with the house and senate committees on ways and means $18,401,908

Collective Bargaining Reserve Fund 100.0%

1599-3801 For a reserve to meet the costs of salary adjustments and other economic benefits necessary to provide equal salary adjustments and other economic benefits to employees of the supreme judicial court, the appeals court and the trial court employed in "confidential" positions who would otherwise be covered by collective bargaining agreements in effect for fiscal years nineteen hundred and ninety-four, nineteen hundred and ninety-five, and nineteen hundred and ninety-six and to meet the costs of salary adjustments and other economic benefits necessary to provide equal salary adjustments and other economic benefits to employees who are not otherwise classified in any such collective bargaining unit; provided, 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 fiscal year nineteen hundred and ninety-six such amounts as are necessary to meet the cost of said adjustments and benefits where the amounts otherwise available are insufficient for the purpose, in accordance with an allocation plan which shall be filed in advance with the house and senate committees on ways and means $3,474,814

Collective Bargaining Reserve Fund 100.0%

1599-3802 For a reserve to meet the costs of fiscal year nineteen hundred and ninety-seven salary and benefit adjustments and other employee economic benefits authorized by the collective bargaining agree-

ments between the Trial Court Department of Massachusetts and the Office and Professional Employees International Union, Local AFL-CIO, the Service Employees International Union, Local 254, AFL-CIO, the Suffolk County Superior Court Officers' Association and the Middlesex County Superior Court Officers' Association for those employees of the supreme judicial court, appeals court, and trial court subject to said collective bargaining agreement, and to meet the cost of salary adjustments and other economic benefits necessary to provide equal salary adjustments and other economic benefits to employees employed in "confidential" positions which would otherwise be covered by said collective bargaining agreement and to meet the cost of salary adjustments and other economic benefits necessary to provide equal salary adjustments and other economic benefits to employees who are not otherwise employed in any collective bargaining unit; provided, 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-seven such amounts as are necessary to meet the cost of said adjustments and benefits where the amounts otherwise available are insufficient for the purpose, in accordance with an allocation plan which shall be filed in advance with the house and senate committees on ways and means $18,223,026

General Fund 86.16%

Collective Bargaining Reserve Fund 13.84%

SECTION 2B. Notwithstanding the provisions of any general or special law to the contrary, the agencies listed herein are hereby authorized to expend such amounts as are listed in this section for the provision of services to agencies listed in section two; provided, however, that all expenditures made pursuant to this section shall be accompanied by a corresponding transfer of funds from an account listed in said section two 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 would cause said fund to be in deficit at the close of fiscal year nineteen hundred and ninety-six; provided, further, that all authorizations in this section shall be charged to said Intragovernmental Service Fund; and provided further, that any balance remaining at the close of fiscal year nineteen hundred and ninety-six shall be transferred to the General Fund.

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Department of Fisheries, Wildlife and Environmental Law Enforcement.

2350-0102 ..... $40,000

SECTION 2C. For the purpose of making available in fiscal year nineteen hundred and ninety-seven the balances of appropriations which would otherwise revert on June thirtieth, nineteen hundred and ninety-six, 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-seven. Amounts in this section shall be 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 chapter thirty-eight of the acts of nineteen hundred and ninety-five; provided, further, that for items neither with purposes and conditions specified below nor appearing in said section two of said chapter thirty-eight, 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 appropriations acts. Amounts in this section are re-appropriated from the fund or funds designated below for each item; provided, however, that for items for which a fund is not designated below, the amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in section two of chapter thirty-eight of the acts of nineteen hundred and ninety-five; provided, further, that for items neither with a fund designated below nor appearing in said section two of said chapter thirty-eight, the amounts in this section are re-appropriated from the fund or funds designated or the corresponding item in section two or two A of this act or in prior appropriation acts. The sums re-appropriated herein shall be in addition to any amounts available for said purposes.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves.

1599-3786	.....	$858,371
1599-3802	.....	$18,223,026

SECTION 3. Item 0612-1010 of section 2 of chapter 38 of the acts of 1995 is hereby amended by inserting after the words "shortfall in said fund" the following words:- ; provided further, that the state retirement board shall expend an amount not to exceed nine hundred thousand dollars for the purposes of the higher education coordinating council's optional retirement program pursuant to section forty of chapter fifteen A of the General Laws.

SECTION 4. Item 1104-6607 of said section 2 of said chapter 38 is hereby amended by striking out the words "five hundred four thousand seven hundred and seventy-three" and inserting in place thereof the following words:- eight hundred thousand.

SECTION 5. Said item 1104-6607 of said section 2 of said chapter 38 is hereby further amended by striking out the figure "504,773" and inserting in place thereof the following figure:- 800,000.

SECTION 6. Item 1108-5230 of said section 2 of said chapter 38 is hereby amended by striking out the figure "59,553,970" and inserting in place thereof the following figure:-

55,389,045.

SECTION 7. Item 4000-0800 of said section 2 of said chapter 38 is hereby amended by striking out the figure "671,820,000" and inserting in place thereof the following figure:- 631,820,000.

SECTION 8. Item 5046-9999 of said section 2 of said chapter 38 is hereby amended by striking out the figure "10,354,776" and inserting in place thereof the following figure:- 8,354,776.

SECTION 9. Notwithstanding the provisions of any special or General Law to the contrary, any juvenile court established after the effective date of this act shall employ not more than the following positions: two probation officers, one clerk, one assistant clerk, two procedure clerks, and one secretary; provided, however, that the provisions of this section shall be in effect until June thirtieth, nineteen hundred and ninety-seven.

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

Section disapproved:
SECTION 9.

SECTION 2A *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording Stricken
1599-2200	6,500,000	8,860,164	", and to fund grants to certain county treasurers to provide for the continued operation of county government"
			and
			", provided, further, that the treasurer of Hampden county shall receive an amount not to exceed three million seven hundred thousand dollars; provided, further, that the treasurer of Hampshire county shall receive an amount not to exceed nine hundred thousand dollars; and provided, further, that the treasurer of Worcester county shall receive an amount not to exceed one million nine hundred thousand dollars"

The remainder of the bill was approved by the Governor July 3, 1996.

Chapter 155. AN ACT ESTABLISHING A PERMANENT CAMPUS FOR BUNKER HILL COMMUNITY COLLEGE IN THE CITY OF CHELSEA.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately establish a permanent campus for Bunker Hill Community College in the city of Chelsea, 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 7518-7892 in section 2 of chapter 208 of the acts of 1988, as amended by section 28 of chapter 85 of the acts of 1994, is hereby further amended by striking out the wording and inserting in place thereof the following:-

For a study and the preparation of plans and construction for a Chelsea campus for Bunker Hill Community College and related facilities, including the acquisition of land and buildings, repairs and construction, building construction, site development, parking, utility distribution systems, including the costs of furnishings and equipment; provided, however, that a sum not to exceed thirteen million five hundred thousand dollars shall be expended for a study, and the preparation of plans, and construction for an educational facility/production sound stage at said college, including the acquisition of land and buildings, repairs and construction, building construction, site development, parking, and utility distribution systems, including the costs of furnishings and equipment; provided, further, that said college is authorized to lease privately owned space in the city of Chelsea from funds authorized in this item until newly constructed or renovated facilities authorized by this item are completed and available for occupancy; provided, further, that the duration of such lease shall not exceed five years, and the cost of such lease shall not exceed five million dollars; provided, further, that said college may utilize funds authorized in this item to pay rent agreed to in a lease of space for use by said college, and to pay the purchase cost and associated acquisition costs, pursuant to an option to purchase the leased facility agreed to in said lease, exercisable by the commissioner of the division of capital planning and operations, on behalf of said college.

SECTION 2. Section 2 of chapter 472 of the acts of 1991 is hereby amended by adding the following sentence:- Notwithstanding the provisions of chapter seven of the General Laws or any other laws referred to in section three, the commissioner of the division of capital planning and operations may provide within any such leases, or amendments thereto, whether or not such leases were executed prior to the effective date of this act, for the option to purchase all or a portion of the property to be leased pursuant to this section and said section three; provided, however, that such option may not be exercised less than twelve months after initial occupancy of the leased property.

SECTION 3. Bunker Hill Community College shall make an investigation and study relative to the feasibility of establishing an evening program and satellite campus at Somerville high school in the city of Somerville, and whether such program and campus could be operational by September first, nineteen hundred and ninety-seven.

Approved July 3, 1996.

Chapter 156. AN ACT RELATIVE TO THE ISSUANCE OF CERTAIN BONDS AND NOTES BY THE CITY OF SPRINGFIELD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter forty-four of the General Laws to the contrary, the following provisions of this act shall apply to any bonds or notes issued by the city of Springfield for a project for which the department of education has then acknowledged receipt of a completed application for a school construction grant under chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight. Costs to be financed by the issuance of bonds or notes for such a project may include interest incurred on any bond anticipation notes issued for the project and any other interest incurred on bonds or notes issued for the project during the period ending not later than the year in which the first annual construction grant payment for the project is expected, as determined by the department of education or otherwise by the city treasurer. The first payment of principal of each issue of bonds may be made in the first reimbursement year, or otherwise in accordance with said chapter forty-four of the General Laws, and the last payment of principal shall be not later than twenty years after the first principal payment date. Except as otherwise provided in this act, indebtedness incurred by the city for school projects shall be subject to all other applicable provisions of said chapter forty-four of the General Laws and said chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight.

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

Approved July 8, 1996.

Chapter 157. AN ACT RELATIVE TO FRAUDULENT TRANSFERS.

Be it enacted, etc., as follows:

The General Laws are hereby amended by striking out chapter 109A and inserting in place thereof the following chapter:-

CHAPTER 109A.

Uniform Fraudulent Transfer Act.

Section 1. This chapter may be cited as the Uniform Fraudulent Transfer Act.

Section 2. As used in this chapter, the following words shall, unless the context requires otherwise, have the following meanings:-

"Affiliate", (i) a person who directly or indirectly owns, controls, or holds with power to vote, twenty percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities,

(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

(B) solely to secure a debt, if the person has not exercised the power to vote;

(ii) a corporation twenty percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person

who directly or indirectly owns, controls, or holds with power to vote, twenty percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities,

(A) as a fiduciary or agent without sole power to vote the securities; or

(B) solely to secure a debt, if the person has not in fact exercised the power to vote;

(iii) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

(iv) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

"Asset", property of a debtor, but the term shall not include:

(i) property to the extent it is encumbered by a valid lien;

(ii) property to the extent it is generally exempt under nonbankruptcy law; or

(iii) an interest in property held in tenancy by the entireties to the extent it is not subject to process by a creditor holding a claim against only one tenant.

"Claim", a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

"Creditor", a person who has a claim.

"Debt", liability on a claim.

"Debtor", a person who is liable on a claim.

"Insider", includes:

(i) if the debtor is an individual,

(A) a relative of the debtor or of a general partner of the debtor;

(B) a partnership in which the debtor is a general partner;

(C) a general partner in a partnership described in clause (B); or

(D) a corporation of which the debtor is a director, officer, or person in control;

(ii) if the debtor is a corporation,

(A) a director of the debtor;

(B) an officer of the debtor;

(C) a person in control of the debtor;

(D) a partnership in which the debtor is a general partner;

(E) a general partner in a partnership described in clause (D); or

(F) a relative of a general partner, director, officer, or person in control of the debtor;

(iii) if the debtor is a partnership,

(A) a general partner in the debtor;

(B) a relative of a general partner in, or a general partner of, or a person in control of the debtor;

(C) another partnership in which the debtor is a general partner;

(D) a general partner in a partnership described in clause (C); or

(E) a person in control of the debtor;

(iv) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

(v) a managing agent of the debtor.

"Lien", a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, or a statutory lien.

"Person", an individual, partnership, corporation, association, organization, government or governmental subdivision or agency, business trust, estate, trust, or any other legal or commercial entity.

"Property", anything that may be the subject of ownership.

"Relative", an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

"Transfer", every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"Valid lien", a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

Section 3. (a) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets, at a fair valuation.

(b) A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

(c) A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets, and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.

(d) Assets under this section shall not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this chapter.

(e) Debts under this section shall not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

Section 4. (a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

(b) For the purposes of paragraph (2) of subsection (a) of section five and section six, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

Section 5. (a) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:

(1) with actual intent to hinder, delay, or defraud any creditor of the debtor; or

(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor:

(i) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

(ii) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

(b) In determining actual intent under paragraph (1) of subsection (a), consideration may be given, among other factors, to whether:

(1) the transfer or obligation was to an insider;

(2) the debtor retained possession or control of the property transferred after the transfer;

(3) the transfer or obligation was disclosed or concealed;

(4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

(5) the transfer was of substantially all the debtor's assets;

(6) the debtor absconded;

(7) the debtor removed or concealed assets;

(8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

(9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

(10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

(11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

Section 6. (a) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.

(b) A transfer made by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at that time, and the insider had reasonable cause to believe that the debtor was insolvent.

Section 7. For the purposes of this chapter:

(1) a transfer is made:

(i) with respect to an asset that is real property other than a fixture, but including the

interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

(ii) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire a judicial lien otherwise than under this chapter that is superior to the interest of the transferee;

(2) if applicable law permits the transfer to be perfected as provided in paragraph (1) and the transfer is not so perfected before the commencement of an action for relief under this chapter, the transfer shall be deemed made immediately before the commencement of the action;

(3) if applicable law does not permit the transfer to be perfected as provided in paragraph (1), the transfer is made when it becomes effective between the debtor and the transferee;

(4) a transfer is not made until the debtor has acquired rights in the asset transferred;

(5) an obligation is incurred:

(i) if oral, when it becomes effective between the parties; or

(ii) if evidenced by a writing, when the writing executed by the obligor is delivered to or for the benefit of the obligee.

Section 8. (a) In an action for relief against a transfer or obligation under this chapter, a creditor, subject to the limitations in section nine, may obtain:

(1) avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim;

(2) an attachment or other provisional remedy against the asset transferred or other property of the transferee in accordance with the applicable procedure set forth in chapter two hundred and fourteen for actions to reach and apply chapter two hundred and twenty-three for attachments, and chapter two hundred and forty-six for trustee process and in accordance with applicable rules of civil procedure;

(3) subject to applicable principles of equity and in accordance with applicable rules of civil procedure,

(i) an injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property;

(ii) appointment of a receiver to take charge of the asset transferred or of other property of the transferee; or

(iii) any other relief the circumstances may require.

(b) If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds.

Section 9. (a) A transfer or obligation is not voidable under paragraph (1) of subsection (a) of section five against a person who took in good-faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by a creditor under paragraph (1) of subsection (a) of section eight, the creditor

may recover judgment for the value of the asset transferred, as adjusted under subsection (c), or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against:

(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

(2) any subsequent transferee other than a good-faith transferee or obligee who took for value or from any subsequent transferee or obligee.

(c) If the judgment under subsection (b) is based upon the value of the asset transferred, the judgment shall be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

(d) Notwithstanding voidability of a transfer or an obligation under this chapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to

(1) a lien on or a right to retain any interest in the asset transferred;

(2) enforcement of any obligation incurred; or

(3) a reduction in the amount of the liability on the judgment.

(e) A transfer is not voidable under paragraph (2) of subsection (a) of section five or section six if the transfer results from:

(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

(2) enforcement of a security interest in compliance with Article 9 of chapter one hundred and six.

(f) A transfer is not voidable under subsection (b) of section six:

(1) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

(2) if made in the ordinary course of business or financial affairs of the debtor and the insider; or

(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose as well as an antecedent debt of the debtor.

Section 10. A cause of action with respect to a fraudulent transfer or obligation under this chapter shall be extinguished unless action is brought:

(a) under paragraph (1) of subsection (a) of section five, within four years after the transfer was made or the obligation was incurred or, if later, within one year after the transfer or obligation was or could reasonably have been discovered by the claimant;

(b) under paragraph (2) of subsection (a) of section five or subsection (a) of section six, within four years after the transfer was made or the obligation was incurred; or

(c) under subsection (b) of section six, within one year after the transfer was made or the obligation was incurred.

Section 11. Unless otherwise required by the provisions of this chapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, shall supplement its provisions.

Section 12. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states which enact it.

Approved July 8, 1996.

Chapter 158. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF BECKET.

Be it enacted, etc., as follows:

SECTION 1. Chapter 662 of the acts of 1989 is hereby amended by striking out sections 2 to 9, inclusive, and inserting in place thereof the following eight sections:-

Section 2. Following the acceptance of this act as hereinafter provided, the voters of the town of Becket shall, in accordance with any applicable general or special law or by-law or vote of the town, continue to elect the following:-

(*a*) moderator
(*b*) board of selectmen
(*c*) representatives to the regional school district committee
(*d*) town clerk
(*e*) board of health
(*f*) cemetery commission
(*g*) planning board
(*h*) treasurer
(*i*) tax collector
(*j*) finance committee
(*k*) constables

The acceptance of this act shall not affect the term of office of any such elected official or elected member of such board, committee or authority. Every other elective office, board, committee or commission of the town shall become appointive as hereinafter provided, any other provision of law to the contrary notwithstanding. The term of office of any person elected to any office, board, committee or commission existing as an elected office at the time of the acceptance to this act and having become appointive hereunder, shall continue until the term for which that person was elected shall have expired and until the appointment and qualification of his successor. The powers, duties and responsibilities of elected officials shall be as now or hereinafter provided by applicable provisions of any general or special law or by-law or vote of the town, except as otherwise expressly provided herein. Notwithstanding the election by the voters of the town of the officers named in this section, such officers shall be available to this administrator for consultation, conference and discussion on matters relating to their respective offices.

Section 3. The board of selectmen shall consist of three members elected by the voters of the town. At each annual election, one selectman shall be elected for a term of

three years.

Section 4. The board of selectmen shall appoint:-

(*a*) town administrator
(*b*) animal inspector
(*c*) zoning board of appeals
(*d*) arts lottery council
(*e*) board of assessors
(*f*) alternate to the Berkshire county regional planning commission
(*g*) by-law review committee
(*h*) civil defense director
(*i*) conservation commission
(*j*) council on aging
(*k*) Farmington River study commission
(*l*) harbor master
(*m*) historical commission
(*n*) parks commission
(*o*) poll workers
(*p*) recreation committee
(*q*) registrars of voters
(*r*) representative to the Southern Berkshire Solid Waste District
(*s*) town counsel
(*t*) alternate town counsel
(*u*) special committees

Section 5. The selectmen elected as provided herein shall appoint, as soon as practicable, for a three year term, a town administrator either on a full time or part time basis who shall be especially fitted by education, training and experience to perform the duties of said office. The town administrator shall be a citizen of the United States and shall be appointed without regard to his political affiliation and beliefs. He shall possess at least a bachelor's degree; provided, however, the selectmen may accept experience in lieu of such degree at their discretion, and shall have had three years experience in a supervisory administrative position. The town administrator will not be eligible to hold any other appointed or elected office within the town of Becket. The town administrator may be appointed for successive terms of office. Before entering upon the duties of his office, he shall be sworn, to the faithful and impartial performance thereof, by the town clerk.

Section 6. Any person appointed by the town administrator to any town office under the provisions of this act, or any general or special law, shall be eligible during the term of said office to be appointed to any other town office.

Section 7. Any vacancy in the office of town administrator shall be filled as soon as possible by the board of selectmen. Pending the appointment of a town administrator, said board of selectmen shall, within thirty days, appoint a suitable person to perform the duties of the office.

Section 8. The town administrator may designate, subject to the approval of the

board of selectmen, by letter filed with the town clerk, a qualified officer of the town to perform his duties during his temporary absence or disability. In the event of failure of the administrator to make such designation, said board of selectmen may, by resolution, designate an officer of the town to perform the duties of the administrator until he shall return or his disability shall cease.

Section 9. The board of selectmen, by a two-thirds vote may remove the town administrator. At least thirty days before such proposed removal shall become effective, said board of selectmen shall file a written preliminary resolution of removal with the town clerk setting forth in detail the specific reasons for the proposed removal, a copy of said resolution shall be delivered to said town administrator. The administrator may, within ten days of service of such resolution reply in writing to the resolution and may request a public hearing. Service shall be deemed to have been accomplished by leaving a copy of such resolution at said administrator's last known abode. If said administrator so requests, said board of selectmen shall hold a public hearing not earlier than twenty nor later than thirty days after filing of such request. After such public hearing, if any, otherwise at the expiration of thirty days following the filing of the preliminary resolution, and after full consideration, said board of selectmen, by a two-thirds vote of the full membership of said board, may adopt a final resolution of removal. In the preliminary resolution, said board of selectmen may suspend said administrator from duty but shall in any case, cause his salary to be paid during the period of consideration of the preliminary resolution and until the vote on the final resolution.

SECTION 2. Said chapter 662 is hereby further amended by striking out sections 11 to 16, inclusive, and inserting in place thereof the following six sections:-

Section 11. The town administrator with the approval of the board of selectmen shall appoint, upon merit and fitness alone, all other town officials whose appointment is not specifically provided for herein. Said town administrator shall appoint with majority approval of said board of selectmen, and may remove with the majority approval of said board of selectmen, with ten days notice, in writing, to the appointee and the board of selectmen, setting forth the cause of such removal, subject to the provisions of chapter thirty-one of the General Laws where applicable, all department heads, all officers and all subordinates and employees for whom no other method of appointment is provided in this act, except persons serving under other elected agencies and appointments made by representatives of the commonwealth.

Section 12. In addition to the specific powers and duties provided in this act, the town administrator shall have the general powers and duties set forth in this section as follows:-

(*a*) The town administrator shall supervise and be responsible for the efficient administration of all departments, commissions, boards and offices, except the board of selectmen; provided, however, that said town administrator shall not exercise any control over the discretionary power vested by statute in any such board, committee, commission or officer.

(*b*) Said town administrator, with the approval of the board of selectmen and in ac-

cordance with the provisions of this act and the General Laws, may reorganize, consolidate or abolish departments, commissions, boards or offices under his direction and supervision, in whole or in part, may establish such new departments, commissions, boards or offices as he deems necessary, and may transfer the powers and duties of one department, commission, board or office to another.

(*c*) Said town administrator shall attend all regular meetings of the board of selectmen except meetings at which his removal is being considered, and shall attend all town meetings and shall be permitted to speak when recognized by the moderator.

(*d*) Said town administrator shall keep full and complete records of his office and shall render, as often as may be required by the board of selectmen, a full report of all operations during the period reported on.

(*e*) Said town administrator shall keep the board of selectmen fully advised as to the needs of the town and shall recommend to the board of selectmen for adoption such measures requiring action by them or by the town as he may deem necessary or expedient.

(*f*) Said town administrator, with the approval of the board of selectmen, shall have jurisdiction over the rental and use of all town property and shall be responsible for the maintenance and repair of all town buildings. He shall be responsible for the preparation of plans and the supervision of construction, reconstruction, alterations, improvements and other undertakings authorized by the town unless otherwise assigned by town meeting.

(*g*) Said town administrator shall be responsible for the purchase of all supplies and materials and equipment, except books and other media for the library. The town administrator shall approve the award of all contracts for all departments of the town pursuant to section four of chapter thirty B of the General Laws. The board of selectmen shall open and award all bid contracts exceeding the amounts provided for under said section four of said chapter thirty B. He shall make purchases for departments not under his supervision only upon and in accordance with requisitions duly signed by the heads of such departments.

(*h*) Said town administrator shall administer either directly or through a person or persons appointed by him in accordance with this act, all provisions of any general and special laws applicable to the town, all by-laws and votes of the town and all regulations established by the board of selectmen.

(*i*) Said town administrator shall, with the approval of the board of selectmen, have authority to prosecute, defend or compromise all litigation to which the town is party and shall be the executive officer of a public employer in the town as defined in section one of chapter two hundred and fifty-eight of the General Laws pertaining to the processing of claims against the town.

(*j*) Said town administrator shall be the agent for the board of selectmen for collective bargaining and may employ special counsel to assist him in the performance of these duties.

(*k*) Said town administrator shall be responsible for the implementation of town meeting votes and shall report annually in writing to the town meeting on the status of prior town meeting votes on which implementation is not complete.

(*l*) Said town administrator shall be accessible and available for consultation to chairmen of boards, committees and commissions of the town, whether appointed or elected, and shall make accessible and available to them all data and records of his office as may be requested in connection with their official duties.

(*m*) Said town administrator shall perform such other duties consistent with his office as may be required of him by the by-laws of the town or by the vote of the board of selectmen or town meeting.

Section 13. The town administrator may without notice cause the affairs of any division or department under his supervision or the job related conduct of any officer or employee thereof to be examined. Said town administrator shall have access to all town books and papers for information necessary for the proper performance of his duties.

Section 14. The town administrator shall be the chief fiscal officer of the town. Warrants for the payment of town funds prepared by the town treasurer in accordance with the provisions of section fifty-six of chapter forty-one of the General Laws shall be submitted to said town administrator. The approval of any such warrant by said town administrator, following review by the board of selectmen, shall be sufficient authority to authorize payment by the town treasurer but the board of selectmen shall approve all warrants in the event of a vacancy in the office of town administrator.

Section 15. At least ninety days prior to the annual town meeting, the town administrator shall submit to the finance committee a detailed estimate, in writing, of the probable expenditures of the town government for the ensuing fiscal year, stating the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the amount necessary to provide for each fund and department, together with a statement of the expenditures of the town for the same purposes in the preceding year and an estimate of the expenditures for the current year. Further, he shall submit a statement showing all revenues received by the town in the preceding fiscal year together with an estimate of the receipts of the current year and an estimate of the amount of income from all sources of revenue exclusive of taxes upon property in the ensuing year. He shall report the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town together with an estimate of the tax rate necessary to raise said amount. For the purpose of enabling the town administrator to make up the annual estimates of expenditures, all boards, officers and committees of the town shall, at least one hundred and twenty days prior to the annual town meeting, furnish all information in their possession and submit to him in writing a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments during the next fiscal year.

Section 16. The finance committee shall consider the tentative budget submitted by the town administrator and make such recommendations relative thereto as it deems expedient and proper in the interests of the town. On or before the forty-fifth day prior to the annual town meeting, the finance committee shall transmit a copy of the budget, together with their recommendations relative thereto, to the board of selectmen.

SECTION 3. Said chapter 662 is hereby further amended by striking out section 19

and inserting in place thereof the following section:-

Section 19. Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform his duties until provisions shall have been made in accordance with this act for the performance of said duties by another person or agency. No person in the permanent full-time service or employment of the town shall forfeit his pay grade or time in service. Each such person shall be retained in a capacity as similar to his former capacity as is practical.

Approved July 8, 1996.

Chapter 159. AN ACT AUTHORIZING THE CITY OF SPRINGFIELD TO USE CERTAIN OPEN SPACE OR PARK LAND FOR OTHER MUNICIPAL, PUBLIC, AND RIVERFRONT DEVELOPMENT PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The city of Springfield is hereby authorized to use a certain parcel of open space or park land for other municipal, public, and riverfront development purposes, including retail and commercial uses, and for such infrastructure and other improvements as may be necessary or appropriate in connection therewith. Said land located in said city is bounded and described as follows:

Beginning at a point on the northerly side of Union Street, said point being S42°42'10"W along said line of Union Street a distance of 248.69' from the intersection of the westerly line of Interstate 91 and the northerly line of said Union Street, said point also being the southeasterly corner of land herein to be described; thence, by a curve to the left of radius equal to 4509.00' and a central angle of 1°14'32" along land of Penn Central Transportation Company an arc distance of 97.76' to a point; thence, N42°58'11"E a distance of 46.68' along land of Penn Central Transportation Company to a point; thence, by a curve to the left of radius equal to 4554.25' and a central angle of 2°12'39" along land of Penn Central Transportation Company an arc distance of 175.73' to a point of compound curvature; thence by a curve to the left of radius equal to 5079.52' and a central angle of 6°44'10" along land of Penn Central Transportation Company, the westerly terminus of Bliss Street and continuing along land of Penn Central Transportation Company an arc distance of 597.18' to a point of compound curvature; thence by a curve to the left of radius equal to 5700.15' and a central angle of 0°46'52" along land of Penn Central Transportation Company an arc distance of 77.71' to the southerly street line of State Street; thence, S41°57'28"W along said line of State Street a distance of 39.01' to the southwesterly corner of State Street; thence, N48°02'32"W along the westerly terminus of State Street a distance of 49.50' to the northwesterly corner of State Street; thence, N41°57'28"E along the northerly street line of State Street a distance of 43.50' to a point; thence, by a curve to the left of radius equal to 5700.15' and a central angle of 1°06'59" along land of Penn Central Transportation Company

an arc distance of 110.51' to corner of land of the City of Springfield; thence S58°40'17"W along aforementioned land a distance of 46.58' to an angle point; thence, S57°37'39"W along land of City of Springfield a distance of 35.58' to an angle point; thence, S56°57'50" along land of City of Springfield a distance of 49.00' to a point; thence, southwesterly a distance of 34' more or less to the northeasterly edge of the Connecticut River as of December, 1975; thence, southeasterly along aforementioned edge a distance of 1160' more or less to the northerly street line of Union Street extended in a westerly direction; thence northeasterly along aforementioned extension of Union Street street line a distance of 50' more or less, to the northwesterly corner of Union Street, thence N42°42'10"E along northeasterly street line of Union Street a distance of 93.29' to the point of beginning.

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

Approved July 8, 1996.

Chapter 160. AN ACT REPEALING CERTAIN LAWS ON BULK TRANSFERS.

Be it enacted, etc., as follows:

SECTION 1. Paragraph (2) of section 1-105 of chapter 106 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 14 and 15, the words "Bulk transfers subject to the Article on Bulk Transfers. Section 6-102.".

SECTION 2. Paragraph (4) of section 2-403 of said chapter 106, as so appearing, is hereby amended by striking out, in lines 23 and 24, the words ", Bulk Transfers (Article 6)".

SECTION 3. Article six of said chapter one hundred and six is hereby repealed.

SECTION 4. Section 9-111 of article nine of said chapter one hundred and six is hereby repealed.

SECTION 5. The provisions of article six of chapter one hundred and six and section 9-111 of said chapter one hundred and six of the General Laws shall apply to all bulk transfers that occurred prior to the effective date of this act.

Approved July 8, 1996.

Chapter 161. AN ACT PROVIDING FOR THE ACQUISITION OF VACANT AND BLIGHTED PROPERTIES BY THE CITY OF LAWRENCE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the city of Lawrence, acting by and through its city council, is hereby authorized to accept a deed, in which all persons who have an interest in title join as grantors, in lieu of foreclosure to any vacant lot of land within said city which meets the requirements set

forth in this act. Upon acceptance and recording of said deed, any real estate taxes and other municipal charges and liens shall be considered to be uncollectible, and shall be accounted for by the city in the same manner as if a tax title foreclosure had been completed.

The procedure provided for in this act shall be applicable only to vacant lots of land within the city of Lawrence which contain no more than twelve thousand square feet of land. There shall be no other liens or encumbrances on the property other than the liens of the city. With the exception of grantors which are agencies of the state or federal government, no grantor may deed more than two parcels of land to the city pursuant to this act and said grantor must have held title to said property for at least one year prior to the effective date of this act. No grantor under this act may purchase or otherwise acquire from the city any parcel of land acquired by the city hereby. At the time of the acceptance of the deed, the grantor may not have any outstanding violations of the building or sanitary codes which shall be certified in writing by the city building inspector and board of health. A copy of such certification recorded with the deed shall be conclusive evidence of compliance with the requirements of the preceding sentence for purposes of determining the validity of the deed.

SECTION 2. This act shall cease to be in effect on August first, nineteen hundred and ninety-eight.

Approved July 8, 1996.

Chapter 162. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY CERTAIN LAND LOCATED IN THE CITY OF BROCKTON.

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 section forty H of chapter seven of the General Laws, to convey a certain parcel of land and building thereon located in the city of Brockton to the Brockton Agricultural Society. Said parcel is described in a deed from the Brockton Agricultural Society to the commonwealth dated December twenty-first, nineteen hundred and thirty-one, filed as Document 10104 in the Plymouth county registry district of the land court.

SECTION 2. The purchase price paid by the Brockton Agricultural Society for said parcel shall be the full and fair market value of the property determined by the division of capital planning and operations based upon an independent appraisal. The Brockton Agricultural Society shall pay said purchase price.

SECTION 3. The Brockton Agricultural Society shall be responsible for any costs for appraisals, surveys, and other expenses relating to the transfer of property, or for any costs and expenses of any nature and kind for its development or for its maintenance.

SECTION 4. The purchase price paid pursuant to section three shall be deposited in the General Fund of the commonwealth.

Approved July 8, 1996.

Chapter 163. AN ACT RELATIVE TO CERTAIN CRIMES COMMITTED FOR THE PURPOSE OF INTIMIDATION.

Be it enacted, etc., as follows:

SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after section 35P, inserted by section 12 of chapter 15 of the acts of 1996, the following section:-

Section 35Q. There is hereby established on the books of the commonwealth a separate fund known as the Diversity Awareness Education Trust Fund. Said fund shall consist of monies paid to the commonwealth pursuant to the provisions of section thirty-nine of chapter two hundred and sixty-five, and any interest or investment earnings on such monies. The state treasurer shall be the custodian of said fund, and shall receive, deposit, and invest all monies transmitted under the provisions of said section thirty-nine, and shall credit interest and earnings on said fund to said trust fund. Upon request of the chief justice for administration and management of the trial court, the state treasurer shall pay such funds as may be appropriated out of the income and receipts of said fund for the purposes of developing and maintaining diversity awareness educational programs and courses for persons convicted of crimes pursuant to said section thirty-nine in such manner as the chief justice for administration and management of the trial court may direct.

SECTION 2. Chapter 265 of the General Laws is hereby amended by striking out section 39, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 39. (a) Whoever commits an assault or a battery upon a person or damages the real or personal property of a person with the intent to intimidate such person because of such person's race, color, religion, national origin, sexual orientation, or disability shall be punished by a fine of not more than five thousand dollars or by imprisonment in a house of correction for not more than two and one-half years, or by both such fine and imprisonment. The court may also order restitution to the victim in any amount up to three times the value of property damage sustained by the owners of such property. For the purposes of this section, the term "disability" shall have the same meaning as "handicap" as defined in subsection 17 of section one of chapter one hundred and fifty-one B; provided, however, that for purposes of this section, the term "disability" shall not include any condition primarily resulting from the use of alcohol or a controlled substance as defined in section one of chapter ninety-four C.

(b) Whoever commits a battery in violation of this section and which results in bodily injury 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 by both such fine and imprisonment. For purposes of this section, "bodily injury" shall mean substantial impairment of the physical condition, including, but not limited to, any burn, fracture of any bone, subdural hematoma, injury to any internal organ, or any injury which occurs as the result of repeated harm to any bodily function or organ, including human skin.

There shall be a surcharge of one hundred dollars on a fine assessed against a defendant convicted of a violation of this section; provided, however, that moneys from such surcharge shall be delivered forthwith to the treasurer of the commonwealth and deposited

in the Diversity Awareness Education Trust Fund established under the provisions of section thirty-nine Q of chapter ten. In the case of convictions for multiple offenses, said surcharge shall be assessed for each such conviction.

A person convicted under the provisions of this section shall complete a diversity awareness program designed by the secretary of the executive office of public safety in consultation with the Massachusetts commission against discrimination and approved by the chief justice for administration and management of the trial court. A person so convicted shall complete such program prior to release from incarceration or prior to completion of the terms of probation, whichever is applicable.

Emergency Letter: July 12, 1996 @ 2:19P.M. Approved July 12, 1996.

Chapter 164. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND 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 bonds and notes to carry out the purposes of a certain act passed by the general court, 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 any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter twenty-eight of the acts of nineteen hundred and ninety-six, shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated April twenty-third, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 2. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section five of chapter twenty-eight of the acts of nineteen hundred and ninety-six, shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated April twenty-third, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 3. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section seven of chapter twenty-eight of the acts of nineteen hundred and ninety-six, shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated April twenty-third, nineteen hundred and ninety-six, in pursuance of Section 3 of

Article LXII of the Amendments to the Constitution.

SECTION 4. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four of chapter twenty-eight of the acts of nineteen hundred and ninety-six, shall be issued and may be renewed one or more times not exceeding one year, and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and one, as recommended by the governor in a message to the general court dated April twenty-third, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 5. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section six of chapter twenty-eight of the acts of nineteen hundred and ninety-six, shall be issued and may be renewed one or more times not exceeding one year, and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and one, as recommended by the governor in a message to the general court dated April twenty-third, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 6. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section eight of chapter twenty-eight of the acts of nineteen hundred and ninety-six, shall be issued and may be renewed one or more times not exceeding one year, and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and one, as recommended by the governor in a message to the general court dated April twenty-third, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

Approved July 12, 1996.

Chapter 165. AN ACT RELATIVE TO THE CHARTER OF THE CITY OF CHELSEA.

Be it enacted, etc., as follows:

Paragraph (*a*) of section 2-7 of the charter of the city of Chelsea, as appearing in section 1 of chapter 103 of the acts of 1994, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- No ordinance, appropriation order or loan authorization shall be passed finally on the date on which it is introduced, except in cases of emergency measures involving the health or safety of the people or their property.

Approved July 12, 1996.

Chapter 166. AN ACT RELATIVE TO THE REPAIR OF PRIVATE WAYS IN THE CITY OF WORCESTER.

Be it enacted, etc., as follows:

SECTION 1. Chapter 302 of the acts of 1984 is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. At any time within five years after a vote by the city council of the city of Worcester, pursuant to a petition by at least two-thirds of the abutters thereon, that conditions exist on any private way appearing on the official map of the city of Worcester which require temporary repairs by public necessity, the commissioner of public works of said city shall cause the temporary repairs to be made. Said temporary repairs shall include the grading and filling of holes or depressions with such materials as the commissioner shall deem suitable to make the street passable, but in no event shall such temporary repairs include extensive construction, reconstruction, resurfacing or the installation of drainage facilities. Said temporary repairs may also include the filling of potholes in such private ways as may have a paved roadway surface. Betterment charges shall not be assessed. Said city shall have no liability in tort on account of the performance of any such repairs. In no event shall the cost of such repairs exceed the sum of six dollars per linear foot as delineated by the commissioner of public works of said city.

SECTION 2. The provisions of section one of this act shall apply to any vote of the city council made under the provisions of chapter three hundred and two of the acts of nineteen hundred and eighty-four which was adopted on or after January first, nineteen hundred and ninety-five.

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, and in addition to the authority to make emergency repairs to private streets granted by chapter three hundred and two of the acts of nineteen hundred and eighty-four; the city of Worcester is hereby authorized to make certain improvements to any private way which for at least six years prior to the effective date of this act shall have appeared on the official map of said city and have been open to public use. Said improvements shall consist of those recommended by the commissioner of public works in said city and shall be directed to improve the drainage, run-off and surface conditions of such ways. No such improvements shall be commenced except by order of the city council of said city adopted only upon a petition signed by at least two-thirds of the abutters thereon. No such order shall be valid unless it shall assess betterments pursuant to chapter eighty of the General Laws. Upon application of any owner so assessed, the repayment of such betterments may be apportioned by the city assessor for a period not to exceed five years. No way improved under the provisions of this section shall be considered a public way of said city unless a decree specifically making such a way public shall have been adopted by separate vote of the city council of said city. The city of Worcester shall not be liable for any damages or injuries caused in whole or part by the condition of the way at any time after the improvements authorized herein shall have been completed.

Approved July 12, 1996.

Chapter 167. AN ACT DIRECTING THE RETIREMENT BOARD OF THE TOWN OF SAUGUS TO PAY CERTAIN BENEFITS TO THE SURVIVING SPOUSE AND CHILDREN OF FIREFIGHTER WILLIAM CECIETA.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary and in order to promote the public good, the retirement board of the town of Saugus is hereby authorized and directed to pay Francine Cecieta the surviving spouse of firefighter William Cecieta an accidental death benefit as provided under the provisions of section nine of chapter thirty-two of the General Laws.

SECTION 2. Upon the death or remarriage of Francine Cecieta, the town of Saugus shall pay to the surviving children of William and Francine Cecieta until the age of eighteen an annuity of equal proportions to each child that shall total three-fourths of the amount of the pension payable to Francine Cecieta at the time of her death or remarriage.

SECTION 3. Francine Cecieta shall be eligible to receive the benefits of section nine D½ of chapter thirty-two B of the General Laws.

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

Approved July 12, 1996.

Chapter 168. AN ACT AUTHORIZING THE APPOINTMENT OF JOHN BLAISDELL TO THE POLICE DEPARTMENT OF THE TOWN OF MARBLEHEAD.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section ninety-six of chapter forty-one of the General Laws, or any other general or special law or rule to the contrary, the town of Marblehead is hereby authorized to appoint John Blaisdell to the police department of said town and he is authorized to exercise police powers without being required to be assigned to and satisfactorily complete a prescribed course of study at a regional or municipal police training school approved by the Massachusetts criminal justice training council.

Approved July 12, 1996.

Chapter 169. AN ACT RELATIVE TO THE TAKING OF EDIBLE CRABS.

Be it enacted, etc., as follows:

Chapter 130 of the General Laws is hereby amended by striking out section 40, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 40. No person, either as principal, agent or employee, shall between January first and the following April thirtieth, both dates inclusive, take or catch edible crabs, by the

use of traps or otherwise, from the coastal waters. Violation of the provisions of this section shall be punished by a fine of not less than ten nor more than fifty dollars.

Approved July 12, 1996.

Chapter 170. AN ACT FURTHER REGULATING INVESTMENT SECURITIES.

Be it enacted, etc., as follows:

SECTION 1. Section 1-105 of chapter 106 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 16, the word "section 8-106" and inserting in place thereof the following word:- section 8-110.

SECTION 2. Section 1-206 of said chapter 106, as so appearing, is hereby amended by striking out, in line 9, the word "(section 8-319)" and inserting in place thereof the following word:- (section 8-113).

SECTION 3. Section 5-114 of said chapter 106, as so appearing, is hereby amended by striking out, in lines 12 and 13, the word "(section 8-306)" and inserting in place thereof the following word:- (section 8-108).

SECTION 4. Said chapter 106 is hereby further amended by striking out Article 8 and inserting in place thereof the following article:-

ARTICLE 8.

INVESTMENT SECURITIES.

PART 1. SHORT TITLE AND GENERAL MATTERS.

Section 8-101. Short Title.

This article may be cited as Uniform Commercial Code - Investment Securities.

Section 8-102. Definitions.

(a) In this article:

(1) "Adverse claim", means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the financial asset.

(2) "Bearer form", as applied to a certified security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an indorsement.

(3) "Broker", means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity.

(4) "Certificated security", means a security that is represented by a certificate.

(5) "Clearing corporation" means:

(i) a person that is registered as a "clearing agency" under the federal securities laws;

(ii) a federal reserve bank; or

(iii) any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its

activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority.

(6) "Communicate" means to:

(i) send a signed writing; or

(ii) transmit information by any mechanism agreed upon by the persons transmitting and receiving the information.

(7) "Entitlement holder", means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of clause (2) or (3) of section 8-501(b), that person is the entitlement holder.

(8) "Entitlement order", means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement.

(9) "Financial asset", except as otherwise provided in section 8-103, means:

(i) a security;

(ii) an obligation of a person or a share, participation, or other interest in a person or in property or an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or

(iii) any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this article.

As the context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate, or a security entitlement.

(10) "Good faith", for purposes of the obligation of good faith in the performance or enforcement of contracts or duties within this article, means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(11) "Indorsement", means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring, or redeeming the security or granting a power to assign, transfer, or redeem it.

(12) "Instruction", means a notification communicated to the issuer of an uncertificated security which directs that the transfer of the security be registered or that the security be redeemed.

(13) "Registered form", as applied to a certificated security, means a form in which:

(i) the security certificate specifies a person entitled to the security; and

(ii) a transfer of the security may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security certificate so states.

(14) "Securities intermediary" means:

(i) a clearing corporation; or

(ii) a person, including a bank or broker, that in the ordinary course of its business

maintains securities accounts for others and is acting in that capacity.

(15) "Security", except as otherwise provided in section 8-103, means an obligation of an issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an issuer:

(i) which is represented by a security certificate in bearer or registered form, or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer;

(ii) which is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations; and

(iii) which:

(A) is, or is of a type, dealt in or traded on securities exchanges or securities markets; or

(B) is a medium for investment and by its terms expressly provides that it is a security governed by this article.

(16) "Security certificate", means a certificate representing a security.

(17) "Security entitlement", means the rights and property interest of an entitlement holder with respect to a financial asset specified in Part 5.

(18) "Uncertificated security", means a security that is not represented by a certificate.

(b) Other definitions applying to this article and the sections in which they appear are:

"Appropriate person".	Section 8-107.
"Control".	Section 8-106.
"Delivery".	Section 8-301.
"Investment company security".	Section 8-103.
"Issuer".	Section 8-201.
"Overissue".	Section 8-210.
"Protected purchaser".	Section 8-303.
"Securities account".	Section 8-501.

(c) In addition, article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

(d) The characterization of a person, business, or transaction for purposes of this article does not determine the characterization of the person, business, or transaction for purposes of any other law, regulation, or rule.

Section 8-103. Rules for Determining Whether Certain Obligations and Interests are Securities or Financial Assets.

(a) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(b) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate com-

pany that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(c) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(d) A writing that is a security certificate is governed by this article and not by article 3, even though it also meets the requirements of that article. However, a negotiable instrument governed by article 3 is a financial asset if it is held in a securities account.

(e) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(f) A commodity contract, as defined in section 9-115, is not a security or a financial asset.

Section 8-104. Acquisition of Security or Financial Asset or Interest Therein.

(a) A person acquires a security or an interest therein, under this article, if:

(1) the person is a purchaser to whom a security is delivered pursuant to section 8-301; or

(2) the person acquires a security entitlement to the security pursuant to section 8-501.

(b) A person acquires a financial asset, other than a security, or an interest therein, under this article, if the person acquires a security entitlement to the financial asset.

(c) A person who acquires a security entitlement to a security or other financial asset has the rights specified in Part 5, but is a purchaser of any security, security entitlement, or other financial asset held by the securities intermediary only to the extent provided in section 8-503.

(d) Unless the context shows that a different meaning is intended, a person who is required by other law, regulation, rule, or agreement to transfer, deliver, present, surrender, exchange, or otherwise put in the possession of another person a security or financial asset satisfies that requirement by causing the other person to acquire an interest in the security or financial asset pursuant to subsection (a) or (b).

Section 8-105. Notice of Adverse Claim.

(a) A person has notice of an adverse claim if:

(1) the person knows of the adverse claim;

(2) the person is aware of facts sufficient to indicate that there is a significant probability that the adverse claim exists and deliberately avoids information that would establish the existence of the adverse claim; or

(3) the person has a duty, imposed by statute or regulation, to investigate whether an adverse claim exists, and the investigation so required would establish the existence of the adverse claim.

(b) Having knowledge that a financial asset or interest therein is or has been transferred by a representative imposes no duty of inquiry into the rightfulness of a trans-

action and is not notice of an adverse claim. However, a person who knows that a representative has transferred a financial asset or interest therein in a transaction that is, or whose proceeds are being used, for the individual benefit of the representative or otherwise in breach of duty has notice of an adverse claim.

(c) An act or event that creates a right to immediate performance of the principal obligation represented by a security certificate or sets a date on or after which the certificate is to be presented or surrendered for redemption or exchange does not itself constitute notice of an adverse claim except in the case of a transfer more than:

(1) one year after a date set for presentment or surrender for redemption or exchange; or

(2) six months after a date set for payment of money against presentation or surrender of the certificate, if money was available for payment on that date.

(d) A purchaser of a certificated security has notice of an adverse claim if the security certificate:

(1) whether in bearer or registered form, has been indorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or

(2) is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor, but the mere writing of a name on the certificate is not such a statement.

(e) Filing of a financing statement under article 9 is not notice of an adverse claim to a financial asset.

Section 8-106. Control.

(a) A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(b) A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

(1) the certificate is indorsed to the purchaser or in blank by an effective indorsement; or

(2) the certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(c) A purchaser has "control" of an uncertificated security if:

(1) the uncertificated security is delivered to the purchaser; or

(2) the issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(d) A purchaser has "control" of a security entitlement if:

(1) the purchaser becomes the entitlement holder; or

(2) the securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder.

(e) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(f) A purchaser who has satisfied the requirements of clause (2) of subsection (c) or clause (2) of subsection (d) has control even if the registered owner in the case of said

clause (2) of said subsection (c) or the entitlement holder in the case of said clause (2) of said subsection (d), retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(g) An issuer or a securities intermediary may not enter into an agreement of the kind described in clause (2) of subsection (c) or clause (2) of subsection (d) without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

Section 8-107. Whether Indorsement, Instruction, or Entitlement Order is Effective.

(a) "Appropriate person" means:

(1) with respect to an indorsement, the person specified by a security certificate or by an effective special indorsement to be entitled to the security;

(2) with respect to an instruction, the registered owner of an uncertificated security;

(3) with respect to an entitlement order, the entitlement holder;

(4) if the person designated in paragraph (1), (2) or (3) is deceased, the designated person's successor taking under other law or the designated person's personal representative acting for the estate of the decedent; or

(5) if the person designated in paragraph (1), (2) or (3) lacks capacity, the designated person's guardian, conservator, or other similar representative who has power under other law to transfer the security or financial asset.

(b) An indorsement, instruction, or entitlement order is effective if:

(1) it is made by the appropriate person;

(2) it is made by a person who has power under the law of agency to transfer the security or financial asset on behalf of the appropriate person, including, in the case of an instruction or entitlement order, a person who has control under clause (2) of subsection (c) or clause (2) of subsection (d) of section 8-106; or

(3) the appropriate person has ratified it or is otherwise precluded from asserting its ineffectiveness.

(c) An indorsement, instruction, or entitlement order made by a representative is effective even if:

(1) the representative has failed to comply with a controlling instrument or with the law of the state having jurisdiction of the representative relationship, including any law requiring the representative to obtain court approval of the transaction; or

(2) the representative's action in making the indorsement, instruction, or entitlement order or using the proceeds of the transaction is otherwise a breach of duty.

(d) If a security is registered in the name of or specially indorsed to a person described as a representative, or if a securities account is maintained in the name of a person described as a representative, an indorsement, instruction, or entitlement order made by the person is effective even though the person is no longer serving in the described capacity.

(e) Effectiveness of an indorsement, instruction, or entitlement order is determined as of the date the indorsement, instruction, or entitlement order is made, and an indorsement, instruction, or entitlement order does not become ineffective by reason of any later change of circumstances.

Section 8-108. Warranties in Direct Holding.

(a) A person who transfers a certificated security to a purchaser for value warrants to the purchaser, and an indorser, if the transfer is by indorsement, warrants to any subsequent purchaser, that:

(1) the certificate is genuine and has not been materially altered;

(2) the transferor or indorser does not know of any fact that might impair the validity of the security;

(3) there is no adverse claim to the security;

(4) the transfer does not violate any restriction on transfer;

(5) if the transfer is by indorsement, the indorsement is made by an appropriate person, or if the indorsement is by an agent, the agent has actual authority to act on behalf of the appropriate person; and

(6) the transfer is otherwise effective and rightful.

(b) A person who originates an instruction for registration of transfer of an uncertificated security to a purchaser for value warrants to the purchaser that:

(1) the instruction is made by an appropriate person, or if the instruction is by an agent, the agent has actual authority to act on behalf of the appropriate person;

(2) the security is valid;

(3) there is no adverse claim to the security; and

(4) at the time the instruction is presented to the issuer:

(i) the purchaser will be entitled to the registration of transfer;

(ii) the transfer will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction;

(iii) the transfer will not violate any restriction on transfer; and

(iv) the requested transfer will otherwise be effective and rightful.

(c) A person who transfers an uncertificated security to a purchaser for value and does not originate an instruction in connection with the transfer warrants that:

(1) the uncertificated security is valid;

(2) there is no adverse claim to the security;

(3) the transfer does not violate any restriction on transfer; and

(4) the transfer is otherwise effective and rightful.

(d) A person who indorses a security certificate warrants to the issuer that:

(1) there is no adverse claim to the security; and

(2) the indorsement is effective.

(e) A person who originates an instruction for registration of transfer of an uncertificated security warrants to the issuer that:

(1) the instruction is effective; and

(2) at the time the instruction is presented to the issuer the purchaser will be entitled

to the registration of transfer.

(f) A person who presents a certificated security for registration of transfer or for payment or exchange warrants to the issuer that the person is entitled to the registration, payment, or exchange, but a purchaser for value and without notice of adverse claims to whom transfer is registered warrants only that the person has no knowledge of any unauthorized signature in a necessary indorsement.

(g) If a person acts as agent of another in delivering a certificated security to a purchaser, the identity of the principal was known to the person to whom the certificate was delivered, and the certificate delivered by the agent was received by the agent from the principal or received by the agent from another person at the direction of the principal, the person delivering the security certificate warrants only that the delivering person has authority to act for the principal and does not know of any adverse claim to the certificated security.

(h) A secured party who redelivers a security certificate received, or after payment and on order of the debtor delivers the security certificate to another person, makes only the warranties of an agent under subsection (g).

(i) Except as otherwise provided in said subsection (g), a broker acting for a customer makes to the issuer and a purchaser the warranties provided in subsections (a) to (f), inclusive. A broker that delivers a security certificate to its customer, or causes its customer to be registered as the owner of an uncertificated security, makes to the customer the warranties provided in subsection (a) or subsection (b), and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of the customer.

Section 8-109. Warranties in Indirect Holding.

(a) A person who originates an entitlement order to a securities intermediary warrants to the securities intermediary that:

(1) the entitlement order is made by an appropriate person, or if the entitlement order is by an agent, the agent has actual authority to act on behalf of the appropriate person; and

(2) there is no adverse claim to the security entitlement.

(b) A person who delivers a security certificate to a securities intermediary for credit to a securities account or originates an instruction with respect to an uncertificated security directing that the uncertificated security be credited to a securities account makes to the securities intermediary the warranties specified in subsection (a) or (b) of section 8-108.

(c) If a securities intermediary delivers a security certificate to its entitlement holder or causes its entitlement holder to be registered as the owner of an uncertificated security, the securities intermediary makes to the entitlement holder the warranties specified in said subsection (a) or (b) of said section 8-108.

Section 8-110. Applicability; Choice of Law.

(a) The local law of the issuer's jurisdiction, as specified in subsection (d), governs:

(1) the validity of a security;

(2) the rights and duties of the issuer with respect to registration of transfer;

(3) the effectiveness of registration of transfer by the issuer;

(4) whether the issuer owes any duties to an adverse claimant to a security; and

(5) whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(b) The local law of the securities intermediary's jurisdiction, as specified in subsection (e), governs:

(1) acquisition of a security entitlement from the securities intermediary;

(2) the rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;

(3) whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and

(4) whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(c) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(d) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of the commonwealth may specify the law of another jurisdiction as the law governing the matters specified in clauses (2) to (5), inclusive, of subsection (a).

(e) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(1) If an agreement between the securities intermediary and its entitlement holder specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(2) If an agreement between the securities intermediary and its entitlement holder does not specify the governing law as provided in paragraph (1), but expressly specifies that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(3) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (1) or (2), the securities intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the entitlement holder's account.

(4) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (1) or (2) and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph (3), the securities intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the securities intermediary.

(f) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the

issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.

Section 8-111. Clearing Corporation Rules.

A rule adopted by a clearing corporation governing rights and obligations among the clearing corporation and its participants in the clearing corporation is effective even if the rule conflicts with the provisions of this article and affects another party who does not consent to the rule.

Section 8-112. Creditor's Legal Process.

(a) The interest of a debtor in a certificated security may be reached by a creditor only by actual seizure of the security certificate by the officer making the attachment or levy, except as otherwise provided in subsection (d). However, a certificated security for which the certificate has been surrendered to the issuer may be reached by a creditor by legal process upon the issuer.

(b) The interest of a debtor in an uncertificated security may be reached by a creditor only by legal process upon the issuer at its chief executive office in the United States, except as otherwise provided in subsection (d).

(c) The interest of a debtor in a security entitlement may be reached by a creditor only by legal process upon the securities intermediary with whom the debtor's securities account is maintained, except as otherwise provided in subsection (d).

(d) The interest of a debtor in a certificated security for which the certificate is in the possession of a secured party, or in an uncertificated security registered in the name of a secured party, or a security entitlement maintained in the name of a secured party, may be reached by a creditor by legal process upon the secured party.

(e) A creditor whose debtor is the owner of a certificated security, uncertificated security, or security entitlement is entitled to aid from a court of competent jurisdiction, by injunction or otherwise, in reaching the certificated security, uncertificated security, or security entitlement or in satisfying the claim by means allowed at law or in equity in regard to property that cannot readily be reached by other legal process.

Section 8-113. Statute of Frauds Inapplicable.

A contract or modification of a contract for the sale or purchase of a security is enforceable whether or not there is a writing signed or record authenticated by a party against whom enforcement is sought, even if the contract or modification is not capable of performance within one year of its making.

Section 8-114. Evidentiary Rules Concerning Certificated Securities.

The following rules apply in an action on a certificated security against the issuer:

(1) Unless specifically denied in the pleadings, each signature on a security certificate or in a necessary indorsement is admitted.

(2) If the effectiveness of a signature is put in issue, the burden of establishing effectiveness is on the party claiming under the signature, but the signature is presumed to be genuine or authorized.

(3) If signatures on a security certificate are admitted or established, production of

the certificate entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security.

(4) If it is shown that a defense or defect exists, the plaintiff has the burden of establishing that the plaintiff or some person under whom the plaintiff claims is a person against whom the defense or defect cannot be asserted.

Section 8-115. Securities Intermediary and Others Not Liable to Adverse Claimant.

A securities intermediary that has transferred a financial asset pursuant to an effective entitlement order, or a broker or other agent or bailee that has dealt with a financial asset at the direction of its customer or principal, is not liable to a person having an adverse claim to the financial asset, unless the securities intermediary, or broker or other agent or bailee:

(1) took the action after it had been served with an injunction, restraining order, or other legal process enjoining it from doing so, issued by a court of competent jurisdiction, and had a reasonable opportunity to act on the injunction, restraining order, or other legal process; or

(2) acted in collusion with the wrongdoer in violating the rights of the adverse claimant; or

(3) in the case of a security certificate that has been stolen, acted with notice of the adverse claim.

Section 8-116. Securities Intermediary as Purchaser for Value.

A securities intermediary that receives a financial asset and establishes a security entitlement to the financial asset in favor of an entitlement holder is a purchaser for value of the financial asset. A securities intermediary that acquires a security entitlement to a financial asset from another securities intermediary acquires the security entitlement for value if the securities intermediary acquiring the security entitlement establishes a security entitlement to the financial asset in favor of an entitlement holder.

PART 2. ISSUE AND ISSUER.

Section 8-201. Issuer.

(a) With respect to an obligation on or a defense to a security, an "issuer" includes a person that:

(1) places or authorizes the placing of its name on a security certificate, other than as authenticating trustee, registrar, transfer agent, or the like, to evidence a share, participation, or other interest in its property or in an enterprise, or to evidence its duty to perform an obligation represented by the certificate;

(2) creates a share, participation, or other interest in its property or in an enterprise, or undertakes an obligation, that is an uncertificated security;

(3) directly or indirectly creates a fractional interest in its rights or property, if the fractional interest is represented by a security certificate; or

(4) becomes responsible for, or in place of, another person described as an issuer in this section.

(b) With respect to an obligation on or defense to a security, a guarantor is an issuer to the extent of its guaranty, whether or not its obligation is noted on a security certificate.

(c) With respect to a registration of a transfer, issuer means a person on whose behalf

transfer books are maintained.

Section 8-202. Issuer's Responsibility and Defenses; Notice of Defect or Defense.

(a) Even against a purchaser for value and without notice, the terms of a certificated security include terms stated on the certificate and terms made part of the security by reference on the certificate to another instrument, indenture, or document or to a constitution, statute, ordinance, rule, regulation, order, or the like, to the extent the terms referred to do not conflict with terms stated on the certificate. A reference under this subsection does not of itself charge a purchaser for value with notice of a defect going to the validity of the security, even if the certificate expressly states that a person accepting it admits notice. The terms of an uncertificated security include those stated in any instrument, indenture, or document or in a constitution, statute, ordinance, rule, regulation, order, or the like, pursuant to which the security is issued.

(b) The following rules apply if an issuer asserts that a security is not valid:

(1) A security other than one issued by a government or governmental subdivision, agency, or instrumentality, even though issued with a defect going to its validity, is valid in the hands of a purchaser for value and without notice of the particular defect unless the defect involves a violation of a constitutional provision. In that case, the security is valid in the hands of a purchaser for value and without notice of the defect, other than one who takes by original issue.

(2) Paragraph (1) applies to an issuer that is a government or governmental subdivision, agency, or instrumentality only if there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

(c) Except as otherwise provided in section 8-205, lack of genuineness of a certificated security is a complete defense, even against a purchaser for value and without notice.

(d) All other defenses of the issuer of a security, including non-delivery and conditional delivery of a certificated security, are ineffective against a purchaser for value who has taken the certificated security without notice of the particular defense.

(e) This section does not affect the right of a party to cancel a contract for a security "when, as and if issued" or "when distributed" in the event of a material change in the character of the security that is the subject of the contract or in the plan or arrangement pursuant to which the security is to be issued or distributed.

(f) If a security is held by a securities intermediary against whom an entitlement holder has a security entitlement with respect to the security, the issuer may not assert any defense that the issuer could not assert if the entitlement holder held the security directly.

Section 8-203. Staleness as Notice of Defect or Defense.

After an act or event, other than a call that has been revoked, creating a right to immediate performance of the principal obligation represented by a certificated security or setting a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the

issuer, if the act or event:

(1) requires the payment of money, the delivery of a certificated security, the registration of transfer of an uncertificated security, or any of them on presentation or surrender of the security certificate, the money or security is available on the date set for payment or exchange, and the purchaser takes the security more than one year after that date; or

(2) is not covered by paragraph (1) and the purchaser takes the security more than two years after the date set for surrender or presentation or the date on which performance became due.

Section 8-204. Effect of Issuer's Restriction on Transfer.

A restriction on transfer of a security imposed by the issuer, even if otherwise lawful, is ineffective against a person without knowledge of the restriction unless:

(1) the security is certificated and the restriction is noted conspicuously on the security certificate; or

(2) the security is uncertificated and the registered owner has been notified of the restriction.

Section 8-205. Effect of Unauthorized Signature on Security Certificate.

An unauthorized signature placed on a security certificate before or in the course of issue is ineffective, but the signature is effective in favor of a purchaser for value of the certificated security if the purchaser is without notice of the lack of authority and the signing has been done by:

(1) an authenticating trustee, registrar, transfer agent, or other person entrusted by the issuer with the signing of the security certificate or of similar security certificates, or the immediate preparation for signing of any of them; or

(2) an employee of the issuer, or of any of the persons listed in paragraph (1), entrusted with responsible handling of the security certificate.

Section 8-206. Completion or Alteration of Security Certificate.

(a) If a security certificate contains the signatures necessary to its issue or transfer but is incomplete in any other respect:

(1) any person may complete it by filling in the blanks as authorized; and

(2) even if the blanks are incorrectly filled in, the security certificate as completed is enforceable by a purchaser who took it for value and without notice of the incorrectness.

(b) A complete security certificate that has been improperly altered, even if fraudulently, remains enforceable, but only according to its original terms.

Section 8-207. Rights and Duties of Issuer with Respect to Registered Owners.

(a) Before due presentment for registration of transfer of a certificated security in registered form or of an instruction requesting registration of transfer of an uncertificated security, the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, receive notifications, and otherwise exercise all the rights and powers of an owner.

(b) This article does not affect the liability of the registered owner of a security for a call, assessment, or the like.

Section 8-208. Effect of Signature of Authenticating Trustee, Registrar, or Transfer Agent.

(a) A person signing a security certificate as authenticating trustee, registrar, transfer agent, or the like, warrants to a purchaser for value of the certificated security, if the purchaser is without notice of a particular defect, that:

(1) the certificate is genuine;

(2) the person's own participation in the issue of the security is within the person's capacity and within the scope of the authority received by the person from the issuer; and

(3) the person has reasonable grounds to believe that the certificated security is in the form and within the amount the issuer is authorized to issue.

(b) Unless otherwise agreed, a person signing under paragraph (a) does not assume responsibility for the validity of the security in other respects.

Section 8-209. Issuer's Lien.

A lien in favor of an issuer upon a certificated security is valid against a purchaser only if the right of the issuer to the lien is noted conspicuously on the security certificate.

Section 8-210. Overissue.

(a) In this section, "overissue" means the issue of securities in excess of the amount the issuer has corporate power to issue, but an overissue does not occur if appropriate action has cured the overissue.

(b) Except as otherwise provided in paragraphs (c) and (d), the provisions of this article which validate a security or compel its issue or reissue do not apply to the extent that validation, issue, or reissue would result in overissue.

(c) If an identical security not constituting an overissue is reasonably available for purchase, a person entitled to issue or validation may compel the issuer to purchase the security and deliver it if certificated or register its transfer if uncertificated, against surrender of any security certificate the person holds.

(d) If a security is not reasonably available for purchase, a person entitled to issue or validation may recover from the issuer the price the person or the last purchaser for value paid for it with interest from the date of the person's demand.

PART 3. TRANSFER OF CERTIFICATED AND UNCERTIFICATED SECURITIES.

Section 8-301. Delivery.

(a) Delivery of a certificated security to a purchaser occurs when:

(1) the purchaser acquires possession of the security certificate;

(2) another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

(3) a securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and has been specially indorsed to the purchaser by an effective indorsement.

(b) Delivery of an uncertificated security to a purchaser occurs when:

(1) the issuer registers the purchaser as the registered owner, upon original issue or registration of transfer; or

(2) another person, other than a securities intermediary, either becomes the registered owner of the uncertificated security on behalf of the purchaser or, having previously become the registered owner, acknowledges that it holds for the purchaser.

Section 8-302. Rights of Purchaser.

(a) Except as otherwise provided in paragraphs (b) and (c), upon delivery of a certificated or uncertificated security to a purchaser, the purchaser acquires all rights in the security that the transferor had or had power to transfer.

(b) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(c) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

Section 8-303. Protected Purchaser.

(a) "Protected purchaser", means a purchaser of a certificated or uncertificated security, or of an interest therein, who:

(1) gives value;

(2) does not have notice of any adverse claim to the security; and

(3) obtains control of the certificated or uncertificated security.

(b) In addition to acquiring the rights of a purchaser, a protected purchaser also acquires its interest in the security free of any adverse claim.

Section 8-304. Indorsement.

(a) An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorsement specifies to whom a security is to be transferred or who has power to transfer it. A holder may convert a blank indorsement to a special indorsement.

(b) An indorsement purporting to be only of part of a security certificate representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.

(c) An indorsement of a security certificate, whether special or in blank, does not constitute a transfer until delivery of the certificate on which it appears or, if the indorsement is on a separate document, until delivery of both the document and the certificate.

(d) If a security certificate in registered form has been delivered to a purchaser without a necessary indorsement, the purchaser may become a protected purchaser only when the indorsement is supplied. However, against a transferor, a transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary indorsement supplied.

(e) An indorsement of a security certificate in bearer form may give notice of an adverse claim to the certificate, but it does not otherwise affect a right to registration that the holder possesses.

(f) Unless otherwise agreed, a person making an indorsement assumes only the obligations provided in section 8-108 and not an obligation that the security will be honored by the issuer.

Section 8-305. Instruction.

(a) If an instruction has been originated by an appropriate person but is incomplete in any other respect, any person may complete it as authorized and the issuer may rely on it as completed, even though it has been completed incorrectly.

(b) Unless otherwise agreed, a person initiating an instruction assumes only the obligations imposed by section 8-108 and not an obligation that the security will be honored by the issuer.

Section 8-306. Effect of Guaranteeing Signature, Indorsement, or Instruction.

(a) A person who guarantees a signature of an indorser of a security certificate warrants that at the time of signing:

(1) the signature was genuine;

(2) the signer was an appropriate person to indorse, or if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person; and

(3) the signer had legal capacity to sign.

(b) A person who guarantees a signature of the originator of an instruction warrants that at the time of signing:

(1) the signature was genuine;

(2) the signer was an appropriate person to originate the instruction, or if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person, if the person specified in the instruction as the registered owner was, in fact, the registered owner, as to which fact the signature guarantor does not make a warranty; and

(3) the signer had legal capacity to sign.

(c) A person who specially guarantees the signature of an originator of an instruction makes the warranties of a signature guarantor under paragraph (b) and also warrants that at the time the instruction is presented to the issuer:

(1) the person specified in the instruction as the registered owner of the uncertificated security will be the registered owner; and

(2) the transfer of the uncertificated security requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(d) A guarantor under paragraphs (a) and (b) or a special guarantor under paragraph (c) does not otherwise warrant the rightfulness of the transfer.

(e) A person who guarantees an indorsement of a security certificate makes the warranties of a signature guarantor under paragraph (a) and also warrants the rightfulness of the transfer in all respects.

(f) A person who guarantees an instruction requesting the transfer of an uncertificated security makes the warranties of a special signature guarantor under paragraph (c) and also warrants the rightfulness of the transfer in all respects.

(g) An issuer may not require a special guaranty of signature, a guaranty of indorsement, or a guaranty of instruction as a condition to registration of transfer.

(h) The warranties under this section are made to a person taking or dealing with the security in reliance on the guaranty, and the guarantor is liable to the person for loss resulting from their breach. An indorser or originator of an instruction whose signature, in-

dorsement, or instruction has been guaranteed is liable to a guarantor for any loss suffered by the guarantor as a result of breach of the warranties of the guarantor.

Section 8-307. Purchaser's Right to Requisites for Registration of Transfer.

Unless otherwise agreed, the transferor of a security on due demand shall supply the purchaser with proof of authority to transfer or with any other requisite necessary to obtain registration of the transfer of the security, but if the transfer is not for value, a transferor need not comply unless the purchaser pays the necessary expenses. If the transferor fails within a reasonable time to comply with the demand, the purchaser may reject or rescind the transfer.

PART 4. REGISTRATION.

Section 8-401. Duty of Issuer to Register Transfer.

(a) If a certificated security in registered form is presented to an issuer with a request to register transfer or an instruction is presented to an issuer with a request to register transfer of an uncertificated security, the issuer shall register the transfer as requested if:

(1) under the terms of the security the person seeking registration of transfer is eligible to have the security registered in its name;

(2) the indorsement or instruction is made by the appropriate person or by an agent who has actual authority to act on behalf of the appropriate person;

(3) reasonable assurance is given that the indorsement or instruction is genuine and authorized (section 8-402);

(4) any applicable law relating to the collection of taxes has been complied with;

(5) the transfer does not violate any restriction on transfer imposed by the issuer in accordance with section 8-204;

(6) a demand that the issuer not register transfer has not become effective under section 8-403, or the issuer has complied with subsection (b) of section 8-403 but no legal process or indemnity bond is obtained as provided in subsection (d) of said section 8-403; and

(7) the transfer is in fact rightful or is to a protected purchaser.

(b) If an issuer is under a duty to register a transfer of a security, the issuer is liable to a person presenting a certificated security or an instruction for registration or to the person's principal for loss resulting from unreasonable delay in registration or failure or refusal to register the transfer.

Section 8-402. Assurance that Indorsement or Instruction is Effective.

(a) An issuer may require the following assurance that each necessary indorsement or each instruction is genuine and authorized:

(1) in all cases, a guaranty of the signature of the person making an indorsement or originating an instruction including, in the case of an instruction, reasonable assurance of identity;

(2) if the indorsement is made or the instruction is originated by an agent, appropriate assurance of actual authority to sign;

(3) if the indorsement is made or the instruction is originated by a fiduciary pursuant to paragraph (4) or (5) of subsection (a) of section 8-107, appropriate evidence of appoint-

ment or incumbency;

(4) if there is more than one fiduciary, reasonable assurance that all who are required to sign have done so; and

(5) if the indorsement is made or the instruction is originated by a person not covered by another provision of this subsection, assurance appropriate to the case corresponding as nearly as may be to the provisions of this subsection.

(b) An issuer may elect to require reasonable assurance beyond that specified in this section.

(c) In this section:

(1) "Guaranty of the signature", means a guaranty signed by or on behalf of a person reasonably believed by the issuer to be responsible. An issuer may adopt standards with respect to responsibility if they are not manifestly unreasonable.

(2) "Appropriate evidence of appointment or incumbency" means:

(i) in the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of the court or an officer thereof and dated within sixty days before the date of presentation for transfer; or

(ii) in any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by an issuer to be responsible or, in the absence of that document or certificate, other evidence the issuer reasonably considers appropriate.

Section 8-403. Demand that Issuer Not Register Transfer.

(a) A person who is an appropriate person to make an indorsement or originate an instruction may demand that the issuer not register transfer of a security by communicating to the issuer a notification that identifies the registered owner and the issue of which the security is a part and provides an address for communications directed to the person making the demand. The demand is effective only if it is received by the issuer at a time and in a manner affording the issuer reasonable opportunity to act on it.

(b) If a certificated security in registered form is presented to an issuer with a request to register transfer or an instruction is presented to an issuer with a request to register transfer of an uncertificated security after a demand that the issuer not register transfer has become effective, the issuer shall promptly communicate to (i) the person who initiated the demand at the address provided in the demand and (ii) the person who presented the security for registration of transfer or initiated the instruction requesting registration of transfer a notification stating that:

(1) the certificated security has been presented for registration of transfer or instruction for registration of transfer of uncertificated security has been received;

(2) a demand that the issuer not register transfer had previously been received; and

(3) the issuer will withhold registration of transfer for a period of time stated in the notification in order to provide the person who initiated the demand an opportunity to obtain legal process or an indemnity bond.

(c) The period described in paragraph (3) of subsection (b) may not exceed thirty days after the date of communication of the notification. A shorter period may be specified

by the issuer if it is not manifestly unreasonable.

(d) An issuer is not liable to a person who initiated a demand that the issuer not register transfer for any loss the person suffers as a result of registration of a transfer pursuant to an effective indorsement or instruction if the person who initiated the demand does not, within the time stated in the issuer's communication, either:

(1) obtain an appropriate restraining order, injunction, or other process from a court of competent jurisdiction enjoining the issuer from registering the transfer; or

(2) file with the issuer an indemnity bond, sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar, or other agent of the issuer involved from any loss it or they may suffer by refusing to register the transfer.

(e) This section does not relieve an issuer from liability for registering transfer pursuant to an indorsement or instruction that was not effective.

Section 8-404. Wrongful Registration.

(a) Except as otherwise provided in section 8-406, an issuer is liable for wrongful registration of transfer if the issuer has registered a transfer of a security to a person not entitled to it, and the transfer was registered:

(1) pursuant to an ineffective indorsement or instruction;

(2) after a demand that the issuer not register transfer became effective under subsection (a) of section 8-403 and the issuer did not comply with subsection (b) of said section 8-403;

(3) after the issuer had been served with an injunction, restraining order, or other legal process enjoining it from registering the transfer, issued by a court of competent jurisdiction, and the issuer had a reasonable opportunity to act on the injunction, restraining order, or other legal process; or

(4) by an issuer acting in collusion with the wrongdoer.

(b) An issuer that is liable for wrongful registration of transfer under subsection (a) on demand shall provide the person entitled to the security with a like certificated or uncertificated security, and any payments or distributions that the person did not receive as a result of the wrongful registration. If an overissue would result, the issuer's liability to provide the person with a like security is governed by section 8-210.

(c) Except as otherwise provided in subsection (a) or in a law relating to the collection of taxes, an issuer is not liable to an owner or other person suffering loss as a result of the registration of a transfer of a security if registration was made pursuant to an effective indorsement or instruction.

Section 8-405. Replacement of Lost, Destroyed, or Wrongfully Taken Security Certificate.

(a) If an owner of a certificated security, whether in registered or bearer form, claims that the certificate has been lost, destroyed, or wrongfully taken, the issuer shall issue a new certificate if the owner:

(1) so requests before the issuer has notice that the certificate has been acquired by a protected purchaser;

(2) files with the issuer a sufficient indemnity bond; and

(3) satisfies other reasonable requirements imposed by the issuer.

(b) If, after the issue of a new security certificate, a protected purchaser of the original certificate presents it for registration of transfer, the issuer shall register the transfer unless an overissue would result. In that case, the issuer's liability is governed by section 8-210. In addition to any rights on the indemnity bond, an issuer may recover the new certificate from a person to whom it was issued or any person taking under that person, except a protected purchaser.

Section 8-406. Obligation to Notify Issuer of Lost, Destroyed, or Wrongfully Taken Security Certificate.

If a security certificate has been lost, apparently destroyed, or wrongfully taken, and the owner fails to notify the issuer of that fact within a reasonable time after the owner has notice of it and the issuer registers a transfer of the security before receiving notification, the owner may not assert against the issuer a claim for registering the transfer under section 8-404 or a claim to a new security certificate under section 8-405.

Section 8-407. Authenticating Trustee, Transfer Agent, and Registrar.

A person acting as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of a transfer of its securities, in the issue of new security certificates or uncertificated securities, or in the cancellation of surrendered security certificates has the same obligation to the holder or owner of a certificated or uncertificated security with regard to the particular functions performed as the issuer has in regard to those functions.

PART 5. SECURITY ENTITLEMENTS.

Section 8-501. Securities Account; Acquisition of Security Entitlement from Securities Intermediary.

(a) "Securities account", means an account to which a financial asset is or may be credited in accordance with an agreement under which the person maintaining the account undertakes to treat the person for whom the account is maintained as entitled to exercise the rights that comprise the financial asset.

(b) Except as otherwise provided in subsections (d) and (e), a person acquires a security entitlement if a securities intermediary:

(1) indicates by book entry that a financial asset has been credited to the person's securities account;

(2) receives a financial asset from the person or acquires a financial asset for the person and, in either case, accepts it for credit to the person's securities account; or

(3) becomes obligated under other law, regulation, or rule to credit a financial asset to the person's securities account.

(c) If a condition of subsection (b) has been met, a person has a security entitlement even though the securities intermediary does not itself hold the financial asset.

(d) If a securities intermediary holds a financial asset for another person, and the financial asset is registered in the name of, payable to the order of, or specially indorsed to the other person, and has not been indorsed to the securities intermediary or in blank, the other person is treated as holding the financial asset directly rather than as having a security

entitlement with respect to the financial asset.

(e) Issuance of a security is not establishment of a security entitlement.

Section 8-502. Assertion of Adverse Claim Against Entitlement Holder.

An action based on an adverse claim to a financial asset, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who acquires a security entitlement under section 8-501 for value and without notice of the adverse claim.

Section 8-503. Property Interest of Entitlement Holder in Financial Asset Held by Securities Intermediary.

(a) To the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset, all interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders, are not property of the securities intermediary, and are not subject to claims of creditors of the securities intermediary, except as otherwise provided in section 8-511.

(b) An entitlement holder's property interest with respect to a particular financial asset under subsection (a) is a pro rata property interest in all interests in that financial asset held by the securities intermediary, without regard to the time the entitlement holder acquired the security entitlement or the time the securities intermediary acquired the interest in that financial asset.

(c) An entitlement holder's property interest with respect to a particular financial asset under subsection (a) may be enforced against the securities intermediary only by exercise of the entitlement holder's rights under sections 8-505 to 8-508, inclusive.

(d) An entitlement holder's property interest with respect to a particular financial asset under subsection (a) may be enforced against a purchaser of the financial asset or interest therein only if:

(1) insolvency proceedings have been initiated by or against the securities intermediary;

(2) the securities intermediary does not have sufficient interests in the financial asset to satisfy the security entitlements of all of its entitlement holders to that financial asset;

(3) the securities intermediary violated its obligations under section 8-504 by transferring the financial asset or interest therein to the purchaser; and

(4) the purchaser is not protected under subsection (e).

The trustee or other liquidator, acting on behalf of all entitlement holders having security entitlements with respect to a particular financial asset, may recover the financial asset, or interest therein, from the purchaser. If the trustee or other liquidator elects not to pursue that right, an entitlement holder whose security entitlement remains unsatisfied has the right to recover its interest in the financial asset from the purchaser.

(e) An action based on the entitlement holder's property interest with respect to a particular financial asset under subsection (a), whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against any purchaser of a financial asset or interest therein who gives value, obtains control, and does not act in collusion with the securities intermediary in violating the securities intermediary's obliga-

tions under section 8-504.

Section 8-504. Duty of Securities Intermediary to Maintain Financial Asset.

(a) A securities intermediary shall promptly obtain and thereafter maintain a financial asset in a quantity corresponding to the aggregate of all security entitlements it has established in favor of its entitlement holders with respect to that financial asset. The securities intermediary may maintain those financial assets directly or through one or more other securities intermediaries.

(b) Except to the extent otherwise agreed by its entitlement holder, a securities intermediary may not grant any security interests in a financial asset it is obligated to maintain pursuant to subsection (a).

(c) A securities intermediary satisfies the duty in subsection (a) if:

(1) the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(2) in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to obtain and maintain the financial asset.

(d) This section does not apply to a clearing corporation that is itself the obligor of an option or similar obligation to which its entitlement holders have security entitlements.

Section 8-505. Duty of Securities Intermediary with Respect to Payments and Distributions.

(a) A securities intermediary shall take action to obtain a payment or distribution made by the issuer of a financial asset. A securities intermediary satisfies the duty if:

(1) the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(2) in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to attempt to obtain the payment or distribution.

(b) A securities intermediary is obligated to its entitlement holder for a payment or distribution made by the issuer of a financial asset if the payment or distribution is received by the securities intermediary.

Section 8-506. Duty of Securities Intermediary to Exercise Rights as Directed by Entitlement Holder.

A securities intermediary shall exercise rights with respect to a financial asset if directed to do so by an entitlement holder. A securities intermediary satisfies the duty if:

(1) the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(2) in the absence of agreement, the securities intermediary either places the entitlement holder in a position to exercise the rights directly or exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder.

Section 8-507. Duty of Securities Intermediary to Comply with Entitlement Order.

(a) A securities intermediary shall comply with an entitlement order if the entitlement order is originated by the appropriate person, the securities intermediary has had

reasonable opportunity to assure itself that the entitlement order is genuine and authorized, and the securities intermediary has had reasonable opportunity to comply with the entitlement order. A securities intermediary satisfies the duty if:

(1) the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(2) in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to comply with the entitlement order.

(b) If a securities intermediary transfers a financial asset pursuant to an ineffective entitlement order, the securities intermediary shall reestablish a security entitlement in favor of the person entitled to it, and pay or credit any payments or distributions that the person did not receive as a result of the wrongful transfer. If the securities intermediary does not reestablish a security entitlement, the securities intermediary is liable to the entitlement holder for damages.

Section 8-508. Duty of Securities Intermediary to Change Entitlement Holder's Position to Other Form of Security Holding.

A securities intermediary shall act at the direction of an entitlement holder to change a security entitlement into another available form of holding for which the entitlement holder is eligible, or to cause the financial asset to be transferred to a securities account of the entitlement holder with another securities intermediary. A securities intermediary satisfies the duty if:

(1) the securities intermediary acts as agreed upon by the entitlement holder and the securities intermediary; or

(2) in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder.

Section 8-509. Specification of Duties of Securities Intermediary by Other Statute or Regulation; Manner of Performance of Duties of Securities Intermediary and Exercise of Rights of Entitlement Holder.

(a) If the substance of a duty imposed upon a securities intermediary by sections 8-504 to 8-508, inclusive, is the subject of other statute, regulation, or rule, compliance with that statute, regulation, or rule satisfies the duty.

(b) To the extent that specific standards for the performance of the duties of a securities intermediary or the exercise of the rights of an entitlement holder are not specified by other statute, regulation, or rule or by agreement between the securities intermediary and entitlement holder, the securities intermediary shall perform its duties and the entitlement holder shall exercise its rights in a commercially reasonable manner.

(c) The obligation of a securities intermediary to perform the duties imposed by sections 8-504 to 8-508, inclusive, is subject to:

(1) rights of the securities intermediary arising out of a security interest under a security agreement with the entitlement holder or otherwise; and

(2) rights of the securities intermediary under other law, regulation, rule, or agreement to withhold performance of its duties as a result of unfulfilled obligations of the

entitlement holder to the securities intermediary.

(d) Sections 8-504 to 8-508, inclusive, do not require a securities intermediary to take any action that is prohibited by other statute, regulation, or rule.

Section 8-510. Rights of Purchaser of Security Entitlement from Entitlement Holder.

(a) An action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(b) If an adverse claim could not have been asserted against an entitlement holder under section 8-502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(c) In a case not covered by the priority rules in article 9, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. Purchasers who have control rank equally, except that a securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

Section 8-511. Priority Among Security Interests and Entitlement Holders.

(a) Except as otherwise provided in subsection (b) and (c), if a securities intermediary does not have sufficient interests in a particular financial asset to satisfy both its obligations to entitlement holders who have security entitlements to that financial asset and its obligation to a creditor of the securities intermediary who has a security interest in that financial asset, the claims of entitlement holders, other than the creditor, have priority over the claim of the creditor.

(b) A claim of a creditor of a securities intermediary who has a security interest in a financial asset held by a securities intermediary has priority over claims of the securities intermediary's entitlement holders who have security entitlements with respect to that financial asset if the creditor has control over the financial asset.

(c) If a clearing corporation does not have sufficient financial assets to satisfy both its obligations to entitlement holders who have security entitlements with respect to a financial asset and its obligation to a creditor of the clearing corporation who has a security interest in that financial asset, the claim of the creditor has priority over the claims of entitlement holders.

SECTION 5. Section 9-103 of said chapter 106, as appearing in the 1994 Official Edition, is hereby amended by striking out subsection (6) and inserting in place thereof the following subsection:-

(6) Investment property.

(a) This subsection applies to investment property.

(b) Except as otherwise provided in paragraph (f), during the time that a security certificate is located in a jurisdiction, perfection of a security interest, the effect of perfection or non-perfection, and the priority of a security interest in the certificated security represent-

ed thereby are governed by the local law of that jurisdiction.

(c) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or non-perfection, and the priority of a security interest in an uncertificated security are governed by the local law of the issuer's jurisdiction as specified in subsection (d) of section 8-110.

(d) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or non-perfection, and the priority of a security interest in a security entitlement or securities account are governed by the local law of the securities intermediary's jurisdiction as specified in subsection (e) of section 8-110.

(e) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or non-perfection, and the priority of a security interest in a commodity contract or commodity account are governed by the local law of the commodity intermediary's jurisdiction. The following rules determine a "commodity intermediary's jurisdiction" for purposes of this paragraph:

(i) If an agreement between the commodity intermediary and commodity customer specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(ii) If an agreement between the commodity intermediary and commodity customer does not specify the governing law as provided in subparagraph (i), but expressly specifies that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(iii) If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraphs (i) or (ii), the commodity intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the commodity customer's account.

(iv) If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraphs (i) or (ii) and an account statement does not identify an office serving the commodity customer's account as provided in subparagraph (iii), the commodity intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the commodity intermediary.

(f) Perfection of a security interest by filing, automatic perfection of a security interest in investment property granted by a broker or securities intermediary, and automatic perfection of a security interest in a commodity contract or commodity account granted by a commodity intermediary are governed by the local law of the jurisdiction in which the debtor is located.

SECTION 6. Section 9-105 of said chapter 106, as so appearing, is hereby amended by inserting after the word "instruments", in line 32, the following words:- , investment property.

SECTION 7. Said section 9-105 of said chapter 106, as so appearing, is hereby further amended by striking out, in lines 38 and 39, the words ", or a certificated security, defined in section 8-102,",- and by striking out, in line 42, the word "assignment;" and inserting in place thereof the following:- assignment. Said term does not include investment

property.

SECTION 8. Subsection (2) of said section 9-105 of said chapter 106, as so appearing, is hereby amended by inserting after the definition of "Attach" the following three definitions:-

"Commodity contract".	Section 9-115.
"Commodity customer".	Section 9-115.
"Commodity intermediary".	Section 9-115.

SECTION 9. Said subsection (2) of said section 9-105 of said chapter 106, as so appearing, is hereby further amended by inserting after the definition of "Consumer good" the following definition:-

"Control".	Section 9-115.

SECTION 10. Said subsection (2) of said section 9-105 of said chapter 106, as so appearing, is hereby further amended by inserting after the definition of "Inventory" the following definition:-

"Investment property".	Section 9-115.

SECTION 11. Subsection (3) of said section 9-105 of said chapter 106, as so appearing, is hereby amended by inserting before the definition of "Check" the following three definitions:-

"Broker".	Section 8-102.
"Certificated security".	Section 8-102.
"Clearing corporations".	Section 8-102.

SECTION 12. Said subsection (3) of said section 9-105 of said chapter 106, as so appearing, is hereby further amended by inserting after the definition of "Contract for sale" the following four definitions:-

"Control".	Section 8-106.
"Delivery".	Section 8-301.
"Entitlement holder".	Section 8-102.
"Financial asset".	Section 8-102.

SECTION 13. Said subsection (3) of said section 9-105 of said chapter 106, as so appearing, is hereby further amended by adding the following five definitions:-

"Securities intermediary".	Section 8-102.
"Security".	Section 8-102.
"Security certificate".	Section 8-102.
"Security entitlement".	Section 8-102.
"Uncertificated security".	Section 8-102.

SECTION 14. Section 9-106 of said chapter 106, as so appearing, is hereby amended by inserting after the word "instruments", in line 5, the following words:- , investment property.

SECTION 15. Said chapter 106 is hereby further amended by inserting after section 9-114 the following two sections:-

Section 9-115. Investment Property.

(1) In this article:

(a) "Commodity account", means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(b) "Commodity contract", means a commodity futures contract, an option on a commodity futures contract, a commodity option, or other contract that, in each case, is:

(i) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to the federal commodities laws; or

(ii) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(c) "Commodity customer", means a person for whom a commodity intermediary carries a commodity contract on its books.

(d) "Commodity intermediary" means:

(i) a person who is registered as a futures commission merchant under the federal commodities laws; or

(ii) a person who in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to the federal commodities laws.

(e) "Control", with respect to a certificated security, uncertificated security, or security entitlement has the meaning specified in section 8-106. A secured party has control over a commodity contract if by agreement among the commodity customer, the commodity intermediary, and the secured party, the commodity intermediary has agreed that it will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer. If a commodity customer grants a security interest in a commodity contract to its own commodity intermediary, the commodity intermediary as secured party has control. A secured party has control over a securities account or commodity account if the secured party has control over all security entitlements or commodity contracts carried in the securities account or commodity account.

(f) "Investment property" means:

(i) a security, whether certificated or uncertificated;

(ii) a security entitlement;

(iii) a securities account;

(iv) a commodity contract; or

(v) a commodity account.

(2) Attachment or perfection of a security interest in a securities account is also attachment or perfection of a security interest in all security entitlements carried in the securities account. Attachment or perfection of a security interest in a commodity account is also attachment or perfection of a security interest in all commodity contracts carried in the commodity account.

(3) A description of collateral in a security agreement or financing statement is sufficient to create or perfect a security interest in a certificated security, uncertificated security, security entitlement, securities account, commodity contract, or commodity account whether it describes the collateral by those terms, or as investment property, or by description of the underlying security, financial asset, or commodity contract. A description

of investment property collateral in a security agreement or financing statement is sufficient if it identifies the collateral by specific listing, by category, by quantity, by a computational or allocational formula or procedure, or by any other method, if the identity of the collateral is objectively determinable.

(4) Perfection of a security interest in investment property is governed by the following rules:

(a) A security interest in investment property may be perfected by control.

(b) Except as otherwise provided in paragraphs (c) and (d), a security interest in investment property may be perfected by filing.

(c) If the debtor is a broker or securities intermediary a security interest in investment property is perfected when it attaches. The filing of a financing statement with respect to a security interest in investment property granted by a broker or securities intermediary has no effect for purposes of perfection or priority with respect to that security interest.

(d) If a debtor is a commodity intermediary, a security interest in a commodity contract or a commodity account is perfected when it attaches. The filing of a financing statement with respect to a security interest in a commodity contract or a commodity account granted by a commodity intermediary has no effect for purposes of perfection or priority with respect to that security interest.

(5) Priority between conflicting security interests in the same investment property is governed by the following rules:

(a) A security interest of a secured party who has control over investment property has priority over a security interest of a secured party who does not have control over the investment property.

(b) Except as otherwise provided in paragraphs (c) and (d), conflicting security interests of secured parties each of whom has control rank equally.

(c) Except as otherwise agreed by the securities intermediary, a security interest in a security entitlement or a securities account granted to the debtor's own securities intermediary has priority over any security interest granted by the debtor to another secured party.

(d) Except as otherwise agreed by the commodity intermediary, a security interest in a commodity contract or a commodity account granted to the debtor's own commodity intermediary has priority over any security interest granted by the debtor to another secured party.

(e) Conflicting security interests granted by a broker, a securities intermediary, or a commodity intermediary which are perfected without control rank equally.

(f) In all other cases, priority between conflicting security interests in investment property is governed by subsections (5) to (7), inclusive, of section 9-312. Subsection (4) of said section 9-312 does not apply to investment property.

(6) If a security certificate in registered form is delivered to a secured party pursuant to agreement, a written security agreement is not required for attachment or enforceability of the security interest, delivery suffices for perfection of the security interest, and the securi-

ty interest has priority over a conflicting security interest perfected by means other than control, even if a necessary indorsement is lacking.

Section 9-116. Security Interest Arising in Purchase or Delivery of Financial Asset.

(1) If a person buys a financial asset through a securities intermediary in a transaction in which the buyer is obligated to pay the purchase price to the securities intermediary at the time of the purchase, and the securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary, the securities intermediary has a security interest in the buyer's security entitlement securing the buyer's obligation to pay. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected.

(2) If a certificated security, or other financial asset represented by a writing which in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment is delivered pursuant to an agreement between persons in the business of dealing with such securities or financial assets and the agreement calls for delivery versus payment, the person delivering the certificate or other financial asset has a security interest in the certificated security or other financial asset securing the seller's right to receive payment. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected.

SECTION 16. Section 9-203 of said chapter 106, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 2 and 3, the words "section 8-321 on security interests in securities" and inserting in place thereof the following words:- sections 9-115 and 9-116 on security interests in investment property.

SECTION 17. Said section 9-203 of said chapter 106, as so appearing, is hereby further amended by inserting after the word "agreement", in line 7, the first time it appears, the following words:- , the collateral is investment property and the secured party has control pursuant to agreement.

SECTION 18. Section 9-301 of said chapter 106, as so appearing, is hereby amended by striking out, in line 12, the words "and general intangibles" and inserting in place thereof the following words:- , general intangibles and investment property.

SECTION 19. Section 9-302 of said chapter 106, as so appearing, is hereby amended by inserting after the word "instruments", in line 5, the following words:- , certificated securities.

SECTION 20. Said section 9-302 of said chapter 106, as so appearing, is hereby further amended by striking out, in lines 17 and 18, the words "or in securities (section 8-321)".

SECTION 21. Said section 9-302 of said chapter 106, as so appearing, is hereby further amended by striking out, in line 21, the word "thereunder." and inserting in place thereof the following:- thereunder;

(h) a security interest in investment property which is perfected without filing under section 9-115 or 9-116.

SECTION 22. Section 9-304 of said chapter 106, as so appearing, is hereby amended by striking out, in line 3, the words "certificated securities or".

SECTION 23. Said section 9-304 of said chapter 106, as so appearing, is hereby further amended by striking out, in line 17, the words "other than".

SECTION 24. Said section 9-304 of said chapter 106, as so appearing, is hereby further amended by striking out, in line 24, the words "other than".

SECTION 25. Said section 9-304 of said chapter 106, as so appearing, is hereby further amended by inserting after the word "instrument", in line 33, the words "or certificated security".

SECTION 26. Section 9-305 of said chapter 106, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "other than certificated securities,".

SECTION 27. The definition of "Proceeds" in subsection (1) of section 9-306 of said chapter 106, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- Any payments or distributions made with respect to investment property collateral are proceeds.

SECTION 28. Said section 9-306 of said chapter 106, as so appearing, is hereby further amended by striking out, in line 23, the word "or",- and by striking out clause (c) and inserting in place thereof the following two clauses:-

(c) the original collateral was investment property and the proceeds are identifiable cash proceeds; or

(d) the security interest in the proceeds is perfected before the expiration of the ten day period.

SECTION 29. Section 9-309 of said chapter 106, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "bona fide purchaser of a security (section 8-302)" and inserting in place thereof the following words:- protected purchaser of a security (section 8-303).

SECTION 30. Section 9-312 of said chapter 106, as so appearing, is hereby amended by striking out, in line 2, the word "section 4-208" and inserting in place thereof the following word:- section 4-210,- and by inserting after the word "consignment", in lines 5 and 6, the following words:- ; section 9-115 on security interests in investment property.

SECTION 31. Said section 9-312 of said chapter 106, as so appearing, is hereby further amended by striking out, in line 54, the words "section 8-321 on securities" and inserting in place thereof the following words:- section 9-115 or 9-116 on investment property,- and by inserting after the figure (5), in line 56, the following words:- or subsection (5) of section 9-115.

SECTION 32. The provisions of this act shall not affect any action or proceeding commenced prior to the effective date of this act.

SECTION 33. If a security interest in a security is perfected on the effective date of this act, and the action by which the security interest was perfected would suffice to perfect a security interest under this act, no further action shall be required to continue perfection. If a security interest in a security is perfected on the effective date of this act but the action by which the security interest was perfected would not suffice to perfect a security interest under this act, the security interest shall remain perfected for a period of four months

after said effective date and shall continue perfected thereafter if appropriate action to perfect under this act is taken within such period. If a security interest is perfected on the effective date of this act and the security interest can be perfected by filing under this act, a financing statement signed by the secured party instead of the debtor may be filed within the aforesaid four month period to continue perfection or thereafter to perfect.

Approved July 12, 1996.

Chapter 171. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND 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 bonds and notes to carry out the purposes of a certain act passed by the general court, 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 any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter one hundred and thirteen of the acts of nineteen hundred and ninety-six, shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated June fourth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 2. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section four of chapter one hundred and thirteen of the acts of nineteen hundred and ninety-six, shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated June fourth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 3. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section five of chapter one hundred and thirteen of the acts of nineteen hundred and ninety-six, shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and one, as recommended by the governor in a message to the general court dated June fourth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

Approved July 12, 1996.

Chapter 172. AN ACT AUTHORIZING THE TOWN OF HOPKINTON TO CONNECT CERTAIN OF ITS MAIN DRAINS AND COMMON SANITARY SEWERS WITH THE SEWERAGE SYSTEM OF THE TOWN OF MILFORD.

Be it enacted, etc., as follows:

SECTION 1. The town of Hopkinton is hereby authorized to connect certain of its common sanitary sewers with the sewerage system of the town of Milford, and thereafter the town of Milford shall receive and dispose of the sewage entering its said system through such common sanitary sewers; provided, however, that an agreement to this effect shall be made between the two towns, acting through the boards or officers having charge of sewers in the respective towns. Said agreement shall state the terms and conditions upon which the said connection is to be made, and shall be recorded by the town clerks in the records of their respective towns. Said agreement may provide for the payment by the town of Hopkinton to the town of Milford of a stated sum at the time the connection is made, and for a yearly rental beginning with the year in which the connection is made. Such rental may be based upon the number of entrances made to said common sanitary sewers. Said agreement shall also state the terms, conditions and regulations in accordance with which such entrances may be made within the town of Hopkinton.

SECTION 2. The selectmen of the town of Hopkinton or such other board or officer as the town may designate, may from time to time establish just and equitable annual charges for the use of the common sanitary sewers connected with the sewerage system of the town of Milford, and the provisions of chapter eighty-three of the General Laws shall apply to the collection of such charges and to liens therefor upon abutting lands.

SECTION 3. No connection shall be made under the provisions of this act with the sewerage system of the town of Milford until a plan showing such proposed connection and the territory within the town of Hopkinton to which said system is to be extended, and the agreement above provided for have both been submitted to the department of public health and approved by said department. Such a plan shall also be filed in the office of the town clerk of each town.

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

Approved July 18, 1996.

Chapter 173. AN ACT VALIDATING CERTAIN ACTIONS OF THE ANNUAL TOWN MEETING HELD IN THE TOWN OF PLYMPTON ON MAY SEVENTEENTH, NINETEEN HUNDRED AND NINETY-FIVE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, all actions taken by the town of Plympton relative to Article 1A at the annual town meeting held on May seventeenth, nineteen hundred and ninety-five and all actions taken

pursuant thereto are hereby validated, ratified and confirmed notwithstanding any defect or omission in the town meeting warrant.

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

Approved July 18, 1996.

Chapter 174. AN ACT AUTHORIZING THE TOWN OF DRACUT TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES NOT 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 Dracut is hereby authorized to issue to Marc J. Gosselin, d/b/a Dracut Convenience, Inc., a license for the sale of wines and malt beverages only, not to be drunk on the premises, under the provisions of section fifteen of said chapter one hundred and thirty-eight. Said license shall be subject to all the provisions of said chapter one hundred and thirty-eight except said section seventeen.

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

Approved July 18, 1996.

Chapter 175. AN ACT PROVIDING FOR AN EARLY RETIREMENT INCENTIVE PROGRAM FOR CERTAIN EMPLOYEES OF THE CITY OF SPRINGFIELD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provision of chapter thirty-two of the General Laws or any other general or special law to the contrary, the provisions of this act providing for a retirement program for the city of Springfield retirement system shall apply to a member who is a Group 1 employee as defined in section three of said chapter thirty-two, who is a member of said city of Springfield retirement system and who (*i*) shall be an employee of the city of Springfield, or an active member in-service of such retirement system 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 of said chapter thirty-two or subdivision (1) of section ten of said chapter thirty-two upon the effective retirement date specified in his written application to said board, and (*iii*) shall have filed a written application after September first, nineteen hundred and ninety-six, but not later than March thirty-first, nineteen hundred and ninety-seven to retire for superannuation as of the date which shall be specified in such application; provided, however, that said date

for retirement shall be not earlier than December first, nineteen hundred and ninety-six and not later than March thirty-first, nineteen hundred and ninety-seven.

Notwithstanding any provision of chapter thirty-two of the General Laws to the contrary, the normal yearly amount of the retirement allowance for an eligible employee who is employed by the city 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 mayor 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 act; and, 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.

SECTION 2. 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 who retires and receives an additional benefit in accordance with the provisions of this act shall be deemed to be retired for superannuation under the provisions of said chapter thirty-two and shall be subject to 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 retirees and receives an additional benefit under the retirement incentive program in accordance with the provision of this act 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, whichever is greater.

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 act of the retirement incentive program established by this act for the city of Springfield; provided, however, that said commissioner shall file a report in writing of his findings to the board on or before December thirty-first, nineteen hundred and ninety-seven and shall send a copy thereof to the mayor.

SECTION 3. The Springfield 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 provision of this act and said schedule shall be designed to reduce the city of Springfield's retirement system additional pension liability attributable to such costs and liabilities to zero on or before June thirtieth, two thousand and twelve; provided, however, that in preparing such schedule, the

board shall consider the analysis of the commissioner of the public employee retirement administration filed in accordance with the provisions of section two of this act; and provided, further, that said board shall triennially update such schedule until said June thirtieth, two thousand and twelve. In each of the fiscal years until the actuarial liability determined under this act shall be reduced to zero, it shall be deemed an obligation of the city, to fund such liability and there shall be appropriated to the pension reserve fund in each such fiscal year the amount required by the funding schedule and the updates thereto.

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

Approved July 18, 1996.

Chapter 176. AN ACT RELATIVE TO THE STAFF QUALIFICATIONS FOR GROUP CHILD CARE STAFF.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the office for children regulations regarding qualifications for assistant teachers, teachers, lead teachers and child care center directors providing group care to infants, toddlers, and preschool-aged children in the commonwealth shall not have lower age requirements, require fewer college-level credits, or in any other way be less rigorous, than regulations contained in 102 CMR 7.06 in effect on November twenty-seventh, nineteen hundred and ninety-five.

This bill was returned by the Governor to the House, the branch in which it originated, with his objections thereto, was passed by the House on July 10, 1996, and in concurrence by the Senate on July 18, 1996, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 177. AN ACT RELATIVE TO MAINTAINING THE CONFIDENTIALITY OF THE LOCATION OF DOMESTIC VIOLENCE VICTIMS' PROGRAMS AND RAPE CRISIS CENTERS.

Be it enacted, etc., as follows:

Chapter 233 of the General Laws is hereby amended by inserting after section 20K the following section:-

Section 20L. The location and street address of all domestic violence victims' programs, as defined in section twenty K and rape crisis centers, as defined in section twenty J, shall be absolutely confidential and shall not be required to be revealed in any criminal or civil proceeding.

Approved July 23, 1996.

Chapter 178. AN ACT ESTABLISHING A TOURISM FUND IN THE TOWN OF PROVINCETOWN.

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 Provincetown is hereby authorized to establish a Tourism Fund to receive revenue under section three A of chapter sixty-four G of the General Laws, in the manner set forth in section two, and may appropriate monies in said fund to market, beautify, and enhance tourism in, said town.

SECTION 2. Twenty-five percent of the excise collected under section three A of chapter sixty-four G of the General Laws by the town of Provincetown for fiscal year nineteen hundred and ninety-seven shall be credited to the Tourism Fund, thirty-five percent of said excise collected for fiscal year nineteen hundred and ninety-eight shall be credited to said fund and forty-five percent of the excise collected shall be credited to said fund in each succeeding fiscal year.

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

Approved July 24, 1996.

Chapter 179. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF FITCHBURG AS THE ARTHUR J. DiTOMMASO MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge connecting Fifth street and Harvard street spanning the Nashua River in the city of Fitchburg shall be designated and known as the Arthur J. DiTommaso Memorial Bridge, in honor of Arthur J. DiTommaso who served the city of Fitchburg as a police officer for many years. A suitable marker bearing said designation shall be attached thereto by the department of highways in compliance with the standards of said department.

Approved July 24, 1996.

Chapter 180. AN ACT AUTHORIZING THE TOWN OF SUDBURY TO SEND CERTAIN INFORMATION TO REGISTERED VOTERS IN THE TOWN OF SUDBURY.

Be it enacted, etc., as follows:

SECTION 1. (*a*) Notwithstanding the provisions of section twenty-two A of chapter fifty-five of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Sudbury shall, at least seven days before any election at

which a question, other than a question on the ballot pursuant to section eighteen A of chapter fifty-three of the General Laws, shall be submitted solely to the voters of said town, cause to be printed and sent to each residence of one or more voters whose name appears on the latest voting list for said town and make available at each polling place (1) the full text of such question, (2) a fair and concise summary of such question, including a one sentence statement describing the effect of a yes or no vote, prepared by the town counsel of said town, and (3) arguments for and against such question as provided in subsections (*b*) and (*c*).

(*b*) No argument shall contain more than two hundred and fifty words. Said board of selectmen or, at its request, said town counsel shall seek such written arguments from the principal proponents and opponents of each such question. Said board of selectmen shall designate a date by which written arguments must be received, in a written notice to the principal proponents and opponents. Said notice must be issued at least fourteen days before the date by which the written arguments must be received.

(*c*) For the purposes of this act, the principal proponents and opponents of any such question shall be those persons determined by said board of selectmen to be best able to present the arguments for and against such question. The principal proponents or opponents of such a question may include a town or district officer or committee, and the principal proponents may include the first ten signers or a majority of the first ten signers of any petition initiating the placement of such question on the ballot. In determining the principal proponents and opponents of such a question, said board of selectmen shall contact each ballot question committee, if any, as defined in section one of chapter fifty-five of the General Laws, organized specifically to influence the outcome of the vote on such question. If no argument is received by said board of selectmen within the time allowed by this act, said town counsel shall prepare such argument.

(*d*) All arguments filed with said board of selectmen pursuant to this act, and the summary prepared pursuant to subsection (*a*), shall be open to public inspection at the office of the town clerk of said town, and if the vote affects a district, the arguments and summary shall be open to public inspection at the office of the clerk of each city or town within the jurisdiction of the district.

SECTION 2. This act shall apply where the question presented involves the regional district of which the town of Sudbury is a member or involves a joint undertaking by said town of Sudbury and any one or more cities or towns.

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

Approved July 24, 1996.

Chapter 181. AN ACT FURTHER REGULATING EQUIPMENT ON CERTAIN RECREATIONAL VEHICLES.

Be it enacted, etc., as follows:

Section 24 of chapter 90B of the General Laws, as appearing in the 1994 Official

Edition, is hereby amended by inserting after the word "prescribe", in line 8, the following words:- ; provided, however, that the requirements for lighting, as set forth in this paragraph, shall not apply to category Y - all terrain vehicles, so-called; and provided, further, that said registrar in such specifications shall define said category Y - all terrain vehicles in a manner which shall be consistent with the American National Standards Institute Standard ANSI/SVIA I - 1990.

Approved July 24, 1996.

Chapter 182. AN ACT AUTHORIZING EMPLOYMENT CONTRACTS FOR MUNICIPAL AUDITORS AND ACCOUNTANTS.

Be it enacted, etc., as follows:

Section 108N of chapter 41 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "selectmen", in lines 10 and 21, in each instance, the following words:- , town accountants, city auditor.

Approved July 24, 1996.

Chapter 183. AN ACT AUTHORIZING THE TOWN OF WINCHESTER TO ISSUE TWO ADDITIONAL LICENSES 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 Winchester is hereby authorized to issue, to two restaurants with seating capacities of not less than one hundred, licenses 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. Said license shall be subject to all the provisions of said chapter one hundred and thirty-eight except said section seventeen.

SECTION 2. The state secretary shall cause to be placed on the official ballot to be used at the biennial state election in the year nineteen hundred and ninety-six in the town of Winchester the following question:- "Shall an act passed by the general court in the year nineteen hundred and ninety-six, entitled 'An act authorizing the town of Winchester to issue two additional licenses for the sale of all alcoholic beverages to be drunk on the premises' 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 July 24, 1996.

Chapter 184. AN ACT AUTHORIZING THE CITY OF BOSTON TO GRANT A CERTAIN EASEMENT TO THE BOSTON EDISON COMPANY.

Be it enacted, etc., as follows:

SECTION 1. Chapter 41 of the acts of 1988 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. The city of Boston acting by and through its parks and recreation department, is hereby authorized to grant to Boston Edison Company a perpetual easement for facilities used in the transmission of electric current and for communication purposes incidental thereto under the surface of a certain parcel of land situated in said city. Said easement is shown on a plan entitled "Boston Edison Company Plan of Land of the Boston Common, Boston, Mass., Showing the Interests of the City of Boston, the Massachusetts Convention Center and the Massachusetts Bay Transportation Authority, Depicting Location of Boston Edison Company Easements and License", dated September first, nineteen hundred and eighty-seven, and most recently revised on June twenty-eighth, nineteen hundred and ninety-three and on file with the Boston Edison Company to be recorded in the registry of deeds for Suffolk county.

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

Approved July 24, 1996.

Chapter 185. AN ACT RELATIVE TO RECALL ELECTIONS IN THE TOWN OF NORTH READING.

Be it enacted, etc., as follows:

SECTION 1. Chapter 6 of the charter of the town of North Reading, 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 3 and inserting in place thereof the following section:-

Section 6-3-1. Any elective officer of the town may be recalled and removed from public office by the voters of the town as herein provided. Any voter of the town may file with the town clerk an affidavit containing the name and title of the elective officer whose removal is sought, together with a statement of the grounds for his removal. No recall petition may be filed against any officer until he has held office for at least six months.

Section 6-3-2. The town clerk shall thereupon deliver to said voter or voters making the affidavit, copies of petition blanks demanding such recall, copies of which printed forms shall be available. Such forms shall be issued by the town clerk with his signature and official seal attached thereto. They shall be dated, shall be addressed to the selectmen and shall contain the names of all the persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor in the said office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. Said recall petition shall be returned and filed

with the town clerk within twenty days after the filing of the affidavit, and shall have been signed by qualified voters of the town, who shall add to their signatures the street and number, if any, of their residences, equal in number to at least fifteen percent of the voters registered at the last regular municipal election.

Section 6-3-3. 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 seven working days certify thereon the number of signatures which are names of registered voters of the town.

Section 6-3-4. If the petition shall be found and certified by the town clerk to be sufficient he shall submit the same with his certificate to the selectmen within five working days, and the selectmen shall within five working days give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by them not less than seventy-five and not more than ninety days after the date of the town clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within ninety days after the date of the certificate, the selectmen shall postpone the holding of the recall election to the date of such other election. No person shall be subject to recall if his term of office expires within ninety days of the certificate. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

Section 6-3-5. Any officer sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the town clerk shall place his name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this section.

Section 6-3-6. The incumbent shall continue to perform the duties of his office until the recall election. If then reelected, he shall continue in office for the remainder of his unexpired term subject to recall as before, except as provided in this act. 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 this election, the incumbent shall thereupon be deemed removed and the office vacant.

Section 6-3-7. Ballots used in the 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)
For the election of (name)

Each proposition shall be marked in accordance with the procedures for voting according to the electronic voting system used by the town. Under the propositions shall appear the word "Candidates", and beneath this, the names of candidates nominated in accordance with the provisions of law relating to elections. If two-thirds of the votes cast upon the question of recall are in the affirmative, the candidate receiving the highest number of votes shall be

declared elected.

Section 6-3-8. 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 recalled thereby, until at least ninety days after the election at which his recall was submitted to the voters of the town.

Section 6-3-9. 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 office in the town within two years after such recall or such resignation.

SECTION 2. This act shall be submitted to the voters of the town of North Reading at the annual election to be held in the year nineteen hundred and ninety-seven 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-six entitled 'An act relative to recall elections in the town of North Reading' be accepted?"

If a majority of the votes cast in answer to said question is in the affirmative, said act shall take effect, but not otherwise.

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

Approved July 24, 1996.

Chapter 186. AN ACT RELATIVE TO CAPITAL OUTLAYS FOR A COMPREHENSIVE INTEGRATED INFORMATION SYSTEM FOR THE TRIAL COURT OF THE COMMONWEALTH AND THE TERMS OF CERTAIN BONDS AND NOTES THEREFOR.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for capital outlays for a comprehensive integrated information system for the trial court of the commonwealth and for the issuance of certain bonds and notes, 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 any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter two hundred and sixty-three of the acts of nineteen hundred and ninety-five, shall be issued for a term not to exceed seven years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and eight, as recommended by the governor in a message to the general court dated February twentieth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 2. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four of chapter two hundred and sixty-three of the acts of nineteen hundred and ninety-five, shall be issued and may be re-

newed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and eight, as recommended by the governor in a message of the general court dated February twentieth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 3. Chapter 263 of the acts of 1995 is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2.

JUDICIARY.

Trial Court.

0330-0951 For the acquisition, upgrading, development and implementation of a comprehensive integrated information system within and between the departments of the trial court of the commonwealth, as specified herein, including the purchase and installation of certain computer and data processing equipment, and for costs associated with planning, software development and related implementation costs, including the salaries and other personnel costs of staff assigned to said project; provided, however, that the chief justice for administration and management of the trial court, in consultation with the office of management information systems shall implement a statewide comprehensive integrated court information system within and between the departments of the trial court which is intended, among other purposes, to allow for the exchange of information within and between the departments of the trial court and between the trail court department and law enforcement agencies, public safety agencies, prosecutorial agencies, other state agencies, attorneys and the public that interact with the trail court department; provided, further, that such comprehensive statewide integrated court information system be capable of readily exchanging data with existing or proposed information systems in law enforcement agencies, public safety agencies, prosecutorial agencies and social service agencies of the commonwealth and that the chief justice for administration and management or his designee shall consult with the secretary of public safety and the secretary of human services, or their designees, in designing and implementing such a system; provided, further, that procurements of hardware, software and services shall be consistent with the Massachusetts strategic plan for information technology, so-called; provided, further, that all procurements shall satisfy the governor's advisory council on information technology standards, or the GACIT standards, so-called; provided, further, that no

funds shall be expended from this item until such time as the chief justice for administration and management of the trial court submits a plan detailing the expenditure of funds authorized herein to the house and senate committees on ways and means, the house and senate committees on science and technology, the joint committee on state administration and the secretary of administration and finance; provided, further, that not more than five percent of the funds authorized herein may be expended for the administration and implementation of said capital projects funded herein; and provided, further, that said chief justice shall submit a report detailing said administrative expenditures to said committees $75,000,000

Approved July 24, 1996.

Chapter 187. AN ACT PROVIDING THAT A CERTAIN ALCOHOLIC BEVERAGE LICENSE ISSUED BY THE TOWN OF NORTON SHALL NOT AFFECT THE NUMBER OF LICENSES SAID TOWN MAY ISSUE.

SECTION 1. The license for the sale of all alcoholic beverages not to be drunk on the premises which was authorized by chapter four hundred and thirteen of the acts of nineteen hundred and eighty-three and which was issued to the Produce Barn, Incorporated shall not be considered to have counted or to count as part of the town of Norton's license quota as set forth in section seventeen of chapter one hundred and thirty-eight of the General Laws.

SECTION 2. Said license shall not otherwise affect the license quota for the town of Norton, and the town of Norton is hereby authorized to issue in addition to said license all the licenses allotted to it under the provisions of section seventeen of chapter one hundred and thirty-eight of the General Laws.

Approved July 24, 1996.

Chapter 188. AN ACT TO PROVIDE FOR AN ORDERLY AND JUST APPLICATION OF A CERTAIN PROVISION OF THE COMMONWEALTH'S PENSION LAWS.

Whereas, The deferred operation of this act would tend to defeat its purpose which is to immediately provide for an orderly and just application of a certain provision of the Commonwealth's pension 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:

SECTION 1. The last paragraph of paragraph (h) of subdivision (1) of section 4 of chapter 32 of the General Laws, added by section 2 of chapter 71 of the acts of 1996, is hereby amended by inserting after the words "make up payments", in the first sentence, the following words:- , for each year of creditable service sought,.

SECTION 2. The provisions of this act shall take effect as of April twenty-fifth, nineteen hundred and ninety-six.

Approved July 24, 1996.

Chapter 189. AN ACT RELATIVE TO THE BELCHERTOWN ECONOMIC DEVELOPMENT AND INDUSTRIAL CORPORATION.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter one hundred and twenty-one C of the General Laws or any other general or special law or economic development plan to the contrary, the Belchertown Economic Development and Industrial Corporation is hereby authorized to acquire and hold land, easements and other interests in land for development for recreational purposes in the town of Belchertown and to convey all or a portion of such land, easements and other interests in land, in a developed or undeveloped condition, on such terms as it deems appropriate to accomplish such purpose or any other purpose permitted by said chapter one hundred and twenty-one C.

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

Approved July 25, 1996.

Chapter 190. AN ACT RELATIVE TO THE CHARTER OF THE CITY OF HOLYOKE.

Be it enacted, etc., as follows:

Section 15 of chapter 438 of the acts of 1896, as appearing in section 14 of chapter 189 of the acts of 1992, is hereby further amended by striking out, in the first sentence, the words "a city messenger" and inserting in place thereof the following words:- an administrative assistant to the city council.

Approved July 25, 1996.

Chapter 191. AN ACT AUTHORIZING THE CONVEYANCE OF A CERTAIN PARCEL OF LAND IN THE BRIGHTON DISTRICT OF THE CITY OF BOSTON AND CERTAIN OTHER MATTERS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 59 of the General Laws is hereby amended by inserting after section 5I the following section:-

Section 5J. A city or town, by adoption of an ordinance or by-law, may establish a special assessment policy for the substantial rehabilitation of owner-occupied residential properties listed in the state register of historic places, either individually or as contributing elements within an historic district. For such properties, the increase in assessed value resulting from such rehabilitation shall be phased in one-fifth increments over a period of five years to the full assessed value of the property; provided, however, that the rehabilitation shall meet the standards of the Massachusetts historical commission in order to be eligible for the phased in special assessment; and provided further, that the secretary of the commonwealth, as chairman of the Massachusetts historical commission, shall promulgate applicable rules and regulations to carry out the provisions of this section.

SECTION 2. Section 4 of chapter 70 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 6, the word "fifteen" and inserting in place thereof the following word:- sixteen.

SECTION 3. Section 19B of chapter 78 of the General Laws, as so appearing, is hereby amended by striking out clause (4) and inserting in place thereof the following clause:-

(4) employ trained personnel in accordance with regulations promulgated by the board of library commissioners; provided, however, that in cities of more than one hundred and fifty thousand residents, nothing in said regulations shall prevent the appointing authority from employing a chief executive officer of the library system in addition to the chief librarian.

SECTION 4. Notwithstanding the provisions of any general or special law to the contrary, the joint committee on taxation is hereby authorized and directed to review the effectiveness of the investment tax credit. Said committee shall hold hearings during the fall of nineteen hundred and ninety-six in not less than two locations within the commonwealth, one of which shall be outside the boundaries of the city of Boston. Said committee shall investigate the effectiveness of the investment tax credit, including, but not limited to, the static and dynamic revenue loss, increases in capital investment, job creation, and fiscal cost per job.

Said committee shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerks of the senate and the house of representatives on or before December fifteenth, nineteen hundred and ninety-six.

SECTION 5. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Bay Transportation Authority, hereinafter referred to as the authority, is hereby authorized and directed to convey the land owned by said authority and

bounded by Faneuil street and Washington street in the area known as Oak Square in the Brighton district of the city of Boston to the Boston Redevelopment Authority, hereinafter referred to as the BRA, to be used exclusively for athletic, recreational, and community activities in conjunction with the department of parks and recreation of said city of Boston and the YMCA of Greater Boston. In the event that said property should cease to be used for the above mentioned purposes, said property shall revert to the authority. Said conveyance shall include the leased property owned by the authority located at the eastern intersection of Washington street and the Oak Square rotary subject to the terms of the lease currently in force for that property. Any payments owing on said lease shall continue to be paid to the authority. Said conveyance shall not include the land and appurtenances upon which the substation currently operated by the authority is located, nor shall it include land abutting and within five feet of said substation. Said authority shall retain easements as necessary for access to said substation. At such time as the substation ceases to be used for its current purposes, said authority is hereby authorized and directed to convey said substation and abutting land in the same manner and for the same purposes as stated herein. The terms of the conveyance shall include a requirement that the substation and abutting land be used for the purposes set forth in this section. The BRA shall assume the costs of any appraisals, surveys or other expenses deemed necessary by the authority for the conveyance of the substation property.

SECTION 6. This act shall take effect upon its passage.

Approved July 26, 1996.

Chapter 192. AN ACT AUTHORIZING THE CITY OF GLOUCESTER TO CONVEY CERTAIN CONSERVATION LAND.

Be it enacted, etc., as follows:

SECTION 1. The city of Gloucester, acting by and through its conservation commission, is hereby authorized to convey two parcels of land located in said city, acquired for conservation purposes, to the Gloucester Economic Development and Industrial Corporation to be used for economic development purposes. Said parcels are shown as parcels 1A and 1B on a plan of land entitled, "Plan of Land in Gloucester, MA, prepared for the city of Gloucester Economic Development and Industrial Corporation", dated February 26, 1996, drawn by Hancock Survey Associates, Inc. to be recorded at Essex south district registry of deeds.

SECTION 2. In consideration for the conveyance authorized in section one, the Gloucester Economic Development and Industrial Corporation shall convey to the conservation commission of the city of Gloucester a certain parcel of land located in said city to be used for conservation purposes under the provisions of section eight C of chapter forty of the General Laws. Said parcel is shown as parcel 2B on the plan of land described in section one.

Approved July 26, 1996.

Chapter 193. AN ACT AUTHORIZING THE TOWN OF ROCKPORT TO OFFER HEALTH INSURANCE TO CERTAIN ELECTED OFFICIALS AND EMPLOYEES.

Be it enacted, etc., as follows:

Notwithstanding the provisions of sections seven and seven A of chapter thirty-two B of the General Laws, the town of Rockport, acting by and through its board of selectmen, is hereby authorized to offer health and accident insurance to elected officials and employees of said town who are scheduled to work less than twenty hours per week; provided, however, that said employees and officials shall be responsible for one hundred percent of the premiums for such insurance.

Approved July 26, 1996.

Chapter 194. AN ACT RELATIVE TO THE ISSUANCE OF DEBT OBLIGATIONS BY REGIONAL REFUSE DISPOSAL DISTRICTS.

Be it enacted, etc., as follows:

In addition to the purposes for which it may incur debt pursuant to clause (d) of section forty-four F of chapter forty of the General Laws, the Martha's Vineyard Refuse Disposal and Resource Recovery District may also incur debt in the manner set forth in said clause (d) for the purpose of replacing, taking remedial action with respect to, or closing all or any part of its refuse disposal system.

Approved July 26, 1996.

Chapter 195. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

Be it enacted, etc., as follows:

SECTION 1. Chapter 2 of the charter of the town of Provincetown, 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 2-3-13. No session of an annual or special town meeting shall be held on a holiday.

SECTION 2. Chapter 3 of said charter is hereby amended by adding the following section:-

Section 3-4-9. No person shall serve simultaneously as a member/alternative member of more than one of the following regulatory town boards: conservation commission, board of health, historical commission, licensing board, planning board or zoning board of appeals.

SECTION 3. Chapter 6 of said charter is hereby amended by striking out section

6-9-1 and inserting in place thereof the following section:-

Section 6-9-1. There shall be a historical commission as provided by section eight D of chapter forty of the General Laws consisting of five regular members and two alternate members appointed by the town manager with the approval of the board of selectmen for three year overlapping terms so arranged that the term of at least one regular member shall expire each year.

SECTION 4. Said chapter 6 of said charter is hereby further amended by striking out section 6-10-1 and inserting in place thereof the following section:-

Section 6-10-1. There shall be a licensing board consisting of five regular members and two alternate members appointed by the board of selectmen for three year overlapping terms so arranged that the term of at least one regular member shall expire each year.

SECTION 5. Said chapter 6 of said charter is hereby further amended by striking out section 6-12-1 and inserting in place thereof the following section:-

Section 6-12-1. There shall be a planning board as provided by section eighty-one A of chapter forty-one of the General Laws consisting of five regular members and one alternate member appointed by the board of selectmen for three year overlapping terms so arranged that the term of at least one regular member shall expire each year.

SECTION 6. This act shall take effect upon its passage.

Approved July 26, 1996.

Chapter 196. AN ACT AUTHORIZING THE TOWN OF FOXBOROUGH TO PAY A CERTAIN UNPAID BILL.

Be it enacted, etc., as follows:

The town treasurer of the town of Foxborough is hereby authorized to pay to Marino Brothers of N.E., Inc. the sum of twenty thousand nine hundred and thirty-five dollars for labor and materials furnished for certain restoration projects in said town, notwithstanding the failure of said town to comply with the appropriate provisions of law relative to competitive bidding in the awarding of the contract.

Approved July 26, 1996.

Chapter 197. AN ACT RELATIVE TO THE ADMINISTRATIVE PROCEEDINGS OF THE STATE POLICE.

Be it enacted, etc., as follows:

Chapter 412 of the acts of 1991 is hereby amended by striking out section 134 and inserting in place thereof the following section:-

Section 134. All petitions, hearings, appeals and other proceedings duly brought be-

fore, and all prosecutions and legal and other proceedings duly begun by the division of the capitol police, the division of the metropolitan district commission police, the division of state police or the division of law enforcement in the registry of motor vehicles or any bureau, unit, officer or employee thereof consolidated pursuant to the provisions of this act shall continue unabated and remain in force notwithstanding the passage of this act and shall thereafter be completed by the department of state police.

Approved July 26, 1996.

Chapter 198. AN ACT RELATIVE TO THE OATH OF OFFICE FOR A STATE POLICE OFFICER.

Be it enacted, etc., as follows:

Section 15 of chapter 22C of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 3, the words "ten days" and inserting in place thereof the following words:- three months.

Approved July 26, 1996.

Chapter 199. AN ACT RELATIVE TO THE SUPPORT OF CERTAIN CHILDREN.

Be it enacted, etc., as follows:

Subsection (a) of section 9 of chapter 209C of the General Laws, as most recently amended by section 167 of chapter 38 of the acts of 1995, is hereby further amended by inserting after the first sentence the following two sentences:- The court may make appropriate orders of maintenance, support and education for any child who has attained age eighteen but who has not attained age twenty-one, who is domiciled in the home of a parent and is principally dependent upon said parent for maintenance. The court may make appropriate orders of maintenance, support and education for any child who has attained age twenty-one but who has not attained age twenty-three if such child is domiciled in the home of a parent, and is principally dependent upon said parent for maintenance due to the enrollment of such child in an educational program, excluding educational costs beyond an undergraduate degree.

Approved July 26, 1996.

Chapter 200. AN ACT TO PROVIDE FOR THE PROSECUTION OF VIOLENT JUVENILE OFFENDERS IN THE CRIMINAL COURTS OF THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for an improved system of juvenile justice for the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 52 of chapter 119 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following two definitions:-

"Punishment as is provided by law", any sentence which may be imposed upon an adult by a justice of the district court or superior court.

"Youthful offender", a person who is subject to an adult or juvenile sentence for having committed, while between the ages of fourteen and seventeen, an offense against a law of the commonwealth which, if he were an adult, would be punishable by imprisonment in the state prison, and (a) has previously been committed to the department of youth services, or (b) has committed an offense which involves the infliction or threat of serious bodily harm in violation of law, or (c) has committed a violation of paragraph (a), (c) or (d) of section ten or section ten E of chapter two hundred and sixty-nine; provided that, nothing in this clause shall allow for less than the imposition of the mandatory commitment periods provided in section fifty-eight of chapter one hundred and nineteen.

SECTION 2. Section 54 of said chapter 119, as so appearing, is hereby amended by adding the following paragraph:-

The commonwealth may proceed by complaint in juvenile court or in a juvenile session of a district court, as the case may be, or by indictment as provided by chapter two hundred and seventy-seven, if a person is alleged to have committed an offense against a law of the commonwealth while between the ages of fourteen and seventeen which, if he were an adult, would be punishable by imprisonment in the state prison, and the person has previously been committed to the department of youth services, or the offense involves the infliction or threat of serious bodily harm in violation of law or the person has committed a violation of paragraph (a), (c) or (d) of section ten or section ten E of chapter two hundred and sixty-nine. The court shall proceed on the complaint or the indictment, as the case may be, in accordance with sections fifty-five to seventy-two, inclusive. Complaints and indictments brought against persons for such offenses, and for other criminal offenses properly joined under Massachusetts Rules of Criminal Procedure 9 (a) (1), shall be brought in accordance with the usual course and manner of criminal proceedings.

SECTION 3. Said chapter 119 is hereby further amended by striking out section 55A, as so appearing, and inserting in place thereof the following two sections:-

Section 55A. Trial of a child complained of as a delinquent child or indicted as a youthful offender in a division of the juvenile court department shall be by a jury, unless the child files a written waiver and consent to be tried by the court without a jury. Such waiver

shall not be received unless the child is represented by counsel or has filed, through his parent or guardian, a written waiver of counsel. No decision on such waiver shall be received until after the completion of a pretrial conference and a hearing on the results of such conference and until after the disposition of any pretrial discovery motions and compliance with any order of the court pursuant to said motions. Such waiver shall be filed in accordance with the provisions of section six of chapter two hundred and sixty-three; provided, however, that defense counsel shall execute a certificate signed by said counsel indicating that he has made all the necessary explanations and determinations regarding such waiver. The form of such certificates shall be prescribed by the chief justice for the juvenile court department.

In the juvenile court department upon the motion of a child consistent with criminal procedure, or upon the court's own motion, the judge shall issue an order of discovery requiring the prosecutor to provide in writing any information to which the child is entitled and also requiring that the child be permitted to discover, inspect, and copy any material and relevant evidence, documents, statements or persons, or reports of physical or mental examinations of any person or of scientific tests or experiments, within the possession, custody, or control of the prosecutor or persons under his direction and control. Upon motion of the child the judge shall order the production by the commonwealth of the names and addresses of the prospective witnesses and the production by the probation department of the record of prior convictions of any such witnesses. The commonwealth shall be entitled to reciprocal discovery as set forth in Rule 14 (a) (1) (3) of the Massachusetts Rules of Criminal Procedure.

Trial by jury in the juvenile court department shall be in those jury sessions designated in accordance with section fifty-six. Where the child has properly filed a waiver and consented to be tried without a jury, as hereinbefore provided, trial shall proceed in accordance with the provisions of law applicable to jury-waived trials in the superior court; provided, however, that at the option of the child, the trial may be before a judge who has not rejected an agreed upon recommendation or disposition request made by the child pursuant to the provisions of section fifty-five B. Review in such cases may be had directly by the appeals court, by appeal, report or otherwise in the same manner provided for trials of criminal cases in the superior court.

The justice presiding over such jury-waived trial in the juvenile court department shall have and exercise all of the powers which a justice sitting in the superior court department has and may exercise in the trial and disposition of criminal cases including the power to report questions of law to the appeals court.

The justice presiding at such jury-waived session in the juvenile court department shall, upon the request of the child, appoint a stenographer; provided, however, that where the child claims indigence, such appointment is determined to be reasonably necessary in accordance with the provisions of sections twenty-seven A to twenty-seven G, inclusive, of chapter two hundred and sixty-one. Such stenographer shall be sworn, and shall take stenographic notes of all the testimony given at the trial, and shall provide the parties thereto with a transcript of his notes or any part thereof taken at the trial or hearing for which he

shall be paid by the party requesting it at the rate fixed by the chief justice of the juvenile court department; provided, however, that such rate shall not exceed the rate provided pursuant to section eighty-eight of chapter two hundred and twenty-one. Said chief justice may make regulations not inconsistent with law relative to the assignments, duties and services of stenographers appointed for sessions in his department and any other matter relative to stenographers. The compensation and expenses of a stenographer shall be paid by the commonwealth.

The request for the appointment of a stenographer to preserve the testimony at a trial in the juvenile court department shall be given to the clerk of the court by the child in writing no later than forty-eight hours prior to the proceeding for which the stenographer has been requested. The child shall file with such request an affidavit of indigence and request for payment by the commonwealth of the cost of the transcript and the court shall hold a hearing on such request prior to appointing a stenographer, in those cases where the child alleges that he will be unable to pay said cost. Said hearing shall be governed by the provisions of sections twenty-seven A to twenty-seven G, inclusive, of chapter two hundred and sixty-one, and the cost of such transcript shall be considered an extra cost as provided therein. If the court is unable, for any reason, to provide a stenographer, the proceedings may be recorded by electronic means. The original recording of proceedings in the juvenile court department made with a recording device under the exclusive control of the court shall be the official record of such proceedings. Said record or a copy of all or a part thereof, certified by the presiding justice or his designee, to be an accurate electronic reproduction of said record or part thereof, or a typewritten transcript of all or part of said record or copy thereof, certified to be accurate by the court or by the preparer of said transcript, or stipulated to by the parties, shall be admissible in any court as evidence of testimony given wherever proof of such testimony is otherwise competent. The child may request payment by the commonwealth of the cost of said transcript subject to the same provisions regarding a transcript of a stenographer as provided hereinbefore.

Section 55B. A child who is before the juvenile court on a delinquency complaint or an indictment within the court's jurisdiction shall plead not delinquent, or that he should not be adjudged as a youthful offender, as the case may be. Such plea shall be submitted by the child and acted upon by the court; provided, however, that a child with whom the commonwealth cannot reach agreement for a recommended disposition shall be allowed to tender a plea together with a request for a specific disposition. Such request may include any disposition or dispositional terms within the court's jurisdiction, including, unless otherwise prohibited by law, a disposition request that a finding not be entered, but rather the case be continued without a finding to a specific date thereupon to be dismissed, such continuance conditioned upon compliance with specific terms and conditions or that the child be placed on probation pursuant to the provisions of section fifty-seven of chapter one hundred and nineteen. If a plea, with an agreed upon recommendation or with a disposition request by the child, is tendered, the court shall inform the child that it will not impose a disposition that exceeds the terms of the agreed upon recommendation or the disposition request by the child, whichever is applicable, without giving the child the right to withdraw the plea.

Notwithstanding the foregoing requirements, if a child attempts to enter a plea or statement consisting of an admission of facts sufficient for a finding of delinquency or adjudication as a youthful offender, or some similar statement, such admission shall be deemed a tender of plea for purposes of the procedures set forth in this section.

Any pretrial motion filed in a delinquency case or case in which the commonwealth has proceeded by indictment pending in the juvenile court and decided before entry of the child's decision on waiver of the right to jury trial shall not be refiled or reheard thereafter, except in the discretion of the court as substantial justice requires. Any such pretrial motion not filed or filed but not decided prior to entry of the child's decision on waiver of the right to jury trial may be filed thereafter but not later than twenty-one days after entry of said decision on waiver of the right to jury trial, except for good cause shown.

SECTION 4. Said chapter 119 is hereby further amended by striking out section 56, as so appearing, and inserting in place thereof the following section:-

Section 56. Hearings upon cases arising under sections fifty-two to eighty-four, inclusive, may be adjourned from time to time; provided however, that no adjournment shall exceed fifteen days at any one time against the objection of the child. Section thirty-five of chapter two hundred and seventy-six relative to recognizance in cases continued shall apply to cases arising under sections fifty-two to eighty-four, inclusive.

(a) Every division of the juvenile court department shall be authorized to hold jury sessions for the purpose of conducting jury trials of cases commenced in the several courts of offenses over which the juvenile courts have original jurisdiction.

(b) The chief justice for the juvenile court department shall designate at least one division in each county or an adjoining county for the purpose of conducting jury trials.

The chief justice of the juvenile court department may also designate one or more divisions in each county for the purpose of conducting jury-waived trials of cases commenced in any court of said county consistent with the requirements of the proper administration of justice.

(c) A child in any division of the juvenile court who waives his right to jury trial as provided in section fifty-five A shall be provided a jury-waived trial in the same division.

A child in any division of the juvenile court who does not waive his right to jury trial as provided in section fifty-five A shall be provided a jury trial in a jury session in the same division if such session has been established in said division. If such session has not been so established, the child shall be provided a jury trial in a jury session in an adjoining county as designated by the clerk in the division where the case is pending. In cases where the child declines to waive the right to jury trial, the clerk shall forthwith transfer the case for trial in the appropriate jury session. Such transfer shall be governed by procedures to be established by the chief justice for the juvenile court department.

(d) The justice presiding over a jury session shall have and exercise all the powers and duties which a justice sitting in the superior court department has and may exercise in the trial and disposition of criminal cases including the power to report questions of law to the appeals court. No justice so sitting shall act in a case in which he has sat or held an inquest or otherwise taken part in any proceeding therein.

(e) Trials by jury shall proceed in accordance with the provisions of law applicable to trials by jury in the superior court. The commonwealth shall be entitled to as many challenges as equal the whole number to which all the children in the case are entitled. Trial by jury shall be by juries of six persons, except that in cases where the commonwealth has proceeded by indictment, said child shall be entitled to a jury of twelve.

(f) For the jury sessions, jurors shall be provided by the office of the jury commissioner in accordance with the provisions of chapter two hundred and thirty-four A.

(g) The district attorney for the district in which the alleged offense or offenses occurred shall appear for the commonwealth in the trial of all cases in which the right to jury trial has not been waived and may appear in any other case. The chief justice for the juvenile court department shall arrange for the sittings of the jury sessions and shall assign justices thereto, to the end that speedy trials may be provided. Review may be had directly by the appeals court, by appeal, report or otherwise in the same manner provided for trials of criminal cases in the superior court. A claim of trial by jury under this section may be withdrawn before trial, in which event trial and disposition of the case shall be by a justice in a jury session sitting without a jury.

(h) The justice presiding at such session in the juvenile court department shall, upon request of the child, appoint a stenographer in accordance with section fifty-five A herein.

The request for the appointment of a stenographer to preserve the testimony at a trial in the juvenile court department shall be given to the clerk of the court by the child in writing no later than forty-eight hours prior to the proceeding for which the stenographer has been requested. The child shall file with such request an affidavit of indigence and request for payment by the commonwealth of the cost of the transcript and the court shall hold a hearing on such request prior to appointing a stenographer, in those cases where the child alleges that he will be unable to pay said cost. Said hearing shall be governed by the provisions of sections twenty-seven A to twenty-seven G, inclusive, of chapter two hundred and sixty-one, and the cost of such transcript shall be considered an extra cost as provided therein. If the court is unable, for any reason, to provide a stenographer, the proceedings may be recorded by electronic means. The original recording of proceedings in the juvenile court department made with a recording device under the exclusive control of the court shall be the official record of such proceedings. Said record or a copy of all or a part thereof, certified by the presiding justice or his designee, to be an accurate electronic reproduction of said record or part thereof, or a typewritten transcript of all or part of said record or copy thereof, certified to be accurate by the court or by the preparer of said transcript, or stipulated to by the parties, shall be admissible in any court as evidence of testimony given wherever proof of such testimony is otherwise competent. The child may request payment by the commonwealth of the cost of said transcript subject to the same provisions regarding a transcript of a stenographer as provided hereinbefore.

SECTION 5. Said chapter 119 is hereby further amended by striking out section 58, as amended by section 1 of chapter 278 of the acts of 1995, and inserting in place thereof the following section:-

Section 58. At the hearing of a complaint against a child the court shall hear the

testimony of any witnesses who appear and take such evidence relative to the case as shall be produced. If the allegations against a child are proved beyond a reasonable doubt, he may be adjudged a delinquent child, or in lieu thereof, the court may continue the case without a finding and, with the consent of the child and at least one of the child's parents or guardians, place said child on probation; provided, however, that any such probation may be imposed until such child reaches age eighteen or age nineteen in the case of a child whose case is disposed of after he has attained his eighteenth birthday. Said probation may include a requirement, subject to agreement by the child and at least one of the child's parents or guardians, that the child do work or participate in activities of a type and for a period of time deemed appropriate by the court.

If a child is adjudicated a delinquent child on a complaint, the court may place the case on file or may place the child in the care of a probation officer for such time and on such conditions as it deems appropriate or may commit him to the custody of the department of youth services, but the probationary or commitment period shall not be for a period longer than until such child attains the age of eighteen, or nineteen in the case of a child whose case is disposed of after he has attained his eighteenth birthday.

If a child is adjudicated a youthful offender on an indictment, the court may sentence him to such punishment as is provided by law for the offense. The court shall make a written finding, stating its reasons therefor, that the present and long-term public safety would be best protected by:

(a) a sentence provided by law; or

(b) a combination sentence which shall be a commitment to the department of youth services until he reaches the age of twenty-one, and an adult sentence to a house of correction or to the state prison as is provided by law for the offense. The adult sentence shall be suspended pending successful completion of a term of probation, which shall include, but not be limited to, the successful completion of the aforementioned commitment to the department of youth services. Any juvenile receiving a combination sentence shall be under the sole custody and control of the department of youth services unless or until discharged by the department or until the age of twenty-one, whichever occurs first, and thereafter under the supervision of the juvenile court probation department until the age of twenty-one and thereafter by the adult probation department; provided, however, that in no event shall the aggregate sentence imposed on the combination sentence exceed the maximum adult sentence provided by law; or

(c) a commitment to the department of youth services until he reaches the age of twenty-one.

In making such determination the court shall conduct a sentencing recommendation hearing to determine the sentence by which the present and long-term public safety would be best protected. At such hearing, the court shall consider, but not be limited to, the following factors: the nature, circumstances and seriousness of the offense; victim impact statement; a report by a probation officer concerning the history of the youthful offender; the youthful offender's court and delinquency records; the success or lack of success of any past treatment or delinquency dispositions regarding the youthful offender; the nature of services

available through the juvenile justice system; the youthful offender's age and maturity; and the likelihood of avoiding future criminal conduct. In addition, the court may consider any other factors it deems relevant to disposition. No such sentence shall be imposed until a pre-sentence investigation report has been filed by the probation department and made available to the parties no less than seven days prior to sentencing.

A youthful offender who is sentenced as is provided by law either to a state prison or to a house of correction but who has not yet reached his seventeenth birthday shall be held in a youthful offender unit separate from the general population of adult prisoners; provided, however, that such youthful offender shall be classified at a facility other than the reception and diagnostic center at the Massachusetts Correctional Institution, Concord, and shall not be held at the Massachusetts Correctional Institution, Cedar Junction, prior to his seventeenth birthday.

If it is alleged in the complaint upon which the child is so adjudged that a penal law of the commonwealth, a city ordinance or a town by-law has been violated, the court may commit such child to the custody of the commissioner of youth services and authorize him to place such child in the charge of any person, and, if at any time thereafter the child proves unmanageable, to transfer such child to that facility which in the opinion of said commissioner, after study, will best serve the needs of the child. The department of youth services shall provide for the maintenance, in whole or part, of any child so placed in the charge of any person.

Notwithstanding any other provisions of this chapter, a person adjudicated a delinquent child by reason of a violation of paragraph (a), (c) or (d) of section ten or section ten E of chapter two hundred and sixty-nine, shall be committed to the custody of the commissioner of youth services who shall place such child in the custody of a facility supported by the commonwealth for the care, custody and training of such delinquent children for a period of at least one hundred and eighty days or until such child attains his eighteenth birthday, whichever first occurs, provided, however, that said period of time shall not be reduced or suspended.

Upon the second or subsequent violation of said paragraph (a), (c) or (d) of said section ten or ten E of said chapter two hundred and sixty-nine, the commissioner of youth services shall place such child in the custody of a facility supported by the commonwealth for the care, custody and training of such delinquent child for not less than one year; provided, however, that said period of time shall not be reduced or suspended.

The court may make an order for payment by the child's parents or guardian from the child's property, or by any other person responsible for the care and support of said child, to the institution, department, division, organization or person furnishing care and support at times to be stated in an order by the court of sums not exceeding the cost of said support after ability to pay has been determined by the court; provided, however, that no order for the payment of money shall be entered until the person by whom payments are to be made shall have been summoned before the court and given an opportunity to be heard. The court may from time to time, upon petition by, or notice to the person ordered to pay such sums of money, revise or alter such order or make a new order, as the circumstances may require.

The court may commit such delinquent child to the department of youth services, but it shall not commit such child to any institution supported by the commonwealth for the custody, care and training of delinquent children or juvenile offenders.

Except in cases in which the child has attained the age of majority, 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 6. Section 60A of said chapter 119, as appearing in the 1994 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The records of a youthful offender proceeding conducted pursuant to an indictment shall be open to public inspection in the same manner and to the same extent as adult criminal court records. All other records of the court in cases of delinquency arising under sections fifty-two to fifty-nine, inclusive, shall be withheld from public inspection except with the consent of a justice of such court; provided, however, that such records shall be open, at all reasonable times, to inspection by the child proceeded against, his parents, guardian or attorney; provided further, that nothing herein shall be construed to provide access to privileged or confidential communications and information; and provided further, that said protections shall be construed to include information and communications entered at the indictment.

SECTION 7. Section sixty-one of said chapter one hundred and nineteen is hereby repealed.

SECTION 8. Section 63 of said chapter 119, as appearing in the 1994 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The provisions for recognizance in section fifty-six shall be applicable to cases arising hereunder.

SECTION 9. Section 65 of said chapter 119, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The court shall exclude the general public from juvenile sessions admitting only such persons as

may have a direct interest in the case, except in cases where the commonwealth has proceeded by indictment.

SECTION 10. Said chapter 119 is hereby further amended by striking out section 66, as so appearing, and inserting in place thereof the following section:-

Section 66. Except as otherwise provided in section sixty-seven and in section twelve of chapter one hundred and twenty, no child under seventeen years of age shall be detained by the police in a lockup, police station or house of detention pending arraignment, examination or trial by the court. No child under seventeen years of age shall be committed by the court to a jail or house of correction or to the state farm, pending further examination or trial by the court or pending any continuance of his case or, except as otherwise provided in sections fifty-two through eighty-four upon adjudication as a youthful offender.

SECTION 11. Said chapter 119 is hereby further amended by striking out section 68, as so appearing, and inserting in place thereof the following section:-

Section 68. A child who has attained the age of seven but not yet attained the age of seventeen held by the court for further examination, trial or continuance, or for indictment and trial, if unable to furnish bail, shall be committed by the court to the care of the department of youth services or to a probation officer, a parent, guardian, or other responsible person who shall provide for his safekeeping; provided, however, that the appearance of the child at such examination or trial, shall be the responsibility of the court for which he is being held in safekeeping.

The court may recommend that a child who has attained the age of fourteen and who is committed to the care of the department shall be held in a secure detention facility if the court further determines that the child (a) is a fugitive from another jurisdiction on a delinquency petition; or (b) is charged with an offense for which the commonwealth may proceed by indictment in accordance with the provisions of section fifty-four; provided, however, that such child is already detained or on conditional release in conjunction with another delinquency proceeding, or has demonstrated a recent record of willful failure to appear at juvenile court proceedings, or has demonstrated a recent record of violent conduct resulting in physical injury to others.

The court shall forward such recommendation and the reasons therefor, in writing, to the department. Such recommendation shall not be binding upon the department, but if the department chooses not to comply with such recommendation, the department shall inform the court within two business days.

The department may provide special foster homes, and places of temporary custody commonly referred to as detention homes of the department of youth services for the care, maintenance and safekeeping of such children who may be committed by the court to said department under this section; provided, however, that no more than five such children shall be detained in any such special foster home at any one time.

A child between seven and seventeen years of age so committed by the court to the department to await further examination or trial by the court, shall be returned thereto within fifteen days after the date of the order of such commitment, and final disposition of the case shall thereupon be made by adjudication or otherwise, unless, in the opinion of the court, the

interest of the child and the public otherwise require.

The provisions of section twenty-four of chapter two hundred and twelve, relative to the precedence of cases of persons actually confined in prison and awaiting trial, shall apply to children held in detention facilities of the department of youth services under this section.

Said probation officer shall have the same authority, rights and powers in relation to a child committed to his care under this section, and in relation to a child released to him as provided in section sixty-seven, as he would have if he were surety on the recognizance of such child.

A person who at the time of the offense had attained the age of fourteen but had not attained the age of seventeen, and who is charged with murder in the first or second degree and is held by the superior court for trial or continuance, or for indictment and trial, if unable to furnish bail, shall be committed by the court to the custody of the sheriff of the county in which the court is situated; provided, however, that the appearance of the person at such examination or trial shall be the responsibility of the court for which he is being held in safekeeping.

SECTION 12. Said chapter 119 is hereby further amended by striking out section 68A, as so appearing, and inserting in place thereof the following section:-

Section 68A. A child between seven and seventeen years of age, held by the court for further examination, trial or continuance, or for indictment and trial, may at the discretion of the court be referred to the department of youth services, any court clinic, or the department of mental health, with its consent, and with the consent of the parents or guardian, for diagnostic study on an inpatient or outpatient basis; and, upon completion of such study, the department of youth services, court clinic or department of mental health, as the case may be, shall forward a report and recommendations to the court. In default of bail, any such child may be committed by the court to the department of youth services for a period not to exceed thirty days while undergoing diagnostic study. At the expiration of such period, such child shall be returned to the court, together with the report and recommendations to the department of youth services.

SECTION 13. Said chapter 119 is hereby further amended by striking out section 72, as so appearing, and inserting in place thereof the following section:-

Section 72. (a) The divisions of the juvenile court department shall continue to have jurisdiction over children who attain their eighteenth birthday pending adjudication of their cases, or during continuances or probation, or after their cases have been placed on file. Except as provided for youthful offenders in subsection (b), nothing herein shall authorize the commitment of a person to the department of youth services after he has attained his nineteenth birthday, or give any division of the juvenile court department any power or authority over a person after he has attained his nineteenth birthday.

If a child commits an offense prior to his seventeenth birthday, and is not apprehended until between his seventeenth and eighteenth birthday, the court shall deal with such child in the same manner as if he has not attained his seventeenth birthday, and all provisions and rights applicable to a child under seventeen shall apply to such child.

(b) If the commonwealth has proceeded by indictment, the divisions of the juvenile court department shall continue to have jurisdiction over such persons who attain their eighteenth birthday pending the adjudication of their cases, or pending the determinations allowed under section fifty-eight, or during continuances or probation, or after their case has been placed on file. Nothing herein shall authorize the commitment of a youthful offender to the department of youth services after he has attained his twenty-first birthday, or give any division of the juvenile court department any power or authority over any such person after he has attained his twenty-first birthday.

SECTION 13A. Said chapter 119 is hereby further amended by striking out section 72A, as so appearing, and inserting in place thereof the following section:-

Section 72A. If a person commits an offense or violation prior to his seventeenth birthday, and is not apprehended until after his eighteenth birthday, the court, after a hearing, shall determine whether there is probable cause to believe that said person committed the offense charged, and shall, in its discretion, either order that the person be discharged, if satisfied that such discharge is consistent with the protection of the public; or, if the court is of the opinion that the interests of the public require that such person be tried for such offense or violation instead of being discharged, 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 and section eighteen of chapter two hundred and seventy-eight. Said hearing shall be held prior to, and separate from, any trial on the merits of the charges alleged.

SECTION 14. Said chapter 119 is hereby further amended by inserting after section 72A the following section:-

Section 72B. If a person is found guilty of murder in the first degree committed on or after his fourteenth birthday and before his seventeenth birthday under the provisions of section one of chapter two hundred and sixty-five, the superior court shall commit the person to such punishment as is provided by law for the offense.

If a person is found guilty of murder in the second degree committed on or after his fourteenth birthday and before his seventeenth birthday under the provisions of section one of chapter two hundred and sixty-five, the superior court shall commit the person to such punishment as is provided by law. Said person shall be eligible for parole under section one hundred and thirty-three A of chapter one hundred and twenty-seven when such person has served fifteen years of said confinement. Thereafter said person shall be subject to the provisions of law governing the granting of parole permits by the parole board.

The superior court shall not suspend the commitment of a person found guilty of murder in the first or second degree, nor shall the provisions of section one hundred and twenty-nine C or one hundred and twenty-nine D of chapter one hundred and twenty-seven apply to such commitment. In all cases where a person is alleged to have violated section one of chapter two hundred and sixty-five, the person shall have the right to an indictment proceeding under section four of chapter two hundred and sixty-three.

A person who is found guilty of murder and is sentenced to a state prison but who

has not yet reached his seventeenth birthday shall be held in a youthful offender unit separate from the general population of adult prisoners; provided, however, that such person shall be classified at a facility other than the reception and diagnostic center at the Massachusetts Correctional Institution, Concord, and shall not be held at the Massachusetts Correctional Institution, Cedar Junction, prior to his seventeenth birthday.

If a defendant is not found guilty of murder in the first or second degree, but is found guilty of a lesser included offense or a criminal offense properly joined under Massachusetts Rules of Criminal Procedure 9 (a) (1), then the superior court shall make its disposition in accordance with section fifty-eight.

SECTION 15. Said chapter 119 is hereby further amended by striking out section 74, as so appearing, and inserting in place thereof the following section:-

Section 74. Except as hereinafter provided and as provided in sections fifty-two to eighty-four, inclusive, no criminal proceeding shall be begun against any person who prior to his seventeenth birthday commits an offense against the laws of the commonwealth or who violates any city ordinance or town by-law, provided, however, that a criminal complaint alleging violation of any city ordinance or town by-law regulating the operation of motor vehicles, which is not capable of being judicially heard and determined as a civil motor vehicle infraction pursuant to the provisions of chapter ninety C may issue against a child between sixteen and seventeen years of age without first proceeding against him as a delinquent child.

The juvenile court shall not have jurisdiction over a person who had at the time of the offense attained the age of fourteen but not yet attained the age of seventeen who is charged with committing murder in the first or second degree. Complaints and indictments brought against persons for such offenses, and for other criminal offenses properly joined under Massachusetts Rules of Criminal Procedure 9 (a) (1), shall be brought in accordance with the usual course and manner of criminal proceedings.

SECTION 16. Section eighty-three of said chapter one hundred and nineteen is hereby repealed.

SECTION 17. Section 11 of chapter 120 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "delinquents", in line 5, the following words:- , youthful offenders.

SECTION 18. Said chapter 120 is hereby further amended by striking out section 13, as so appearing, and inserting in place thereof the following section:-

Section 13. The department may issue a warrant for the arrest of any person committed to it who has escaped from a facility or who has been released on parole and broken the conditions thereof. Such person may be arrested with or without such warrant by a police officer, sheriff, deputy sheriff, constable or person employed or authorized by the department and may be kept in custody in a suitable place and there detained until such person may be returned to the custody of the department.

SECTION 19. Section 16 of said chapter 120, as so appearing, is hereby amended by inserting after the word "child", in line 9, the following words:- or youthful offender.

SECTION 20. Section 17 of said chapter 120, as so appearing, is hereby amended

by striking out the second sentence and inserting in place thereof the following sentence:- The order and application may be made at any time prior to the date of discharge stated in said section sixteen.

SECTION 21. The first paragraph of section 18 of said chapter 120, as so appearing, is hereby amended by adding the following sentence:- Said proceedings shall be conducted according to the provisions of sections fifty-five A, fifty-five B and fifty-six of chapter one hundred and nineteen.

SECTION 22. Section twenty of said chapter one hundred and twenty is hereby repealed.

SECTION 23. Section 21 of said chapter 120, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 1 and 2, the words "wayward child or delinquent child" and inserting in place thereof the following words:- delinquent child or youthful offender.

SECTION 24. Section 26 of said chapter 120, as so appearing, is hereby amended by inserting after the word "Whoever", in line 1, the following words:- escapes, or attempts to escape from the department or.

SECTION 25. Section 122 of said chapter 140, as so appearing, is hereby amended by inserting after the word "minor", in line 3, the following words:- , a person who has been adjudicated a youthful offender, as defined in section fifty-two of chapter one hundred and nineteen, including those who have not received an adult sentence.

SECTION 26. Section 122B of said chapter 140, as so appearing, is hereby amended by inserting after the word "minor", in line 4, the following words:- , a person who has been adjudicated a youthful offender, as defined in section fifty-two of chapter one hundred and nineteen, including those who have not received an adult sentence.

SECTION 27. Section 129B of said chapter 140, as so appearing, is hereby amended by inserting after the word "nine A", in line 30, the following words:- , or (h) has within the last five years been adjudicated a youthful offender, as defined in section fifty-two of chapter one hundred and nineteen, including those who did not receive an adult sentence, or within the last five years has been released from confinement where such person was serving a sentence as a youthful offender.

SECTION 28. Section 131 of said chapter 140, as so appearing, is hereby amended by inserting after the word "drugs", in line 27, the following words:- a person who has been adjudicated a youthful offender, as defined in section fifty-two of chapter one hundred and nineteen, including those who have not received an adult sentence.

SECTION 29. Section 131F of said chapter 140, as so appearing, is hereby amended by inserting after the word "drugs", in line 9, the following words:- or a person who has been adjudicated a youthful offender, as defined in section fifty-two of chapter one hundred and nineteen, including those who have not received an adult sentence.

SECTION 30. Paragraph (a) of section 6 of chapter 211D of the General Laws, as amended by section 178 of chapter 38 of the acts of 1995, is hereby further amended by inserting after the second sentence the following sentence:- Said division shall also include a unit to be known as the youth advocacy project.

SECTION 31. Said paragraph (a) of said section 6 of said chapter 211D, as amended by said section 178 of said chapter 38, is hereby further amended by striking out clause (iv) and inserting in place thereof the following clause:-

(iv) said division shall not be assigned to represent any child alleged to be delinquent, except in such cases which may result in exposure to adult incarceration or commitment to the department of youth services until the age of twenty-one, and except in cases charging delinquency by conduct which would be punishable by imprisonment in the state prison if committed by an adult and except in the Boston and Bristol county divisions of the juvenile court department or in the Roxbury division of the district court department. Private counsel who have been certified to accept assignments in such cases shall also be eligible to provide representation to persons thus charged.

SECTION 32. Chapter 218 of the General Laws is hereby amended by striking out section 27, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 27. The district court 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 authority to hear cases and impose penalties in accordance with the provisions of sections fifty-two through eighty-four of chapter one hundred and nineteen, and section one through nineteen of chapter one hundred and twenty.

SECTION 33. Section 57 of said chapter 218 is hereby amended by striking out, in line 181, the words "sections thirty-nine I and fifty-six", as so appearing, and inserting in place thereof the following words:- section thirty-nine I.

SECTION 34. Section 3 of chapter 258B of the General Laws, as appearing in section 5 of chapter 24 of the acts of 1995, is hereby amended by adding the following subsection:-

(v) for one family member of a victim of a homicide, which the matter before the court is related, to possess in the courtroom a photograph, that is not of itself of an inflammatory nature, of the deceased victim that is not larger than eight by ten inches; provided, however, that at no time may the photograph be exposed or in anyway displayed in the presence of any member of the jury, or the jury pool from which a jury is to be selected in a particular matter; provided, further, that nothing in this section shall preclude the admission into evidence of a photograph that the court deems relevant and material.

SECTION 35. Section 4 of chapter 263 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

No juvenile shall be sentenced to any punishment as is provided by law for the offense by a juvenile court or a juvenile session of a district court, as the case may be, unless he has been proceeded against by indictment or has waived indictment pursuant to section four A of chapter two hundred and sixty-three, except as otherwise provided in section seventy-two A of chapter one hundred and nineteen. The clerk of the superior court in which an indictment of such juvenile is returned shall promptly remit the indictment to the clerk

of the juvenile court or the juvenile session of the district court, as the case may be, in which such indictment is to be tried.

SECTION 36. Chapter 265 is hereby amended by adding the following section:-

Section 44. Whoever commits an assault and battery on a child under the age of eighteen for the purpose of causing or coercing such child to join or participate in a criminal conspiracy in violation of section seven of chapter two hundred and seventy-four, including but not limited to a criminal street gang or other organization of three or more persons which has a common name, identifying sign or symbol and whose members individually or collectively engage in criminal activity, shall, for the first offense, be punished by imprisonment in the state prison for not less than three nor more than five years or by imprisonment in the house of correction for not more than two and one-half years; and for a second or subsequent offense by imprisonment in the state prison for not less than five nor more than ten years.

SECTION 37. Section 18 of chapter 278 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "court", in line 2 and in line 27, the second time it appears, in each instance, the following words:- or a district court sitting in a juvenile session or a juvenile court.

SECTION 38. The chief justice of administration and management of the trial court in cooperation with the chief justice of the juvenile court shall provide the resources needed to conduct all trials in the juvenile court under all applicable laws and the Massachusetts Rules of Criminal Procedure.

SECTION 39. Sections one to thirteen, inclusive, of this act and sections sixteen to thirty-eight, inclusive, shall take effect on October first, nineteen hundred and ninety-six.

Approved July 27, 1996.

Chapter 201. AN ACT RELATIVE TO THE TREMONT TEMPLE BAPTIST CHURCH.

Be it enacted, etc., as follows:

SECTION 1. Chapter three hundred and eighty-six of the acts of nineteen hundred and fifty-eight is hereby repealed.

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

Approved July 29, 1996.

Chapter 202. AN ACT FURTHER REGULATING HEALTH CARE PROVIDERS WITH REGARD TO CERTAIN RELIGIOUS DENOMINATIONS.

Be it enacted, etc., as follows:

SECTION 1. Section 25B of chapter 111 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 35 and 36, the words "a religious group relying solely on spiritual means through prayer and healing" and inserting in place thereof the following words:- and for persons who rely exclusively upon treatment by spiritual means through prayer for healing, in accordance with the creed or tenets of a church or religious denomination.

SECTION 2. Section 70E of said chapter 111, as so appearing, is hereby amended by striking out, in lines 180 and 181, the words "or listed and certified by The First Church of Christ, Scientist, in Boston" and inserting in place thereof the following words:- by and for persons who rely exclusively upon treatment by spiritual means through prayer for healing, in accordance with the creed or tenets of a church or religious denomination.

SECTION 3. Section 72Y of said chapter 111, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words "a religious group relying solely on spiritual means through prayer and healing" and inserting in place thereof the following words:- and for persons who rely exclusively upon treatment by spiritual means through prayer for healing, in accordance with the creed or tenets of a church or religious denomination.

SECTION 4. Section 73A of said chapter 111, as so appearing, is hereby amended by striking out, in lines 3 and 4, the following words ", or listed and certified by The First Church of Christ, Scientist, in Boston, Massachusetts," and inserting in place thereof the following words:- by and for persons who rely exclusively upon treatment by spiritual means through prayer for healing, in accordance with the creed or tenets of a church or religious denomination.

SECTION 5. Section 108 of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in lines 13 to 17, inclusive, the words "certified by a recognized church or religious denomination which teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by such church or denomination for the care and treatment of the sick in accordance with its teachings" and inserting in place thereof the following words:- employed by an institution operated by and for persons who rely exclusively upon treatment by spiritual means through prayer for healing, in accordance with the creed or tenets of a church or religious denomination.

Approved July 29, 1996.

Chapter 203. AN ACT PROVIDING FOR IMPROVED ACCESS TO HEALTH CARE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately make available health care coverage to uninsured children and adults and to provide pharmaceutical benefits to the elderly, 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 2T of chapter 29 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out clause (e).

SECTION 2. Said chapter 29 is hereby further amended by inserting after section 2EE, inserted by section 160 of chapter 151 of the acts of 1996, the following section:-

Section 2FF. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Children's and Seniors' Health Care Assistance Fund. There shall be credited to said fund (a) all revenues collected pursuant to sections seven A and seven B of chapter sixty-four C, together with any penalties, forfeitures, interest, costs of suits and fines collected in connection therewith, all as determined by the commissioner of revenue according to his best information and belief; and (b) any appropriations transferred to said fund pursuant to the provisions of subsection nine of section nine B of chapter one hundred and eighteen E, any federal reimbursement received for medical benefits provided to expansion beneficiaries as defined by subsection two of section nine A of said chapter one hundred and eighteen E, any other appropriations or monies made available by the general court for the purposes of the demonstration project known as MassHealth established pursuant to said section nine A of said chapter one hundred and eighteen E, and any premiums, grants, gifts, or other contributions explicitly made to said fund; and any income derived from the investment of amounts credited to said fund. Amounts credited to said fund shall be expended, subject to appropriation, for: (a) the provision of medical benefits to expansion beneficiaries pursuant to section nine A of chapter one hundred and eighteen E; and (b) a five year pilot program of pharmacy assistance for eligible persons pursuant to the provisions of section sixteen B of said chapter one hundred and eighteen E; provided, however, that expenditures from said fund, exclusive of revenue which may be received through a manufacturer rebate arrangement, for said pharmacy assistance program shall not exceed thirty million dollars in any fiscal year.

The comptroller shall report each September in the preliminary financial report of the commonwealth on the amounts of revenues credited to said fund as defined by clause (a) of the preceding paragraph for the prior fiscal year and an estimate of said amounts projected to be credited to said fund for the current fiscal year. Not later than January first, the comptroller shall report an update of said revenues for the current fiscal year and prepare estimates of said revenues to be credited to said fund in the subsequent fiscal year. Said report shall be filed with the secretary of administration and finance, the commissioner of medical assistance and the house and senate committees on ways and means for the purposes of making and evaluating the budget neutrality finding required pursuant to section nine B of chapter one hundred and eighteen E and for the purpose of adjusting, as necessary, revenues available to support the pharmacy assistance program established by section sixteen B of said chapter one hundred and eighteen E. In the event that revenues credited to said fund are less than the amounts estimated to be credited to said fund, the comptroller shall duly notify said secretary, commissioner and committees that said revenue deficiency shall require proportionate reductions in expenditures from the revenues available to support programs appropriated from said fund.

All expenditures made from said fund shall be made subject to appropriation; provided, however, that five percent of said fund shall be held in reserve to be appropriated only to compensate for declines in available revenues which would result in the termination of benefits to persons eligible for such benefits under the provisions of said chapters one hundred and eighteen E and one hundred and eighteen G.

SECTION 3. Chapter 64C of the General Laws is hereby amended by inserting after section 7 the following two sections:-

Section 7A. (a) In addition to the excise imposed by section six and section seven, every licensee who is required to file a return under section sixteen of chapter sixty-two C shall, at the time of filing such a return, pay to the commissioner an excise equal to twelve and one-half mills for each cigarette so sold during the calendar month covered by the return; provided, however, that cigarettes with respect to which the excise under this section has once been imposed and has not been refunded, if paid, shall not be subject upon a subsequent sale to the excise imposed by this section. In addition to the excise imposed by section six, each unclassified acquirer shall, at the time of filing a return required by said section sixteen of chapter sixty-two C, pay to the commissioner an excise equal to twelve and one-half mills for each cigarette so imported or acquired and held for sale or consumption, and cigarettes with respect to which such excise has been imposed and has not been refunded, if paid, shall not be subject, when subsequently sold, to any further excise under this section. Notwithstanding the provisions of this section, the excise imposed by this section shall equal twenty-five percent of the price paid by such licensee or unclassified acquirer to purchase smokeless tobacco so sold, imported, or acquired.

(b) Except as the provisions of this section expressly provide to the contrary, all of the provisions of this chapter and of chapter sixty-two C relative to the assessment, collection, payment, abatement, verification, and administration of taxes, including penalties, shall, so far as pertinent, be applicable to the excise imposed by this section.

(c) Notwithstanding the provisions of section twenty-eight, all revenues received pursuant to this section, together with any penalties, forfeitures, interest, costs of suits and fines collected in connection therewith, less all amounts refunded or abated in connection therewith, all as determined by the commissioner of revenue according to his best information and belief, shall be credited to the Children's and Seniors' Health Care Assistance Fund, established pursuant to section two FF of chapter twenty-nine.

(d) Any cigarette which does not contain nicotine shall be exempt from the excise herein referred.

Section 7B. (a) Notwithstanding the excise imposed by section six, seven or seven A every licensee who is required to file a return under section sixteen of chapter sixty-two C for products sold by such licensee in the commonwealth shall, at the time of filing such a return, pay to the commissioner an excise that shall equal fifteen percent of the price paid by such licensee or unclassified acquirer to purchase cigars and smoking tobacco so sold, imported or acquired and held for sale or consumption in the commonwealth, and such tobacco products with respect to which such excise has been imposed and has not been refunded, if paid, shall not be subject, when subsequently sold, to any further excise under

this section.

(b) Except as the provisions of this section expressly provide to the contrary, all of the provisions of this chapter and of chapter sixty-two C relative to the assessment, collection, payment, abatement, verification, and administration of taxes, including penalties, shall, so far as pertinent, be applicable to the excise tax imposed by this section.

(c) Notwithstanding the provisions of section twenty-eight, all revenues received pursuant to this section, together with any penalties, forfeitures, interest, cost of suits and fines collected in connection therewith, less all amounts refunded or abated in connection therewith, all as determined by the commissioner of revenue according to his best information and belief, shall be credited to the Children's and Seniors' Health Care Assistance Fund, established pursuant to section two FF of chapter twenty-nine.

SECTION 4. Chapter 94 of the General Laws is hereby amended by inserting after section 307 the following section:-

Section 307A. No person shall sell, offer for sale or have in possession with intent to sell single unpackaged cigarettes. Whoever violates the provision of this section shall be punished by a fine of not less than two hundred nor more than five hundred dollars.

SECTION 5. The second paragraph of section 24F of chapter 111 of the General Laws, inserted by said section 257 of said chapter 151, is hereby amended by striking out clauses (i) and (ii) and inserting in place thereof the following two clauses:-

(i) to fund a program of primary and preventive health care for children from birth through age eighteen as defined in section twenty-four G; provided, however, that the department may transfer to the division of medical assistance amounts equal to the cost of providing medical benefits pursuant to section nine A of chapter one hundred and eighteen E to children eligible for such benefits;

(ii) to establish a program of managed care within community health centers pursuant to regulations promulgated by the department; provided, however, that the department may transfer funds to the division of medical assistance to provide medical benefits pursuant to section nine A of chapter one hundred and eighteen E equal to the cost of providing such benefits to persons eligible for said program.

SECTION 6. Section 24G of said chapter 111, inserted by said section 257 of said chapter 151 of the acts of 1996, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There is hereby established a program of managed care to provide primary and preventive health care services for uninsured dependent and adopted youths from birth through age eighteen.

SECTION 7. Section twenty of said chapter one hundred and eighteen G of the General Laws is hereby repealed.

SECTION 8. Section 1 of chapter 118E of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "assistance", in line 3, the following words:- and medical benefits.

SECTION 9. Section 5 of said chapter 118E, as so appearing, is hereby amended by inserting after the word "programs", in line 4, the following words:- and medical benefits.

SECTION 10. Section 8 of said chapter 118E, as so appearing, is hereby amended by inserting after the word "chapter", in line 15, the following words:- , but not including benefits provided under section nine A.

SECTION 11. Said section 8 of said chapter 118E, as so appearing, is hereby further amended by inserting after paragraph d the following paragraph:-

d½. "Medical benefits", benefits provided under section nine A.

SECTION 12. Paragraph f of said section 8 of said chapter 118E, as so appearing, is hereby amended by striking out, in line 21, the words "assistance is" and inserting in place thereof the following words:- assistance and medical benefits are.

SECTION 13. Paragraph j of said section 8 of said chapter 118E, as so appearing, is hereby amended by inserting after the word "seq.", in line 41, the following words:- or any successor thereto.

SECTION 14. Said chapter 118E is hereby further amended by inserting after section 9 the following two sections:-

Section 9A. (1) As used in this section and in section nine B, the following words shall have the following meanings:

"Beneficiary", a person who, pursuant to eligibility criteria established by the terms and conditions of a demonstration project and regulations promulgated by the division, is determined to be eligible for medical benefits pursuant to this section.

"Demonstration project", (i) a program of medical benefits approved by the Secretary pursuant to section 1115(a) of the Social Security Act, 42 USC Section 1315(a); or (ii) a project approved by said secretary for which federal reimbursement is available pursuant to any successor to Title XIX if such project is similar to any such project approved or which would be approved under said section 1115(a), meets their requirements for a demonstration project established by this section and is implemented pursuant to a plan filed with the joint committee on health care and the house and senate committees on ways and means sixty days prior to implementation.

"Expansion beneficiaries", beneficiaries whose eligibility for medical benefits is established by clauses (b) to (g), inclusive, of subsection (2) according to the terms and conditions of the demonstration project and who otherwise would not be eligible for medical assistance pursuant to section nine in the absence of said demonstration project.

"Children's and Seniors' Health Care Assistance Fund", the fund established by section two FF of chapter twenty-nine intended to wholly support the costs of medical benefits and administration for expansion beneficiaries under the demonstration project and a pilot program of pharmaceutical assistance for the elderly.

"Program of health care assistance", programs of full or partial medical care funded wholly by the commonwealth for which the demonstration project seeks federal reimbursement.

"MassHealth", a program of full or partial medical benefits provided under the demonstration project as authorized by this section.

"Medical benefits", health care services including managed care programs, provided to beneficiaries pursuant to the terms and conditions of a demonstration project and regula-

tions promulgated by the division and including, but not limited to, medical insurance purchased for beneficiaries pursuant to section eighteen or benefits authorized by 42 USC 1396e.

"Traditional beneficiaries", persons whose eligibility for Medicaid would otherwise be established by section nine and the eligibility criteria established by the Medicaid state plan in effect on July first, nineteen hundred and ninety-six in the absence of the demonstration project, including beneficiaries, as of said date, (i) eligible for financial assistance under the provisions of chapter one hundred and eighteen and Title IV of the Social Security Act, 42 USC Section 601 et seq., as it may be amended or altered from time to time through the implementation of a waiver or project approved by the secretary; (ii) eligible for supplemental security income payments on account of disability or blindness under the provisions of Title XVI of the Social Security Act, 42 USC Section 1381 et seq., or for financial assistance under the provisions of chapter one hundred and eighteen A, except where applicable provisions of Title XIX, if not waived under the demonstration project, would render such persons ineligible for Medicaid; (iii) persons who would be eligible for financial assistance under clause (i) or (ii) but for income or resources and who meet the financial eligibility requirements established by the division under MassHealth; and (iv) persons who are otherwise eligible for Medicaid pursuant to any other eligibility criteria established by the state plan in effect on said July first.

(2) The division may, subject to appropriation and the provisions of section nine B, implement MassHealth in accordance with the terms and conditions of a demonstration project, notwithstanding the provisions of any other section of this chapter. MassHealth may provide a program or programs of medical benefits to one or more of the beneficiary categories described in the following clauses:

(a) children and adults who, in the absence of a demonstration project, would be otherwise eligible for medical assistance pursuant to section nine and who fall within the definition of traditional beneficiaries, including those individuals who received medical assistance;

(b) children through the age of twelve whose financial eligibility as determined by the division does not exceed two hundred percent of the federal poverty level and who otherwise would not qualify for Medicaid within the definition of traditional beneficiaries;

(c) adolescents aged thirteen through eighteen, inclusive, whose financial eligibility as determined by the division does not exceed one hundred and thirty-three percent of the federal poverty level and who otherwise would not qualify for Medicaid within the definition of traditional beneficiaries; provided, however, that such adolescents whose financial eligibility as determined by the division exceeds one hundred and thirty-three percent of the federal poverty level but not more than two hundred percent of the poverty level may qualify for partial medical benefits pursuant to the terms and conditions of the demonstration project;

(d) adults aged nineteen through sixty-four, inclusive, whose financial eligibility as determined by the division does not exceed one hundred and thirty-three percent of the federal poverty level and who otherwise would not qualify for Medicaid within the definition

of traditional beneficiaries; provided, however, that said adults shall meet such other eligibility criteria that the division and the secretary may establish, including, but not limited to, the presence of dependent children in the household;

(e) persons who are disabled or chronically ill and eligible for benefits under the provisions of section sixteen and sixteen A;

(f) persons receiving, or eligible to receive, unemployment insurance benefits who meet the eligibility requirements established under MassHealth and who, in the absence of a demonstration project, would otherwise qualify for the health insurance program established pursuant to subsection (1) of section fourteen G of chapter one hundred and fifty-one A;

(g) persons who are not receiving unemployment insurance benefits and who are not eligible for medical assistance but who are determined by the division to be long-term unemployed, out of the labor force, provided, however, that such persons meet the eligibility requirements established under MassHealth; provided, further, that such eligibility requirements shall not exclude from eligibility persons who are employed intermittently or on a non-regular basis;

(h) persons who would be eligible for financial or medical assistance under the foregoing provisions, but for income or resources, except where the terms and conditions of the demonstration project provide for more restrictive or less restrictive eligibility criteria, including the payment of premiums as a condition of eligibility.

(3) The division may, consistent with the terms and conditions of the demonstration project, deny MassHealth eligibility to persons in eligibility category (b) with incomes in excess of one hundred and thirty-three percent of the federal poverty level who were enrolled in a health insurance plan not administered by the state or federal government at any time during the eighteen months prior to applying to MassHealth, and may deny MassHealth eligibility to persons in any or all of eligibility categories as set forth in clauses (a) to (g), inclusive, who: (i) at the time of application, are eligible for employer-sponsored health insurance, or (ii) do not meet citizenship or residency requirements established by the division, provided that any person whose residency in the commonwealth was established solely for the purpose of seeking medical benefits shall not be eligible for MassHealth.

(4) The terms and conditions of the demonstration project shall expressly provide that the division may vary the amount, duration, and scope of medical benefits for any or all classes of beneficiaries, establish differing managed care arrangements for any or all such classes, and restrict the freedom of any or all such classes to choose health care providers.

(5) Medical benefits provided by MassHealth to school-aged children and adolescents shall, as much as reasonably practical, be provided by school-based clinics.

(6) Medical benefits provided under this section shall replace medical assistance provided under section nine, except that persons eligible for supplemental security income payments on account of age under the provisions of Title XVI of the Social Security Act, 42 USC Section 1381 et seq., and persons who would be eligible for such payments on account of age but for income or resources, shall continue to receive medical assistance under said section nine. The division shall not eliminate the retroactive eligibility period

allowed traditional beneficiaries until sixty days after the commissioner has certified to the Secretary of Human Services and the house and senate committees on ways and means that the division has fully implemented its streamlined eligibility process, including a simplified application and an expedited process for applicants in immediate need of services. The division shall not eliminate retroactive eligibility for applicants over the age of sixty-five or for institutionalized applicants or applicants who have been hospitalized for more than twenty days or who have been resident in a nursing home for more than thirty days.

(7) The provisions of Title XIX shall remain applicable to MassHealth except as waived or supplemented by the secretary under the terms and conditions of the demonstration project.

(8) Consistent with the provisions of Title XIX and any waiver authority therein, the division shall establish premium and copayment amounts for beneficiaries of MassHealth. Said premiums and copayments may be established on a sliding scale commensurate with beneficiary income levels. The division may waive premiums and copayments upon a finding of substantial financial or medical hardship.

(9) Unless explicitly provided under the demonstration project, nothing in this section shall be construed as requiring direct payment of any kind to any beneficiary. The division may make such direct payment, as it deems necessary, to (i) pay for covered medical benefits received between the date of effective eligibility and, if later, the date of determination of eligibility, (ii) correct errors made by the division, or (iii) comply with a court order; provided, that the division may, in lieu of cash payments, issue to individuals vouchers or other documents certifying that the division will pay a specified amount for health insurance under specified circumstances.

(10) If, during the term of the demonstration project, the division proposes modifications to MassHealth which would require approval by the secretary, the division may implement said modifications upon the secretary's approval, subject to the terms of that approval, and the enactment of authorizing legislation, if required.

(11) The division may implement provisions of the demonstration project through arrangements with other agencies of the commonwealth, including agencies that administered programs of health care assistance for expansion beneficiaries prior to implementation of the demonstration project, provided, that the division shall have final authority over all policies and procedures pertaining to the administration of the demonstration project. Such agencies shall furnish any information and data pertaining to MassHealth programs, providers, health insurers and beneficiaries deemed necessary by the commissioner to implement and monitor MassHealth. Upon the termination of the demonstration project, authority ceded to the division for the administration of MassHealth shall revert to such other agencies as provided by law.

(12) The division shall maintain comprehensive information on MassHealth medical benefits and eligibility requirements and shall make applications readily accessible to persons eligible for said benefits at a reasonable number of locations throughout the commonwealth. Said locations shall be equipped to provide all required eligibility information, benefit schedules and limitations, application forms and other information as-

sociated with remaining eligible for MassHealth. The division shall, whenever possible, utilize one standard application form and procedure for all MassHealth services and programs. Applicants who do not meet the eligibility requirements of a program for which they apply shall be informed of other programs for which they may qualify and be provided with all necessary forms and information required for such other programs. The division, when arranging for the implementation of programs with other agencies of the commonwealth, shall ensure that such other agencies meet the intent of this paragraph.

(13) Eligibility for and the medical benefits provided by MassHealth shall not give rise to nor be construed as giving rise to enforceable legal rights for any party or an enforceable entitlement to such eligibility or medical benefits other than to the extent that such rights or entitlements exist pursuant to the regulations of the division or the terms and conditions of the demonstration project.

(14) The terms and conditions of the demonstration project shall not establish any rights or entitlements that exceed the rights or entitlements established by Title XIX in the absence of the demonstration project, or impose any obligations upon the commonwealth's administration or financing because of implementation of MassHealth which is in excess of the obligations established by Title XIX for the state Medicaid program in the absence of the demonstration project. The commissioner shall, prior to the initial implementation of MassHealth, certify to the secretary of administration and finance and the house and senate committees on ways and means that no such terms, conditions or obligations have been established by the demonstration project that would violate the provisions of this paragraph.

Section 9B. (1) In any fiscal year, the participation of the commonwealth in the demonstration project shall be contingent upon a finding of budget neutrality by the commissioner. Said budget neutrality finding shall be certified by establishing: (a) that MassHealth expenditures for expansion beneficiaries are within the amounts appropriated therefor and (b) that revenues credited and other amounts transferred to the Children's and Seniors' Health Care Assistance Fund are sufficient by themselves to meet expenditures for expansion beneficiaries in each fiscal year without requiring additional amounts to be appropriated or transferred from the General Fund or from any other fiscal resource of the commonwealth. Said finding shall be separate and apart from any budget neutrality tests required to maintain federal support for the demonstration project.

Said budget neutrality finding shall be based upon the information developed pursuant to subsection (2), as said information is updated pursuant to subsection (3) and as analyzed pursuant to the provisions of subsection (4). Reports containing such information shall be filed by the commissioner with the secretary of administration and finance and the house and senate committees on ways and means as directed by said subsections.

For purposes of this section, the division may establish a methodology for projecting estimates of caseload, expenditures and revenues, in order to distinguish between traditional and expansion beneficiaries, by using proxies and other conventions in order to account for changes in eligibility criteria implemented under the demonstration project that make it difficult to compare caseload, expenditures and revenue estimates under the demonstration project, provided that said methodology is explicitly stated by the division in any report re-

quired by this section.

(2) Not less than sixty days prior to the need for an appropriation to implement MassHealth, the division shall file a report that establishes projected base year expenditures for Medicaid and other programs of health care assistance as they were administered prior to the demonstration project and for which federal reimbursement is approved under the demonstration project. In establishing said base year expenditures, the division shall rely upon date-of-service expenditures for the most recently completed fiscal year. Said report shall further include the following information: (a) a five year expenditure projection, for each Medicaid category of assistance and each program of health care assistance that would have been incurred but for the implementation of the demonstration project; provided, however, that said projections are stated on a date-of-service basis and a date-of-payment basis for each state fiscal year for which said report is making projections, and provided, further, that said projections are based on the average rates of inflation and caseload growth in the base year and the preceding two fiscal years; (b) a five year projection of expenditures for each eligibility category qualified to enroll in the demonstration project as identified in subsection (2) of section nine A that shall explicitly distinguish expenditures on behalf of traditional beneficiaries from expenditures on behalf of each category of expansion beneficiary eligible to enroll in the demonstration project; (c) a five year projection of administrative costs that distinguishes one-time start-up costs from on-going costs and compares such costs to the costs that would have been incurred in the absence of the demonstration project; and (d) a five year projection of all revenues anticipated to be credited to the Children's and Seniors' Health Care Assistance Fund, including, but not limited to, tax revenues, premium contributions and federal reimbursements. Said report shall explicitly state all assumptions used in making such projections, including, but not limited to, caseload change, utilization rates, payment rates and any other factors that normally affect health care expenditures of the commonwealth. The expenditures stated in said report shall serve as the basis for advising the general court on the appropriations necessary to make MassHealth budget neutral, as defined herein, in each fiscal year and for conducting said annual budget neutrality test. The commissioner shall obtain the concurrence of the comptroller and the revenue commissioner with said revenue projections required by clause (d).

(3) Expenditure and revenue projections required by subsection (2) shall be updated semiannually based on actual expenditures and revenues of the demonstration project. Said updates shall be made available in sufficient time to advise the annual appropriations process for the operating budget of the commonwealth, provided that said updates shall be available no later than the first Wednesday in November for purposes of the governor's budget recommendations pursuant to section seven H of chapter twenty-nine and by the first Wednesday in March for assisting the general court in making annual appropriations for the demonstration project. Said updates shall identify the reasons for any variations between any such expenditure and revenue projections and actual expenditures and revenues of the demonstration project and the risks, if any, that such variations pose to the budget neutrality of the demonstration project.

(4) The commissioner shall make the budget neutrality finding required by subsection (1) in a letter of certification that shall accompany the semi-annual update required by subsection (3). Said letter shall certify whether expenditures of the demonstration project for expansion beneficiaries exceed the amounts available therefor and whether revenues and appropriations credited to the Children's and Seniors' Health Care Assistance Fund are sufficient to fully support the costs of medical benefits for expansion beneficiaries in the current and subsequent fiscal year.

(5) In the event that said budget neutrality finding is unable to be certified pursuant to subsection (1), the commissioner shall notify the secretary that the commonwealth intends to withdraw from participation in the demonstration project within the time required by the Secretary, or ninety days, whichever is longer. Copies of said termination notice shall be submitted to the secretary of administration and finance and the house and senate committees on ways and means and the joint committee on health care. The commissioner may, prior to initiating said termination notice, file with said parties a plan of corrective action intended to produce budget neutrality within a specified time. Said plan may propose adjustments to any aspect of MassHealth, within the terms and conditions of the demonstration project, that the commissioner determines necessary to produce budget neutrality, including, but not limited to, the initiation of applicant waiting lists, eligibility limitations, changes to federal poverty levels, reductions in the amount, scope and duration of medical benefits, adjustments to or the imposition of beneficiary premium, copayment or other cost-sharing requirements, or revisions to provider billing deadlines, rates, payment schedules or other conditions of provider participation. If budget neutrality is not achieved within the time stipulated by the plan of corrective action, the commissioner shall notify said secretary and committees and initiate the termination notice to the secretary. In the event the commonwealth withdraws from participation in the demonstration project, beneficiaries may, subject to the availability of funds therefor, re-enroll in Medicaid or any program of health care assistance for which they would have qualified in the absence of a demonstration project.

(6) Notwithstanding the provisions of any general or special law to the contrary, the budget recommendations filed by the governor with the general court pursuant to section seven H of chapter twenty-nine shall recommend separate items of appropriation for the medical benefits to be provided to traditional beneficiaries and expansion beneficiaries in the next fiscal year. The revenue projections filed with said recommendations shall separately identify the federal reimbursements associated with traditional beneficiaries and expansion beneficiaries in the next fiscal year. Said budget recommendations shall separately identify the amounts projected to be expended for administrative expenses associated with the demonstration project.

(7) The annual appropriation act for each fiscal year shall make separate appropriations for the costs of medical benefits to be provided to traditional beneficiaries and expansion beneficiaries. Amounts appropriated for traditional beneficiaries shall be appropriated from the General Fund against which expenditures for said beneficiaries shall be charged. Amounts appropriated for expansion beneficiaries shall be charged to the General Fund only up to the amount that would otherwise have been appropriated for expan-

sion beneficiaries in the absence of demonstration project as stated in the report required by clause (a) of subsection (2). Any remaining amounts necessary to meet the costs of medical benefits for expansion beneficiaries shall be appropriated from the Children's and Seniors' Health Care Assistance Fund.

(8) The automated claims processing system employed by the division shall separately account for the costs of medical benefits incurred by traditional beneficiaries and by expansion beneficiaries. The division shall separately account for all revenues attributable to traditional beneficiaries and expansion beneficiaries, including, but not limited to, the federal reimbursements authorized under the demonstration project for expansion beneficiaries. The comptroller is hereby authorized and directed to establish in the state accounting system a means of identifying such separately identified expenditures and revenues.

(9) The comptroller is hereby authorized and directed to transfer amounts appropriated from the General Fund or any other fiscal resource of the commonwealth for expansion beneficiaries to the Children's and Seniors' Health Care Assistance Fund. Federal reimbursement generated by medical benefits provided to expansion beneficiaries shall be credited to said fund and shall be available for subsequent appropriation for said expansion beneficiaries. The comptroller is hereby further authorized and directed to notify the commissioner, the secretary of administration and finance and the house and senate committees on ways and means whenever the revenues and appropriations credited to said fund are projected to be insufficient to meet the actual and projected expenditures incurred on behalf of expansion beneficiaries in the fiscal year of the next fiscal year. The comptroller shall assist the commissioner in preparing the budget neutrality finding required by subsection (1).

SECTION 15. Said chapter 118E is hereby further amended by inserting after section 16A the following section:-

Section 16B. There is hereby established a five year pilot program of pharmacy assistance for eligible persons to be funded each fiscal year, subject to appropriation, in an amount not to exceed thirty million dollars from the Children's and Seniors' Health Care Assistance Fund established by section two FF of chapter twenty-nine. The division is hereby authorized and directed to administer said program.

For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Covered benefits", prescription drugs, including insulin syringes and insulin needles, and insulin, eligible for reimbursement under the program as defined by the division; provided, however, that within each class of maintenance drugs eligible for reimbursement, all such prescription drugs that have been approved as safe and effective by the federal Food and Drug Administration or are otherwise legally marketed in the United States shall be covered under the program and that covered benefits shall not include experimental drugs or over-the-counter pharmaceutical products, so-called, except insulin; provided further that the division may restrict covered benefits to prescription drugs manufactured by pharmaceutical companies who agree to provide manufacturer rebates.

"Eligible person", a resident of the commonwealth for not less than six months prior to application for enrollment in said program, who is sixty-five years or older, not eligible for pharmacy benefits or coverage under this chapter, with no pharmacy benefits or coverage from a Medicare supplemental insurance policy regulated by chapter one hundred and seventy-six K, with no pharmacy benefits or coverage from any other third party payor and whose annual income does not exceed two hundred percent of the federal poverty level or the applicable income eligibility limits as provided herein.

"Pharmacy assistance", an amount not exceeding five hundred dollars per fiscal year for each eligible person to assist in the purchase of covered benefits.

Pharmacy assistance shall be provided to eligible persons in the manner that the division determines to be the most cost-effective, consistent with purposes of this section, including, but not limited to, indemnification, vouchers or coupons or direct provider reimbursement through the medicaid claims payment system; provided, however, that no system of administration shall make direct cash payments to an eligible person prior to the presentation of a receipt or other invoice for the purchase of any covered benefit. To accommodate delays between billing and the payment of pharmacy assistance at the end of the fiscal year, the comptroller is hereby authorized and directed to establish procedures allowing the division to pay prior year pharmacy assistance expenses from the prior year's appropriation beyond the accounts payable period established by section thirteen of chapter twenty-nine; provided, however, that the division shall not pay any claim for pharmacy assistance that is presented to the division more than sixty days after the date the covered benefit was dispensed to an eligible person.

The division or, at its discretion, its designees, including, but not limited to, local councils on aging, community action agencies and home care corporations, shall verify income eligibility for said program based on an eligible person's submission of the most recently required federal income tax return, or, if an applicant was not required to file such a return, the submission of copies of monthly checks or other easily obtainable means of income verification. Residency shall be verified by the submission of such documentation as the division deems reasonable. Priority for eligibility may be given to applicants who were without any Medicare supplemental or other third-party benefits or coverage during the six months prior to application.

Application to said program shall be made during an open enrollment period commencing on February first and ending on April thirtieth of each year, or such other period that is concurrent with the enrollment period required for Medicare supplemental coverage pursuant to chapter one hundred and seventy-six K. Coverage shall be effective at the commencement of the commonwealth's fiscal year. An annual enrollment fee in an amount not to exceed fifteen dollars shall be paid by all eligible persons to defray the administrative expenses of said program, which shall be credited to the General Fund from which said administrative expenses may be appropriated.

The division shall develop copayment requirements for all purchases of a covered benefit and may establish deductibles to control program expenses. Copayment amounts may vary to promote the purchase of generic drugs and may be based on a sliding income

scale; provided, however, that copayments shall not be less than three dollars or not more than ten dollars per prescription. Said program shall be the payer of last resort for such pharmacy benefits. The division may implement utilization review, clinical management and other administrative techniques used in the management of Title XIX pharmacy benefits for said program, in order to identify and reduce drug interactions, overutilizations, therapeutic duplications or early refills. The division shall ensure the availability of quality pharmaceutical services for all enrollees according to the requirements of Title XIX, section 1927(d) of the Social Security Act. Within each class of maintenance drugs eligible for reimbursement, the division shall cover all prescription drugs that have been approved or designated as safe and effective by the federal Food and Drug Administration that, in the physician's professional judgment and within the lawful scope of his practice, are appropriate for the diagnosis or treatment of the patient.

The division shall inform enrollees in writing of the scope of the program's coverage, the amount of the cost sharing requirements, and any limitations on access to medicines.

The division shall provide for a clear and timely process by which enrollees can appeal a decision to deny reimbursement for covered medications. A pharmacist shall not be required to dispense a covered benefit upon the failure of an eligible person to make the required copayment.

To manage program expenditures within the amount appropriated therefor and to maximize the availability of pharmacy assistance to residents most in need, the division shall phase in eligibility and covered benefits. During the first year said program is in effect, income eligibility shall be limited to one hundred and thirty-three percent of the federal poverty level and covered benefits shall be limited to classes of maintenance drugs necessary to prevent or control chronic illnesses. The division shall promulgate by regulation a schedule of covered benefits in consultation with the department of public health. Eligibility shall be based upon an applicant's gross income and shall not be adjusted except as provided herein. In the event that pharmacy assistance payments in the first year of said program are projected to be substantially less than the amount appropriated therefor, and that said amount would not annualize in the second year to an amount that would exceed the expenditure cap imposed by this section, the division may for the second year said program is in effect: (1) expand income eligibility limits up to one hundred and fifty percent of the federal poverty level; (2) expand the classes of pharmaceutical products qualifying as a covered benefit; or (3) allow individuals with pharmaceutical expenses that are excessive in relation to income to spend-down to the income eligibility level then in effect. Expenses that may be counted for eligibility on a spend-down basis pursuant to clause (3) shall exclude covered benefits purchased prior to enrollment in said program or the costs incurred by an eligible person prior to the program's commencement each fiscal year.

Income eligibility levels and covered benefits may be further modified in subsequent fiscal years if expenditures under said program, in the opinion of the commissioner of medical assistance and with the concurrence of the budget director, are projected to be consistent with the expenditure cap imposed by this section.

Unexpended amounts at the close of the accounts payable period established by sec-

tion thirteen of chapter twenty-nine shall revert as unrestricted funds to the Children's and Seniors' Health Care Assistance Funds; provided, however, that said unexpended amounts shall be available for appropriation for pharmacy assistance benefits in the following fiscal years, subject to the provisions of section two FF of chapter twenty-nine. If pharmacy assistance payments in any fiscal year are projected to exceed the amounts appropriated for said program, or are expected to annualize beyond the expenditure cap imposed by this section, the division shall institute waiting lists or modify income eligibility levels and covered benefits to the amount appropriated therefor.

The division shall project the expenditures of said program for the subsequent fiscal year based on the income eligibility criteria and covered benefits that the division intends to promulgate for the open enrollment period that precedes said subsequent fiscal year in sufficient time to be included in the governor's budget recommendations. Said expenditure projection shall be simultaneously submitted to the secretary of administration and finance and the house and senate committees on ways and means and shall be accompanied by all underlying assumptions. An update of said projection and underlying assumptions shall be submitted to said secretary and said committees by the second Wednesday in April prior to said subsequent fiscal year which shall reflect the results of the recently concluded open enrollment.

The division may negotiate a manufacturer rebate arrangement with pharmaceutical companies. Revenues received from such rebate arrangement shall be credited to the Children's and Seniors' Health Care Assistance Fund, established pursuant to section two FF of chapter twenty-nine and may, subject to appropriation, be used to supplement the funding, eligibility and covered benefit limits of said program created by this section upon the conclusive finding by the secretary of administration and finance that cigarette tax revenues credited to said Fund are sufficient to meet the appropriations made therefrom.

The division shall promulgate such regulations as are necessary to implement the pharmacy assistance program. The division shall maintain data to allow evaluation of the cost effectiveness of the program and shall submit biannually to the general court a report summarizing beneficiary demographics, utilization, provider dispensing experience, utilization review results and such other information as may be needed to evaluate the costs and benefits of said program. The division and the division of insurance shall develop and maintain information which allows evaluation of the impact of the pharmacy assistance program and Medicare supplemental insurance on the number of elderly persons without pharmacy benefits.

SECTION 16. Said section sixteen B of said chapter one hundred eighteen E, inserted by section fifteen of this act, is hereby repealed.

SECTION 17. Section 3 of chapter 118G of the General Laws, as appearing in section 275 of chapter 151 of the acts of 1996, is hereby amended by adding the following clause:-

(g) without imposing undue hardship upon any individual, to secure payment for unpaid bills owed to acute hospitals by persons ineligible for free care which have been accounted for as bad debt by the hospital and which are voluntarily referred by a hospital to

the department for collection; provided, however, that such unpaid charges shall be considered debts owed to the commonwealth and that all payments received shall be credited to the Uncompensated Care Trust Fund; and provided, further, that all actions to secure such payments shall be conducted in compliance with a protocol previously submitted by the division to the committee on health care and the house and senate committees on ways and means.

SECTION 18. The tenth paragraph of section 18 of said chapter 118G, as so appearing, is hereby amended by inserting after the second sentence the following two sentences:- Said division may adopt regulations providing for a claims adjudication process for payments from the uncompensated care pool for the cost of uncompensated care provided to patients; provided, however, that such regulations are consistent with any recommendations received by the Massachusetts Hospital Association. As part of the claims adjudication, the department may require the hospital provide information to the division about the income and employment status of the patient, the name and address of the patient's employer, if any, and evidence of health care coverage, if any.

SECTION 19. Section nineteen of said chapter one hundred and eighteen G, as so appearing, is hereby repealed.

SECTION 20. Section 21 of said chapter 118G, as so appearing, is hereby amended by striking out clauses (5) and (6) and inserting in place thereof the following clause:-

(5) the evaluation of the effectiveness of the initiatives of the division and tax incentives in reducing the cost of health insurance to small businesses and the impact of such voluntary incentives on the number of small businesses offering health insurance to their employees.

SECTION 21. Chapter 151A of the General Laws is hereby amended by striking out section 14G, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 14G. (a) Beginning on January first, nineteen hundred and ninety, each employer, except those employers who employ five or fewer employees, subject to the provisions of sections fourteen, fourteen A, and fourteen C shall pay, in the same manner and at the same times as the commissioner of employment and training prescribes for the contribution required by said section fourteen, an unemployment health insurance contribution computed by multiplying the wages paid its employees by the unemployment health insurance contribution rate of twelve hundredths of one percent.

(b) Such unemployment health insurance contribution shall be paid to the commissioner of employment and training in accordance with the procedures prescribed by said commissioner. The receipts from such contributions shall not be deposited in the State Unemployment Compensation Fund, but shall be impressed with a trust and dedicated, through the state treasurer as trustee, to the unemployment health insurance contribution account of the Medical Security Trust Fund, established in subsection (k). Prior to the depositing of the receipts, the commissioner of employment and training may deduct all administrative costs incurred by the department of employment and training as a result of this section, including an amount as determined by the United States secretary of labor in ac-

cordance with federal cost rules, but in no calendar year may such deduction exceed five percent of the amounts collected pursuant to this section.

(c)(1) For the purposes of this section, the word wages shall not include that part of remuneration which, after remuneration equal to the unemployment health insurance contribution wage base with respect to employment with such employer has been paid to an individual during the calendar year, is paid to such individual during such year. For the purposes of this paragraph, remuneration shall include remuneration paid to an individual during the calendar year with respect to employment with a transferring employer, as that term is used in subsection (n) of section fourteen.

(2) For the purposes of this section, the words unemployment health insurance contribution wage base shall equal fourteen thousand dollars for the calendar years nineteen hundred and ninety to nineteen hundred and ninety-two, inclusive. For each subsequent calendar year the unemployment health insurance contribution wage base shall equal the product of (i) the unemployment health insurance contribution wage base for the then previous calendar year; and (ii) the sum of one and the health insurance inflation rate for the then previous calendar year, as reported by the rate review board established pursuant to subsection (f).

(d)(1) The provisions of this section shall not apply to an employer newly subject to this chapter, as defined in paragraph (3) of subsection (i) of section fourteen, until such employer has been an employer for not less than the twelve consecutive months' period specified in paragraph (1) of subsection (b) of section fourteen.

(2) During the first calendar year in which this section applies to an employer newly subject to this chapter pursuant to paragraph (1), such employer's unemployment health insurance contribution shall be computed by substituting in subsection (a) the words ":four hundredths of one percent" for the words "twelve hundredths of one percent."

(3) During the second calendar year in which this section applies to an employer newly subject to this chapter pursuant to paragraph (1), such employer's unemployment health insurance contribution shall be computed by substituting in subsection (a) the words "eight hundredths of one percent" for the words "twelve hundredths of one percent."

(e) Except where inconsistent with the provisions of this section, the terms and conditions of chapter one hundred and fifty-one A which are applicable to the payment of and the collection of contributions or payments in lieu of contributions shall apply to the same extent to the payment of and the collection of such unemployment health insurance contribution; provided, however, that said contributions shall not be credited to the employer's account or the solvency account established pursuant to section fourteen, fourteen A or fourteen C of said chapter one hundred and fifty-one A.

(f) There shall be a rate review board composed of the commissioner of medical assistance or his designee, the commissioner of medical security or his designee, and the commissioner of insurance or his designee. The rate review board shall determine if the unemployment health insurance contribution rate and the unemployment health insurance contribution wage base established in this section will be adequate to provide for the estimated costs for the subsequent year of unemployment health insurance programs estab-

lished pursuant to section nine of chapter one hundred and eighteen F provided by said department of medical security. If in the opinion of the said board the unemployment health insurance contribution wage base or the unemployment health insurance contribution rate as established above would be inadequate to properly fund the unemployment health insurance program, said rate of health insurance inflation or the unemployment health insurance contribution rate shall be appropriately adjusted in order to properly fund said unemployment health insurance program.

On or before November thirtieth of each year, the commissioner of medical security shall certify to said board the estimated costs for the subsequent year of health insurance programs provided by said department of medical security for individuals and their families who are eligible for the health insurance program established by section nine of chapter one hundred and eighteen F for individuals receiving unemployment insurance compensation. Such estimated costs shall be exclusive of amounts to be covered by premiums, co-payments, deductibles and co-insurance to be paid by covered individuals and any anticipated appropriations. The rate review board shall further adjust such estimated costs to reflect prudent levels of reserves sufficient to carry out the responsibilities of the department for said unemployment health insurance program. If in the opinion of the said board the rate of health inflation on the unemployment health insurance contribution wage base as established or calculated above would be inadequate to properly fund said unemployment health insurance program, said rate of health insurance inflation or the unemployment health insurance contribution rate shall be appropriately adjusted in order to properly fund said health insurance programs.

(g) 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. Any penalties collected pursuant to this section shall be deposited in the Medical Security Trust Fund. Any employer, in accordance with rules and regulations promulgated by the commissioner, who relies in good faith on statements by employees relative to their health insurance status shall not be liable for any penalty or restitution for failure to comply with the provisions of this section caused by misstatements of such employees. Any contribution under this section shall be allowable as a business expense.

(h) Any employer notified of a determination of the commissioner of employment and training, subject to the provisions of this section, may request a hearing on such determination. The request for hearing shall be filed within ten days after mailing of the notice of the determination. If a hearing is requested, said commissioner shall give the employer a reasonable opportunity for a fair hearing before an impartial hearing officer designated by the commissioner. The conduct of such hearing shall be in accordance with the procedures prescribed by subsection (b) of section thirty-nine. Any employer aggrieved by the decision following such hearing may appeal such decision. Such appeal shall be in accordance with the procedures prescribed by sections forty to forty-two, inclusive. Unless

action is taken under section forty, the decision of said commissioner shall be final on all questions of fact and law.

(i) The department of employment and training shall provide written information to every individual who is eligible for unemployment benefits, including extended benefits under section thirty A or extended unemployment compensation benefits under the federal Emergency Unemployment Compensation Act of 1991 or any other federal act, that such individual may be eligible for health insurance coverage pursuant to this section and the provisions of section nine of chapter one hundred and eighteen F. In addition, the department of employment and training shall post in their local offices a clear and conspicuous notice advising such individuals of their rights under this section, provided, that said notice shall be in English, Spanish, and any other language which the department determines appropriate for the area office in which the notice is posted. The department of medical security shall provide the department of employment and training with such information and notice.

(j) The department shall establish and may operate a health insurance program for the benefit of persons who meet both of the following criteria: (1) the person is receiving or is eligible to receive unemployment compensation benefits under this chapter, including extended benefits under the provisions of section thirty A or extended unemployment compensation benefits, hereinafter referred to as EUC benefits, under the federal Emergency Unemployment Compensation Act of 1991 or any other federal act; and (2) the gross income of the person and the person's spouse, if any, including any income received from unemployment benefits, extended benefits or EUC benefits as provided in clause (1), is less than or equal to four times the non-farm poverty guidelines of the United States Office of Management and Budget.

The health insurance program administered by the department shall consist of the following options: a buy-in option called the continuation plan under which the department shall subsidize a qualified person's continued enrollment in the health insurance plan to which they belonged at the time of, or prior to, applying for unemployment compensation benefits, including persons whose continued eligibility for said enrollment is based on the federal COBRA law, so-called; as well as an option called the direct coverage plan which shall consist of a limited plan of health care services and benefits to be administered by the department. To qualify for benefits under this section, the department shall require that applicants maintain continued enrollment in the health insurance plan in which they were enrolled prior to applying for unemployment compensation benefits, or as permitted by the federal COBRA law.

Persons so qualified shall be ineligible for enrollment in the direct coverage plan and the department shall subsidize enrollees' continued health insurance plan by reimbursing said enrollees for a portion of their premium cost in accordance with the department's benefits schedule. Persons unable to qualify for COBRA benefits, so-called, due to lack of access to prior health insurance coverage through their former employer or their spouse's employer or a hardship determined by the department, shall be eligible for the direct coverage plan pursuant to the eligibility requirements of this section. The department shall establish a

schedule of co-payments and deductibles within the direct coverage plan which shall promote the cost-effective use of services by participants in the program.

The department shall establish procedures for the calculation of the gross income of an applicant or the applicant's spouse, if any, for the purposes of determining eligibility under a health insurance plan established under this section. Such procedures shall provide that in determining the income of the applicant or the applicant's spouse, if any, the department shall examine the gross income of the applicant and the applicant's spouse, if any, in the six months prior to application, and a projection of the gross income of the applicant and the applicant's spouse, if any, including a calculation of the maximum benefits payable to the applicant and the applicant's spouse, if any, from unemployment benefits, extended benefits or EUC benefits, for the six months after application. Such procedures shall also make provisions for the redetermination of eligibility for an enrollee or the enrollee's family.

The department shall establish grievance procedures under which any decision, action or inaction of the department which directly affects an enrollee or the enrollee's family, and is related to the receipt of benefits under this section can be revived. The department shall establish appeal procedures under which an applicant may appeal a denial of benefits in whole or in part or may appeal a determination of income, or under which an enrollee may appeal termination from the program.

For the purposes of this section the term "family members" of the applicant or enrollee shall include the applicant or enrollee, a spouse, and any legal dependents.

The department shall prepare reports on the status of the program established in this section, and submit such reports annually on the first Wednesday in January, April, July, and October to the joint committee on health care and the house and senate committees on ways and means. Such reports shall include, but not be limited to, the number of enrollees in the program for the previous quarter, the amount of benefits paid out in the previous quarter, and the end of quarter balance in the Medical Security Trust Fund established in subsection (k). The commissioner is hereby authorized to delegate, by means of an interagency service agreement, to another state agency the authority to manage and administer the health insurance program established by this subsection.

(k) There is hereby established a Medical Security Trust Fund, which shall be administered and expended by the department without further appropriation. Said trust fund shall consist of employer unemployment health insurance contributions required by subsection (a) and premiums paid by enrollees. Said fund shall be used exclusively for the payment of premiums for health insurance plans provided to persons receiving unemployment compensation. The commissioner shall from time to time requisition from said trust fund such amounts as he deems necessary to meet the current obligations of the department and estimated obligations for a reasonable future period.

SECTION 22. Section 79 of chapter 23 of the acts of 1988 is hereby amended by striking out the second sentence, as amended by section 4 of chapter 239 of the acts of 1995.

SECTION 23. (a) The general court finds it to be in the interest of the commonwealth to promote the prevention of injury and illness among its residents.

Whereas there are individuals and families residing in the commonwealth who lack health insurance coverage for preventive health or primary care services, utilization of said services has been shown to be effective in reducing the incidence of preventable hospitalization and cost of health care, there are a significant number of students of the health sciences and licensed and certified health professionals located in the commonwealth seeking opportunities to serve the public in community settings, there are a number of health programs and facilities in the commonwealth that may benefit from the services of said students and health professionals, and students who participate in such programs are likely to seek careers in community setting, the general court hereby establishes the Health Education Learning Partnership of Massachusetts.

(b) As used in this section the following words shall, unless the context otherwise indicates, have the following meanings:-

"Advisory committee", the HELPMASS Advisory Committee.

"Chancellor", the chief executive officer of the Worcester campus of the University of Massachusetts.

"Commissioner", the commissioner of public health.

"Department", the department of public health.

"HELPMASS", Health Education Learning Partnership of Massachusetts, a health service corps program designed to coordinate students and practitioners of the health sciences with programs, services, and resources that support or provide primary care and health education to underserved, uninsured, and underinsured populations, with emphasis on public service.

"Primary health care", health care that is accessible, coordinated, continuous, and comprehensive, which meets a majority of a patients personal health care needs, and that provides patients with information about illness, prevention, and health maintenance.

"Underserved population", a population that has inadequate availability of primary care services, poor health status indicators, or disproportionate numbers of uninsured or underinsured individuals.

(c) The commissioner and the chancellor are hereby authorized and directed to establish HELPMASS to expand opportunities for students of health professions, health educators, public health practitioners, and active and retired licensed or certified health professionals to participate in public service programs that enhance access to prevention services and primary care for uninsured and underinsured individuals or families or in underserved geographical areas of the commonwealth. The commissioner and the chancellor shall develop a program to expand and coordinate public and private resources that promote community service by linking health professionals and supervised students with existing health education and primary care services.

(d) The commissioner and the chancellor shall appoint a HELPMASS advisory committee consisting of not less than ten nor more than thirty, members. These persons shall represent a wide range of professions and institutions involved in providing medical and health education and primary health care. The commissioner and chancellor or their designees shall jointly chair the advisory committee.

(e) The advisory committee shall assist the commissioner and the chancellor or their designees in the development and implementation of studies and pilot projects designed to coordinate and utilize existing public and private resources to provide improved access to primary care and preventive health services for underserved, underinsured and uninsured populations. Said studies and pilot projects shall examine ways to encourage schools and other educational programs that prepare public health and health professionals to incorporate public service requirements in the curriculum and promote incentives for participation. Under supervision from appropriate licensed or certified personnel, and in cooperation with appropriate educational authorities, students should be enlisted to participate in pilot projects. To the extent possible, opportunities for participation in pilot projects should be expanded for students enrolled in secondary and post-secondary schools and educational programs and current and retired licensed health care providers.

(f) The commissioner and the chancellor shall have the responsibility and authority to:

(1) conduct studies and pilot projects as described in paragraph (e);

(2) apply to private sources and the federal government for grants to implement pilot studies and projects; deposit funds received from those sources in a separate account in the department of the university; and expend said funds for the purposes set forth in this section;

(3) enter into agreements with each other and other entities as allowed by law for the purposes of implementing this act;

(4) study the feasibility of utilizing the services of retired health care providers and other licensed and certified health care practitioners including a study addressing methods of liability coverage for retired licensed health care providers;

(5) study the feasibility of establishing a not-for-profit corporation authorized by statute to operate HELPMASS;

(6) deliver reports of the program to the governor and the general court as appropriate;

(7) recommend legislation to implement statewide HELPMASS programs designed to achieve the comprehensive and coordinated delivery of primary and preventive health care services to underserved, underinsured, and uninsured populations; and

(8) appoint a program director to implement and administer the studies and pilot projects initiated by this chapter.

SECTION 24. Every manufacturer, wholesaler, vending machine operator, unclassified acquirer or retailer, as defined in section one of chapter sixty-four C of the General Laws, who, at the commencement of business on the effective date of section two, has on hand any cigarettes for sale or any unused adhesive or meter stamps, shall make and file with the commissioner of revenue within twenty days thereafter a return, subscribed under the penalties of perjury, showing a complete inventory of such cigarettes and stamps, and shall, at the time he is required to file such return, pay an additional excise at the rate of twelve and one-half mills per cigarette on all cigarettes and all unused adhesive and meter stamps upon which only the excise imposed pursuant to section six of said chapter sixty-four C has previously been paid; provided, however, that the additional excise imposed

by this section shall equal twenty-five percent of the price paid by such manufacturer, wholesaler, vending machine operator, unclassified acquirer or retailer to purchase smokeless tobacco and fifteen percent of the price paid by such manufacturer, wholesaler vending machine operator, unclassified acquirer or retailer to purchase cigars and smoking tobacco on hand on said date. All provisions of chapters sixty-two C and sixty-four C of the General Laws, relative to the assessment, collection, payment, abatement, verification, and administration of taxes, including penalties, shall, so far as pertinent, be applicable to the excise imposed by this section.

SECTION 25. On or before December thirty-first, nineteen hundred and ninety-seven and November first, nineteen hundred and ninety-nine, the division of health care finance and policy shall file with the clerks of the house and the senate the findings of a comprehensive survey of the uninsured and underinsured in the commonwealth. Said comprehensive surveys shall include sufficiently large samples of adults and children in the commonwealth to provide reliable estimates and analyses of:

(a) the rates of insurance, uninsurance and underinsurance among all noninstitutionalized residents in the commonwealth at the time the survey is conducted and in the course of the prior year;

(b) the scope, source and cost of immediate prior or present insurance coverage, and reasons for being without coverage, including awareness of private and public sources of coverage and willingness to purchase coverage if available;

(c) the relationship between insurance coverage and employment including, but not limited to, employer SIC codes, hours worked, duration of employment, size of firm, actual or potential policyholders in the household, income, poverty level, age, race or ethnicity, gender, household structure and region of residence; and

(d) estimates and analyses of the relationship between insurance coverage and health status, including general health status, disability or chronic conditions, and health services utilization patterns, including use of free or charitable care, among residents of the commonwealth.

The division shall monitor the rate of employer-sponsored health benefits coverage in the commonwealth, in particular to determine if there is a relationship between the rate of employer-sponsored health benefits coverage and the implementation of this act.

SECTION 26. The division of medical assistance is hereby authorized and directed to seek an amendment to the MassHealth demonstration project waiver, so-called, that was approved April fifteenth, nineteen hundred and ninety-five by the health care finance administration. Said amendment shall be consistent with the provisions of sections nine A and nine B of chapter one hundred and eighteen E of the General Laws. Said amendment shall seek authorization to provide medical benefits to persons (1) eligible for medical assistance pursuant to section nine of said chapter one hundred and eighteen E and to (2) persons described in subsection two of said section nine A who were not previously eligible for such medical assistance; provided, however, that said amendment shall identify which groups among said persons qualify for the commonwealth to receive federal reimbursement under said demonstration project. Said amendment shall further seek to pro-

vide the division with authority to vary from the requirements of Title XIX the amount, duration, and scope of such medical benefits and the authority to maintain the budget neutrality of said demonstration project as defined by section nine B of said chapter one hundred and eighteen E.

SECTION 27. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance may, subject to appropriation, establish programs of medical care, assistance or benefits for persons whose health care coverage was displaced as a result of eligibility criteria changes implemented under the demonstration project authorized by section nine A of chapter one hundred and eighteen E of the General Laws. The division may limit the availability of coverage under said programs as it deems necessary to control expenditures to the amounts appropriated therefor. Eligibility for and the medical benefits provided by said programs shall not give rise to nor be construed as giving rise to enforceable legal rights for any party or an enforceable entitlement to such eligibility or medical benefits other than to the extent that such rights or entitlements exist pursuant to the regulations of the division or the terms and conditions of the demonstration project.

SECTION 28. Notwithstanding the provisions of any general or special law to the contrary, if the division of medical assistance determines that funds made available to said division for the provision of acute hospital services to persons eligible for medical benefits pursuant to clause (g) of subsection (2) of section nine A of chapter one hundred and eighteen E of the General Laws are insufficient for the provision of said services, said persons shall be considered "patients deemed financially unable to pay" pursuant to the definition of "free care" in section one of chapter one hundred and eighteen G of the General Laws and shall not be considered publicly aided patients for the purpose of said section. Prior to making such a determination said division shall notify the committee on health care and the house and senate committees on ways and means.

SECTION 29. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance shall, to the extent allowed under a demonstration waiver approved by the Health Care Financing Administration and consistent with provisions of Title XIX of the Social Security Act and the medicaid state plan, establish an intergovernmental transfer program with Boston city hospital, or its successor entity, and the Cambridge hospital, or its successor entity, for the purpose of funding payments which may be made to said hospitals to provide benefits under a demonstration project pursuant to section nine A of chapter one hundred and eighteen E of the General Laws, subject to agreements between the hospitals, the public entity making intergovernmental fund transfer and said division; provided that any such program instituted by the said division shall be budget neutral to the commonwealth. The intergovernmental funds transfer program shall be operated at the maximum level of funding allowed under the Section 1115 Demonstration Waiver from the Health Care Financing Administration.

SECTION 30. There is hereby established a special commission for the purpose of making an investigation relative to the methods for achieving a long term solution to the overall problem of the fair and equitable allocation of the burden of uncompensated care and

free care among affected participants in the health care delivery system, such that no single group of participants bears a disproportionate burden for the cost of uncompensated care. Said commission shall consist of one member of the senate, one member of the house of representatives, the secretary of administration and finance, and six persons to be appointed by the governor, one of whom shall be a representative from the Massachusetts Hospital Association, one of whom shall be a representative of health maintenance organizations, one of whom shall be a representative from the Associated Industries of Massachusetts, one of whom shall be a representative from Blue Cross and Blue Shield of Massachusetts, one of whom shall be a representative from the Massachusetts League of Community Health Centers and one of whom shall be a representative from Health Care for All.

Said commission shall be jointly chaired by the members from the senate and house of representatives and the secretary of administration and finance. The commission shall adopt such rules and establish such procedures as it considers necessary for the conduct of its business. The commission may expend such funds as may be appropriated or made available therefor. No action of the commission shall be considered official unless approved by a majority vote of the commission.

The commission shall have the following responsibilities and duties:

(*a*) to develop a suitable plan for dealing with both the issues of fair and equitable assessment to pay for uncompensated care, and the fair and equitable distribution of any assessment,

(*b*) to include in said plan authorization for the division of medical assistance to implement a program of employer tax credits and employee subsidies to encourage the purchase of group health insurance; provided, however, that said program shall be financed, in part, by the Uncompensated Care Trust Fund or other new sources of revenue, and

(*c*) to prepare legislation which will implement the plan.

In pursuing its responsibilities and duties, the commission is hereby authorized and directed to consult with parties affected by said commission's matter of study, and shall, prior to voting on any final recommendations, consult with the parties affected by said recommendations, including, but not limited to, the executive office of health and human services, division of health care finance and policy, division of insurance, division of medical assistance, Massachusetts Health Care Purchasers Group, Small Business Advisory Board established pursuant to section twenty-two of chapter one hundred and eighteen G of the General Laws, Massachusetts Law Reform Institute, Massachusetts Council of Community Hospitals, Life Insurance Association of Massachusetts, and organizations representing Chambers of Commerce throughout the commonwealth. The commission shall use as the basis for the development of its plan quantifiable data as it relates to the projected impact of any assessments, provider taxes, and federal financial participation. Said data shall be included in the commission's final report.

In designing a program of employer tax credits and employee subsidies, the commission shall consider a program consistent with the waiver granted the commonwealth by the Health Care Finance Administration pursuant to section 1115 of the Social Security Act. Said program may include refundable tax credits to employers who pay fifty percent

or more of the cost of their low income employees' medical insurance which meets minimum qualifications established by law or regulation, and subsidies to those employees.

Said commission shall file its final report including the proposed legislation with the clerks of the senate and the house of representatives and with the governor on or before December thirty-first, nineteen hundred and ninety-six.

SECTION 31. The department of public health is hereby directed to issue a determination of need to any hospital licensed pursuant to section fifty-one of chapter one hundred and eleven of the General Laws, that can demonstrate the following:-

(1) a binding contractual commitment with a nursing home licensed pursuant to section twenty-one of said chapter one hundred and eleven that results in the nursing home's surrender of its license;

(2) that such license holder has ceased operation of its facility;

(3) that the hospital has developed a hospital based skilled nursing facility and meets the qualifications for licensure and Medicare certification; and

(4) that the hospital agrees to be responsible for all overpayments owed to the division of medical assistance by the nursing facility which surrenders its license.

Any determination of need awarded pursuant to this section, shall be deemed awarded on the date that such a hospital first demonstrates compliance with the above criteria; provided, however, that any hospital based skilled nursing facility established as the result of closure of a rest home licensed pursuant to said section seventy-one of said chapter one hundred and eleven shall have demonstrated compliance with the above criteria prior to April twenty-first, nineteen hundred and ninety-five; and, provided further, that any determination of need granted pursuant to this section shall supersede and replace any prior authorization that such a hospital may have received for the operation of a hospital based skilled nursing facility and any other basis for the award of licensure shall be revoked.

To participate in the medical assistance program as a hospital-based skilled nursing facility, the hospital shall enter into a provider-specific special contract with the division of medical assistance that sets out mutually agreeable terms for its participation in said medical assistance program. In no event, shall said division pay any higher rate for services provided by any facilities granted a determination of need as a result of this provision than it would have paid if a determination of need had not been granted.

SECTION 32. The commissioners of the division of medical security and the division of insurance are hereby authorized and directed to develop, within twelve months following the passage of this act, recommendations for the implementation in the commonwealth of a standardized billing system for all health care services and materials, including prescriptions. Said system shall provide for the use of a standardized billing format to be used for all health care providers and third party payers in the commonwealth, and shall be designed so as to reduce paperwork, reduce administrative costs, and provide a clearly understandable system of charge and payment. Said recommendations shall be filed with the clerks of the Senate and the House of Representatives within twelve months from the passage of this act.

SECTION 33. It is hereby found and declared that:

the access of residents of the commonwealth to basic health care services is a natural, essential, and unalienable right which is protected by Article I of Part the First of the Constitution;

there live within the commonwealth many thousands of persons who lack access to basic health care services because they are not able to purchase health care insurance at a reasonable price or because they are restricted from purchasing health insurance by the practices of the insurance industry;

such lack of access to health care negatively affects the health status of the uninsured in the commonwealth by the delay or lack of medical treatments, thereby increasing the incidence of disease and illness in the commonwealth;

the cost of providing hospital care to the uninsured is a burden on the taxpayers and certain businesses in the commonwealth;

most businesses in the commonwealth assist their employees in the purchase of health care insurance and that many other businesses are precluded from providing such assistance because of economic and cost concerns; and

the inability of certain businesses to offer health insurance benefits to their employees is a hindrance to their ability to compete for capable employees in the labor market and therefore has a negative economic impact on the commonwealth.

Therefore, it is found that it is in the public interest of the commonwealth to promote the accessibility of health care services for all its citizens, a public purpose for which public money may be expended.

SECTION 34. Section sixteen of this act shall take effect on June thirtieth, two thousand two.

SECTION 35. Section three of this act shall take effect on October first, one thousand nine hundred ninety-six.

This bill was returned by the Governor to the House, the branch in which it originated, with his objections thereto, was passed by the House and Senate on July 24, 1996, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 204. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR NINETEEN HUNDRED AND NINETY-SIX TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately make or supplement appropriations for the fiscal year ending June thirtieth, nineteen hundred and ninety-six, and to make certain changes in the law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, 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 supplementing certain items in the general appropriation act and other appropriations acts for fiscal year nineteen hundred and ninety-six, the sums set forth in section two are hereby appropriated for the several purposes and subject to the conditions specified in said appropriations acts, and subject to the provisions of law regulating the disbursement of public funds, for the fiscal year ending June thirtieth, nineteen hundred and ninety-six. The sums so appropriated shall be in addition to any amounts available for the purpose.

SECTION 2.

JUDICIARY.

Board of Bar Examiners.

0321-0100 ..... $3,243

Committee for Public Counsel Services.

0321-1510 ..... $2,646,000
0321-1512 ..... $4,961,000
0321-1520 ..... $1,592,000

Social Law Library.

0321-2205 ..... $100,000
0321-2206 ..... $25,000

Trial Court.

0330-0400 ..... $250,000

DISTRICT ATTORNEYS.

Western District Attorney.

0340-0500 ..... $22,882

Plymouth District Attorney.

0340-0800 ..... $25,231

OFFICE OF THE SECRETARY OF STATE.

Secretary of State.

0511-0000 ..... $92,509
0517-0000 ..... $22,863

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Massachusetts Corporation for Educational Telecommunications.

1100-1400 ..... $1,700,000

Bureau of State Office Buildings.

1102-3302 ..... $600,000

Department of Revenue.

1233-2000 ..... $100,000

Appellate Tax Board.

1310-1000 ..... $62,500

Department of Veterans' Services.

410-0010 ..... $25,000

Reserves.

1599-0036 ..... $1,064,000

1599-2200 ..... $1,300,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Metropolitan District Commission.

2440-1210 ..... $75,000

Department of Housing and Community Development.

3022-9108 ..... $118,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Holyoke Soldiers' Home.

4190-0100 ..... $91,000

Department of Public Health.

4580-1000 ..... $250,000

Department of Social Services.

4800-0150 ..... $1,167,746

EXECUTIVE OFFICE OF EDUCATION.

Department of Education.

7052-0005 ..... $1,820,227

7061-0011 ..... $2,200,000

7061-9611 ..... $275,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Department of State Police.

8100-0001 ..... $10,000,000

8100-0007 ..... $435,000

EXECUTIVE OFFICE OF ECONOMIC DEVELOPMENT.

Department of Economic Development.

9000-1900 ..... $1,120,000

9000-1920 ..... $532,000

9000-2100 ..... $84,000

LEGISLATURE.

House of Representatives.

9628-0020 ..... $180,000

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 the general appropriation act or other appropriations acts for the fiscal year ending June thirtieth, nineteen hundred and ninety-six. The sums so appropriated shall be in addition to any amounts available for said purposes.

JUDICIARY.

Committee for Public Counsel Services.

0321-1509 For one-time program expenses associated with a juvenile offender certification and training program; provided, that said funding shall be available for expenditure only upon the effective date of the violent juvenile offender act, so-called; and provided further, that the funding herein shall be expended only on said program . . $35,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Division of Capital Planning and Operations.

1102-3232 For the purpose of the demolition of an abandoned supermarket located near the town center in Bellingham and site improvements relevant thereto $150,000

1102-9999 For costs associated with the removal of asbestos; provided, that an amount shall be expended for asbestos removal at Boston state hospital, Greenfield community college and the Fore River shipyard based on the priority needs and estimated costs of asbestos removal at said sites consistent with the amount appropriated herein $7,250,000

Asbestos Cost Recovery Fund 100.0%

Reserves.

1599-3384 For a reserve for the payment of certain court judgments, settlements, and legal fees ordered to be paid in fiscal year nineteen hundred and ninety-seven or for a prior fiscal year, in accordance with regulations promulgated by the comptroller; provided, that the comptroller shall file a schedule of amounts paid from this item with the house and senate committees on ways and means; provided further, that an amount not to exceed twenty-six thousand three hundred dollars shall be expended for payments to Fore River shipyard workers pursuant to the agreement and stipulation of dismissal of appeal in the case of *Edward Madden, et.al. v. the commissioner of the department of employment and training*, Suffolk Superior Court C.A. No.87-14; provided further,

that Catuogno Court Reporting Services shall receive payment of outstanding bills if the comptroller and the chief justice for administration and management of the trial court certify that said bills comply with all provisions of law regulating the disbursement of public funds; provided further, that the commonwealth is hereby authorized and directed to pay out of the state treasury to Julian Bell, of the town of Peru, who, while an employee of the department of revenue, was suspended on March twenty-fifth, nineteen hundred and eighty-eight for an alleged violation of the conflict of interest laws and after a hearing with an arbitrator was ordered reinstated on September twenty-fifth, nineteen hundred and ninety, the sum of eighty-two thousand seven hundred twenty-three dollars, said monies representing payments for one hundred and thirty weeks lost wages, with accrued interest and a portion of such funds shall be allowed to replenish the retirement account of the said Julian Bell; provided further, that notwithstanding the provisions of any general or special law to the contrary, three thousand five hundred dollars shall be expended for the payment of a claim for reimbursement for damage caused by deer at Hamilton Orchard in the town of New Salem; and provided further, that twenty-four thousand six hundred and seventy-eight dollars shall be expended for the payment of a claim for damage caused by a deer to the property of Edward L. Britt $10,000,000

1599-3788 For a reserve to meet the fiscal year nineteen hundred and ninety-five and nineteen hundred and ninety-six costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Massachusetts Correctional Officers Federated Union (unit four); provided, 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 fiscal year nineteen hundred and ninety-six such amounts as are necessary to meet the cost of said adjustments and benefits for fiscal years nineteen hundred and ninety-five and nineteen hundred and ninety-six where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures

from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers $11,759,000

Collective Bargaining Reserve Fund 100.0%

1599-3789 For a reserve to meet the fiscal year nineteen hundred and ninety-seven costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Massachusetts Correctional Officers Federated Union (unit four); provided, 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 fiscal year nineteen hundred and ninety-seven such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers $14,288,000

Collective Bargaining Reserve Fund 100.0%

1599-3790 For a reserve to meet the fiscal year nineteen hundred and ninety-seven cost of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the National Association of Government Employees (units one and six); provided, 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 fiscal year nineteen hundred and ninety-seven such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that, notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amount of said transfers $23,179,000

Collective Bargaining Reserve Fund 100.0%

1599-3791 For a reserve to meet the fiscal year nineteen hundred and ninety-five and nineteen hundred and ninety-six costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the higher education coordinating council and the American Federation of State, County, and Municipal Employees, Council 93, Local 1067; provided, 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 fiscal year nineteen hundred and ninety-six such amounts as are necessary to meet the costs of said adjustments and benefits for fiscal years nineteen hundred and ninety-five and nineteen hundred and ninety-six where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that, notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers $2,968,000

Collective Bargaining Reserve Fund 100.0%

1599-3792 For a reserve to meet the fiscal year nineteen hundred and ninety-seven cost of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the higher education coordinating council and the American Federation of State, County, and Municipal Employees, Council 93, Local 1067; provided, 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 fiscal year nineteen hundred and ninety-seven such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that, notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said

transfers $3,417,000
Collective Bargaining Reserve Fund 100.0%

1599-3793 For a reserve to meet the fiscal year nineteen hundred and ninety-six cost of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the university of Massachusetts and the Service Employees International Union, Local 254, AFL-CIO; provided, 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 fiscal year nineteen hundred and ninety-six such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that, notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers $174,000
Collective Bargaining Reserve Fund 100.0%

1599-3794 For a reserve to meet the fiscal year nineteen hundred and ninety-seven cost of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the university of Massachusetts and the Service Employees International Union, Local 254, AFL-CIO; provided, 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 fiscal year nineteen hundred and ninety-seven such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that, notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers $204,000
Collective Bargaining Reserve Fund 100.0%

1599-3795 For a reserve to meet the fiscal year nineteen hundred and ninety-six cost of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the higher education coordinating council and the Massachusetts Teachers Association/Association of Professional Administrators; provided, 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 fiscal year nineteen hundred and ninety-six such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that, notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers $503,000

Collective Bargaining Reserve Fund 100.0%

1599-3796 For a reserve to meet the commonwealth's obligations pursuant to the provisions of section C.1 of article XIII of the collective bargaining agreement between the higher education coordinating council and the Massachusetts Teachers Association/Association of Professional Administrators; provided, 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 fiscal years nineteen hundred and ninety-six through nineteen hundred and ninety-eight such amounts as are necessary to meet the cost of said obligations for said fiscal years where the amounts otherwise available are insufficient for the purpose, in accordance with transfer plans which shall be filed in advance 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, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers; and provided further, that this appropriation shall expire on June thirtieth, nineteen hundred and ninety-eight $472,000

Collective Bargaining Reserve Fund 100.0%

1599-3797 For a reserve to meet the fiscal year nineteen hundred and ninety-seven cost of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the higher education coordinating council and the Massachusetts Teachers Association/Association of Professional Administrators; provided, 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 fiscal year nineteen hundred and ninety-seven such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that, notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to thirteen and twenty-one one-hundredths percent of the amounts of said transfers $1,516,000

General Fund 86.79%

Collective Bargaining Reserve Fund 13.21%

1599-3798 For a reserve to meet the fiscal year nineteen hundred and ninety-six cost of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the university of Massachusetts and the University Staff Association/ Massachusetts Teachers Association/National Education Association; provided, 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 fiscal year nineteen hundred and ninety-six such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that, notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers $468,000

Collective Bargaining Reserve Fund 100.0%

1599-3799 For a reserve to meet the fiscal year nineteen hundred and ninety-seven cost of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the university of Massachusetts and the University Staff Association/ Massachusetts Teachers Association/National Education Association; provided, 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 fiscal year nineteen hundred and ninety-seven such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that, notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers $971,000

Collective Bargaining Reserve Fund 100.0%

1599-3804 For a reserve to meet the fiscal year nineteen hundred and ninety-five and nineteen hundred and ninety-six costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the university of Massachusetts and the American Federation of State, County, and Municipal Employees, Council 93, Local 1776; provided, 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 fiscal year nineteen hundred and ninety-six such amounts as are necessary to meet the costs of said adjustments and benefits for fiscal years nineteen hundred and ninety-five and nineteen hundred and ninety-six where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that, notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers $656,000

Collective Bargaining Reserve Fund 100.0%

1599-3805 For a reserve to meet the fiscal year nineteen hundred and ninety-seven cost of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the university of Massachusetts and the American Federation of State, County, and Municipal Employees, Council 93, Local 1776; provided, 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 fiscal year nineteen hundred and ninety-seven such amounts as are necessary to meet the cost of said adjustments and benefits for said fiscal year where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that, notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers $744,000

Collective Bargaining Reserve Fund 100.0%

1599-3858 For a reserve for the payment of costs associated with the partial final judgment pursuant to the settlement agreement with the *Massachusetts Soft Drink Association in Massachusetts Wholesalers of Malt Beverages, Inc., vs. Commonwealth*, Suffolk Superior Court C.A. No. 90-1523F $7,316,861

1599-3910 For a reserve to meet the cost of the settlement agreement dated May sixth, nineteen hundred and ninety-six, between the commonwealth and the Massachusetts Nurses Association, unit seven; provided, that the secretary of administration and finance is hereby authorized to expend such amounts as are necessary to comply with the terms of said agreement $3,627,278

1599-3911 For costs related to environmental remediation projects undertaken by state agencies pursuant to executive order three hundred fifty, the governor's clean state initiative; provided, that one million five hundred thousand dollars shall be expended in fiscal year nineteen hundred and ninety-seven for remediation efforts necessary at the Abigail Adams park $3,500,000

1599-3913 For a reserve to meet extraordinary employee compensation and other costs in the fiscal year ending June thirtieth, nineteen hundred and ninety-seven associated with the reorganization of the secretariats, departments, and other agencies pursuant to the provisions of chapter one hundred and fifty-one of the acts of

nineteen hundred and ninety-six; provided, that the secretary of administration and finance is hereby authorized to expend from the sum appropriated herein, or to transfer to other items of appropriation and allocations thereof for fiscal years nineteen hundred and ninety-six and nineteen hundred and ninety-seven, such amounts as are necessary for such purposes; provided further, that said secretary shall file a report of all such expenditures and transfers with the house and senate committees on ways and means by January first, nineteen hundred and ninety-seven; provided further, that said report shall include the name and title of each employee whose vacation time, sick time, or other benefits are reimbursed from this item; provided further, that if the amount appropriated herein is insufficient to meet said extraordinary employee compensation and other costs in the fiscal year ending June thirtieth, nineteen hundred and ninety-seven, said secretary shall file a report with the house and senate committees on ways and means listing the names and titles of the remaining individuals scheduled to receive such compensation and the amounts which said individuals are owed by the commonwealth; and provided further, that forty-five thousand dollars shall be transferred from this item to item 4510-0100 of section two of chapter one hundred fifty-one of the acts of nineteen hundred and ninety-six for the purpose of administering programs transferred from the former department of medical security $500,000

1599-4421 For a reserve to provide special, non-recurring payments to certain municipalities for the purpose of providing full or partial emergency disaster relief; provided, that not more than one million six hundred and four thousand dollars shall be paid to the city of Brockton and the towns of Abington, Avon, Bridgewater, Duxbury, East Bridgewater, Easton, Hanover, Hanson, Hingham, Holbrook, Hull, Kingston, Marshfield, Milton, Norwell, Pembroke, Plymouth, Plympton, Randolph, Rockland, Scituate, Sharon, Stoughton, West Bridgewater, Weymouth and Whitman for costs relating to damage caused by the May twenty-first, nineteen hundred and ninety-six windstorm, so-called, including, but not limited to, the extraordinary costs and expenses associated with the necessary cleanup and disposal of debris and to alleviate the danger and emergency posed by damaged and downed trees and limbs along public streets and ways and for the costs and expenses associated with bank erosion, debris removal and damage to local waterways; provided further, that said disaster

relief shall be available to said city and towns for both the costs previously incurred and those required to be incurred as certified by the Massachusetts emergency management agency; provided further, that said assistance shall be in the amount of one hundred percent of the total damage as certified by said Massachusetts emergency management agency; provided further, that reimbursements may be made from this item to those state agencies which incurred costs directly associated with the disaster relief efforts referenced herein subject to the approval of an allocation plan which shall be filed in advance with the house and senate committees on ways and means; provided further, that not more than one million seven hundred eighty-four thousand dollars shall be made available to the city known as the town of Methuen, the cities of Lawrence and Lowell, and other adjacent communities which incurred costs as a direct result of the fire at Malden Mills Industries, Incorporated, so-called, on December eleventh, nineteen hundred and ninety-five; provided further, that of said amount, one million six hundred eighty-four thousand dollars shall be made available to the city known as the town of Methuen; provided further, that prior to the expenditure of funds appropriated herein, the local governing authority of said cities and towns shall submit a report detailing said costs to the secretary of administration and finance which shall certify that said costs are reasonable and directly resulting from the said fire; provided further, that said report shall be filed with the house and senate committees on ways and means; provided further, that not more than three million seventy-four thousand dollars shall be paid to the towns of Conway, Leverett, Montague, Shutesbury, and Wendell, for costs relating to damage caused by the June thirteenth, nineteen hundred and ninety-six rainstorm, so-called, including, but not limited to, the extraordinary costs and expenses associated with the necessary repair of public streets and ways, including bridges and culverts, and for the costs and expenses associated with bank erosion, debris removal, and damage to local waterways; provided further, that said disaster relief shall be available to said towns for both the costs previously incurred and those required to be incurred as certified by the Massachusetts emergency management agency; provided further, that said assistance shall be in the amount of one hundred percent of the total damage as certified by said Massachusetts emergency management agency; provided further, that reimbursement may be made from this item to those state agencies which incurred

costs directly associated with the disaster relief efforts referenced herein subject to the approval of an allocation plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that not more than one hundred thousand dollars shall be paid to the towns of Russell, Blandford, Huntington, Montgomery, Southampton, and Cummington for costs related to damage and expenses incurred while fighting the Shatterack Mountain Fire, so-called, during the period September fifth, nineteen hundred ninety-five through September eighteenth, nineteen hundred ninety-five inclusive $6,562,000

1599-8888 For the purposes of a loan to the city of Newton; provided, that funds appropriated herein shall be expended to defray a portion of the costs associated with the explosion of molten sodium on October twenty-fifth, nineteen hundred and ninety-three at the H.C. Starck, Inc. plant located at one hundred and fifty-two Charlmont street in Newton; provided, that said costs shall include, but not be limited to, payment of medical expenses pursuant to section one hundred of chapter forty-one of the General Laws, payment of medical expenses that may be incurred after the effective date of this act as a result of said explosion, payment of wages pursuant to section one hundred and eleven F of chapter forty-one of the General Laws, payment of overtime and replacement costs, and increases in unfunded pension liabilities due to unanticipated accidental disability retirement as provided in chapter thirty-two of the General Laws; provided further, that the city of Newton shall be free to allocate funds appropriated herein in its discretion to defray whichever costs it deems appropriate; and provided further, that the city of Newton shall repay said loan within ten years, or upon a recovery for damages equal to or in excess of the amount appropriated herein which the city of Newton actually receives from a third party as a result of the civil action captioned *City of Newton v H.C. Starck, Inc. and Bayer Corporation*, Middlesex Superior Court, C.A. No. 94-2947-D. $2,600,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Department of Environmental Protection.

2200-0001 For reimbursements to municipalities, authorities, water pollution control districts or other entities pursuant to grants previously made under the authority of chapter two hundred eighty-six of the acts of nineteen hundred and eighty-two, chapter seven hundred eighty-six of the acts of nineteen hundred and eighty-five, chapter

three hundred seven of the acts of nineteen hundred and eighty-seven, chapter seven hundred forty-seven of the acts of nineteen hundred and seventy, chapter four hundred six of the acts of nineteen hundred and seventy-eight, chapter two hundred thirty-three of the acts of nineteen hundred and eighty-four, and chapter five hundred sixty-four of the acts of nineteen hundred and eighty-seven; provided, that said reimbursements shall be consistent with the payment schedule of the department of environmental protection; provided further, that funds appropriated herein shall first be expended for reimbursement of those municipalities, authorities, water pollution control districts or other entities which were eligible for reimbursement in fiscal year nineteen hundred and ninety-six; and provided further, that reimbursements under this item shall be in partial satisfaction of amounts due pursuant to grants previously awarded to said municipalities, authorities, water pollution control districts or other entities under the above-referenced authorities $30,000,000

Metropolitan District Commission.

2440-0110 For repairs to rinks and pools under the jurisdiction of the metropolitan district commission; provided, that notwithstanding the provisions of any general or special law, rule or regulation to the contrary, with respect to all activities, including procurement and contract management, required for the purposes of this item and funded by the amount appropriated herein, all authorities and responsibilities normally belonging to the division of capital planning and operations shall belong solely to the commission; provided further, that the commission shall conduct all such activities in a manner consistent with the best interest of the commonwealth and according to sound business practice; provided further, that the commission shall file bimonthly reports detailing all encumbrances and expenditures of funds appropriated herein, and the status of all repairs to be funded from this item, with the secretary of environmental affairs, the secretary of administration and finance, and the house and senate committees on ways and means; and provided further, that no funds appropriated herein shall be used for any personnel or administrative costs of the commission $7,500,000

Highway Fund 60.0%

Local Aid Fund 40.0%

2440-0400 For the centennial celebration at Revere beach in the city of Revere; provided, that the commission shall negotiate an interagency service agreement with the department of state police and other

agreements with municipal police departments for the provision of said police details; and provided further, that up to fifty thousand dollars be provided for police details for the dedication of Memorial Bridge in the city of Springfield and the town of West Springfield $175,000
Highway Fund 60.0%
Local Aid Fund 40.0%

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

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; provided, that all expenditures made from this item shall be subject to the provisions of item 4000-0430 of section two of chapter sixty of the acts of nineteen hundred and ninety-four; and provided further, that fifty-three thousand four hundred thirty-one dollars shall be made available for the funding of a head injury treatment program on Cape Cod serving the treatment needs of an individual with brain injury $1,350,000

4000-0820 For a program of intergovernmental transfers of medicaid payments to certain hospitals established in accordance with Title XIX, federal regulations promulgated thereunder, the medicaid state plan and the terms and conditions of agreements reached between such hospitals and the division for such transfer payments; provided, that such funds may only be expended from this item for such payments owed during the current fiscal year; provided further, that an accounting of such payments shall be reported quarterly to the house and senate committees on ways and means; provided further, that not more than four million dollars shall be transferred to Springfield municipal hospital upon an agreement between the facility and the division of medical assistance; and provided further, that all revenues generated by said program shall be credited to the General Fund $29,400,000
Local Aid Fund 100.0%

Massachusetts Rehabilitation Commission.

4120-2001 For the Living Independently For Equality, Inc. of Brockton $15,000

Department of Transitional Assistance.

4400-1001 The department of transitional assistance may expend an amount not to exceed nine hundred fifty-three thousand three hundred and sixty-five dollars received from the United States department of agriculture to expand the priority reporting integrated system match project, or PRISM, so-called, from the food stamp program

to the transitional aid to families with dependent children program; provided, that the department shall file with the secretary of administration and finance and the house and senate committees on ways and means a report detailing changes in programmatic spending directly resulting from said expansion of the priority matching system, that shall include but not be limited to, the number of cases closed, the number and average value per case of benefit increases and reductions, the total value of any resulting savings in the transitional aid to families with dependent children program in fiscal year nineteen hundred and ninety-seven and any projected savings in fiscal year nineteen hundred and ninety-eight; and provided further, that said report shall be filed no later than June thirtieth, nineteen hundred and ninety-seven $953,365

4405-2010 For the payment of prior fiscal year expenses for special grants recipients of the state supplemental security income program residing in rest homes; provided, that all expenditures made from this item shall be subject to the provisions of item 4405-2000 of section two of chapter sixty of the acts of nineteen hundred and ninety-four $300,000

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 sixty of the acts of nineteen hundred and ninety-four $700,000

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Department of Highways.

6037-9698 For the construction and reconstruction of town and county ways pursuant to section one hundred sixty-six of this act $25,000,000

Highway Fund 100.0%

Department of Education.

7061-9632 For the pioneer valley regional education business alliance, so-called; provided, that a spending plan including revenues and expenditures from all funding sources shall be filed with the joint committee on education, arts, and humanities and with the house and senate committees on ways and means not later than September first, nineteen hundred and ninety-six $100,000

Local Aid Fund 100.0%

Board of Higher Education.

7066-0115 For the purposes of implementing section fifteen E of chapter fifteen Aof the General Laws to encourage private fundraising by the commonwealth's public institutions of higher education; provided, that funds shall be disbursed on a quarterly basis in proportion to the amount of funds raised by each institution; and, provided further, that the board of education shall implement this program in a manner which ensures that each institution shall have an equal opportunity to secure matching funds from this item $11,000,000

7514-0103 For an emergency reserve for unanticipated operating and maintenance expenses of Springfield technical community college in the acquisition of the Digital property, so-called; provided, that funds may only be expended from this item due to operating deficiencies resulting from cashflow shortfalls which may include rent arrearages or circumstances beyond the immediate control of said college; provided further, that no funds shall be expended from this item before April first, nineteen hundred and ninety-seven; provided further, that said college may not expend funds from this item until all amounts available in item 7514-0101 have been completely expended; and provided further, the comptroller shall not authorize expenditures from this item until an officer of said college submits written certification to the secretary of administration and finance stating the basis for said operating deficiency and assurances of compliance with the provisions of this item $235,336

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Board of Building Regulations.

8000-0164 For the purpose of providing training and courses of instruction to persons appointed pursuant to section three of chapter one hundred and forty-three of the General Laws to prepare for the certification requirements established by paragraph (l) of section ninety-four of said chapter; provided, that the board of building regulations shall develop guidelines concerning the eligibility of said appointees for said training and courses of instruction; and provided further, that a reasonable fee may be charged to persons enrolled in said training and courses of instruction $40,000

Department of State Police.

8100-0008 For the costs associated with providing state police patrols for properties of the metropolitan district commission located along Day Boulevard in the South Boston section of the city of Boston; provided, that such patrols shall be assigned between the hours of

eight post meridien and four ante meridien; and provided further, that such patrols shall be assigned nightly until November first, nineteen hundred and ninety-six $35,000

Committee on Criminal Justice.

8600-0060 For the purchase and administration of sexual assault evidence collection kits $25,000

Massachusetts Military Division.

8700-0003 For the state's proportional share of the operating and maintenance budget of the Massachusetts air national guard for fiscal year nineteen hundred and ninety-six $250,000

EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.

Massachusetts Office of Business Development.

9000-1803 For the purposes of further developing a comprehensive redevelopment plan for the commercial use of the Kerr Mill site, so-called, in the city of Fall River; provided, that the Massachusetts office of business development is hereby authorized and directed to contract with the Massachusetts development finance agency, so-called, to undertake and complete said plan; provided further, that said plan shall provide for maximum private sector utilization and the financial feasibility of said redevelopment and include but not be limited to a plan for the acquisition of the property and a financial pro forma for potential use; and provided further, that said study shall be completed by December thirty-first, nineteen hundred and ninety-six $25,000

Department of Employment and Training.

9081-0351 For a summer jobs youth-at-risk program; provided, that no funds appropriated herein shall be allotted or disbursed prior to the receipt of equal matching funds from private sources to any entity or municipality eligible for or requesting funds from this item; and provided further, that the secretary of administration and finance shall file with the house and senate committees on ways and means an allotment and disbursement plan for the funds appropriated herein prior to the allotment or expenditure of any said funds $1,500,000

SECTION 2B.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Public Employees Retirement Administration.

1108-6201 ..... $1,500,000

SECTION 2C.I. For the purpose of making available in fiscal year nineteen

hundred and ninety-seven balances of appropriations which would otherwise revert on June thirtieth, nineteen hundred and ninety-six, the unexpended balances of the maintenance appropriations listed below, not to exceed the amount specified below for each item, are hereby re-appropriated for the purpose of and subject to the conditions stated for the corresponding item in section two of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six; provided, however, that for items which do not appear in said section two of said chapter one hundred and fifty-one, 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 appropriations acts. Amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in said section two of said chapter one hundred and fifty-one; provided, that for items which do not appear in said section two of said chapter one hundred and fifty-one, the amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in section two or two A of this act or in prior appropriations acts. The sums re-appropriated herein shall be in addition to any amounts available for said purposes.

JUDICIARY.

Committee for Public Counsel Services.

0321-1509 ..... $35,000

Social Law Library.

0321-2205 ..... $100,000
0321-2206 ..... $25,000

Trial Court.

0330-3001 ..... $35,227
0337-0003 ..... $351,840

DISTRICT ATTORNEYS.

Berkshire District Attorney.

0340-1100 ..... $86,584

EXECUTIVE.

0411-1000 ..... $1,500,000

OFFICE OF THE SECRETARY OF STATE.

0511-0000 ..... $92,509
0517-0000 ..... $22,863
0521-0001 ..... $57,829

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Massachusetts Office for Educational Telecommunications.

1100-1400 ..... $1,700,000

Fiscal Affairs Division.

1101-2100 ..... $125,000

Division of Capital Planning and Operations.

1102-3232 ..... $150,000
1102-9999 ..... $7,250,000

Department of Personnel Administration.

1108-1000 ..... $463,000

Appellate Tax Board.

1310-1000 ..... $62,500

Department of Veterans' Services.

1410-0010 ..... $25,000

Reserves.

1599-0036 ..... $1,064,000
1599-3384 ..... $10,000,000
1599-3389 ..... $7,062,085
1599-3787 ..... $981,517
1599-3789 ..... $14,288,000
1599-3790 ..... $23,179,000
1599-3791 ..... $2,968,000
1599-3792 ..... $3,417,000
1599-3793 ..... $174,000
1599-3794 ..... $204,000
1599-3795 ..... $503,000
1599-3796 ..... $472,000
1599-3797 ..... $1,516,000
1599-3798 ..... $468,000
1599-3799 ..... $971,000
1599-3800 ..... $18,401,908
1599-3803 ..... $3,474,814
1599-3804 ..... $656,000
1599-3805 ..... $744,000
1599-3854 ..... $738,984
1599-3858 ..... $7,316,861
1599-3910 ..... $3,627,278
1599-3911 ..... $3,500,000
1599-3913 ..... $500,000
1599-4421 ..... $6,562,000
1599-6500 ..... $1,800,000
1599-7500 ..... $3,459,040
1599-7501 ..... $2,828,222
1599-8888 ..... $2,600,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Department of Environmental Management.

2100-0005 ..... $92,000

Department of Environmental Protection.

2200-0001 ..... $5,000,000
2200-0100 ..... $20,000
2200-1202 ..... $5,000

Department of Fisheries, Wildlife and Environmental Law Enforcement.

2320-0200 ..... $260,000
2330-0100 ..... $89,100

Metropolitan District Commission.

2440-0100 ..... $50,000
2440-0110 ..... $7,500,000
2440-0400 ..... $175,000
2440-1203 ..... $50,000
2440-1210 ..... $79,000

Department of Housing and Community Development.

3022-9108 ..... $118,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Division of Medical Assistance.

4000-0440 ..... $53,431

Massachusetts Rehabilitation Commission.

4120-2001 ..... $15,000

Department of Public Health.

4580-1000 ..... $250,000

Department of Social Services.

4800-0150 ..... $1,167,746

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Department of Highways.

6037-9698 ..... $25,000,000

Department of Education.

7030-1000 ..... $3,000,000
7052-0005 ..... $1,820,227
7061-0011 ..... $2,200,000
7061-9611 ..... $275,000
7061-9632 ..... $100,000

Board of Higher Education.

7066-0115 ..... $11,000,000
7514-0103 ..... $235,336

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Board of Building Regulations and Standards.

8000-0164 ..... $40,000

Department of State Police.

8100-0001 ..... $10,000,000
8100-0008 ..... $35,000

Department of Public Safety.

8314-1200 ..... $5,100,000

Committee on Criminal Justice.

8600-0060 ..... $25,000

Massachusetts Emergency Management Agency.

8800-0032 ..... $173,969
8800-0050 ..... $38,852
8800-0051 ..... $410,670

EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.

Office of the Secretary.

9000-1806 ..... $30,000
9000-1900 ..... $1,120,000
9000-1920 ..... $532,000
9000-2100 ..... $84,000

Department of Employment and Training.

9081-0351 ..... $1,500,000
9081-7012 ..... $1,000,000

EXECUTIVE OFFICE OF ELDER AFFAIRS.

Office of the Secretary.

9110-0100 ..... $100,000

LEGISLATURE.

House of Representatives.

9628-0020 ..... $180,000

II. For the purpose of making available in fiscal year nineteen hundred and ninety-seven balances of retained revenue authorizations, so called, or of Intragovernmental Service Fund revenue authorizations, so-called, which otherwise would revert on June thirtieth, nineteen hundred and ninety-six, the unexpended balances of the authorizations listed below, not to exceed the amount specified below for each item, are hereby re-authorized for the fiscal year nineteen hundred and ninety-seven. Amounts so re-authorized for each such item in this section shall be for the purposes of and subject to the conditions stated in section two B of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six. Amounts in this section are re-authorized from the fund

or funds designated in said appropriation acts for each item and shall be in addition to any amounts available for said purposes.

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Office of the Secretary.

2001-1001 ..... $50,000

Department of Housing and Community Development.

3000-9315 ..... $40,600

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Department of Transitional Assistance.

4400-1001 ..... $953,365

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Department of Correction.

8900-0011 ..... $40,000
8900-0021 ..... $150,000

SECTION 3. Clause Twenty-sixth of section 7 of chapter 4 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out subclause (l) and inserting in place thereof the following subclause:-

(l) questions and answers, scoring keys and sheets, and other materials used to develop, administer or score a test, examination or assessment instrument; provided, however, that such materials are intended to be used for another, test, examination or assessment instrument.

SECTION 4. Chapter 6A of the General Laws is hereby amended by inserting after section 18F the following section:-

Section 18G. The statewide emergency telecommunications board shall require that each public safety answering point that possesses enhanced 911 service shall retain such tapes for a period of not less than six months; provided however, that said board shall require that if a public safety answering point utilizes a digital recording system, tapes shall be retained for a period of not less than one year; provided further, that the telephone companies shall be responsible for the costs associated with the purchase of additional recording media needed to fulfill the requirements of this section.

SECTION 5. The first paragraph of section 40J of chapter 7 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following sentence:- In the case of an agreement to rent property from a public agency where the lessee's interest is held by the organization of unit owners of a leasehold condominium created under chapter one hundred and eighty-three A, and time-shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide arms length transfer of such time-share

made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners.

SECTION 6. Section 35M of chapter 10 of the General Laws, as so appearing, is hereby amended by inserting after the word "board", in line 7, the following words:- for its operations and administration.

SECTION 7. Said section 35M of said chapter 10, as so appearing, is hereby further amended by adding the following sentence:- The board may incur expenses, and the comptroller may certify for payment, amounts in anticipation of expected receipts; provided, however, that no expenditure shall be made from said fund which shall cause said fund to be in deficit at the close of each fiscal year.

SECTION 8. Section 92 of chapter 13 of the General Laws, as so appearing, is hereby amended by inserting after the word "consecutive", in line 27, the following word:- three-year.

SECTION 9. The fourth sentence of clause (cc) of the first paragraph of section 9 of chapter 15A of the General Laws, inserted by section 51 of chapter 151 of the acts of 1996, is hereby amended by striking out the word "HEFA" and inserting in place thereof the words:- the board of higher education.

SECTION 10. Section 18A of chapter 21A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) All receipts shall be deposited in the Safe Drinking Water Act Fund established pursuant to section two P½ of chapter twenty-nine, and used solely for the purposes set forth therein; provided, however, that receipts shall be used solely for administering said 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.

SECTION 11. Section 10 of chapter 22C of the General Laws, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words "for terms not exceeding two years,".

SECTION 12. Said section 10 of said chapter 22C, as so appearing, is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

Except as otherwise provided, no officer appointed under this section shall be denied continued enlistment if he has served satisfactorily for six years or more; provided, however, that as a condition of such continued enlistment he shall undergo a biennial in-service medical and physical fitness examination and shall meet such in-service medical and physical fitness standards as prescribed by rules and regulations by the colonel to ensure that any such officer appointed under this section is physically able to perform the necessary duties and functions necessary to the normal operation of the department of state police. If

any such officer fails to meet such in-service standards, he shall be eligible to undergo a reexamination within sixty days of the date of the in-service medical or physical fitness examination failed. If he fails the reexamination, he shall be eligible to undergo a second reexamination within ninety days of the date of the first reexamination. If he fails to pass the second reexamination, his continued enlistment shall be denied; provided, however, that if the failure to meet such in-service standards is due to a temporary injury, illness or incapacity, such officer shall continue to be employed with duties adapted to such injury, illness or incapacity until such time as such officer shall pass such in-service standards. An officer whose continued enlistment is denied because of his failure to meet such in-service medical or physical fitness standards shall not be presumed by virtue of said denial to be disabled for the purposes of chapter thirty-two.

SECTION 13. Section 22 of said chapter 22C, as so appearing, is hereby amended by striking out, in lines 9 to 11, inclusive, the words "on the anniversary date of such member's initial enlistment and no such member shall be reenlisted until such report has been submitted".

SECTION 14. Section 13C of chapter 23A of the General Laws, as amended by section 123 of chapter 151 of the acts of 1996, is hereby further amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

The advisory commission shall have the following members; one representative of each of the following organizations: the Massachusetts Restaurant Association, the Massachusetts Lodging Association, the Massachusetts Cultural Council and the Massachusetts Historical Commission; one representative of a professional sport franchise located in Massachusetts, two representatives of the Massachusetts Visitor Industry Council; the chairmen of the boards of directors or their designees of the following regional tourism councils: the Berkshire Hills Visitors Bureau, Bristol County Convention and Visitors Bureau, Cape Cod Chamber of Commerce, Franklin County Chamber of Commerce, Plymouth Chamber of Commerce, Greater Boston Convention and Visitors Bureau, Worcester County Convention and Visitors Bureau, Martha's Vineyard Chamber of Commerce, Greater Merrimack Valley Convention and Visitors Bureau, Mohawk Trail Association, North of Boston Convention and Visitors Bureau, Greater Springfield Convention and Visitors Bureau, Plymouth County Development Council, Inc. and Nantucket Island Chamber of Commerce, and the following, who shall not serve as chair: the executive director of the Massachusetts Office of Travel and Tourism, the executive director of the Massachusetts Convention Center Authority or his designee, the executive director of Massport or his designee, the commissioner for the department of environmental management or his designee, and the house chair and senate chair of the joint committee on commerce and labor or their designees.

SECTION 15. Chapter 23B of the General Laws is hereby amended by striking out the title, as appearing in section 124 of chapter 151 of the acts of 1996, and inserting in place thereof the following title:-

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

SECTION 16. Said chapter 23B is hereby amended by striking out section 4, as

appearing in section 126 of said chapter 151, and inserting in place thereof the following section:-

Section 4. There shall be established within the department such bureaus as the director shall from time to time deem necessary. All such bureaus shall be under the direction, control and supervision of the director, who may abolish or merge any such bureaus as he may deem advisable. The director shall prepare and maintain on a current basis a general statement of the organization of the department, of the assignment of functions to its various administrative units, officers and employees, and of the established places at which and the methods whereby the public may receive information or make requests. Such statement shall be known as the department's description of organization. A current copy of the description of organization shall be on file in the offices of the state secretary and in the executive office for administration and finance. Each bureau, subject to appropriation, shall be under the charge of a bureau chief, who shall be a person of skill and experience in the field of his appointment. The position of bureau chief shall not be subject to the provisions of section nine A of chapter thirty or chapter thirty-one, and persons shall be appointed to and may be removed from such position by the director.

SECTION 17. Chapter 29 of the General Laws is hereby amended by inserting after section 2P the following section:-

Section 2P½. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Safe Drinking Water Act Fund. There shall be credited to such fund any amounts collected pursuant to section eighteen A of chapter twenty-one A and any income derived from the investment of amounts credited to such fund. Amounts credited to such fund shall be used, subject to appropriation, for the purposes set forth in said section eighteen A of said chapter twenty-one A, including the payment of personnel fringe benefit costs pursuant to section five D.

SECTION 18. Section 6 of chapter 29C of the General Laws is hereby amended by adding the following paragraph:-

The board shall apply and disburse monies in the fund, or shall otherwise structure the debt service costs on loans made by the trust, to provide a subsidy or other assistance to local governmental units in the payment of debt service costs on such loans equivalent to a grant of twenty-five percent of the eligible costs on the project financed by the loan. Notwithstanding the foregoing, but subject to the limit on contract assistance provided in this section, all permanent loans for which the trust shall execute and deliver loan agreements on and after October first, nineteen hundred and ninety-five shall provide a subsidy or other assistance equivalent to a grant of fifty percent of the eligible costs of the project financed by the loan. To provide for such additional subsidy or assistance, in addition to the contract assistance provided in section six A, the state treasurer acting on behalf of the commonwealth shall enter into an agreement with the trust that the commonwealth shall provide contract assistance for debt service obligations on loans made by the trust up to a maximum amount of eight million dollars per fiscal year of the commonwealth for a period of fiscal years ending no later than June thirtieth, two thousand and twenty-five. Such contract assistance agreement shall provide for payments by the commonwealth to the trust

at such times during each fiscal year and upon such terms and under such conditions as the trust may stipulate. No contract assistance shall be provided to subsidize debt service obligations payable more than twenty years after the first date of amortization of principal of the loan. The trust may pledge such agreements and the rights of the trust to receive amounts thereunder as security for payment of debt obligations issued to the trust.

SECTION 19. The last paragraph of paragraph (h) of subdivision (1) of section 4 of chapter 32 of the General Laws, added by section 2 of chapter 71 of the acts of 1996, is hereby amended by inserting after the words, "makeup payments", in the first sentence the following words:- , for each year of creditable service sought,.

SECTION 20. Subdivision (1) of section 12 of chapter 32 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following paragraph:-

For any member who is married, an election shall not be valid unless 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. The retirement board shall provide the member and spouse with detailed information regarding the benefit option selected in order for the member and spouse to make an informed decision regarding said option. If any member who is married files an election which is not so accompanied the 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 it is accompanied by the signature of the member's spouse. Such election made prior to the spousal notification may be changed in accordance with the spouse's understanding of the retirement allowance selected or at any later time otherwise permitted under this chapter. Nothing in this paragraph shall be deemed to affect the effective date of any retirement allowance.

SECTION 21. Section 2 of chapter 40F of the General Laws is hereby amended by striking out the second paragraph, as appearing in section 193 of chapter 151 of the acts of 1996, and inserting in place thereof the following paragraph:-

The CDFC is hereby placed in the department of housing and community development but shall not be subject to the supervision and control of any executive office, department, division, commission, board, bureau or agency except to the extent and in the manner provided by law.

SECTION 22. The third paragraph of said section 2 of said chapter 40F is hereby amended by striking out the first sentence, as appearing in section 194 of said chapter 151, and inserting in place thereof the following sentence:- The corporation shall consist of nine directors, one of whom shall be the director of housing and community development, one of whom shall be the director of economic development, and one of whom shall be the secretary of administration, or his designee.

SECTION 23. Subsection (a) of section 3 of chapter 40H of the General Laws is hereby amended by striking out the second paragraph, as appearing in section 195 of said chapter 151, and inserting in place thereof the following paragraph:-

The corporation is hereby placed in the department of housing and community development but shall not be subject to the supervision or control of any executive office,

department, division, commission, board, bureau or agency except to the extent and in the manner provided by law.

SECTION 24. Section 2 of chapter 70 of the General Laws is hereby amended by striking out the definition of "Municipal revenue growth factor", as appearing in section 219 of said chapter 151, and inserting in place thereof the following definition:-

"Municipal revenue growth factor", the change in local general revenues calculated by subtracting one from the quotient calculated by dividing the sum of (1) the maximum levy 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 adjustments over the last three available years as certified by the department of revenue or as otherwise estimated by the division of local services of the department of revenue where it appears that a municipality may not be entitled to increase its minimum levy limit by two and one-half percent; provided, however, that if the highest percentage during such 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 such calculation; (2) the amount of general revenue sharing aid for the fiscal year; and (3) other budgeted recurring receipts not including user fees or other charges determined by said division of local services 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 such division of municipal services to be associated with the provision of specific municipal services budgeted by the municipality for the fiscal year preceding the prior fiscal year, if any; 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; 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; provided, further, that such 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; and, provided, further, that in making any of the calculations required by this definition, said division of local services may substitute more current information or such other information as would produce a more accurate estimate of the change in a municipality's general local revenues and the department shall use such growth factor to calculate preliminary contribution, minimum contribution and any other factor that directly or indirectly uses the municipal growth factor.

SECTION 25. Section 8 of chapter 90B of the General Laws is hereby amended by striking out the words ", and such failure or refusal shall be admissible in any action by the registrar under this section or in any proceedings provided for in section twenty-four N of chapter ninety", inserted by section 239 of said chapter 151.

SECTION 26. Said section 8 of said chapter 90B is hereby amended by inserting after the word "admissible", in line 293, as appearing in the 1994 Official Edition, the following words:- , and such failure or refusal shall be admissible in any action by the registrar under this section or in any proceedings provided for in section twenty-four N of chapter ninety.

SECTION 27. Section 3A of chapter 100 of the General Laws is hereby amended by striking out, in lines 21 to 28, inclusive, as so appearing, the words "provided, however, that an auctioneer licensed by the commonwealth prior to the effective date of this act shall conform to all pertinent provisions of this chapter to retain his license within two years of the effective date of this act, provided, further, that if said auctioneer does not conform to said pertinent provisions of this chapter, said license shall be revoked and said individual shall not engage in the business of or act as an auctioneer in the commonwealth, directly or indirectly, either temporarily or as an incident to any other transaction".

SECTION 28. The second sentence of the second paragraph of section 7 of chapter 118G of the General Laws, as appearing in section 275 of chapter 151 of the acts of 1996, is hereby amended by striking out the word "three" and inserting in place thereof the following word:- four.

SECTION 29. Said section 7 of said chapter 118G of the General Laws, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The provisions of this section shall not apply to acute or non-acute hospitals; provided, however, that the provisions of this section shall apply to acute and non-acute hospitals for services under the workers' compensation act.

SECTION 30. Section 8 of said chapter 118G, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Any provider of health care services that receives reimbursement or payment for treatment of injured workers under chapter one hundred fifty-two and any provider of health care services other than an acute or non-acute hospital that receives reimbursement or payment from any governmental unit for general health supplies, care and rehabilitative services and accommodations, shall, as a condition of such reimbursement or payment: (1) permit the division, or any designated representative thereof, the attorney general or his designee, to examine such books and accounts as may reasonably be required for it to perform its duties; (2) file with the division from time to time or on request, such data, statistics, schedules, or other information as it may reasonably require, including outcome data and such information regarding the costs, if any, of such provider for research in the basic biomedical or health delivery areas or for the training of health care personnel which are included in its charges to the public for health care services, supplies and accommodations; and (3) accept reimbursement or payment at the rates established by the division, subject to a right of appeal under section nine, as discharging in full any and all obligations of an eligible person and the governmental unit to pay, reimburse or compensate the provider of health care services in any way for general health supplies, care, and rehabilitative services or accommodations provided.

SECTION 31. Section 10 of said chapter 118G, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

All purchasers and third party payers, excluding purchasers and payers under the workers' compensation act, except as provided in chapter one hundred fifty-two, may enter into contractual arrangements with acute and non-acute hospitals for services. No such arrangement, including but not limited to prices or charges which may be charged for non-contracted services or which may be negotiated in individual contracts between such purchasers or third party payers and such acute or non-acute hospitals, shall be subject to prior approval by any public agency; provided, however, that nothing in this section or chapter shall limit the authority of the division to establish rates of payment for all health care services adjudged compensable under chapter one hundred fifty-two, and provided, further, that charges established by an acute or non-acute hospital for health care services rendered shall be uniform for all patients receiving comparable services.

SECTION 32. Section 1 of chapter 121B of the General Laws is hereby amended by striking out the words "division of housing and community development", inserted by section 279 of said chapter 151, and inserting in place thereof the words:- department of housing and community development.

SECTION 33. Chapter 131 of the General Laws is hereby amended by inserting after section 17 the following two sections:-

Section 17A. Any city or town clerk issuing any license under the authority of any provision of this chapter shall, except as otherwise provided by law, charge a municipal processing fee of one dollar, and where applicable retain such fee; provided, however, that such fee shall be in addition to the fee provided under section seventeen of this chapter. Any other person duly authorized by the director to issue licenses at their place of business, provided such persons are duly bonded, may charge a service fee of up to one dollar and fifty cents for the sale of each such license. No person issuing any license under the authority of this chapter shall make a charge for the issuance thereof nor charge any service charge if no fee is required to be paid for the issuance of a license. The director is authorized to enter into agreements for the sale of licenses through other means that shall be subject to a service charge which shall be determined annually by the secretary of administration and finance under the provisions of section three B of chapter seven. The director shall cause to be printed and otherwise published upon its licenses and within its publications a notice of the fees charged pursuant to this section and section seventeen.

Section 17B. Notwithstanding the provisions of any general or special law, or rule or regulation to the contrary, no city or town clerk shall be required to sell the licenses established under this chapter. Each city or town clerk shall, on or after July first of each year, give annual notice of an intention not to sell said licenses to the director on a form prescribed by the director. Said notice not to sell licenses shall only be effective if received by the director by July thirty-first each year; provided, however, that the failure of a city or town clerk to so notify the director of an intention not to sell shall be construed as an intention to sell said licenses during the next calendar year. Where said notice not to sell licenses is received in a timely manner, the director shall not forward for sale in the next year

any licenses to the sender of such notice.

SECTION 34. The second paragraph of section 51 of chapter 132 of the General Laws, as appearing in section 292 of chapter 151 of the acts of 1996, is hereby amended by striking out the second and third sentences and inserting in place thereof the following new sentences:- Said board shall consist of not more than eighteen members, including the president of Mount Wachusett community college, the chief forester of the department of environmental management, the chief forester of the metropolitan district commission, the extension forester at the university of Massachusetts; the forest industry specialist at the Massachusetts office of business development, and the forest products and processing specialist of the Northeastern division of the division of state and private forestry of the United States Forest Service. The president of Mount Wachusett Community College shall appoint three additional members, one from each of the following organizations: the Massachusetts Wood Products Manufacturers Association, the Massachusetts Wood Producers Association, and the Massachusetts Timber Harvesters Association, and may appoint one additional member at his discretion.

SECTION 35. The fourth paragraph of section 23 of chapter 138 of the General Laws, as amended by section 294 of chapter 151 of the acts of 1996, is hereby further amended by striking out the words "as stipulated by the alcoholic beverages control commission not to exceed two thousand dollars" and inserting in place thereof the following words:- which shall be promulgated by the alcoholic beverages control commission.

SECTION 36. Section 13 of chapter 152 of the General Laws, as amended by section 12 of chapter 120 of the acts of 1995, is hereby further amended by striking out subsection (1) and inserting in place thereof the following subsection:-

(1) The rate of payment by insurers for health care services adjudged compensable under this chapter shall be established by the division of health care finance and policy under the provisions of chapter one hundred and eighteen G; provided, however, that a different rate for services may be agreed upon by the insurer, the employer and the health care service provider.

Except as provided above, no insurer shall be liable for hospitalization expenses adjudged compensable under this chapter at a rate in excess of the rate set by the said division, or for other health services in excess of the rate established for that service by the said division, regardless of the setting in which the service is administered; provided, however, that the amount required to be reimbursed by insurers to hospitals for outpatient physical, occupational and speech therapy services only (codes 178010 through 178013, 178050 through 178053, and 178090 through 178093, inclusive) shall be the higher of:

(a) the amount required by the said division to be reimbursed by insurers to non-hospitals for the above-mentioned outpatient physical, occupational and speech therapy services; and

(b) either the amount which can be derived from the ratio of total costs to total charges calculated for the hospital requesting reimbursements, in accordance with methods utilized by the said division to determine payment on account factors for hospitals subject to chapter one hundred and eighteen G, or ninety-five percent of the rates payable to such

hospital for such services on May fifteenth, nineteen hundred and ninety-five, whichever is the lower amount.

Requests for reimbursement for health services under this chapter shall be signed by the person performing such service and shall be accompanied by a detailed description of the service rendered as well as the name and licensure number of the person performing such service. All health services provided under this chapter shall be subject to the provisions of section three of chapter one hundred and seventy-five H and 42 CFR 1001.951-1001.953, the so-called "safe harbor regulations" as adopted by the federal government on July twenty-ninth, nineteen hundred and ninety-one. No employee shall be liable for health care services adjudged compensable under this chapter.

Except with respect to rates to be paid for health care services, as defined in said chapter one hundred and eighteen G, which shall be reviewable under said chapter one hundred and eighteen G, the commissioner shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner shall consult with insurers, associations and organizations representing the medical and other providers of treatment services, and other appropriate groups. The charges for such health services shall be reasonable.

SECTION 37. Section 234 of chapter 160 of the General Laws is hereby amended by adding the following paragraph:-

For the purposes of this section, the words "tourist railroad" shall include any person, railroad, corporation or other entity engaged in "tourist rail operations". The words "tourist rail operations" shall include all services and activities by a tourist railroad in connection with the transportation of passengers for purposes of tourism or excursions, including, but not limited to, the operation of trains, trackage, and equipment, or the use or maintenance of railroad equipment, tracks, and any pertinent facilities, including equipment, tracks, or facilities of a rail facility provider. The words "rail facility provider" shall include any person, railroad, corporation, or other entity providing rail facilities for use by a tourist railroad for purposes of tourist rail operations.

Agreements between a tourist railroad and a rail facility provider for the conduct of tourist rail operations shall provide that the tourist railroad shall secure and maintain a comprehensive general liability insurance policy covering the liability of the tourist railroad and the rail facility providing for any and all property damage, personal injury, bodily injury, and death arising out of any cause whatsoever, regardless of degree of fault, in the performance of such tourist operations. Such insurance policy shall include coverage for employees subject to the provisions of the Federal Employers Liability Act, 45 USC Sec. 51 et seq. Such policy shall name the tourist railroad and the rail facility provider as named insureds shall have policy limits of not less than three million dollars per occurrence and three million dollars in the aggregate and may be subject to a reasonable self-insured retention. In no event shall the tourist railroad or the rail facility provider be liable in excess of the coverage limits of such insurance policy for any and all claims whether compensatory or punitive for property damage, personal injury, bodily injury, or death arising out of such tourist rail operations.

SECTION 38. Section 163 of chapter 175 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "succeeding", in line 38, the following words:- three year.

SECTION 39. Section 8 of chapter 200A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) The treasurer shall cause a notice to be published, not later than March first or, in the case of life insurance companies, September first of the same year following the report, at least once a week for two consecutive weeks in a newspaper of general circulation which is printed in English in each county in which an apparent owner had a last known address.

SECTION 40. Paragraph (b) of said section 8 of said chapter 200A, as so appearing, is hereby amended by striking out, in line 16, the words "and the last known addresses, if any,".

SECTION 41. Section 12 of chapter 211D of the General Laws, as amended by section 475 of chapter 151 of the acts of 1996, is hereby further amended by inserting after the fourth sentence the following sentence:- The amount of payment for invoices received by the chief counsel more than thirty days after the final disposition of the case or more than thirty days after the end of the fiscal year shall be reduced by five percent.

NO SECTION 42.

SECTION 43. The first paragraph of section 3 of chapter 708 of the acts of 1966 is hereby amended by striking out the first sentence, as amended by section 502 of chapter 151 of the acts of 1996, and inserting in place thereof the following sentence:- There is hereby created and placed in the department of housing and community development a body politic and corporate to be known as the Massachusetts Housing Finance Agency, which shall not be subject to the supervision or control of any executive office, department, division, commission, board, bureau or agency except to the extent and in the manner provided by law.

SECTION 44. The second paragraph of said section 3 of said chapter 708 is hereby further amended by striking out the words "deputy director of housing and community development", inserted by section 503 of chapter 151 of the acts of 1996, and inserting in place thereof the following words:- director of housing and community development.

SECTION 45. The first sentence of the first paragraph of section 3 of chapter 846 of the acts of 1974 is hereby amended by striking out the first sentence, as amended by section 504 of said chapter 151, and inserting in place thereof the following sentence:- There is hereby created in the department of housing and community development a body politic and corporate to be known as the Massachusetts Home Mortgage Finance Agency, which shall not be subject to the supervision or control of the department of housing and community development or of any department, division, commission, board, bureau or agency of the commonwealth except to the extent and in the manner provided in this act.

SECTION 46. The second paragraph of section 2 of chapter 212 of the acts of 1975

is hereby further amended by striking out, in the first and third sentences, the words "deputy director of housing and community development", as amended by section 505 of chapter 151 of the acts of 1996, and inserting in place thereof the following words:- director of housing and community development.

SECTION 47. Paragraph (a) of the second paragraph of section 35 of chapter 405 of the acts of 1985 is hereby amended by striking out the third sentence, as amended by section 506 of said chapter 151, and inserting in place thereof the following sentence:- The MHPFB is hereby placed in the department of housing and community development but shall not be subject to the supervision or control of any executive office, department, division, commission, board, bureau or agency of the commonwealth except to the extent and in the manner provided by law.

SECTION 48. The second sentence of the first paragraph of section 2 of chapter 405 of the acts of 1987 is hereby amended by striking out, the words "deputy director of housing and community development", inserted by section 507 of chapter 151 of the acts of 1996, and inserting in place thereof the following words:- director of housing and community development.

SECTION 49. Chapter 153 of the acts of 1992 is hereby amended by striking out section 58 and inserting in place thereof the following section:-

Section 58. Notwithstanding the provisions of section three B of chapter seven of the General Laws, the secretary of administration and finance shall establish the fee charged on licenses issued for a period of three years, other than licenses limited to life or accident and health insurance, pursuant to section one hundred sixty-three of chapter one hundred and seventy-five at two hundred and twenty-five dollars. Fees for licenses which are issued for greater or lesser periods of years shall be calculated at the rate of seventy-five dollars for each year of the duration of the license. The secretary shall authorize and assist the division of insurance to establish a procedure whereby a company may be issued a single notice for collection of all fees due for all licenses and renewals issued under said section one hundred sixty-three on an annual basis, but in no case shall any current or future fee collection procedure require agent licensing or relicensing on an annual basis.

SECTION 50. Section 9 of chapter 300 of the acts of 1992 is hereby amended by striking out the words "and ninety-six", inserted by section 16 of chapter 4 of the acts of 1995, and inserting in place thereof the following words:- two thousand.

SECTION 51. Item 0321-1510 of section 2 of chapter 38 of the acts of 1995 is hereby amended by striking out the word "only" and inserting in place thereof the following words:- and prior year's bills.

SECTION 52. Said item 0321-1510 of said section 2 of said chapter 38 is hereby further amended by inserting after the words "to item 0321-1512" the following words:- and to item 0321-1520.

SECTION 53. Item 0321-1512 of said section 2 of said chapter 38 is hereby amended by striking out the word "only" and inserting in place thereof the following words:- and prior year's bills.

SECTION 54. Said item 0321-1512 of said section 2 of said chapter 38 is hereby

further amended by inserting after the words "to item 0321-1510" the following words:- and to item 0321-1520.

SECTION 55. Item 0321-1520 of said section 2 of said chapter 38 is hereby amended by striking out the word "only" and inserting in place thereof the following words:- and prior year bills; provided, further, that the chief counsel may transfer funds to item 0321-1510 and 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.

SECTION 56. Item 0699-0015 of said section 2 of said chapter 38 is hereby amended by striking out the words "Highway Fund .... 25.01%" and inserting in place thereof the following words:- Infrastructure Fund .... 25.01%.

SECTION 57. Said section 2 of said chapter 38 is hereby further amended by inserting after item 2340-9701 the following item:-

2350-0106 For the purposes of a federally funded grant entitled, Fisheries Enforcement Support Services $200,000

General Federal Grants Fund 100.0%

SECTION 58. Item 6010-0001 of said section 2 of said chapter 38 is hereby amended by striking out the figure "56,633,345" and inserting in place thereof the following figure:- 56,373,071.

SECTION 59. Item 6010-1009 of said section 2 of said chapter 38 is hereby amended by striking out the figure "527,000" and inserting in place thereof the following figure:- 787,274.

SECTION 60. The fourth paragraph of section 347 of said chapter 38 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- On or before December thirty-first, nineteen hundred and ninety-six, the commission shall issue a final report containing findings and recommendations regarding regionalization, joint or cooperative agreements, and improved coordination of local government services in the Greater Boston area.

SECTION 61. Item 4000-0823 of section 2A of chapter 120 of the acts of 1995 is hereby amended by adding the following words:- ; provided further, that not more than three hundred thousand dollars shall be paid to any nursing home transferred to a new owner in nineteen hundred and ninety-two consistent with the provisions of section sixty-eight of chapter one hundred and twenty-six; and provided further, that the division is authorized and directed to make said payment in the absence of federal financial participation.

SECTION 62. Section 82 of said chapter 120 is hereby amended by striking out the last sentence.

SECTION 63. Section 86 of said chapter 120 is hereby amended by striking out the last two sentences and inserting in place thereof the following three sentences:- Said special commission is hereby authorized to grant from the amount appropriated for its use a sum not to exceed five thousand dollars to the Plymouth Memorial Hall task force, said grant will be for the preparation of a master plan for the rehabilitation of Memorial Hall in the town of Plymouth. Said commission shall file a report with the clerks of the senate and house of representatives, including its recommendations, any proposed legislation, and an accounting

of all funds received and expended, not later than the last Wednesday in December, nineteen hundred and ninety-seven. Said commission shall terminate upon filing the above mentioned report.

SECTION 64. Item 1599-3771 of section 2 of chapter 269 of the acts of 1995 is hereby amended by adding the following words:- ; and provided further, that this appropriation shall expire on June thirtieth, nineteen hundred and ninety-eight.

SECTION 65. Item 0332-7600 of section 2 of chapter 151 of the acts of 1996 is hereby amended by adding the following words:- ; provided further, that two additional procedure clerk I positions shall be appointed and funded from this item during fiscal year nineteen hundred and ninety-seven.

SECTION 66. Item 0332-8000 of section 2 of said chapter 151 is hereby amended by striking out the word "domestic" and inserting in place thereof the following word:- substance.

SECTION 67. Item 0411-1000 of said section 2 of said chapter 151 is hereby amended by adding the following words:- provided, however, that fifty thousand dollars shall be provided to the Advisory Council on Alzheimer's Disease, established pursuant to section one hundred fifty-one of this act, so-called, for the purpose of advising the commonwealth's secretariats, departments, agencies and institutions of the commonwealth on matters of policy, programs, services and information affecting residents of the commonwealth with demential related illness; provided, further, that said funds shall not be used to develop new programs with continuing expenses; and, provided further, that funding for said purpose shall expire on June thirtieth, nineteen hundred and ninety-eight.

SECTION 68. Said section 2 of said chapter 151 is hereby further amended by striking out item 0810-0338 and inserting in place thereof the following item:-

0810-0338 For the investigation and prosecution of automobile insurance fraud; provided, that notwithstanding section three of chapter three hundred and ninety-nine of the acts of nineteen hundred and ninety-one, the amount assessed pursuant to said section for the cost of this program shall be two hundred and fifty thousand dollars $252,597

SECTION 69. Said section 2 of said chapter 151 is hereby further amended by striking out item 0810-0399 and inserting in place thereof the following item:-

0810-0399 For the investigation and prosecution of workers compensation fraud; provided, that notwithstanding section three of chapter three hundred and ninety-nine of the acts of nineteen hundred and ninety-one, the amount assessed pursuant to said section for the cost of this program shall be two hundred and fifty thousand dollars; 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; 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 $422,072

SECTION 70. Said section 2 of said chapter 151 is hereby further amended by inserting after item 1000-0001 the following item:-

1000-0004 The office of the comptroller is authorized and directed to expend an amount not to exceed twenty thousand dollars from fees collected from vendors who participate in training on statewide financial systems, including but not limited to the Massachusetts management accounting and reporting system; provided, that said office is further authorized and directed to provide such training, offer sessions to vendors who do business with the commonwealth, and establish and charge a reasonable fee for such training $20,000

SECTION 71. Item 1100-1400 of said section 2 of said chapter 151 is hereby amended by adding the following words:- provided further, that Massachusetts corporation for educational telecommunications shall file with the clerks of the senate and house of representatives, no later than November first, nineteen hundred and ninety-six, a comprehensive report outlining steps planned and taken toward the privatization of the agency including but not limited to federal grant funding sources as well as corporate and foundation support.

SECTION 72. Said section 2 of said chapter 151 is hereby amended by inserting after item 1231-1000 the following two items:-

1231-1010 For an additional contribution to the sewer rate relief fund established by section two Z of chapter twenty-nine of the General Laws; provided, that not less than one hundred and fifty thousand dollars shall be expended from this item for a study of water and sewer needs in the towns of Wilbraham and South Hadley and in the city of Chicopee; and, provided further, that not less than three hundred and ten thousand dollars shall be expended for the debt service costs associated with the metro-west water supply tunnel, so-called $8,000,000

Commonwealth Cost Relief Fund 100.0%

1231-1020 For a program of loan guarantees and interest subsidies to assist homeowners in complying with the revised state environmental code for subsurface disposal of sanitary waste, Title V, so called; provided, that said program shall be in addition to the loan established pursuant to item 2200-9959 in section two of chapter eighty-five of the acts of nineteen hundred and ninety-four; provided further, that the department may contract with third parties including, but not limited to, commonwealth-based financial institutions to manage said program; provided further, that the department and said third parties shall take all steps

necessary to minimize said program's administrative costs; provided further that said loan guarantees shall be available on the basis of a sliding scale that relates a homeowner's income and assets to the cost of Title V compliance; provided further, that interest subsidies shall be means-tested and may be for zero interest loans pursuant to income standards developed by the department; provided further, that, the department of revenue shall consult with the department of environmental protection in developing rules, regulation and guidelines for said programs; provided further, that said rules, regulations and guidelines shall be developed not later than October first, nineteen hundred and ninety-six and shall be submitted to the joint committee on natural resources and agriculture and the house and senate committees on ways and means not less than thirty days prior to their promulgation; and provided further, that not more than seventy-five thousand dollars of the amount appropriated herein shall be made available for expenditure by the town of Acton for the development and initial implementation of geographical information system or other data management for local administration of a Title V administration program $13,175,000

SECTION 73. Item 1410-0010 of said section 2 of said chapter 151 is hereby amended by adding the following words:- ; provided further, that twenty-five thousand dollars shall be expended for the department of veterans' services to conduct a study and prepare a plan for the establishment of a state veteran's cemetery in western Massachusetts; provided further, said study and plan shall evaluate issues including, but not limited to, acreage, costs associated with the acquisition of land, construction and operation of said cemetery and shall identify a site for said cemetery including, but not limited to, federal-owned land located at Westover Air Force Base in the city of Chicopee; provided further, said study shall further include mechanisms to receive federal assistance or federal matching grants; provided further, said study and plan shall be reported to the house and senate committees on ways and means on or before October thirty-first, nineteen hundred and ninety-six; and, provided further, that notwithstanding the provisions of this item, any costs associated with completion of said study shall be paid from this item; if necessary prior appropriation continued.

SECTION 74. Said section 2 of said chapter 151 is hereby further amended by striking out item 1599-0093 and inserting in place thereof the following item:-

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 $24,600,000

Local Aid Fund 91.87%

Commonwealth Cost Relief Fund 8.13%

SECTION 75. Item 2100-2030 of said section 2 of said chapter 151 is hereby amended by adding the following words:- ; provided further, that one hundred thousand dollars shall be provided to the town of Groveland for the acquisition of a parcel of land known as Nun's Hill; and provided further, that said funding shall be made available to said town by the department of environmental management in addition to, and not in lieu of, all other such sums provided for the acquisition of said parcel.

SECTION 76. Item 2260-8870 in said section 2 of said chapter 151 is hereby amended by adding the following words:- ; provided further, that the department shall provide two hundred thousand dollars in grant monies to the town of Holliston for data collection and studies necessary to determine the wasteload allocation in the Charles River for the Charles River water pollution control district.

SECTION 77. Item 2310-0200 of section 2 of said chapter 151 is hereby amended by striking out the words:- "and provided further, that not less than one hundred forty-four thousand seven hundred and fifty dollars shall be expended for the costs associated with a management program of aquatic non-native plants in the Charles River Lakes District, including treatment and monitoring".

SECTION 78. Item 2330-0100 of said section 2 of said chapter 151 is hereby amended by adding the following:- provided further, that the division shall arrange for the use by Salem state college of space at the Cat Cove laboratory in the city of Salem and at said Emerson Avenue facility in the city of Gloucester for the establishment of an aquaculture development center pursuant to the provisions of section two hundred and seventy-four of chapter thirty-eight of the acts of nineteen hundred and ninety-five.

SECTION 79. Said section 2 of said chapter 151 is hereby further amended by inserting after item 2440-0045 the following item:-

2440-1000 The metropolitan district commission may expend an amount not to exceed one hundred thousand dollars from revenue generated pursuant to section thirty-four B of chapter ninety-two of the General Laws $100,000

SECTION 80. Item 4000-0800 of said section 2 of said chapter 151 is hereby amended by adding the following words:- "; provided further, that a sum of not less than twelve thousand dollars shall be paid to Darshan Physical Therapy in Williamstown for the purposes of medicaid reimbursements.

SECTION 81. Item 4000-0820 of said section 2 of said chapter 151 is hereby amended by striking out the words "municipal acute care" and inserting in place thereof the word:- certain acute care.

SECTION 82. Item 4406-3000 of said section 2 of said chapter 151 is hereby amended by inserting before the words "the SHADOWS project in Natick" the following words:- the South Middlesex Opportunity Council exclusively for.

SECTION 83. Item 4510-0150 of said section 2 of said chapter 151 is hereby amended by adding after the word "funding" the following words:- ; provided further, that not less than seventy-five thousand dollars be expended for the Berkshire lifespan program.

SECTION 84. Item 4512-0200 of said section 2 of said chapter 151 is hereby

amended by striking out after the words "two million dollars shall be" the words "expended for" and inserting in place thereof the following words:- allocated to expand; and is further amended by striking out after the words "two million dollars" the second time they appear the words "be allocated to expand" and inserting in place thereof the following words:- shall be expended for.

SECTION 85. Item 4540-0900 of said section 2 of said chapter 151 is hereby amended by adding the following words:- provided that not less than fifteen thousand dollars shall be paid for chaplain services at Tewksbury state hospital.

SECTION 86. Item 4580-1000 in said section 2 of said chapter 151 is hereby amended by inserting after the words "nineteen hundred and ninety-one" the following words:- ; provided that an amount not to exceed two hundred fifty thousand dollars shall be made available for the provision of hepatitis B vaccine and vaccination series for state, county, and municipal employees at risk of occupational exposure to infection.

SECTION 87. Item 4800-0016 of said section 2 of said chapter 151 is hereby amended by adding the following words:- ; and provided further, that not less than thirty-five thousand dollars shall be expended by the Framingham office of the department of social services for the metro-west campership program operated by the Ashland youth advisory board in partnership with said department.

SECTION 88. Item 4800-1400 of said section 2 of said chapter 151 is hereby amended by striking out the figure "9,759,080" and inserting in place thereof the following figure:- 9,824,285.

SECTION 89. Item 5046-0000 of said section 2 of said chapter 151 is hereby amended by striking out the words "; and provided further, that of the amount appropriated herein and notwithstanding the provisions of any transfers to this item from item 5047-0001, the department may enter encumber prior to April first, nineteen hundred and ninety-seven an amount not to exceed one hundred twenty-four million five hundred fifty-one thousand seven hundred eighty-six dollars for contracted services paid from the MM subsidiary, so-called; provided further, that on or after said date the department may encumber the greater of forty-one million five hundred seventeen thousand two hundred sixty-two dollars or the unexpended balance in the MM subsidiary of this item as certified in writing by the comptroller to the house and senate committees on ways and means and the secretary of administration and finance".

SECTION 90. Item 6010-0001 of said section 2 of said chapter 151 is hereby amended by striking out the figure "56,047,985" and inserting in place thereof the figure:- 57,790,944.

SECTION 91. Item 6010-0001 in said section 2 of said chapter 151 is hereby amended by adding the following words:- and provided further, that not more than one hundred thousand dollars be expended for the purpose of expanding and repairing the driveway to the Heath Elementary school in the town of Heath.

SECTION 92. Item 6010-1012 of section 2 of said chapter 151 is hereby amended by striking out the figure "1,900,000" and inserting in place thereof the figure:- 1,871,083.

SECTION 93. Said item 6010-1012 of said section 2 of said chapter 151 is hereby

amended by striking out the words "one million nine hundred thousand dollars" and inserting in place thereof the words:- one million eight hundred seventy-one thousand and eighty-three dollars.

SECTION 94. Item 6010-1013 of said section 2 of said chapter 151 is hereby amended by striking out the figure "2,550,000" and inserting in place thereof the figure:- 2,082,957.

SECTION 95. Said item 6010-1013 of said section 2 of said chapter 151 is hereby amended by striking out the words "two million five hundred and fifty thousand dollars" and inserting in place thereof the words:- two million eighty-two thousand nine hundred and fifty-seven dollars.

SECTION 96. Item 6010-1014 of said section 2 of said chapter 151 is hereby amended by striking out the figure "3,000,000" and inserting in place thereof the figure:- 2,702,221.

SECTION 97. Said item 6010-1014 of said section 2 of said chapter 151 is hereby amended by striking out the words "three million dollars" and inserting in place thereof the words:- two million seven hundred two thousand two hundred and twenty-two dollars.

SECTION 98. Item 6010-1015 of said section 2 of said chapter 151 is hereby amended by striking out the figure "2,100,000" and inserting in place thereof the figure:- 1,010,880.

SECTION 99. Said item 6010-1015 of said section 2 of said chapter 151 is hereby amended by striking out the words "two million one hundred thousand dollars" and inserting in place thereof the words:- one million ten thousand eight hundred and eighty dollars.

SECTION 100. Item 6010-1016 of said section 2 of said chapter 151 is hereby amended by striking out the figure "1,420,528" and inserting in place thereof the following figure:- 1,460,387.

SECTION 101. Item 6010-1017 of said section 2 of said chapter 151 is hereby amended by striking out the figure "2,421,618" and inserting in place thereof the following figure:- 2,386,111.

SECTION 102. Item 6010-1018 of said section 2 of said chapter 151 is hereby amended by striking out the figure "2,764,720" and inserting in place thereof the following figure:- 2,900,268.

SECTION 103. Said section 2 of said chapter 151 is hereby amended by striking out items 7002-6628 and 7003-6630.

SECTION 104. Said section 2 of said chapter 151 is hereby further amended by inserting after item 7002-6626 the following two items:

7002-6627 For the purposes of a federally funded grant entitled, Disabled Veterans Outreach Program $2,050,000

7002-6628 For the purposes of a federally funded grant entitled, Local Veterans Employment Representative Program $1,434,285

SECTION 105. Said section 2 of said chapter 151 is hereby amended in item 7002-0101 by striking out the figure "261,054" and inserting in place thereof the following figure:- 281,054.

SECTION 106. Said section 2 of said chapter 151 is hereby amended by inserting after item 7003-0601 the following item:-

7003-0603 For the state matching requirement for the school-to-work connecting activities program established in section five hundred and eighty-seven of this act $500,000

SECTION 107. Said section 2 of said chapter 151 is hereby further amended by striking out in items 7004-0099, 7004-1966, 7004-4314, 7004-9005, 7004-9006, 7004-9024, 7004-9027, 7004-9030, 7004-9315, 7004-9013, 7004-9014, 7004-9019, 7004-9020, 7004-9028, 7004-9051, 7004-9052, 7004-9053, 7004-9054, 7004-3037, 7004-9009, 7004-2030, 7004-2033, 7004-2034, the word "division," where appearing therein, and inserting in place thereof the word "department", and by striking out the words "deputy director", where appearing therein, and inserting in place thereof the word "director".

SECTION 108. Item 7004-0200 in said section 2 of said chapter 151 is hereby amended by inserting after the word "advance" by inserting, in line 8, the following words:- ; provided further, that not less than twenty-five thousand dollars shall be expended from this item for the purposes of a feasibility study of reuse alternatives for the Nessacus Middle School in Dalton.

SECTION 109. Said section 2 of said chapter 151 is hereby further amended by adding after item 7007-0300 the following item:-

7007-0310 For the purposes of a study to be conducted by the Massachusetts office of business development relative to the feasibility of a proposal to convert the commonwealth electric Canon Street power plant, so-called, in the city of New Bedford to an aquarium and related uses; provided, that the expenditure of said amount shall be contingent on the contribution of not less than one hundred thousand dollars from public and private sources toward the cost of said study; provided further, that said office shall consult with the city of New Bedford, the New Bedford chamber of commerce, the greater New Bedford zoo and aquarium corporation and legislators from the Second Bristol District in designing said study; and provided further, that said office shall endeavor, pending receipt of said contributions, to begin said study not later than January first, nineteen hundred and ninety-seven $300,000

SECTION 110. Item 7007-0900 of said section 2 of said chapter 151 is hereby amended by adding the following words:- ; provided further, that not less than two hundred and fifty thousand dollars shall be expended for costs incurred by the Massachusetts Sports Partnership, Inc.

SECTION 111. Said section 2 of said chapter 151 is hereby amended by inserting after item 7007-0900 the following item:-

7007-0910 For a monument grants program; provided, that funds appropriated herein shall be allocated to the Massachusetts cultural council

subject to an allocation plan which shall be filed in advance with the house and senate committees on ways and means; provided further, that funds shall be expended from this item for a veterans memorial in the town of Medfield, subject to a fifty percent match from local or other private sources; provided further, that an amount shall be expended for a memorial to women in government, subject to the collection of fifty percent matching funds; provided further, that an amount shall be expended for a memorial to honor Sojourner Truth, subject to a fifty percent match from local or private sources; provided further, that not less than fifty thousand dollars shall be expended for the commonwealth's contribution to the women's service memorial, so-called; and, provided further, that funds shall be obligated for the construction of a monument in Ashburton Park to honor persons serving the public safety needs of the citizens of the commonwealth, subject to the collection of fifty percent in matching funds $500,000

SECTION 112. Said section 2 of said chapter 151 is hereby further amended by inserting after item 7007-1500 the following new item:-

7007-1807 For grants to an employer of workers displaced by casualty destroying a manufacturing facility or portion thereof employing at least one thousand workers, for the training or retraining of such workers, for reestablishing the jobs affected by such casualty, or for other purposes which will benefit such workers; provided, however, that if any job reestablished after such casualty is eliminated or moved out of state prior to the end of the fifth full year after such grant, then in each year prior to the end of such fifth full year, a pro rata amount, as determined by the director of economic development, shall be repaid to said fund; provided further, that the director of the department of economic development may authorize expenditure for said purposes from the commonwealth economic development fund, established pursuant to section three hundred and one of chapter thirty-eight of the acts of nineteen hundred and ninety-five; and provided further, that an amount not to exceed one million dollars may be expended for an adjustment for unavoidable unemployment insurance costs of any firm whose employees are ineligible to receive unemployment insurance benefits $4,000,000

Commonwealth Economic Development Fund. . . .100.0%

SECTION 113. Item 7010-0005 of said section 2 of said chapter 151 is hereby amended by adding the following words:- ; provided, that not less than seventy-five thousand dollars shall be expended for staff and support services for the education reform

review commission.

SECTION 114. Item 7030-1000 of said section 2 of said chapter 151 is hereby amended by striking out the words "not less than an additional one million dollars shall be made available for family networks pursuant to the provisions of said section fifty-four of said chapter fifteen" and inserting in place thereof the following words:- not less than an additional one million dollars shall be made available for family networks pursuant to the provisions of section eighty-four of chapter seventy-one of the acts of nineteen hundred and ninety-three.

SECTION 115. Item 7035-0002 of said section 2 of said chapter 151 is hereby amended by adding the following words:- ; provided, that two hundred thousand dollars of the amount appropriated herein shall be expended for La Alianza Hispana and for Mujueres Unidas En Accion; provided further, that the department shall file a report detailing the purposes and anticipated outcomes to be derived from the expenditure of said two hundred thousand dollars to the house and senate committees on ways and means not later than February third, nineteen hundred and ninety-seven.

SECTION 116. Item 7061-0011 of said section 2 of said chapter 151 is hereby amended by inserting after the word "Rowe" the following words:- ; provided further, that not less than two hundred and sixteen thousand one hundred and seventy-four dollars shall be expended for Dennis Yarmouth Regional School District; provided further, that not less than one hundred and fifty thousand dollars shall be expended for the town of Heath; provided further, that not less than one hundred and ninety thousand three hundred and fifty-five dollars shall be expended for the town of Mansfield; provided further, that not less than three hundred and fifty thousand shall be expended for the city of Attleboro; provided further, that not less than two hundred and fifty thousand dollars shall be expended for the town of North Attleborough; provided further, that not less than three hundred thousand dollars shall be expended for the town of Weymouth; provided further, that one hundred and twenty-five thousand dollars each shall be expended for the high enrollment growth communities of Foxborough, Hopkinton, Medfield, Milton, Watertown and Wrentham.

SECTION 117. Item 7061-0012 of said section 2 of said chapter 151 is hereby amended by adding the following words:- ; and provided, further, that not more than one hundred thousand dollars shall be expended for the costs of borrowing audiotape textbooks by special needs students whose disabilities include, but are not such as dyslexia or other physical disabilities such as cerebral limited to, blindness, visual impairments, learning disabilities palsy, that limit the use of standard print.

SECTION 118. Item 7100-0200 in said section 2 of said chapter 151 is hereby amended by adding the following words:- provided further, that not more than sixty thousand dollars be expended for a study to be conducted by the gerontology institute at the university of Massachusetts at Boston of the commonwealth's pension system and the impact of not being part of the social security system for state employees; provided further, that said study shall include, but not be limited to, eligibility, benefits and cost of each system, the impact of the windfall elimination and government pension offset provisions, comparative impact on different career patterns and salary levels, and legal issues involved in implement-

ing any recommendations; and, provided further, that said institute shall file the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry such recommendations into effect by filing the same with the clerk of the house of representatives and the joint committee on public service on or before October thirty-first, nineteen hundred and ninety-six.

SECTION 119. Item 8000-0040 of said section 2 of said chapter 151 is hereby amended by striking out the figure "12,660,093" and inserting the following figure:- 13,939,061.

SECTION 120. Item 8314-1200 of said section two of said chapter 151 is hereby amended by adding the following words:- provided, that any amounts made available to this item from fiscal year nineteen hundred and ninety-six appropriations shall be expended for claims approved as of June thirtieth, nineteen hundred and ninety-six and paid in full only to the extent permitted by any such amount so made available.

SECTION 121. Section 234 of said chapter 151 is hereby amended by adding after the word "vehicles" the following word:- notwithstanding the provisions of any general or special law ordinance or regulation to the contrary;.

SECTION 122. Said section 234 of said chapter 151 is hereby further amended by striking out the words "Cape Cod Economic Development Corporation" and inserting in place thereof the following words:- Cape and Islands Economic Development Corporation.

SECTION 123. Section 239 of said chapter 151 is hereby amended by striking out the figure "279" and inserting in place thereof the following figure:- 293.

SECTION 124. Section 567 of said chapter 151 is hereby amended by striking out subsection (w) and inserting in place thereof the following subsection:-

(w) A Regional Chamber Commission comprised of the Franklin Council of Governments Committee or its statutory antecedent and one representative from each municipality appointed by the board of selectmen shall be constituted on or before October first, nineteen hundred and ninety-six, and shall report a recommended structure for the Council of Governments not later than December thirty-first nineteen hundred and ninety-seven. Each member shall have one vote and proceedings shall be conducted pursuant to Roberts Rules of Order. Matters shall be determined by simple majority vote. Within sixty days of the first meeting of the Charter Commission, the Commission may vote to include other individuals or groups as members of the commission. Such proposal may include changes in the executive and representative bodies, changes in the assessment allocation formula, but not the total amount of the assessment, recommendations for further transfer of functions to the commonwealth, and other related operational rules and procedures. Such proposal shall be placed on the town meeting warrants of each town in the Franklin county region not later than June thirtieth, nineteen hundred and ninety-eight. Such proposal shall make provision for the method of determining approval of the charter proposal, but such method of approval must require at least a majority vote of town meeting in a majority of the towns or a majority vote in a county-wide election. Such proposal shall also include provisions for towns to enter or leave participation in the base assessment and shall include a default option to abolish the Council of Governments in the event that such

charter proposal is not approved. Such charter shall take effect not later than July first, nineteen hundred and ninety-eight.

SECTION 125. Said chapter 151 is hereby further amended by striking out section 583 and inserting in place thereof the following:-

Section 583. The department of environmental management and the metropolitan district commission are hereby authorized and directed to investigate and study the cooperative management of Abigail Adams state park, Webb state park, Stodders neck reservation and Wompatuck state park in order to increase efficiency and improve services at said parks. Said agencies shall prepare a report together with findings and recommendations which shall be filed with the joint committee on natural resources and agriculture and with the house and senate committees on ways and means no later than December thirty-first, nineteen hundred and ninety-six.

SECTION 126. Section 634 of said chapter 151 is hereby further amended by striking out paragraph (6) and inserting in place thereof the following paragraph:-

(6) The functions of the executive office of communities and development and the department of community affairs, as the transferor agencies, to the department of housing and community development, as the transferee agency.

SECTION 127. Section six hundred and thirty-nine of said chapter one hundred and fifty-one is hereby repealed.

SECTION 128. Said chapter 151 is hereby amended by striking out section 654 and inserting in place thereof the following section:-

Section 654. The division of medical assistance shall pay to reserve the bed in a nursing facility of any medical assistance recipient who is a nursing facility resident who has been transferred to an inpatient hospital licensed by the department of public health or the department of mental health for up to ten consecutive days and shall pay for temporary absences for recipients in nursing facilities and units for up to a total of fifteen days per calendar year when the recipient is absent from the facility for nonmedical reasons; provided that no nursing facility bed shall be so reserved if the nursing facility resident who is transferred to any such inpatient hospital is not admitted at a medicare hospital level of care as defined by the United States health care finance administration.

SECTION 129. Section 666 of said chapter 151 is hereby amended by striking out the sixth paragraph.

SECTION 130. Section six hundred and seventy-three of said chapter one hundred and fifty-one is hereby repealed.

SECTION 131. Section six hundred and eighty-six of said chapter one hundred and fifty-one is hereby repealed.

SECTION 132. Section 687 of said chapter 151 is hereby amended by striking out the words ", four hundred and fifty-five".

SECTION 133. Section 2 of chapter 154 of the acts of 1996 is hereby amended by striking out the item number "1108-1101" and inserting in place thereof the following number:- 1108-1011.

SECTION 134. Section 2A of said chapter 154 is hereby amended by striking items

1599-3784, 1599-3785, 1599-3786 and inserting in place thereof the following two items:-

1599-7500 For a reserve to meet the cost of fiscal year nineteen hundred and ninety-six salary adjustments authorized by the collective bargaining agreement between the higher education coordinating council and the Massachusetts teachers association/Massachusetts community college council, and to meet the cost of salary adjustments necessary to provide equal salary adjustments to employees employed in "classified" positions which would otherwise be covered by said collective bargaining agreement and to meet the cost of performance-based merit increases for non-unit managers at the community colleges; provided, that not more than eight hundred seventy-eight thousand four hundred sixty-nine dollars shall be expended on the cost of performance-based merit increases for said non-unit managers; and 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-six such amounts as are necessary to meet the cost of said adjustments and benefits where the amounts otherwise available are insufficient for the purpose, in accordance with an allocation plan which shall be filed in advance with the house and senate committees on ways and means $3,459,000

1599-7501 For a reserve to meet the cost of educational needs funding pursuant to the provisions of the collective bargaining agreement between the higher education coordinating council and the Massachusetts teachers association/Massachusetts community college council, and to meet the cost of supplementary educational needs necessary to provide equal supplementary educational needs to employees employed in "classified" positions which would otherwise be covered by said collective bargaining agreement, and to meet the costs of supplementary educational needs of non-unit managers at the community colleges; provided, that not more than nine hundred thousand four hundred thirty dollars shall be expended for the costs of supplementary educational needs for said non-unit managers; 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 years nineteen hundred and ninety-six through nineteen hundred and ninety-eight such amounts as are necessary to meet the cost of said adjustments and benefits where the amounts

otherwise available are insufficient for the purpose, in accordance with an allocation plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that this appropriation shall expire on June thirtieth nineteen hundred and ninety-eight $2,828,222

SECTION 135. Item 1599-3801 of section 2A of said chapter 154 is hereby amended by striking out item number "1599-3801" and inserting in place thereof the following:- 1599-3803.

SECTION 136. Notwithstanding the provisions of any general or special law to the contrary, funds allocated in fiscal year nineteen hundred and ninety-six or a prior fiscal year to allocation account number 9749-1900 as recorded on the Massachusetts management accounting and reporting system, so-called, shall be made available for expenditure in fiscal year nineteen hundred and ninety-seven.

SECTION 137. Notwithstanding the provisions of any general or special law to the contrary, the executive office for administration and finance shall take all steps necessary to release the funds authorized for the purpose specified in section thirty-one of chapter fifteen of the acts of nineteen hundred and ninety-six within thirty days of the effective date of this act.

SECTION 138. Notwithstanding the provisions of any general or special law to the contrary, the balance of item 9000-1900 of section two of chapter thirty-eight of the acts of nineteen ninety-five which is re-appropriated under the provisions of section two C.I of this act shall be transferred to item 7007-0900 of section two of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six; provided, that the balance so transferred, shall be expended subject to the provisions of said item 7007-0900.

SECTION 139. Notwithstanding the provisions of any general or special law to the contrary, the balance of item 9000-1920 of section two of chapter thirty-eight of the acts of nineteen ninety-five which is re-appropriated under the provisions of section two C.I of this act shall be transferred to item 7007-1000 of section two of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six; provided, that the balance so transferred, shall be expended subject to the provisions of said item 7007-1000.

SECTION 140. Notwithstanding the provisions of any general or special law to the contrary, the balance of item 9000-2100 of section two of chapter thirty-eight of the acts of nineteen ninety-five which is re-appropriated under the provisions of section two C.I of this act shall be transferred to item 7007-1300 of section two of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six; provided, that the balance so transferred, shall be expended subject to the provisions of said item 7007-1300.

SECTION 141. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of item 3022-9108 in section two of chapter thirty-eight of the acts of nineteen hundred and ninety-five shall be carried forward in fiscal year nineteen hundred and ninety-seven and transferred in said fiscal year to item 7004-9108 in section two of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six for the purpose of said item.

SECTION 142. Notwithstanding the provisions any general or special law to the contrary, the unexpended balance of item 9000-1806 in section fifty-nine of chapter one hundred twenty of the acts of nineteen hundred and ninety-five shall be carried forward in fiscal year nineteen hundred and ninety-seven and transferred in said fiscal year to item 7007-2215 of section two of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six for purposes of said item.

SECTION 143. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of item 3000-9315 in section two of chapter thirty-eight of the acts of nineteen hundred and ninety-five shall be carried forward in fiscal year nineteen hundred and ninety-seven and transferred in said fiscal year to item 7004-9315 of section two of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six for purposes of said item.

SECTION 144. The department of public health is hereby authorized and directed to make a study and recommendations concerning the provision of care by hospitals to victims of sexual assault, including but not limited to the following areas:- evidence collection and documentation, recognition of trauma, gynecology, pregnancy, sexually transmitted disease, crisis intervention, follow-up referral and court testimony. The study and recommendations shall be designed to facilitate the training of hospital staff in the provision of care to such victims and shall be made available to any hospital wishing to participate. A report on said study and recommendations shall be filed with the joint committee on health care not later than December thirty-first, nineteen hundred and ninety-seven.

SECTION 145. (*a*) There shall be a committee, to be called the correctional education coordinating committee, consisting of nine members to be appointed by the governor, four of whom shall be representatives of the department of correction, of which one shall be appointed chairman, and of which one shall be a prison educator within the state correctional system. The five remaining members shall include: a representative of the department of employment and training, a representative of the department of education, a member of the parole board, a person who has previously been incarcerated in a state prison and a member of the business or industrial community. Said committee shall convene to create a mandatory educational program for the state prison system in the commonwealth. The members of said committee shall serve without compensation for terms of three years, staggered as to maintain continuity of the committee and shall be appointed within thirty days of the effective date of this section. Any member shall be eligible for reappointment. In the event of a vacancy, the governor shall appoint a person to fill the vacancy term. The governor may remove members for willful misconduct or neglect of duty or inability to perform the powers and responsibilities of the committee.

(*b*) Said committee shall develop a functional literacy program for individuals testing below a selected grade level which shall at least be an eighth grade reading and math level. The program shall include guidelines for implementation and test administration, participation requirements, incentives, sanctions and criteria for satisfactory completion.

For the purposes of this section, the term "functional literacy" shall mean those

educational skills necessary to function independently in society including, but not limited to, reading, writing and comprehension; in English and arithmetic computation.

(*c*) Every person sentenced to a state correctional facility participating in such program after July first, nineteen hundred and ninety-six shall be administered a standardized test of adult education or other standardized tests approved by the department of education to assess the reading and math equivalency level of the individual. Individuals testing below completion of the eighth grade level or a higher level established by said committee shall be required to participate in the functional literacy program for a minimum of ninety days or until such time as the committee deems sufficient for satisfactory completion. The results of such test shall be included in the individual's educational record. Such educational record shall be kept at the correctional facility housing the individual and shall contain a record of participation or refusal to participate in all programs under the provisions of this section at any facility.

(*d*) The committee shall choose two state correctional facilities in which to conduct pilot mandatory functional literacy programs, one of which shall be a women's correctional facility.

(*e*) Upon full implementation of the program, an individual who has been incarcerated in a state correctional facility for more than thirty days shall be offered the opportunity to take the test and participate in the functional literacy program. The result of the individual's participation shall be included in his educational record and applied toward completion of the program as provided in subsection (*c*).

(*f*) The superintendent in charge of the correctional facility shall submit the individual's educational record to the parole board pursuant to section one hundred and thirty-five of chapter one hundred and twenty-seven of the General Laws for use in considering the individual's eligibility for parole.

(*g*) The cost of this program shall be met from appropriated funds and the general fund at each facility at the discretion of the superintendent.

(*h*) Upon completion of one full year of implementation of such pilot programs a full progress report shall be filed with the clerks of the house of representatives and the senate and the joint committee on public safety and the correctional education coordinating committee shall make recommendations as to the expansion of the program to all state correctional facilities.

(*i*) The committee shall continue to provide annual reporting to the legislature which shall include, but not be limited to, results from testing done of inmates before entering the program and after completion of the program, as well as recidivism rates and the employment status for individuals who have completed such program and any other information which the committee may deem to be relevant to providing evidence to the effects of such program.

SECTION 146. (*a*) As used in this section, the following words shall have the following meanings:-

"Firefighter" shall mean Assistant Fire Chief Thomas A. Sweeney, Fire Lieutenant Edward M. Bagley, Fire Lieutenant Raymond McNamara, Fire Lieutenant Edward J. Daley,

Firefighter James Dangelo, Jr., Firefighter Kevin M. Hough, Firefighter Robert O. Moyer, Firefighter Richard J. O'Neill, Firefighter Kenneth Nielson, Firefighter Joseph P. Olivo and Firefighter Samuel D. Rizza, Jr., of the city of Newton fire department.

"Surviving spouse" shall mean the legal spouse who is surviving at the time of a death of a firefighter, and with whom the firefighter was living at the time of death, or who had been living apart from the firefighter for justifiable cause other than desertion or moral turpitude on the part of the spouse. Former spouses shall not be included in the definition of "surviving spouse" and shall have no claim on any benefits provided under this section.

"Unmarried children" shall mean the natural or adopted children of a firefighter who are not married and are under age eighteen or who are over age eighteen and physically or mentally incapacitated from earning on the date of death of such firefighter or who are over age eighteen and under age twenty-one and full-time students at an accredited educational institution.

(*b*) The commonwealth shall forthwith disburse the sum authorized in item 1599-8888 of section two A and section two CI of this act for the purposes of a loan to the city of Newton to be used to defray a portion of the costs of the explosion of molten sodium at the H.C. Starck Inc. plant in the city of Newton. These costs include, but are not limited to, payment of medical expenses pursuant to section one hundred of chapter forty-one of the General Laws; payment of medical expenses that may be incurred after the effective date of this act as a result of said explosion; payment of wages pursuant to section one hundred and eleven F of chapter forty-one of the General Laws; payment of overtime and replacement costs for said firefighters; and increases in unfunded pension liabilities due to unanticipated accidental disability retirement as provided in chapter thirty-two of the General Laws. The city of Newton shall be free to allocate the funds disbursed pursuant to this section in its discretion to defray whichever costs it deems appropriate.

(*c*) Effective upon receipt by the city of Newton of the sum referred to in item 1599-8888 of section two A and paragraph I of section two C of this act and contingent thereupon and notwithstanding the provisions of any general or special law to the contrary:

(1) The firefighters, who as a result of the explosion of molten sodium at the H.C. Starck Inc. plant in the city of Newton are totally and permanently disabled for further services as firefighters, are hereby retired.

(2) The annual amount of retirement allowance payable to Fire Lieutenant Edward M. Bagley and Raymond McNamara under this section shall be fixed in an amount equal to the regular compensation which would have been paid to them respectively had they continued in service as a fire lieutenant in said city of Newton at the grade held by them at the time of their retirement; provided, however, that no salary increases for the grade held by them at the time of their retirement which accrue after they have attained the maximum age for their group shall be added to their retirement allowance; and provided further, that the retirement allowances payable to them after they have attained the maximum age for their group shall be increased in the manner provided to all city of Newton retirees pursuant to any provision of chapter thirty-two of the General Laws.

(3) The annual amount of retirement allowance payable to the remainder of the fire-

fighters named in subsection (*a*), other than Lieutenants Bagley and McNamara, shall be fixed in an amount equal to seventy-two percent of the regular compensation which the firefighters would have received had they continued in service as firefighters in the Newton fire department at the grade held by them at the time of their retirement; provided, however, that no salary increases for the grade held by them at the time of their retirement which accrue after they have attained the maximum age for their group shall be added to their retirement allowance; and provided further, that the retirement allowances payable to them after they have attained the maximum age for their group shall be increased in the manner provided to all city of Newton retirees pursuant to any provision of chapter thirty-two of the General Laws.

(4) Upon such retirement, the retirement board of the city of Newton shall pay to each of the firefighters a yearly amount of annuity as calculated pursuant to option (b) as defined in clause (*i*) of subdivision (2) of section twelve of chapter thirty-two of the General Laws.

(5) Upon the death of a firefighter, the surviving spouse shall be entitled to a return of accumulated total deductions credited to such firefighter's account according to the provisions of option (b) as defined in clause (*i*) of subdivision (2) of section twelve of chapter thirty-two of the General Laws, or to his surviving beneficiary or beneficiaries entitled thereto.

(6) Upon the death of a firefighter, the retirement board of the city of Newton shall pay to the surviving spouse, if any, an allowance equal to that being paid to her husband, at the time of his death. The allowance paid to the surviving spouse shall not be eligible for any increases to which the firefighter would have been eligible pursuant to clause (2) or (3), but shall be eligible for all other increases provided to all city of Newton retirees pursuant to any provision of chapter thirty-two of the General Laws. Payment of said allowance shall be terminated upon the death, but not the remarriage, of the surviving spouse. The benefits, if any, available to a person who does not qualify as a "surviving spouse" as defined in this section, shall be determined according to the provisions of chapter thirty-two of the General Laws.

(7) If at any time there is no surviving spouse eligible to receive the retirement allowance provided in clause (4), such allowance shall be paid to the legal guardian for the benefit of any surviving unmarried children as defined in this section. Such allowance shall be divided for the benefit of such children in such manner as the retirement board of the city of Newton shall from time to time determine, and shall be paid so long as any such child survives, remains unmarried and is under age eighteen or, if over said age, remains physically or mentally incapacitated from earning.

(8) Upon the death of a firefighter, if there are any surviving unmarried children of such firefighter, the retirement board of the city of Newton shall pay an additional pension at the rate of four hundred and fifty dollars annually for each such child to the child's natural or legal guardian so long as each child survives and remains an "unmarried child" as defined in this section.

(9) Following the retirement of the firefighters, the city of Newton shall pay for

necessary and reasonable medical expenses for the firefighters due to injuries sustained as a result of said explosion in the following manner:

(A) Medical care shall first be provided through the health insurance provided to retired city of Newton employees pursuant to chapter thirty-two B and chapter one hundred and fifty E of the General Laws;

(B) The city of Newton shall pay to the health care providers all co-payments required by the health insurance policy under which the firefighter is insured;

(C) The city of Newton shall pay to the health care providers all deductibles required by the health insurance policy under which the firefighter is insured; and

(D) The city of Newton shall pay to the health care providers the fees and other expenses for authorized services whose costs exceed applicable benefits limits but whose payment is denied solely because of such applicable benefits limit. Any such payments pursuant to this paragraph must meet all other eligibility requirements of said health insurance; provided, however, that no firefighter shall be required to change health care providers as a result of paragraph (A); and provided further that any changes made by a firefighter in health care providers and any referrals from current health care providers to health care providers who have not rendered care to the firefighter for injuries or illnesses caused by such explosion shall comply with the provisions of paragraph (A).

(*d*) Notwithstanding the provisions of any general or special law to the contrary, including, but not limited to, section eight of chapter thirty-two of the General Laws, no firefighter retired pursuant to this section shall be subject to examination or re-examination by a medical panel or other physician to determine his eligibility or continued eligibility for accidental disability retirement benefits as provided in this section or in chapter thirty-two of the General Laws.

(*e*) Effective upon receipt by the city of Newton of the sum appropriated in item 1599-8888 of this act and notwithstanding the provisions of any general or special law to the contrary including, but not limited to, paragraph three of section eight of chapter thirty-two of the General Laws:

(1) No firefighter shall have his retirement allowance subject to modification as a result of earnings from alternative employment; provided, however, that he shall be required to submit earnings reports to the retirement board of the city of Newton pursuant to section ninety-one A of chapter thirty-two of the General Laws; and

(2) The firefighters shall be subject to the limitation of earnings formula as set forth in said section ninety-one A of said chapter thirty-two, with the ability to earn the amount described in said section ninety-one A of said chapter thirty-two plus an additional two thousand five hundred dollars. If a firefighter earns in excess of these allowable amounts, the retirement board of the city of Newton shall inform him of the excess amount earned and the amount owed by him, to the retirement board of the city of Newton. The retirement board shall, in its discretion, require repayment of that amount to the retirement board or may withhold amounts, as it deems appropriate, from future retirement allowance payments until the amounts owed to the retirement board have been paid in full.

(*f*) The retirement allowances payable pursuant to this section shall remain subject

to all other provisions of chapter thirty-two of the General Laws as if they had been granted as accidential disability retirements in the normal course of events pursuant to said chapter, except to the extent that the provisions of chapter thirty-two of the General Laws conflict with the provisions of this section.

(g) The city of Newton shall repay to the commonwealth the amount disbursed under item 1599-8888 of section two A and section two CI of this act within ten years or upon the recovery of damages equal to or in excess of said amount, exclusive of any amounts required to be paid by the city of Newton as contributions to attorneys' fees or any other deduction from such recovery required by any law or statute, which the city of Newton actually receives from any third party as a result of the civil action captioned *City of Newton v. H.C. Starck, Inc. and Bayer Corporation*, Middlesex Superior Court, C.A. No. 94-2947-D.

SECTION 147. Notwithstanding any general or special law or rule or regulation to the contrary, the joint committee on insurance, in conjunction with the house and senate post audit and oversight committees, is hereby authorized and directed to investigate, study and make a report on the group automobile discount programs, so-called. Such investigation and study shall include, but shall not be limited to, (1) the proliferation of said programs within the commonwealth and (2) the impact of said programs on the rate structure of the Massachusetts automobile insurance market. Said study to be completed on or before December thirty-first, nineteen hundred and ninety-six and to be submitted, with corrective recommended legislation if any, to the clerk of the house of representatives and the clerk of the senate.

SECTION 148. For condominiums in existence prior to December thirty-first, nineteen hundred and ninety-five for purposes of calculating design flows under 310 CMR 15.00 et. seq. and 3.14 CMR 5.00 et. seq. and 6.00 et. seq., each septic system which has been installed shall be considered a separate and distinct facility.

SECTION 149. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer as of June thirtieth, nineteen hundred and ninety-six, into the Collective Bargaining Reserve Fund established by section eighty-two of chapter one hundred twenty of the acts of nineteen hundred and ninety-five the sum of sixty million dollars from the General Fund.

SECTION 150. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to repay the federal government in fiscal year nineteen hundred and ninety-seven for any overpayments made by the federal government to the commonwealth resulting from reductions in the title XX, social services block grant, so-called in federal fiscal year nineteen hundred and ninety-six; provided, that any such repayments shall be charged on the books of the commonwealth to fiscal year nineteen hundred and ninety-six.

SECTION 151. Notwithstanding the provisions of any general or special law to the contrary, in fiscal years nineteen hundred and ninety-seven and nineteen hundred and ninety-eight, there shall be established within the office of the governor an advisory council on Alzheimer's disease and related disorders which shall advise the secretariats, departments, agencies and institutions of the commonwealth on matters of policy, programs, services and

information affecting residents of the commonwealth with a dementia related illness and their caregivers. Said advisory council shall have the following goals: (1) to recommend the delivery of services in the most effective and efficient manner possible, including identifying means of coordination and cooperation among different state agencies and departments in order to achieve cost savings and to facilitate meeting the needs of people with dementia and their caregivers; (2) to identify additional sources of federal and private sector funding with which the commonwealth may provide additional services and programs for people with dementia and their caregivers; (3) to promote public and professional awareness and education relative about dementia and access to dementia services and programs; (4) identify service delivery mechanisms that enhance the quality of life for people with dementia and their caregivers; and (5) to evaluate and coordinate implementation of recommendations made in nineteen hundred and ninety-four by the governor's conference on Alzheimer's disease. Said advisory council shall be subject to appropriation. Said advisory council may contract for professional assistance or services. Said council shall consist of fifteen persons, five to be appointed by the governor, five by the speaker of the house and five by the president of the senate, and shall consist of representatives of state government, consumers, medical research and provider communities and representatives of the Massachusetts chapters on Alzheimer's disease and related disorders association. Said council shall not meet less than quarterly and shall prepare an annual report of its activities and recommendations that shall be filed with the house and senate committees on ways and means and the joint committee on human services and elder affairs.

SECTION 152. Notwithstanding the provisions of any general or special law to the contrary, the department of mental retardation is hereby authorized and directed to expend an amount not to exceed nine thousand dollars for medical expenses incurred in a prior fiscal year by the family of a person whose health care coverage had been terminated.

SECTION 153. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to carry forward into fiscal year nineteen hundred and ninety-seven amounts not to exceed a total of three million dollars scheduled to revert in fiscal year nineteen hundred and ninety-six in items 5011-0100, 5042-1000, 5042-5000, 5046-0000, 5046-2000, 5046-3000, 5046-9999, 5051-0100, 5055-0000, and 5095-0000, as appropriated in section two of chapter thirty-eight of the acts of nineteen hundred and ninety-five, and is further directed to transfer said amounts to item 5046-0000 in section two of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six for the purposes of providing funding for the Metro-Boston deficiency, so-called.

SECTION 154. The department of social services shall file with the secretary of administration and finance and with the house and senate committees on ways and means a cost containment plan for departmental costs associated with area and regional office space rental and energy. Said plan shall include but not be limited to: (1) methods to limit the growth of space rental and energy expenditures; (2) total projected rent and energy expenditures, by office, for fiscal year nineteen hundred and ninety-seven and fiscal year

nineteen hundred and ninety-eight; (3) projected space rental rates and square footage, by office, for fiscal year nineteen hundred and ninety-seven and fiscal year nineteen hundred and ninety-eight; (4) detailed comments describing the need for any relocation, space expansion or rate increases; and (5) an assessment of the impact of co-locating area offices on services and expenditures. Said report shall be issued no later than September first, nineteen hundred and ninety-six.

SECTION 155. Notwithstanding the provisions of any general or special law to the contrary, for state fiscal year nineteen hundred and ninety-seven any specialty hospital, as defined in section one of chapter one hundred and eighteen G of the General Laws, which provides free care, as defined in said section one of said chapter one hundred and eighteen G, shall be exempt from the provisions of section eighteen of said chapter one hundred and eighteen G; provided, that said specialty hospital's gross outpatient service revenue equals at least eighty percent of its gross patient service revenue as of January first, nineteen hundred and ninety-six. For the purposes of this section "gross outpatient service revenue" shall mean gross patient service revenue minus gross inpatient service revenue. The division of health care finance and policy shall determine the amount owed for fiscal year nineteen hundred and ninety-seven by said specialty hospital. Said division is directed to transfer from the compliance liability trust fund as established pursuant to section seventeen of chapter one hundred and eighteen F of the General Laws, into the uncompensated care pool trust fund as established in said section eighteen, an amount equal to the amount owed by said specialty hospital for state fiscal year nineteen hundred and ninety-seven for the purpose of ensuring that other participating hospitals' liability to the uncompensated care pool does not increase due to the aforementioned exemption.

SECTION 156. Notwithstanding the provisions of section two A of chapter fifty-nine of the General Laws or any other general or special law to the contrary the board of assessors of the towns of Monterey, Egremont and Great Barrington may, for the fiscal year beginning July first, nineteen hundred and ninety-six determine the valuation of property destroyed or damaged by the tornado of May twenty-ninth, nineteen hundred and ninety-five, immediately subsequent to the said tornado for the purpose of granting abatements applied under section fifty-nine of said chapter fifty-nine.

SECTION 157. The speaker of the house of representatives and the president of the senate are hereby authorized to engage a research organization to conduct a comprehensive study and analysis of a single payer or other consolidated health care system for the commonwealth. Said study shall include an analysis of total current amounts spent in the commonwealth for health care from all sources, including, federal, state, municipal, employer, individual and other sources, the projected costs and savings of a single payer health care system on business, government, individuals, methods of implementing such a system in the commonwealth, and such other matters related to the study.

SECTION 158. The division of medical assistance is hereby authorized and directed to study the feasibility of requiring Unisys/MassHealth to fully conform with the national council for prescription drug programs standards as described in the national council for prescription drug programs telecommunications specifications version three, release two C,

and subsequent updates, beginning with, but not limited to, the national council for prescription drug programs claim-rejected response format. Such conformity shall also provide that paramax MMIS edit codes and descriptions for the fatal error appear in field five hundred and four. Said study shall be submitted to the house and senate committees on ways and means no later than September thirtieth, nineteen hundred and ninety-six.

SECTION 159. The department of revenue is hereby authorized and directed to investigate and study the investment tax credit, so-called, and its effect on leases. Said study shall include, but not be limited to, whether there is a preference for purchases over leases in the application of the investment tax credit, and whether or not the investment tax credit applies fairly to both leases and purchases. Said department shall file a report of its findings with the joint committee on taxation not later than October thirty-first, nineteen hundred and ninety-six.

SECTION 160. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer, as of June thirtieth, nineteen hundred and ninety-six, fifteen million dollars from the General Fund to the Commonwealth Cost Relief Fund established by section eighty-three of chapter one hundred and twenty of the acts of nineteen hundred and ninety-five.

SECTION 161. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer, as of June thirtieth, nineteen hundred and ninety-six, one hundred and fifty million dollars from the General Fund to the Tax Reduction Fund established by section two I of chapter twenty-nine of the General Laws. Notwithstanding the provisions of said section two I or any other general or special law to the contrary, said one hundred and fifty million dollars is hereby immediately appropriated for the purpose of implementing, and the commissioner of the department of revenue is hereby authorized and directed to implement a temporary increase in the amounts of the personal exemption allowable on the income tax for the taxable year ending December thirty-first, nineteen hundred and ninety-six; provided, however, that said temporary increase shall be structured so that the tax reduction authorized by this section does not exceed, in the aggregate, one hundred and fifty million dollars.

SECTION 162. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts turnpike authority is hereby authorized and directed to institute a reduction in tolls that shall equal in the aggregate twelve million dollars per annum. Said reduction shall be instituted uniformly across the length of the Massachusetts turnpike, including the turnpike extension. Said authority is hereby prohibited from instituting the elimination of tolls at any toll booth or toll exit along said turnpike unless or until such elimination is expressly authorized by law. Said authority shall file a report with the joint committee on transportation and the house and senate committees on ways and means not later than February fifteenth, nineteen hundred and ninety-seven that details the impact of such a reduction in tolls or any proposed elimination of tolls on the finances of the authority, on the commonwealth's highway system, and on the future funding of highway capital projects. Said report shall further evaluate the impact of such a reduction or proposed elimination on the bond rating of the authority and the commonwealth and on the fiduciary

relationship between the authority and its bondholders. Said report shall also detail the effect such a reduction or proposed elimination of tolls would have on tourism and on any collective bargaining agreements that have been or will be entered into by said authority. Said authority is hereby prohibited from instituting a further reduction in tolls beyond the level authorized by this section.

SECTION 163. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of item 9222-0100 in section 2 of chapter 38 of the acts of 1995 shall be carried forward in fiscal year nineteen hundred and ninety-seven and transferred in said fiscal year to item 7006-0020 in section 2 of chapter 151 of the acts of 1996 for the purposes of said item.

SECTION 164. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of item 9230-9000 in section 2 of chapter 38 of the acts of 1995 shall be carried forward in fiscal year nineteen hundred and ninety-seven and transferred in said fiscal year to item 7006-0130 in section 2 of chapter 151 of the acts of 1996 for the purposes of said item.

SECTION 165. Notwithstanding the provisions of any special or general law to the contrary, the unexpended balance of item 9221-1000 in section 2 of chapter 38 of the acts of 1995 shall be carried forward in fiscal year nineteen hundred and ninety-seven and transferred in said fiscal year to item 7006-0010 in section 2 of chapter 151 of the acts of 1996 for the purposes of said item.

SECTION 166. Notwithstanding the provisions of any general or special law to the contrary, the funds appropriated in item 6037-9698 of section two A of this act shall be distributed according to the schedule listed below:

Abington	46,774
Acton	81,843
Acushnet	39,803
Adams	41,030
Agawam	86,223
Alford	10,227
Amesbury	54,113
Amherst	96,307
Andover	169,589
Arlington	107,800
Ashburnham	43,513
Ashby	30,979
Ashfield	38,706
Ashland	44,002
Athol	69,317
Attleboro	167,377
Auburn	77,103
Avon	25,743
Ayer	32,400

Barnstable	265,792
Barre	58,347
Becket	32,680
Bedford	78,742
Belchertown	72,706
Bellingham	59,755
Belmont	71,043
Berkley	29,421
Berlin	25,295
Bernardston	24,907
Beverly	127,733
Billerica	133,209
Blackstone	31,128
Blandford	35,196
Bolton	35,777
Boston	1,852,407
Bourne	77,234
Boxborough	21,309
Boxford	50,922
Boylston	25,508
Braintree	138,373
Brewster	36,935
Bridgewater	79,039
Brimfield	37,537
Brockton	250,463
Brookfield	22,733
Brookline	22,156
Buckland	24,805
Burlington	115,617
Cambridge	337,321
Canton	88,778
Carlisle	30,611
Carver	48,070
Charlemont	24,805
Charlton	76,786
Chatham	43,553
Chelmsford	135,181
Chelsea	66,909
Cheshire	26,590
Chester	32,721
Chesterfield	30,565
Chicopee	158,368

Chilmark	8,821
Clarksburg	9,481
Clinton	43,687
Cohasset	27,812
Colrain	44,842
Concord	89,261
Conway	36,514
Cummington	27,466
Dalton	31,067
Danvers	113,898
Dartmouth	139,121
Dedham	83,742
Deerfield	52,705
Dennis	89,719
Dighton	36,036
Douglas	45,044
Dover	31,936
Dracut	92,019
Dudley	54,017
Dunstable	21,484
Duxbury	60,399
East Bridgewater	29,271
East Brookfield	12,737
East Longmeadow	76,960
Eastham	30,159
Easthampton	61,755
Easton	75,613
Edgartown	28,862
Egremont	21,137
Erving	11,092
Essex	17,947
Everett	76,935
Fairhaven	64,948
Fall River	272,249
Falmouth	151,494
Fitchburg	154,710
Florida	22,257
Foxborough	66,301
Framingham	232,065
Franklin	93,650
Freetown	46,780
Gardner	83,232

Gay Head	4,727
Georgetown	33,273
Gill	23,646
Gloucester	89,200
Goshen	14,853
Gosnold	1,221
Grafton	60,662
Granby	36,777
Granville	36,712
Great Barrington	56,476
Greenfield	89,764
Groton	53,596
Groveland	24,973
Hadley	45,344
Halifax	29,572
Hamilton	31,726
Hampden	32,134
Hancock	13,547
Hanover	56,312
Hanson	36,055
Hardwick	50,209
Harvard	47,250
Harwich	80,333
Hatfield	32,444
Haverhill	181,732
Hawley	24,480
Heath	28,916
Hingham	89,291
Hinsdale	21,222
Holbrook	33,175
Holden	76,987
Holland	20,989
Holliston	58,668
Holyoke	145,689
Hopedale	21,044
Hopkinton	55,151
Hubbardston	46,960
Hudson	72,647
Hull	38,135
Huntington	22,623
Ipswich	54,840
Kingston	48,979

Lakeville	40,793
Lancaster	40,508
Lanesborough	29,790
Lawrence	159,649
Lee	37,912
Leicester	55,746
Lenox	39,432
Leominster	146,146
Leverett	20,034
Lexington	118,801
Leyden	20,008
Lincoln	36,197
Littleton	44,121
Longmeadow	66,177
Lowell	240,792
Ludlow	77,043
Lunenburg	55,735
Lynn	199,740
Lynnfield	46,588
Malden	127,098
Manchester	20,153
Mansfield	70,303
Marblehead	61,466
Marion	18,080
Marlborough	127,374
Marshfield	75,803
Mashpee	74,405
Mattapoisett	28,085
Maynard	37,843
Medfield	53,097
Medford	131,629
Medway	47,134
Melrose	73,275
Mendon	27,779
Merrimac	22,730
Methuen	136,426
Middleborough	103,913
Middlefield	21,133
Middleton	32,098
Milford	93,413
Millbury	51,478
Millis	37,519

Millville	13,178
Milton	79,216
Monroe	9,103
Monson	64,321
Montague	65,927
Monterey	26,181
Montgomery	17,229
Mount Washington	9,709
Nahant	12,271
Nantucket	84,506
Natick	117,568
Needham	116,550
New Ashford	6,082
New Bedford	292,941
New Braintree	27,854
New Marlborough	47,113
New Salem	21,428
Newbury	34,073
Newburyport	63,477
Newton	298,899
Norfolk	43,119
North Adams	54,460
North Andover	100,131
North Attleborough	91,367
North Brookfield	42,812
North Reading	52,084
Northampton	132,617
Northborough	57,974
Northbridge	48,704
Northfield	39,628
Norton	60,721
Norwell	55,928
Norwood	116,887
Oak Bluffs	22,835
Oakham	24,978
Orange	54,555
Orleans	38,917
Otis	24,228
Oxford	63,424
Palmer	68,548
Paxton	24,237
Peabody	119,369

Pelham	13,199
Pembroke	47,965
Pepperell	51,268
Peru	18,545
Petersham	35,074
Phillipston	25,771
Pittsfield	186,239
Plainfield	26,507
Plainville	31,993
Plymouth	163,077
Plympton	20,652
Princeton	45,751
Provincetown	15,778
Quincy	245,021
Randolph	92,724
Raynham	50,678
Reading	72,976
Rehoboth	72,782
Revere	96,185
Richmond	23,165
Rochester	34,997
Rockland	52,764
Rockport	27,084
Rowe	19,899
Rowley	27,927
Royalston	39,086
Russell	14,677
Rutland	40,510
Salem	100,412
Salisbury	27,261
Sandisfield	45,066
Sandwich	70,747
Saugus	80,364
Savoy	27,335
Scituate	72,251
Seekonk	71,641
Sharon	75,375
Sheffield	49,690
Shelburne	30,283
Sherborn	31,222
Shirley	32,008
Shrewsbury	101,323

Shutesbury	18,499
Somerset	66,600
Somerville	143,516
South Hadley	63,153
Southampton	39,938
Southborough	46,397
Southbridge	65,630
Southwick	43,734
Spencer	66,786
Springfield	475,615
Sterling	54,537
Stockbridge	27,223
Stoneham	65,599
Stoughton	98,775
Stow	31,476
Sturbridge	55,388
Sudbury	80,770
Sunderland	24,332
Sutton	56,238
Swampscott	35,293
Swansea	73,127
Taunton	168,721
Templeton	44,770
Tewksbury	111,991
Tisbury	15,589
Tolland	22,054
Topsfield	35,248
Townsend	55,078
Truro	23,042
Tyngsborough	43,085
Tyringham	14,086
Upton	37,259
Uxbridge	59,298
Wakefield	86,193
Wales	14,547
Walpole	89,072
Waltham	216,844
Ware	58,539
Wareham	87,073
Warren	41,157
Warwick	31,283
Washington	23,523

Watertown	97,137
Wayland	65,927
Webster	60,036
Wellesley	113,003
Wellfleet	33,260
Wendell	26,881
Wenham	18,544
West Boylston	36,262
West Bridgewater	43,696
West Brookfield	31,549
West Newbury	26,553
West Springfield	111,306
West Stockbridge	21,281
West Tisbury	9,597
Westborough	93,409
Westfield	150,724
Westford	91,631
Westhampton	25,657
Westminster	54,182
Weston	59,617
Westport	83,357
Westwood	68,577
Weymouth	149,287
Whately	18,593
Whitman	43,150
Wilbraham	64,125
Williamsburg	25,734
Williamstown	41,841
Wilmington	96,190
Winchendon	60,098
Winchester	69,115
Windsor	36,781
Winthrop	40,289
Woburn	154,987
Worcester	576,642
Worthington	32,732
Wrentham	46,182
Yarmouth	114,789

SECTION 167. Section twenty-four of this act shall take effect on July first, nineteen hundred and ninety-seven.

SECTION 168. Sections seventeen and eighteen of this act shall take effect on July first, nineteen hundred and ninety-seven.

SECTION 169. Section thirty-three of this act shall take effect on January first, nineteen hundred and ninety-seven.

Sections disapproved: Sections 8, 14, 19, 68, 69, 113, 121, 122, 125, 128, 147 and 158. Section returned for amendment: Section 162.

The remainder of the bill was approved by the Governor July 30, 1996.

Chapter 205. AN ACT PROVIDING FOR AN ACCELERATED TRANSPORTATION DEVELOPMENT AND IMPROVEMENT PROGRAM FOR THE COMMONWEALTH.

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

Be it enacted, etc., as follows:

SECTION 1. To provide for a program of transportation development and improvements, the sums set forth in sections two to two K, inclusive, for the several purposes and subject to the conditions specified in this act, are hereby made available, subject to the provisions of law regulating the disbursement of public funds and approval thereof.

SECTION 2.

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Department of Highways.

6033-9615 For projects pursuant to the provisions of sections sixty-seven and sixty-eight of this act on the interstate federal aid highway system; provided, that said sum may be expended for the costs of said projects including, but not limited to, the non-participating portions of such projects and the costs of engineering and other services essential to such projects, rendered by department employees or by consultants; provided further, that amounts expended for department employees may include the salary and salary-related expenses of such employees to the extent that they work on or in support of such projects; provided, that such expenses are federally reimbursed; provided further, that the executive office for administration and finance shall file an annual spending plan with the house and senate committees on ways and means and the joint committee on transportation which details, by subsidiary, all personnel costs and administrative costs charged to this item; provided further, that notwithstanding the

provisions of any general or special law to the contrary or any other provision of this act, the department shall not enter into any obligations for projects which are eligible to receive federal funds pursuant to the authority granted under this act unless state matching funds exist which have been specifically authorized and are sufficient to fund the corresponding state portion of the federal commitment to fund such obligation; provided further, that the department shall only enter into obligations for said projects pursuant to the authority granted in this act based upon a prior commitment of federal funds and the availability of corresponding state funding authorized and appropriated for such use by the general court for the class and category of project for which such obligation applies; provided further, that funds authorized herein shall be in addition to the funds authorized by item 6036-9615 of section two of chapter one hundred and thirteen of the acts of nineteen hundred and ninety-six, as amended by section fifty-nine of this act $261,825,000

6033-9616 For projects pursuant to the provisions of sections sixty-seven and sixty-eight of this act for federal aid projects and for non-participating portions of such projects; provided, that sums provided herein may be expended for the costs of said projects including, but not limited to, the costs of engineering and other services essential to such projects rendered by department employees or by consultants; provided further, that amounts expended for department employees may include the salary and salary-related expenses of such employees to the extent that they work on or in support of such projects; provided, that such expenses are federally reimbursed; provided further, that the executive office for administration and finance shall file an annual spending plan with the house and senate committees on ways and means and the joint committee on transportation which details, by subsidiary, all personnel costs and administrative costs charged to this item; provided further, that one million dollars shall be expended for the recruitment, screening, and training of women and minorities for jobs in the construction field; provided further, that notwithstanding the provisions of any general or special law to the contrary or any other provision of this act, the department shall not enter into any obligations for projects which are eligible to receive federal funds pursuant to the authority granted under this act unless state matching funds exist which have been specifically authorized and are sufficient to fund the corresponding state portion of the federal commitment to fund

such obligation; provided further, that the department shall only enter into obligations for said projects pursuant to the authority granted in this act based upon a prior commitment of federal funds and the availability of corresponding state funding authorized and appropriated for such use by the general court for the class and category of project for which such obligation applies; provided further, that funds authorized herein shall be in addition to the funds authorized by item 6036-9616 of section two of chapter one hundred and thirteen of the acts of nineteen hundred and ninety-six, as amended by section sixty of this act $1,169,250,000

SECTION 2A.

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Office of the Secretary.

2000-1961 For coastal environmental improvements and planning in the Buzzards Bay area; provided, that not more than thirty-five thousand dollars shall be expended and made available to the Buzzards Bay action committee in fiscal year nineteen hundred and ninety-seven; provided further, that for the purposes of this item, said committee shall be deemed an entity eligible to receive such funds, notwithstanding the provisions of sections three to seven, inclusive, of chapter twenty-one F of the General Laws; and provided further, that such funds shall be administered by the Buzzards Bay action project through the office of coastal zone management $300,000

2000-1962 For the construction, reconstruction, rehabilitation, expansion, replacement and construction inspection of the berth and a pier facility, including associated parking and amenities, located at the Massachusetts maritime academy at the west end of the Cape Cod canal $6,500,000

Department of Environmental Management.

2100-1961 For a statewide telecommunications feasibility and marketing study of existing fire observation towers owned by the department, including the planning and construction of necessary equipment shelters, marketing and revenue assessments, for the study, planning, design and construction of a consolidated telecommunications facility at the summit of Wachusett Mountain and for the renovation and improvement of existing fire observation towers owned by the department, for public sector and non-public sector users, including the relocation and reconstruction of a fire observation tower; provided, that the de-

partment shall require all public users to contribute to the costs for the operation, maintenance and improvement of such facilities; and, provided further, that all non-public users shall pay the fair market value for such use as established through a public solicitation process $3,500,000

Department of Fisheries, Wildlife, and Environmental Law Enforcement.

2320-8978 For studies, design, construction supervision, construction and reconstruction of boat launching facilities, fishing piers and associated appurtenances in the town of Winthrop $500,000

Metropolitan District Commission.

2400-1961 For the reconstruction of Santilli circle on the Revere beach parkway in the city of Everett and for a study of the future use of a nearby railroad right of way extending through the cities of Everett and Malden $3,000,000

2400-1962 For the planning, design, permitting, and implementation of the Webster Lake sediment control plan $3,650,000

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Department of Highways.

6033-9603 For the design and construction of roads, roadways and other transportation related projects deemed necessary for economic development by the secretary of transportation and construction upon the petition of the appropriate local executive government body and pursuant to section sixty-eight of this act; provided, that funds authorized in this item shall be expended in accordance with the provisions of chapter nineteen of the acts of nineteen hundred and eighty-three; provided further, that all projects funded through this item and in subsection (f) of section three of chapter fifteen of the acts of nineteen hundred and eighty-eight and item 6033-9501 in section two A of chapter two hundred seventy-three of the acts of nineteen hundred and ninety-four shall be in accordance with 701 CMR 5.00 through 701 CMR 5.10; and, provided further, that the secretary of transportation and construction shall notify all cities and towns of the availability of funds through this program and shall inform said municipalities of the application process prior to the expenditure of any funds from this item $20,000,000

6033-9604 For the implementation of sections thirty-one, thirty-two, and thirty-three of this act; provided, that the amounts authorized herein shall be in addition to any amounts previously made available for the same purpose $13,000,000

6033-9617 For the construction of, repair of or improvement to non-federally aided roadway projects and for the non-participating portion of federally-aided projects pursuant to section sixty-eight of this act; provided, that the costs of professional personnel directly and exclusively involved in the construction, planning, engineering 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; provided further, that the executive office for administration and finance shall file an annual spending plan with the house and senate committees on ways and means and the joint committee on transportation which details, by subsidiary, all personnel costs and administrative costs charged to this item; provided further, that the department is hereby authorized and directed to prepare all plans and design necessary for the repair and reconstruction of Williamsburg road, so-called, located in the towns of Ashfield, Conway, and Williamsburg; provided further, that not more than two hundred and fifty thousand dollars shall be expended for two sets of traffic lights on state route 126 in the town of Bellingham; provided further, that five hundred and four thousand dollars shall be expended for repairs and improvements to Main street in the town of Blackstone; provided further, that one million dollars shall be expended for the design and construction of a park to be located on Massachusetts avenue between Shawmut avenue and Tremont street in the city of Boston; provided, however, that the expenditure of said one million dollars shall be contingent upon approval by the department of highways of the construction of associated roadway improvements and further legislative approval; provided further, that not more than seventy-five thousand dollars shall be expended for the installation of a pedestrian crossing/traffic light at the intersection of Lincoln street and Dorchester avenue in the Dorchester section of the city of Boston; provided further, that not more than seventy-five thousand dollars shall be expended for the installation of a pedestrian crossing/traffic light at the intersection of Waldeck street and Park street in the Dorchester section of the city of Boston; provided further, that one hundred thousand dollars shall be expended for the design and installation of a pedestrian traffic light, to be equipped with a signal to assist the blind, on state

highway route 70 at Boylston common in the town of Boylston; provided further, that seventy-five thousand dollars shall be expended to reimburse the town of Braintree for traffic signal installation; provided further, that five million dollars shall be expended for grants to the eligible communities in the priority order as determined by the central artery/tunnel financial assistance grant program ranking established in February, nineteen hundred and ninety-six; provided further, that three million dollars shall be expended for the reconstruction of Shawinigan drive in the city of Chicopee and the town of Ludlow; provided further, that one hundred and forty thousand dollars shall be expended for the repair of Airport road in the town of Dudley; provided further, that five hundred thousand dollars shall be expended for beach nourishment, temporary groins and other road stabilization purposes on Beach road in the towns of Edgartown and Oak Bluffs; provided further, that one million five hundred thousand dollars be expended for studies of the engineering, environmental and economic impact, as well as project construction costs, for an access road from interstate highway route 95 onto state highway route 133 in the town of Georgetown; provided further, that no less than one hundred thousand dollars shall be spent as necessary for the purpose of ensuring public safety through the construction of a stone wall along certain segments of state highway route 106 in the town of Halifax; provided further, that a total of not less than two hundred thousand dollars shall be expended for the installation of a pedestrian crossing/traffic light at the intersection of Eastern Avenue and Western Avenue on state highway route 107 and at the intersection of Coolidge Road and Bellair Avenue on state highway route 107, each in the city of Lynn; provided further, that not more than one hundred and ninety thousand dollars shall be expended for the reconstruction and traffic signalling of the intersection of Hunnewell street and Wellesley avenue at the Needham/Wellesley line; provided further, that five thousand dollars shall be expended for the purchase and installation of a bus shelter on the northbound side of Massachusetts bay transportation authority bus route 34 in or near the front of the Balch school located on Washington street in South Norwood; provided further, that in addition to the authorization contained in section eight of chapter one hundred and thirty-four of the acts of nineteen hundred and ninety-five, three million dollars shall be expended for the purpose of improvements to the interchange at

state highway route 3 connecting state highway route 139 located in the towns of Pembroke and Marshfield; provided further, that four hundred thousand dollars shall be expended for improvements, and associated construction costs, to Water street in the town of Pembroke for pedestrian safety, including sidewalks and drainage; provided further, that not more than one hundred thousand dollars shall be expended for the installation of a new sidewalk along the westerly side of Main street, state highway route 28, in the town of Reading from Fairchild drive north to the North Reading town line; provided further, that three million dollars shall be expended for infrastructure improvements or replacements on United States federal highway route 1 in the town of Saugus; provided further, that four hundred and eighty-six thousand dollars shall be expended for improvements to state highway route 16 in the town of Uxbridge from state highway route 122 to Oak street and from Blackstone River to the state highway marker; provided further, that one hundred and sixty thousand dollars shall be expended for the installation of a four foot by eight foot concrete box culvert under the Washington street extension in south Walpole where it intersects with the Neponset river, including the cost of excavation, brook diversion, engineering and other related expenses; provided further, that three million dollars shall be expended for the design, land acquisition, and construction of traffic safety improvements to portions of Littleton road (state highway route 110), Concord road (state highway route 225), Power road and Groton road (state highway route 40), located in the town of Westford; provided further, that not more than twenty-seven million dollars shall be expended for the following projects: construction and roadway improvements of state highway route 187 in the town of Agawam; the Phinney's lane/old state highway route 132 project, so-called, in the town of Barnstable; the reconstruction of Williams street, between Spruce street and Pearl street, in the city of Chelsea; improvements to the Beacon street off-ramp in the city of Chelsea; a study of the feasibility of constructing a pedestrian overpass over state highway route 62 in the vicinity of the Essex agricultural and technical institute; a study of improvements for the East Longmeadow rotary, so-called; improving access to Pine Knoll, so-called, in the town of East Longmeadow; the fabrication and installation of signs for creation of a regional tourism network in Essex county; said signs shall consist of, but not be limited to, interstate signs, on-site

historic resource signs, directional signs for historic sights, natural areas, parking areas, waterfronts and other bimodal access points, historic district interpretive signs, Essex Heritage interpretive signs for significant natural areas and Essex Heritage trail blazer signs; the reconstruction of Tremont street in the city of Everett; the design and environmental study of an access route from state highway route 12 to downtown in the city of Fitchburg; planning, design and construction of a parking facility in downtown Gloucester for access to commuter rail service; the planning, design and construction of a pedestrian walkway appurtenant to the existing vehicular bridge spanning Goose Cove on state highway route 127 in the city of Gloucester; said walkway shall be designated as the Stephen Ross Memorial Walkway; improving and paving Chebacco Lake road in the towns of Hamilton and Manchester-by-the-Sea; the upgrade of traffic control devices in the town of Holbrook; the Norfolk street project in the town of Holliston; the improvement of intersections located at Grove and Hayden Rowe street, Main and Hayden Rowe street, and Main and Pleasant streets in the town of Hopkinton; preparation of a design and construction implementation plan for the completion of reconstruction of state highway route 62 in the town of Hubbardston within ninety days of the passage of this act; roadway engineering, reconstruction and improvements on Broadway and Park streets in the city of Lawrence; the design of the state highway route 13 bypass project in the city of Leominster and the town of Lunenburg; resurfacing local roads that are adversely impacted by bridge closings; the design and construction of traffic safety and transportation improvements on Lynnfield street, state highway route 129, between Great Woods Road and Wyoma square, located in the city of Lynn; the design and construction of traffic safety and transportation improvements on Broadway, state highway route 129, from Wyoma square to Boston street, located in the city of Lynn; design and construction of traffic safety and transportation improvements on Western/Eastern avenues, state highway routes 129 and 107, at Stanwood street and Waitt avenue, Floating Bridge area, so-called, located in the city of Lynn; design and construction of pedestrian safety improvements on Broad street, state highway route 1A, at north shore community college - Lynn campus and the Massachusetts bay transportation authority's commuter rail station; construction of an interchange connecting interstate highway route 495 and

Crane Meadow road in the towns of Marlborough and Southborough; installation of new traffic and pedestrian control signals at Park and Salem streets in the city of Medford; roadway improvements to Oakland avenue in the city known as the town of Methuen to the Lawrence city limits; sidewalk improvements in the vicinity of Malden Mills in the city known as the town of Methuen; sanitary sewer improvements in the vicinity of Malden Mills in the city known as the town of Methuen; water improvements in the vicinity of Malden Mills in the city known as the town of Methuen; drainage improvements in the vicinity of Malden Mills in the city known as the town of Methuen; a comprehensive engineering study, design, and full construction of a sidewalk along Freeman street in the town of Norton from West Main street, state highway route 123, to Mansfield avenue, state highway route 140, to alleviate public safety problems associated with heavy traffic between two state roads, and to provide significant pedestrian access to town economic and educational areas as an alternative to vehicular transportation; the construction of a pedestrian pathway along the North river beginning at the Salem city line heading west to Peabody Square in the city of Peabody; provided further, that said pedestrian pathway shall continue along the Goldwaite brook from Peabody square to Washington street at the George Peabody House Civic Center; the upgrade of signal and intersection geometry to provide for pedestrian crossing and more efficient right-turn queuing lanes at the intersection of Prospect and Lowell streets in the city of Peabody; the replacement and upgrade of the pedestrian signal, with designated crossing area, at the Lowell street and West street entrances to the high school in the city of Peabody; the upgrade of the pedestrian signal for pedestrian crossing at the intersection of Lowell and Lake streets in the city of Peabody; the installation of a pedestrian crossing signal at the intersection of Lynn and County streets in the city of Peabody; the construction of "neck-downs" at downtown crosswalks to provide pedestrian refuge in downtown Peabody square; the engineering and design of reconstruction of Buffam road in the town of Pelham; construction and reconstruction of Highfield street in the city of Quincy; construction and reconstruction of Union street in the town of Rockland; the study, design, and construction of Somerville avenue in the city of Somerville; the design and implementation of traffic signals at College avenue at the Somerville/Medford line; implementation of the metropolitan

district commission safety improvements for the VFW parkway/ Corey street intersection; repair and improvements to Washington street in the town of Wellesley; a comprehensive engineering and design study of Manley street in the town of West Bridgewater from state highway route 106 north to the Brockton city limits, to evaluate the necessity and viability of road and related improvements to maintain and enhance a business district of local and regional import, including, but not limited to the full reconstruction of the street; the Memorial avenue project in the town of West Springfield; the Main street project in the town of West Springfield; construction and improvement of School street in the town of Westborough; improvements to the intersection of state highway route 20 and Stony Hill road in the town of Wilbraham; provided further, that the department is hereby authorized and directed to expedite the progress of those projects specifically referenced in this item; provided further, that the department is authorized and directed to seek federal participation for projects earmarked herein wherever applicable; provided further, that funds authorized herein shall be in addition to the funds authorized in item 6036-9617 of section two A of chapter one hundred and thirteen of the acts of nineteen hundred and ninety-six,as amended by section sixty-one of this act 440,625,000

6033-9618 For the design, land acquisition, construction and reconstruction of tourist information centers and sanitary facilities, including light and safety projects, installation of water lines, as well as any landscaping, fencing, sign installation or any other work associated with these projects, pursuant to section sixty-eight of this act; provided, that in all new construction of sanitary facilities, no-discharge on-site recycling waste water treatment systems shall be used unless the commissioner of the department of highways shall determine that such no-discharge on-site recycling waste water treatment system shall be unnecessary or that the construction of such waste water treatment system is not cost effective; provided further, that the commissioner shall file with the secretary of transportation and construction, the visitor information services travel alliance board, and the house and senate committees on ways and means a statement of said determination with a plan detailing the annual operating costs for each tourist center and sanitary facility to be constructed or reconstructed; provided further, that said plan adheres to the guidelines established by said visitor information services travel

alliance board under section nineteen of chapter one hundred and two of the acts of nineteen hundred and ninety-five; provided further, that said plan shall contain a funding plan to meet these operating costs and shall include, but not be limited to, expenditure and revenue assumptions for each facility; provided further, that no construction or reconstruction shall begin until such plan has been filed and approved by said board; provided further, that the department shall establish a tourist information center in Franklin county; provided further, that a feasibility study shall be conducted by the department regarding the locating of a tourist information center in the city of Gloucester in conjunction with the National Park Service and the Essex County Heritage Project; provided, further, that not less than one million five hundred thousand dollars shall be expended for the purpose of funding small tourist information centers on two-lane state highways; provided further, that such small tourist information centers shall not be required to include sanitary facilities $10,000,000

6033-9629 For the construction and reconstruction of department-owned garages and maintenance shops, and for beneficial and necessary improvements to department-owned garages, maintenance shops, administrative buildings and other structures pursuant to section sixty-eight of this act; provided, that notwithstanding the provisions of any general law or special law to the contrary, the department shall construct or contract for, control and supervise said projects; and provided further, that no construction or contractual agreement shall be entered into prior to the review and approval of the inspector general; provided further, that notwithstanding the provisions of section three of chapter sixteen of the General Laws, the commissioner of the department of highways and the secretary of transportation and construction shall maintain a Massachusetts highway district one administrative office in the town of Lenox and a Massachusetts highway district two administrative office in the city of Northampton; provided further, that said commissioner is hereby directed to maintain staffing levels of at least one district highway director, one district construction engineer, one projects development engineer, one maintenance engineer, and one administrative manager in each of said offices $4,000,000

6033-9660 For the purposes of furthering compliance with environmental requirements, including, but not limited to, the investigation, assessment, remediation, transportation, storage, disposal, and general cleanup of hazardous materials at department sites,

properties where contamination has migrated from department sites and properties adjacent to highway rights of way where contamination may impact proposed construction projects, in compliance with all federal, state and local statutes and regulations associated with hazardous materials, hazardous waste and solid waste, including but not limited to the Clean Air Act and Clean Water Act requirements, pursuant to section sixty-eight of this act; provided, that five million dollars shall be expended for supplemental environmental projects required pursuant to the Environmental Protection Agency/department of highways consent agreement and order; provided further, that sums provided herein may be expended for the costs of training, medical monitoring, personnel protective equipment and equipment required for the investigation and monitoring of soil and groundwater contamination, in compliance with federal, state and local statutes and regulations, including, but not limited to, the Emergency Planning and Community Right-To-Know Act and Occupational Safety and Health Administration requirements; and, provided further, that not less than two million dollars shall be expended for the purpose of conducting feasibility studies in areas of suspected contamination $30,000,000

6033-9669 For the design, reconstruction and improvement, including the testing, removal and encapsulation of lead-based paint, to highway bridges and other bridges, pursuant to section sixty-eight of this act; provided, that not more than sixteen million dollars shall be expended for repairs, deleading, and painting of the Long Island bridge; provided further, that one million dollars shall be expended for the repair, rehabilitation, and replacement, as necessary, of the existing structure known as the Buchannan bridge on state highway route 107 in the city of Lynn; provided further, that thirty million two hundred and fifty thousand dollars shall be expended for the study, design, planning and construction of a new bridge spanning the Merrimack river in the town of Tyngsborough; provided, that not more than two hundred and fifty thousand dollars shall be expended for the study, design, and planning of said bridge, and provided further, that the remaining funds shall not be expended prior to the completion and submission of said study to the joint committee on transportation and the house and the senate committees on ways and means; provided further, that six hundred and thirty-five thousand dollars shall be expended for the repair, rehabilitation, and replacement, as necessary, of the bridges at Fiske street,

Courtland street, and Maple street located in the town of Holliston; provided further, that one million two hundred thousand dollars shall be expended for the High street bridge project in the town of Ashland; provided further, that the department is authorized and directed to rehabilitate and reconstruct the bridge over the Connecticut river in towns of Gill and Montague; provided further, that the department is authorized to use wooden materials in highway bridges and other bridges; provided further, that not more than five million dollars shall be expended for the purpose of establishing a state "Wood In Transportation" pilot program to be developed and implemented by the secretary of transportation and construction and the office of business development in consultation and conjunction with the forest service economic action program entitled "Wood In Transportation" of the United States Department of Agriculture and the Massachusetts wood industries council; provided further, that said pilot program shall examine and implement the use of wood for various transportation-related applications including, but not limited to, vehicular and pedestrian bridges, railings, sign and light posts, sound barriers, retaining walls, railway bridges and future railroad maintenance and improvement projects, culverts, docks, fresh and salt water marine facilities, and portable bridges for timber harvesting operations; provided further, that said secretary shall report his findings to the house and senate committees on ways and means and to the chairman of the special commission on forest management practices within one year after the effective date of this act, and provide his updated findings within two years after the effective date of this act; provided further, that said pilot project shall maximize federal financial participation; provided further, that two million dollars shall be expended for the repair of the George Roper Memorial bridge, so-called, in the Dorchester section of the city of Boston; provided further, that one million dollars shall be expended for the purpose of bridge replacement at Nevins Home, so-called, in the city known as the town of Methuen; provided further, that one million dollars shall be expended for the purpose of bridge replacement at Searles Organ Hall, so-called, in the city known as the town of Methuen; provided further, that one million two hundred thousand dollars shall be expended for replacement of the Spicket River bridge, so-called, in the city of Lawrence; provided further, that not less than one hundred thousand dollars shall be expended for the replacement of the existing bridge on

Mill street located in the village of Lenoxdale within the town of Lenox; provided, further, that not less than one hundred thousand dollars shall be expended for repairs, deleading and painting of the existing railroad overpass on the Pleasant street section of state highway route 183 located in the village of Housatonic within the town of Great Barrington; provided further, that the department is authorized and directed to pursue federal participation for projects authorized herein wherever applicable; provided further, that one hundred seventy thousand dollars shall be expended for the construction of a guard railing for the protection of pedestrians and bicyclists on the southbound side of the Salem-Beverly bridge; provided further, that an amount not to exceed one million five hundred thousand dollars shall be expended for the purpose of widening the bridge at the easterly side of Massachusetts avenue and the northerly side of Boylston street in the city of Boston to incorporate a bus pullout and to enhance pedestrian safety, and for the purpose of integrating the bus shelter on the westerly side of Massachusetts avenue between Newbury and Boylston streets in the city of Boston to enhance pedestrian safety in order to improve the flow of traffic and to enhance access to the entrance to the Massachusetts turnpike at Massachusetts avenue and Newbury street; provided further, that funds authorized herein shall be in addition to funds authorized in item 6036-9669 of section two A of chapter one hundred thirteen of the acts of nineteen hundred and ninety-six, as amended by section sixty-two of this act; provided further, that notwithstanding the provisions of any general or special law to the contrary, the costs of professional personnel directly and exclusively involved in the planning, construction, engineering, and design of the projects funded in this item 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 amounts authorized in this item may be expended for the administrative costs directly attributable to the projects funded in this item; and, provided further, that the executive office for administration and finance shall file an annual spending plan with the house and senate committees on ways and means and the joint committee on transportation which details, by subsidiary, all personnel costs and administrative costs charged to this item $155,651,250

6033-9699 For the purpose of roadway and intersection improvements on public ways in the city of Springfield, including the replacement of

the Union street flood control pumping station and appurtenant structures, drains and utilities related thereto, for the design and construction of a railroad overpass connecting the Connecticut riverwalk and bikeway, and for related bikeway and pedestrian improvements at the riverfront park, and for the purposes of planning, engineering and construction of a parking facility in the city of Springfield related to the riverfront development project; provided, that the exit ramp from interstate highway route 91 to the Memorial bridge shall not be eliminated; provided further, that no funds shall be expended from this item until a lease agreement for a term of not less than ninety-nine years is entered and signed by the board of trustees of the Basketball Hall of Fame and the city of Springfield; provided further, that said lease is subject to approval of the division of capital planning and operations within the executive office for administration and finance $17,500,000

6034-9601 For the construction of storm water infrastructure to mitigate flooding at Brosnihan square and Green Island area, so-called, in the city of Worcester; provided, that said construction shall be included in the scope of the state highway route 146 improvements $3,000,000

6034-9602 For a program to develop and construct on and off-street bicycle routes to urban centers and to transit, rail, bus, ferry and other intermodal terminals, to provide secure bicycle locking facilities at such terminals and to promote bicycle and pedestrian commuting pursuant to section sixty-eight of this act; provided, that fifty thousand dollars shall be expended for the implementation of the Stoneham railroad land use masterplan; provided further, that the department of highways shall report to the house and senate committees on ways and means and to the joint committee on transportation within one hundred and eighty days of the effective date of this act a bicycle expenditure plan to be developed in cooperation with the regional planning organizations and based on projects identified in the statewide bicycle facilities inventory; provided further, that one million dollars shall be expended for the design and construction of an off-street bicycle route in the town of Billerica; provided further, that five hundred thousand dollars shall be expended for the extension of the bicycle path along the state highway route 28 shoreline access road through the city of Somerville and up to Sullivan Square in the city of Boston $6,000,000

6034-9605 For the city of Boston for a program of improvements of and en-

hancements to the public streets and sidewalks in Kenmore square in the city of Boston; provided, that such improvements and enhancements shall be undertaken in consultation and cooperation with the Massachusetts Bay Transportation Authority and may include improvements and enhancements to the authority's bus and subway stations in said Kenmore square $7,000,000

6034-9606 For the purposes of widening and expanding state highway route 110 from two lanes to four lanes on that part of said route 110 designated by its intersection with interstate highway route 495 and its intersection with interstate highway route 95, widening and expanding highway route 110 from three lanes to four lanes on that part of said route 110 designated by its intersection with interstate highway route 95 and its intersection with United States federal highway route 1, at a place commonly referred to as Salisbury square, and for widening and expanding state highway route 110, also referred to as state highway route 1A, from two lanes to four lanes on that part of said state highway route 110 designated by its intersection with United States federal highway route 1, at a place commonly referred to as Salisbury Square, and Salisbury beach proper in the town of Salisbury; provided, that an amount not to exceed one million dollars shall be expended for the purpose of conducting a feasibility study of alternative routes to Salisbury beach $18,000,000

6034-9609 For the development of Campanile Plaza project, so-called, located in the city of Springfield; provided, that twenty-five percent of the costs of said project shall be paid by the city of Springfield; and, provided further, that twenty-five percent of the costs of said project shall be paid by those members of the business community which will benefit from the development of Campanile Plaza $1,000,000

6034-9610 For the study, design, planning and construction of egress and access roads, including related improvements, land acquisitions, and easements, to the South Weymouth naval air station, so-called, to and from state highway route 3 and to and from state highway route 18 in the town of Weymouth; provided, that not more than five hundred thousand dollars shall be expended for the study, design, and planning of said construction; and provided further, that the remaining funds shall not be expended prior to the completion and submission of said study to the joint committee on transportation and the house and senate committees on ways and means $15,000,000

OFFICE OF LABOR, EDUCATION AND ECONOMIC DEVELOPMENT.

Division of Housing and Community Development.

7004-8968 For the renovation and upgrade of certain facilities adversely impacted as a result of the construction of the Massachusetts Bay Transportation Authority Alewife station and related facilities; provided, that not more than two million dollars shall be expended for the renovation and upgrade of facilities on Donnelly field in the city of Cambridge; and, provided further, that not more than one million three hundred fifty thousand dollars shall be expended for the Russell field project in the city of Cambridge $3,500,000

SECTION 2B.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves.

1599-1969 For the implementation of the oversight plan developed in accordance with the provisions of section twenty-one of chapter one hundred and two of the acts of nineteen hundred and ninety-five; provided, that a supplemental plan shall be developed creating the Central Artery/Third Harbor Tunnel project oversight coordination commission; provided further, that said commission shall be composed of the attorney general, inspector general and the state auditor, or their designees; provided further, that said commission shall function as a centralized body to coordinate all Central Artery/Third Harbor Tunnel project oversight activities of the inspector general, attorney general, and state auditor; provided further, that said supplemental plan shall direct said commission to scrutinize and recommend cost savings in said Central Artery/Third Harbor Tunnel project; provided further, that said supplemental plan shall be filed with the house and senate committees on ways and means and the joint committee on transportation within six months of the effective date of this act; provided further, that funds authorized herein shall not be released prior to the completion and submission of said plan; provided further, that the members of said commission shall hold coordinating sessions on no less than a quarterly basis and shall include the house and senate chairmen of the joint committee on transportation, or their designees, the chairmen of the house and senate committees on post audit and oversight, or their designees; provided further, that the funds provided from this item shall be available for administrative and personnel costs of the commission, including the salary of an executive director who shall be agreed upon by the inspector general, the state auditor,

and the attorney general; provided further, that funds authorized herein shall be in addition to any amounts previously made available for this purpose; and provided further, that it is hereby declared to be the stated position of the general court that said commission shall be disbanded not later than one year after the completion of said Central Artery/Third Harbor Tunnel project. $2,000,000

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Department of Highways.

6033-5965 For the purchase and maintenance of computer hardware and software for the department pursuant to section sixty-eight of this act; provided, that the department is directed to develop a total system solution that integrates engineering, project management, maintenance, inventory and physical asset management, accident tracking and analysis, and intermodal surface transportation efficiency management systems to develop and communicate information necessary to effectively perform and control department responsibilities; provided further, that said total system solution shall include a project management system which shall provide the basis for the development of a comprehensive information database which shall provide real-time project information including, but not limited to, projected advertise date, estimated project cost, permits requested, permits granted, local approval needed, date local approval received, date presented to project review committee, decision of project review committee, funding category, actual date of advertisement, date project awarded, projected completion date, realistic progress and status updates, actual completion date, and total project cost; provided further, that said total system solution and database shall be developed in a manner which shall allow access to other state, local or regional public agencies or authorities; and, provided further, that a progress report detailing the development of said total system solution and database shall be filed with the joint committee on transportation and the house and senate committees on ways and means not later than September first, nineteen hundred and ninety-six and semi-annually thereafter until total system solution and required database construction is complete and a method for outside access is developed and implemented. $5,000,000

6033-9619 For the assistance of operators of tourist information facilities constructed by the department of highways, pursuant to section sixty-eight, including reimbursement to facilities in operation on the effective date of this act; provided, that such assistance shall

be for those costs associated with the "start-up", so-called, of any new tourist information facility or for reimbursement to facilities in operation on the effective date of this act; provided further, that no operator shall receive more than one grant from this item; provided further, that no operator shall receive in excess of one hundred thousand dollars from this item; provided further, that any operator, officer, proprietor, or director of such tourist information facilities shall advise said department of and make full disclosure of any and all financial interests of said operator, officer, proprietor, or director pursuant to chapter two hundred and sixty-eight A of the General Laws; and, provided further, that the commissioner of the department of highways shall have the authority to award funds under this item subject to the review and approval of the Visitor Information Services Travel Alliance board, established pursuant to section nineteen of chapter one hundred and two of the acts of nineteen hundred and ninety-five and the secretary of transportation and construction $1,000,000

OFFICE OF LABOR, EDUCATION, AND ECONOMIC DEVELOPMENT.

University of Massachusetts.

7400-6969 For a review of the Central Artery/Third Harbor Tunnel project pursuant to the provisions of section one hundred and two of this act . .$300,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Department of State Police.

8100-1961 For the completion of the design, construction, and implementation of a statewide telecommunications system and to enhance interagency communication capability among state and local agencies $12,000,000

SECTION 2C.

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Department of Highways.

6033-9662 For the purchase, long-term leasing and rehabilitation of necessary durable equipment, including highway maintenance fleet equipment, in addition to parts for said durable equipment, pursuant to section sixty-eight of this act $15,000,000

6033-9663 For the lease of light vehicles so-called, pursuant to section sixty-eight of this act; provided, that notwithstanding the provisions of any administrative bulletin or any general or special law to the contrary, the department of highways shall not pay any fees charged for leasing or maintenance of vehicles to the department

of procurement and general services $10,500,000

SECTION 2D.
EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.
Executive Office.

6001-9605 For the purposes authorized by chapter one hundred and sixty-one B of the General Laws, including the purchase, long-term lease and rehabilitation of rolling stock, and the construction, reconstruction, and rehabilitation of regional transit authority facilities and related appurtenances $20,000,000

SECTION 2E.
EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.
Executive Office.

6001-9680 For the intercity bus capital assistance program authorized by chapter one hundred and sixty-one D of the General Laws $4,000,000

SECTION 2F.
EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.
Executive Office.

6001-9645 For the purpose of further implementing the provisions of section thirteen of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three; provided, that any grant funds awarded under this item shall be for not more than eighty percent of the total purchase cost of the vehicles or equipment; and, provided further, that the secretary may waive said limitation upon determination that a recipient is in critical financial need $5,000,000

SECTION 2G.
EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.
Executive Office.

6001-9655 For the purpose of improving and expanding marine transportation services; provided, that an amount not to exceed one million dollars shall be expended for a feasibility study, including, but not limited to, commuter operations to and from the city of Boston from the north and south shores, including, but not limited to, Lynn harbor, Rockport harbor, Gloucester harbor, Scituate harbor, Hingham harbor, Nantasket pier, Allerton pier in the town of Hull, North Weymouth, and the Fore River basin and operations between points within the inner or outer harbor, or for other public transportation purposes including, but not limited to, the acquisition of boats for marine transportation services, the

planning, design construction or acquisition of docking, dredging and other landside facilities such as parking or shelter facilities, improved landside access to such facilities, the purchase of other equipment in connection with said operations and the disposal of same when their use has been substantially diminished including any and all equipment or boats purchased for marine transportation service prior to the effective date of this act; provided further, that in carrying out the provisions of this item the secretary of transportation and construction may enter into contracts or agreements as are appropriate with other state and local public agencies, authorities, or political subdivisions of the commonwealth, including, but not limited to, the Massachusetts Port Authority, the Massachusetts Bay Transportation Authority, the department of environmental management, coastal zone management or with private parties, which are hereby granted the power and authority to enter into contracts or agreements with said secretary; provided further, that said study shall also review the feasibility of establishing a transportation network for the proposed harbor islands national recreation area; provided further, that a report and the recommendations of said study shall be submitted to the house and senate committees on ways and means and the joint committee on transportation not later than December first, nineteen hundred and ninety-six; provided further, that fifty thousand dollars shall be provided for the purpose of studying expansion of marine transport service to and from the Cape and Islands; provided further, that, of said fifty thousand dollars, twenty-five thousand dollars shall be provided to the Cape Cod economic development council and twenty-five thousand dollars shall be provided to the Cape Cod commission in order to conduct and submit a joint study report; provided further, that three hundred and seventy-five thousand dollars shall be expended for repairs to the T-Wharf, so-called, in the town of Rockport, subject to a twenty-five percent match from said town; provided further, that three million seven hundred and fifty thousand dollars shall be expended for public piers and improvements to the public harborwalk, so-called, on and about the central wharf in the city of Boston, for the purpose of enhanced water transportation capacity and intermodal access to the waterfront, subject to a twenty-five percent match from said city $50,000,000

6001-9657 For the purpose of planning, engineering, design and construction of transportation infrastructure investments to be called regional

intermodal transportation centers (ITC), strategically located to maximize passenger connections between road, air, water, rail and other transportation modes; provided, that in carrying out the provisions of this item, the secretary of transportation and construction may set service standards to aid in identifying population hubs where intermodal transportation centers would optimally affect passenger movement throughout the commonwealth $12,300,000

SECTION 2H.

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Executive Office.

6001-9610 For the purpose of implementing rail improvements pursuant to the provisions of chapter one hundred and sixty-one C of the General Laws $10,000,000

6001-9699 For the extension of the commuter rail from the city of Fall River to the city of Newport in the state of Rhode Island via the Newport secondary line, so-called, including the planning, design, construction, reconstruction, improvement and rehabilitation of said rail right of way with the cooperation and participation of the state of Rhode Island; provided, that no funds shall be expended from this authorization until the state of Rhode Island authorizes or appropriates at least an equal amount of matching funds for this project; provided further, that no funds shall be expended for the Tiverton Train bridge, so-called, and rail bed in the state of Rhode Island until said state of Rhode Island first authorizes or appropriates funds for said project and unless state finance law allows for such expenditures to be made from this item $4,000,000

SECTION 2I.

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Massachusetts Aeronautics Commission.

6006-9680 For a program of airport development and improvement; provided, that funds shall be made available for the purpose of constructing a new passenger terminal, aircraft apron, airport automobile parking areas, access roads and other related improvements at the Martha's Vineyard airport, and for the purpose of removing and properly disposing of asbestos and other toxic or hazardous materials and certain existing airport structures and facilities; provided further, that funds shall be made available for the purpose of constructing a runway extension, a new air cargo ramp and taxiway, and related airport improvements at the New Bed-

ford regional airport and for the purpose of environmental analysis and mitigation related to said improvements; provided further, that said improvements shall be performed in a manner consistent with federal and state environmental regulations; provided further, that the commission shall seek the maximum reimbursement from the Federal Aviation Administration; provided further, that incremental federal funding assistance, if any, in excess of the entitlement funds due to the New Bedford regional airport under the Federal Airport Improvement Program and in excess of the final costs and expenses shall be retained by the commonwealth; provided further, that funds shall be made available for improvements to the main terminal, airport automobile parking areas and access roads, and other related airport improvements at the Barnstable municipal airport, including the removal and proper disposal of asbestos and other toxic and hazardous materials; provided further, that funds shall be made available for the construction of a parking lot at the Worcester airport; provided further, that funds shall be expended for the design and construction of a heliport in the city of Fall River; provided further, that a portion of the funds appropriated herein shall be expended for the purpose of runway repaving and new runway lights at the Northampton airport in the city of Northampton; provided further, that a portion of the funds appropriated herein shall be expended for the purpose of a runway extension, and runway, taxiway and drainage system developments and improvements at the Montague municipal airport in the town of Montague; provided further, that not less than five million dollars shall be expended for development and improvement projects at the commonwealth's other municipal and private airports as deemed necessary by the Massachusetts aeronautics commission, subject to regulations of said commission regarding matching fund requirements, so-called; and, provided further, that said commission shall ensure that all projects funded from this item are coordinated with the appropriate regional planning agency so as to ensure the development of a coordinated intermodal transportation system $56,300,000

SECTION 2J.

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Executive Office.

6005-1962 For the extension of commuter rail service to New Bedford and Fall River via the Middleborough branch of the Old Colony line; pro-

vided, that the Massachusetts Bay Transportation Authority shall submit to the joint committee on transportation, not later than six months after the effective date of this act, a report detailing all viable alternatives for extending commuter rail service to New Bedford and Fall River, including, but not limited to, the Attleboro route, so-called, and the Stoughton route, so-called; provided further, that such report shall include, but not be limited to, the cost of the project for each alternative, the projected ridership for each alternative, the proposed number of trips for each alternative, the environmental impacts associated with each alternative, the impact on public safety of each alternative, the number of grade crossings for each alternative; and provided further, that the southeastern regional planning and economic development agency shall be consulted in the development of said report $136,000,000

6005-1963 For the purchase, long-term lease and rehabilitation of commuter rail rolling stock; provided, that the Massachusetts Bay Transportation Authority is authorized and directed to purchase one self-powered, diesel rail car for the purpose of studying the feasibility of increasing the frequency of commuter rail service on the north shore; provided further, that the authority shall report the results of said study, including, but not limited to, performance efficiency, economic impact, and environmental impact to the house and senate committees on ways and means and to the joint committee on transportation within one year of the effective date of this act $99,500,000

6005-1964 For the modernization of blue line stations; provided, that five hundred thousand dollars shall be expended for the study and design of a commuter rail/blue line connector; provided further, that said study shall include a cost projection for a people mover, so-called, as an interim means of connecting the commuter rail to the blue line; provided further, that said study shall be completed within six months of the effective date of this act and shall be filed with the joint committee on transportation and the house and senate committees on ways and means $100,000,000

6005-1966 For the construction of a commuter rail station on the Old Colony railroad line at the JFK/UMass station in the Dorchester section of the city of Boston $3,500,000

6005-9680 For transit infrastructure, including construction, rehabilitation and expansion of shops and carhouses, commuter rail improvements, subway structural and ventilation improvements, systemwide track, power and bridge improvements, station expansion, mod-

ernization and rehabilitation, plant and facility improvements, and material and equipment procurements; provided, that one million eight hundred thousand dollars shall be expended for the removal of A line tracks, so-called, in the city of Newton; provided further, that two million seven hundred thousand dollars shall be expended for the study, design and construction of a bi-level parking garage at the Winchester commuter rail station in the town of Winchester; provided further, that not less than four million dollars shall be expended for the study, design, construction, and property takings relative to the construction of a regional commuter parking facility at the New Hampshire commuter rail line located in the town of Wilmington commencing at state highway route 62 and running north on the westerly side of state highway route 38; provided further, that four hundred thousand dollars shall be expended for grade crossing improvements to the Forest street intersection in the town of Wakefield; provided further, that fifty thousand dollars shall be expended for the reconstruction of Allied drive in the town of Dedham; provided further that fifty thousand dollars shall be expended for sandblasting the Walcott square railroad bridge in the town of Readville; provided further, that five million dollars shall be expended for repairs and improvements to the Adams street and Medway street bridges, so-called, in the Dorchester section of the city of Boston; provided further, that five thousand dollars shall be expended for the construction of a bus shelter in the town of Norwood; and provided further, that the authority shall continue its blue line sound proofing program. .$44,005,000

6005-9684 For prototype development and research of mass producing transit buses powered by non-polluting sources, including solar energy; provided, that one hundred thousand dollars shall be expended for a feasibility study to produce transit buses powered by non-polluting sources; and, provided further, that the remaining funds authorized herein shall not be expended prior to the submission of said study and accompanying recommendations to the house and senate committees on ways and means and the joint committee on transportation $1,000,000

6005-9685 For the light rail vehicle service project, so-called, along the Washington street corridor, so-called, in the city of Boston; provided, that funds authorized herein shal l be in addition to any funds previously authorized for this purpose $65,000,000

6005-9686 For an independently commissioned feasibility study of a commuter rail stop on the Framingham line in the Allston-Brighton section

of the city of Boston; provided, that said study shall be submitted to the joint committee on transportation and the house and senate committees on ways and means not later than June thirtieth, nineteen hundred and ninety-seven $50,000

SECTION 2K.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves.

1600-1966 For the first phase of forward funding the Massachusetts Bay Transportation Authority pursuant to the plan filed by the commission to review the financing of said authority pursuant to the provisions of section one hundred and one of this act; provided, that the borrowing of funds authorized herein shall be structured so that debt service on such borrowing shall not exceed twenty-five million dollars per year; provided further, that notwithstanding the provisions of any general or special law to the contrary, funds authorized herein shall not be available for expenditure prior to July first, nineteen hundred and ninety-seven $250,000,000

SECTION 3. To meet a portion of the expenditures necessary in carrying out the provisions of section two, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of three hundred million, three hundred forty-six thousand, five hundred dollars to be in addition to those bonds previously authorized for projects and programs which are eligible to receive federal funding and which authorizations remain uncommitted or unobligated on the effective date of this act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Highway Improvement Loan, Act of 1996, and shall be issued for a maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-one. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund.

Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer pursuant to this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section two O of chapter twenty-nine of the General Laws; provided further, that in deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account (*i*) generally prevailing financial market conditions, (*ii*) the impact of each approach on the overall capital financing plans and needs of the commonwealth, (*iii*) any ratings assigned to outstanding bonds of the common-

wealth and any ratings expected to be assigned by any nationally recognized credit rating agency to the bonds proposed to be issued, and (*iv*) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section two O of said chapter twenty-nine.

All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan Act of 1996 and shall be issued for a maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-one. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section two O of said chapter twenty-nine. Special obligation bonds issued pursuant to this section shall be special obligations of the commonwealth payable solely in accordance with the provisions of said section two O of said chapter twenty-nine.

SECTION 4. To meet a portion of the expenditures necessary in carrying out the provisions of section two A, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of seven hundred sixty-one million, seven hundred twenty-six thousand, two hundred fifty dollars, to be in addition to those bonds previously authorized, for projects and programs which remain uncommitted or unobligated on the effective date of this act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Highway Improvement Loan, Act of 1996, and shall be issued for a maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-one. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund.

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

All special obligation bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan Act of 1996 and shall

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

SECTION 5. To meet a portion of the expenditures necessary in carrying out the provisions of section two B, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of twenty million three hundred thousand dollars, to be in addition to those bonds previously authorized, for projects and programs which remain uncommitted or unobligated on the effective date of this act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Highway Improvement Loan, Act of 1996, and shall be issued for a maximum term of years, not exceeding five years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and six. All interest and payments on account of principal on such obligations shall be payable from the Highway Fund.

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

All special obligation bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan Act of 1996, and shall be issued for a maximum term of years, not exceeding five years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and six. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section two O of said chapter twenty-nine. Special obligation bonds

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

SECTION 6. To meet a portion of the expenditures necessary in carrying out the provisions of section two C, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of twenty-five million five hundred thousand dollars, to be in addition to those bonds previously authorized, for projects and programs which remain uncommitted or unobligated on the effective date of this act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Highway Improvement Loan, Act of 1996, and shall be issued for a maximum term of years, not exceeding five years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and six. All interest and payments on account of principal on such obligations shall be payable from the Highway Fund.

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

All special obligation bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Highway Improvement Loan Act of 1996, and shall be issued for a maximum term of years, not exceeding five years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and six. All interest and payments on account of principal on such obligations shall be payable from the Infrastructure Fund established in said section two O of said chapter twenty-nine. Special obligation bonds issued pursuant to this section shall be special obligations of the commonwealth payable solely in accordance with the provisions of said section two O of said chapter twenty-nine.

SECTION 7. 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, two A, two B, and two C 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 of Massachusetts, but the final maturities of the notes, whether original or renewal, shall not be later than June thirtieth, two thousand and three. Notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided, however, that the state treasurer may determine to issue any notes as special obligations pursuant to section two O of chapter twenty-nine of the General Laws if the notes, or renewals thereof, are to be paid from the proceeds of special obligation bonds to be issued pursuant to said section two O of said chapter twenty-nine. All payments on account of principal on the notes allocable to the Federal Highway Construction Program Fund shall be repaid from said fund.

SECTION 8. To meet the expenditures necessary in carrying out the provisions of section two D, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth, in an amount specified by the governor from time to time, but not exceeding in the aggregate, the sum of twenty million dollars. Bonds issued by the commonwealth as aforesaid shall be designated on their face, Regional Transit Authority Capital Assistance Loan, Act of 1996, and shall be issued for a maximum term of years, not exceeding ten years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all bonds shall be payable not later than June thirtieth, two thousand and eleven. All interest and payments on account of principal on such obligations shall be payable twenty percent from the Highway Fund, forty percent from the General Fund and forty percent from the Local Aid Fund.

SECTION 9. 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 section two D and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and three. Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be issued as special obligations pursuant to section two O of said chapter twenty-nine of the General Laws. Such notes or renewals thereof shall be paid from the proceeds of special obligations bonds to be issued pursuant to said section two O of said chapter twenty-nine.

SECTION 10. To meet the expenditures necessary to carry out the provisions of section two E, 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 four million dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Intercity Bus Capital Assistance Program Loan, Act of 1996, and shall be issued for a maximum term of years not

exceeding ten years as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand eleven. All interest and payments on account of principal of such obligations shall be payable from the Intercity Bus Capital Assistance Program Fund. Notwithstanding the foregoing, bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

SECTION 11. 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 section two E and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand three. Notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

SECTION 12. To meet the expenditures necessary in carrying out the provisions of section two F, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of five million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Intermodal Transportation Improvement Loan, Act of 1996, and shall be issued for a maximum term of years, not exceeding five years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and six. All interest and payments on account of principal on such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 13. To meet the expenditures necessary in carrying out the provisions of section two G, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of sixty-two million three hundred thousand dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Intermodal Transportation Improvement Loan, Act of 1996, and shall be issued for a maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-one. All interest and payments on account of principal on such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions

of this act, be general obligations of the commonwealth.

SECTION 14. 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 F and two G and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and three. Notes and interest thereon issued under the authority of this section, shall be general obligations of the commonwealth.

SECTION 15. To meet the expenditures necessary in carrying out the provisions of section two H, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of fourteen million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Rail Transportation Loan, Act of 1996, and shall be issued for a maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-one. All interest and payments on account of principal on such obligations shall be payable from the General Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 16. 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 section two H and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and three. Notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

SECTION 17. To meet the expenditures necessary in carrying out the provisions of section two I, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of fifty-six million three hundred thousand dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Airport Capital Outlay, Act of 1996, and shall be issued for a maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth;

provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-one. All interest and payments on account of principal on such obligations shall be payable from the General Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 18. 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 section two I and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and three. Notes and interest thereon issued under the authority of this section, shall be general obligations of the commonwealth.

SECTION 19. Notwithstanding the provisions of section twenty-three of chapter one hundred and sixty-one A of the General Laws, the Massachusetts Bay Transportation Authority may issue bonds in the additional amount of four hundred forty-nine million fifty-five thousand dollars solely for the purposes of section two J.

SECTION 20. Notwithstanding the provisions of section twenty-eight of chapter one hundred and sixty-one A of the General Laws, the commonwealth may enter into contracts to provide assistance to the Massachusetts Bay Transportation Authority in the additional amount of four hundred four million one hundred forty-nine thousand five hundred dollars solely for the purposes authorized by section two J.

SECTION 21. To meet the expenditures necessary in carrying out the provisions of section two K, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth, in an amount specified by the governor from time to time, but not exceeding in the aggregate, the sum of two hundred and fifty million dollars. Bonds issued by the commonwealth as aforesaid shall be designated on their face, Massachusetts Bay Transportation Authority Reform Act of 1996, and shall be issued for a maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all bonds shall be payable not later than June thirtieth, two thousand and twenty-one. All interest and payments on account of principal on such obligations shall be payable twenty percent from the Highway Fund, forty percent from the General Fund and forty percent from the Local Aid Fund.

SECTION 22. 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 section two K and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court

in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and three.

SECTION 23. The state treasurer is hereby authorized and directed to transfer the sum of twenty million dollars to the water pollution abatement trust created pursuant to the provisions of section two of chapter twenty-nine C of the General Laws for deposit in the Water Pollution Abatement Revolving Fund established pursuant to the provisions of section two L of chapter twenty-nine of the General Laws for application by the trust to the purposes specified in section five of said chapter twenty-nine C, any portion of which may be used as a matching grant by the commonwealth to federal capitalization grants received under Title VI of the federal Clean Water Act.

SECTION 24. To meet the expenditures necessary in carrying out the provisions of section twenty-three, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, not to exceed, in the aggregate, the sum of twenty million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Local Water Pollution Control Loan and Grant Assistance, Act of 1996, and shall be issued for a maximum term of years not to exceed 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 twenty-one. All interest and payments on account of principal of such obligation shall be payable from the Local Aid Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 25. Chapter 29 of the General Laws is hereby amended by inserting after section 3A the following section:-

Section 3B. The Massachusetts Bay Transportation Authority and the several regional transit authorities shall annually, on or before September fifteenth, submit to the state budget director, the joint committee on transportation, the house and senate committees on ways and means, and the Massachusetts Bay Transportation Authority advisory board (1) statements showing planned expenditures for the current fiscal year and the subsequent fiscal year; provided, however, that said statements shall detail planned expenditures according to the expenditure classification plan promulgated by the state comptroller pursuant to the provisions of section twenty-seven and also by program; and (2) a statement detailing the number of full time equivalent employees of the authority for the current fiscal year and an estimate of the number of full time equivalent employees for the subsequent fiscal year. The state budget director and the state comptroller are hereby authorized and directed to establish such procedures as they deem necessary to implement and enforce the provisions of this section.

SECTION 26. Section 34 of chapter 90 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first paragraph.

SECTION 27. Section 34 of said chapter 90, as so appearing, is hereby amended

by adding after the word "purpose", in line 73, the following words:- ; provided, however, that such revenue shall be transferred in order to recover fringe benefit costs pursuant to section five D or subsection (f) of section six B of chapter twenty-nine.

SECTION 28. Said section 34 of said chapter 90, as so appearing, is hereby further amended by inserting after the word "purpose", in line 121, the following words:- ; provided, however, that such revenue shall be transferred in order to recover fringe benefit costs pursuant to section five D or subsection (f) of section six B of chapter twenty-nine.

SECTION 29. Paragraph (b) of section 34½ of said chapter 90, as appearing in section 3 of chapter 102 of the acts of 1995, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Said plan shall provide for meeting not less than five percent annually of the estimated construction, reconstruction and repair needs of the public highways and bridges of the commonwealth, its counties, cities and towns, estimated as follows.

SECTION 30. Section 34 of chapter 161A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 15, the words:- railroad protective.

SECTION 31. Section 32 of chapter 637 of the acts of 1983 is hereby amended by striking out the first paragraph, as most recently amended by section 34 of chapter 273 of the acts of 1994, and inserting in place thereof the following paragraph:-

The commissioner of the department of highways, hereinafter called the commissioner, is hereby authorized to establish a program to assist towns with populations of three thousand five hundred or less undertaking projects to design, construct, reconstruct, widen, resurface, rehabilitate, and otherwise improve roads and bridges within the commonwealth or for the construction of chemical storage facilities. Such program shall provide grant funds to towns for projects authorized by this section. Towns shall be eligible to receive one grant every five years beginning July first, nineteen hundred ninety-two and the amount of such grant shall not exceed five hundred thousand dollars.

SECTION 32. The second paragraph of said section 32 of said chapter 637 is hereby amended by inserting after the first sentence the following three sentences:- Such rules and regulations shall include provisions for joint applications by two or more eligible towns for a single project serving such towns. Funds so distributed may be apportioned to reflect the percentage of said project located in each town. Receipt of a grant which is part of a joint application shall not preclude a town from receiving additional funds under a separate application, provided, however, that the total amount distributed to any one town shall not exceed the maximum allowed under the provisions of this act.

SECTION 33. The third paragraph of said section 32 of said chapter 637 is hereby amended by striking out the words "two thousand five", inserted by section 35 of chapter 273 of the acts of 1994, and inserting in place thereof the following words:- three thousand five.

SECTION 34. Item 4190-7883 of section 2D of chapter 199 of the acts of 1987 is hereby amended by striking out the wording and inserting in place thereof the following wording:- For life safety code repairs and renovations, and for improvements to the kitchen area, including the cost of furnishings and equipment.

SECTION 35. Item 6033-9592 of section 2A of chapter 102 of the acts of 1994 is hereby amended by inserting after the word "ninety-four", in line 11, the following words:- ; provided, however, that not less than three million five hundred thousand dollars shall be used to provide grants to municipalities, including, but not limited to, Acton, Ashfield, Blandford, Boxborough, Chester, Chicopee, Conway, East Longmeadow, Greenfield, Haverhill, Leverett, Montague, Mount Washington, Northampton, Pepperell, Pittsfield, Southboro, Southbridge, Tolland, Topsfield, Tisbury, Wales, Washington, Westminster, Windsor, Worcester, Worthington; and, provided further, that the payments authorized herein shall be the final payments made by the commonwealth for the purposes of the grants authorized herein.

SECTION 36. Said item 6033-9592 of said section 2A of said chapter 102 is hereby further amended by striking out the figure "$2,700,000" and inserting in place thereof the following figure:- $6,200,000.

SECTION 37. Section 4 of said chapter 102 is hereby amended by striking out, in lines 4 and 5, the words "two hundred eighty-two million seven hundred ninety-four thousand five hundred eighty-four" and inserting in place thereof the following words:- two hundred eighty-six million two hundred ninety-four thousand five hundred eighty-four.

SECTION 38. Section 25 of said chapter 102 is hereby amended by striking out, in lines 3 to 5, inclusive, the words "; provided, that the Massachusetts Bay Transportation Authority shall not further extend or expand additional service of the commuter rail lines out of state without prior legislative authorization".

SECTION 39. Chapter 231 of the acts of 1994 is hereby amended by striking out section 8A, inserted by section 33 of chapter 39 of the acts of 1995, and inserting in place thereof the following section:-

Section 8A. Sections four and five shall be applicable to fiscal years beginning on or after July first, nineteen hundred and ninety-eight.

SECTION 40. Item 6033-9500 of section 2A of chapter 273 of the acts of 1994 is hereby amended by striking out the wording and inserting in place thereof the following wording:- For public improvement projects by the department of highways, upon petition of the appropriate committee, board or other local governmental body, to mitigate any adverse economic impact to municipalities resulting from projects undertaken by the department; provided, that funding for any one such public improvement project shall not be in excess of two hundred fifty thousand dollars; provided further, that funds authorized under this section shall be expended solely for public improvement projects which result in the tangible enhancement and furtherance of the public economy, safety and general welfare; provided further, that notwithstanding the aforementioned funding limitation on individual projects, nothing in this item shall be construed to limit the number of eligible public improvement projects; provided further, that not more than one million five hundred thousand dollars shall be expended on projects relating to the state highway route 146/turnpike interchange project.

SECTION 41. Said item 6033-9500 of said section 2A of said chapter 273 is hereby further amended by striking out the figure "$1,500,000" and inserting in place thereof the

following figure:- $3,000,000.

SECTION 42. Item 6033-9517 of said section 2A of said chapter 273, as most recently amended by section 28 of chapter 277 of the acts of 1995, is hereby further amended by striking out the words "from state highway route 3 in the town of Burlington" and inserting in place thereof the following words:- from or over state highway route 3 in the town of Burlington.

SECTION 43. Item 6033-9570 of said section 2A of said chapter 273 is hereby amended by striking out the wording and inserting in place thereof the following wording:- For the department's contribution to the total capital costs associated with the design, construction and, if required, acquisition of rights in any land by lease, purchase or eminent domain taking, for implementation of the Industri-plex Regional Transportation Center, so-called, in the city of Woburn which shall provide approximately four hundred new spaces for a park-and-ride facility and any necessary appurtenant passenger shelters or other amenities for such park-and-ride facility; provided, that the study prepared by the Woburn redevelopment authority pursuant to subsection (*a*) of section eighty-six of this act recommends locating the Massachusetts Port Authority's park-and-ride facility at the Industri-plex site; provided further, that notwithstanding the conclusions of said study, for the department's reimbursement of the Massachusetts Port Authority for the department's share, being one-third, of the five hundred thousand dollars paid by the Massachusetts port authority pursuant to subsection (*a*) of section eighty-six of this act, for the preliminary design, environmental permitting and feasibility study; provided further, that funds authorized in this item shall be subject to the provisions of the first paragraph of sections six, seven and nine of chapter seven hundred and eighteen of the acts of nineteen hundred and fifty-six; provided further, that the inspector general shall study and examine the feasibility of relocating and operating the Massachusetts port authority's shuttle bus service to and from Logan International Airport known as the "Woburn Logan Express", from its current site at Mishawum commuter rail station or any other site to the Industri-plex Regional Transportation Center in said city of Woburn; including but not limited to, an analysis of the potential economic benefits of such relocation, the potential for increased ridership from such relocation and the appropriateness of the site itself; provided, further, that the inspector general shall file such study with the house and senate committees on ways and means and the joint committee on transportation; provided, further, that no funds shall be expended from this item for said Industri-plex site unless or until the attorney general certifies in writing to the comptroller that the commonwealth will not thereby undertake any significant risk of additional financial liability pursuant to any federal environmental statute, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 9601, et seq; provided, further, that the amount of just compensation paid by the department of highways to acquire the rights in any land by eminent domain shall not exceed the approved appraisal of the fair market value of the property or one dollar, whichever is greater; provided further, that the amount of just compensation shall take into account and include, but not be limited to, the following: (*i*) the environmental condition of the property, and (*ii*), if applicable, the cost required to render any such property commercially usable in

light of any contamination affecting such property; provided, further, that the department, its nominees, successors-in-interest, assigns, tenants, lessees, sublessees, licensees, transferees, and other assignees shall, in the event it, or its nominee, acquires any interest in the Industri-Plex site, be exempt from any and all liability to third parties and to the commonwealth that may be imposed under sections four, five and eleven of chapter twenty-one E of the General Laws for releases of oil or hazardous substances or material existing as of the date of the department's, or its nominee's, acquisition whichever occurs first of an interest in said Industri-Plex site, except for such liability, if any, that the department, its nominee, successors-in-interest, assigns, tenants, lessees, sublessees, licensees, transferees and other assignees, respectively, may have had at the Industri-Plex site prior to the date of such acquisition by the department or its nominees; provided, further, that the department shall comply with any and all restrictions and obligations imposed by the United States Environmental Protection Agency or by the department of environmental protection on the use of said Industri-plex site, including any "institutional controls", so-called, and nothing contained herein shall be construed to limit the enforceability of any such restrictions and obligations by the United States Environmental Protection Agency or by the commonwealth, including the department of environmental protection; provided, further, that thirty days prior to any such acquisition of rights in and land by lease, purchase or eminent domain, notice of said acquisition shall be filed for review with the inspector general; and provided, further, that solely in connection with the development of a regional transportation center at said Industri-plex site, as provided in this section, the actions taken by the department relative to the funding of certain additional remedial activities at said Industri-plex site, provided, that the scope of such actions is agreed upon by the department of environmental protection are hereby deemed to satisfy any and all requirements of subsection (*j*) of section three A of chapter twenty-one E of the General Laws and any regulations, policy statements, and guidances promulgated or published thereunder; provided further, that notwithstanding any provisions to the contrary, any exemption from liability provided for in this section shall be limited to releases existing at the Industri-plex site as of the date of the acquisition of an interest in said Industri-plex site by the department or its nominee, whichever occurs first, and shall not bar enforcement or claims against any entity for any act by such entity that is determined to have exacerbated such existing releases; provided further, that notwithstanding any general or special law to the contrary, the department is hereby authorized to participate in the development of the Industri-plex Regional Transportation Center as a joint venture partner of the Massachusetts Port Authority and the Massachusetts Bay Transportation Authority; and, provided further, the Massachusetts port authority and the Massachusetts Bay Transportation Authority are hereby authorized to enter such joint venture partnership with each other and with the department; provided further, that said joint venture partnership is authorized to acquire interests in land by forming a nominee trust to hold title to the land on behalf of the joint venture partnership; provided further, that the department, the Massachusetts Port Authority and the Massachusetts Bay Transportation Authority are hereby authorized to execute such agreements as may be necessary to effect such participation; and, provided further, that

relative to the department's participation in the Industri-plex Regional Transportation Center, the department is hereby authorized to advance to said joint venture partnership, without prior expenditure by said joint venture partnership, such monies, in whole or in part, as have been made available to the department for the Industri-plex Regional Transportation Center and which are necessary to carry out the aforesaid agreements, provided the department certifies to the comptroller the amount so advanced and that all such monies so advanced but not expended under the agreement shall be credited back to the account of the department.

SECTION 44. Item 6001-9510 of section 2D of said chapter 273 is hereby amended by striking out the wording and inserting in place thereof the following wording:- For design, environmental review, permitting, and construction of excavation support slurry walls related to elements of the central artery project necessary to facilitate the construction of a rail link connecting the north station transportation center and the south station transportation center, each located in the city of Boston; provided, that no funds shall be expended from this item for the construction of the rail link until the federal government agrees to contribute an amount equal to or greater than eighty-five percent of the total cost of said project; provided further, that no federal highway or transit funding authorized in the Intermodal Surface Transportation Efficiency Act of 1991 P.L. 102-240 shall be used for the purposes of this item; provided further, that nothing in this item shall preclude the use of funding contained herein to complete twenty-five percent of the design of said project; provided further, that a report shall be filed with the house and senate committees on ways and means and the joint committee on transportation, detailing the overall costs of this project, a projected time frame for each phase through construction, economic and regional benefits and a funding plan, prior to the commencement of any construction; and, provided further, that construction of said project, beyond the element authorized in this act, shall not commence until additional authorizations are provided by the general court.

SECTION 45. Item 6005-9545 of section 2H of said chapter 273 is hereby amended by striking out the wording and inserting in place thereof the following wording:- For possible construction along the Greenbush line of the Old Colony Rail Road, so-called, of a tunnel under Hingham Center, or for other uses for the Old Colony Rail Restoration Project; provided, that funds authorized herein may constitute the state's share for said project.

SECTION 46. Item 6005-9570 of said section 2H of said chapter 273 is hereby amended by striking out the wording and inserting in place thereof the following wording:- For environmental remediation for compliance with federal and state requirements on property owned by the authority, including the remediation of underground storage tanks, contaminated sites, sewage and septic discharges, water, wetlands and waterways, hazardous waste, air quality, solid waste, noise, lead and asbestos; provided, however, that not more than three million three hundred thousand dollars may be expended as the authority's share of the cost to design and construct a regional transportation center at the Industri-plex Superfund site in the city of Woburn, including new commuter rail facilities for approximately eleven hundred vehicles, which facilities may be built as part of the EPA-approved Superfund remedy for the site and thereby ensure full compliance with

all environmental laws including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), governing the remedial action required by the authority as a named responsible party for this site; provided further, that these funds shall not include any other expenditures not directly related to the regional transportation center that may otherwise be required by the authority to comply with Superfund laws at the Industri-plex site; provided, further, that the inspector general shall study and examine the feasibility of relocating and operating the Massachusetts port authority's shuttle bus service to and from Logan International Airport, known as the "Woburn Logan Express", from its current site at Mishawum commuter rail station or any other site to the Industri-plex Regional Transportation Center in the city of Woburn; including but not limited to, an analysis of the potential economic benefits of such relocation, the potential for increased ridership from such relocation and the appropriateness of the site itself; provided, further, that the inspector general shall file such study with the house and senate committees on ways and means and the joint committee on transportation; provided further, that the authority, its nominees, successors-in-interest, assigns, tenants, lessees, sublessees, licensees, transferees, and other assignees shall, in the event it or its nominee acquires any interest in the Industri- Plex site, be exempt from any and all liability to third parties and to the commonwealth that may be imposed under sections four, five and eleven of chapter twenty-one E of the General Laws for releases of oil or hazardous substances or material existing as of the date of the authority's or its nominee's acquisition, whichever occurs first, of an interest in said Industri-Plex site, except for such liability, if any, that the authority, its nominee, successors-in-interest, assigns, tenants, lessees, sublessees, licensees, transferees and other assignees, respectively, may have had at the Industri-Plex site prior to the date of such acquisition by the authority or its nominee; provided further, the authority shall comply with any and all restrictions and obligations imposed by the United States Environmental Protection Agency or by the department of environmental protection on the use of the Industri-plex site including any "institutional controls", so-called, and nothing contained herein shall be construed to limit the enforceability of any such restrictions and obligations by the United States Environmental Protection Agency or by the commonwealth, including the department of environmental protection; provided further, that no funds shall be expended from this item for the Industri-plex site unless or until the attorney general certifies in writing to the comptroller that the commonwealth will not thereby undertake any significant risk of additional financial liability pursuant to any federal environmental statute, including CERCLA, 42 USCA 9601, et seq.; and provided, further, that solely in connection with the development of a regional transportation center at said Industri-plex site, as discussed in this section, the actions taken by the authority relative to the funding of certain additional remedial activities at said Industri-plex site provided the scope of such actions is agreed upon by the department of environmental protection are hereby deemed to satisfy any and all requirements of subsection (j) of section three A of chapter twenty-one E of the General Laws and any regulations, policy statements, and guidances promulgated or published thereunder; provided further, that notwithstanding any provisions to the contrary, any exemption from liability

provided for in this section shall be limited to releases existing at the Industri-plex site as of the date of the acquisition of an interest in said Industri-plex site by the authority or its nominee, whichever occurs first, and shall not bar enforcement or claims against any entity for any act by such entity that is determined to have exacerbated such existing releases.

SECTION 47. Section 4 of said chapter 273 is hereby amended by striking out, in lines 4 and 5, the words "two hundred sixty-one million six hundred thirty-six thousand nine hundred fifty-eight dollars" and inserting in place thereof the following words:- two hundred sixty-three million, one hundred thirty-six thousand, nine hundred fifty-eight dollars.

SECTION 48. Said chapter 273 is hereby further amended by striking out section 71 and inserting in place thereof the following section:-

Section 71. (1) The executive office of transportation and construction, hereinafter in this section referred to as the office, and the Massachusetts Turnpike Authority, hereafter in this section referred to as the authority, are hereby authorized and directed to identify information regarding, and to gather samples of, existing and emerging products, materials, and technologies designed and produced to increase the use of certain recyclable materials in their road and bridge construction projects. The office and the authority shall gather, compile, and analyze the results from the commonwealth and other states in the following subject areas:

(*a*) current uses of recyclable materials in construction projects;

(*b*) studies and demonstration projects regarding the use of recyclable materials; and

(*c*) existing and proposed germane statutes, regulations, and specifications regarding the use of recyclable materials.

(2) The office and the authority shall review and revise existing bid procedures and specifications for the purchase or use of products and materials to eliminate any procedures or specifications that explicitly discriminate against products and materials with recycled content, except where such procedures and specifications are necessary to protect the health, safety, and welfare of the people of the commonwealth.

(3) The office and the authority shall review and revise their bid procedures and specifications periodically to encourage the use of products and materials with recycled content that meet minimum performance requirements, and shall, in developing new procedures, special provisions, or addenda as applicable, encourage the use of products and materials with recycled content.

(4) The office and the authority, in cooperation with the department of procurement and general services, shall adopt policies, specifications, and regulations to encourage its contractors to use and track, monitor and record products and materials with recycled content, whether or not those products and materials, or both, will become the property of the commonwealth.

(5) The office shall continuously update its survey and research on the use of recyclable materials and developments in the use of recycled materials in highway and road construction in other states.

(6) The office and the authority shall, in cooperation with the executive office of environmental affairs and the university of Massachusetts or an appropriate contractor,

evaluate and assess, for a period not to exceed ten years, the use of recycled materials in road and highway projects, including but not limited to field tests. The office and the authority shall disseminate information concerning the use of recycled materials to state, district and municipal officials and to road and highway contractors, through media including but not limited to workshops, seminars, conferences, publications and public documents.

(7) The office and the authority, in cooperation with the executive office of environmental affairs, the department of procurement and general services and the executive office of economic affairs, shall promote and facilitate the transfer of technology used to incorporate recycled materials in road and highway projects to state, district and local road and highway officials and contractors.

(8) (*a*) The office and the authority, in cooperation with the department of procurement and general services, the executive office of environmental affairs, and the executive office of economic affairs shall prepare a report pursuant to the reporting requirements of this section. Such report shall also include a summary and details of accomplishments and of short term and long term implementation plans. Such report shall be submitted as part of the pollution prevention plan required pursuant to executive order 350. In the event that the pollution prevention plan is not prepared on an annual basis, the office and the authority shall prepare and submit its report on an annual basis.

(*b*) Beginning in nineteen hundred and ninety-eight, the office and the authority shall report on the volume of recycled material used in highway and roadway construction projects in the commonwealth.

(*c*) The office and the authority shall file the report required pursuant to this section with the house and senate committees on ways and means, the joint committee on transportation and the joint committee on natural resources and agriculture.

(9) All agencies shall cooperate with the office in carrying out the provisions of this section.

SECTION 49. Subsection (*a*) of section 86 of said chapter 273 is hereby amended by striking out clause (*i*) and inserting in place thereof the following clause:- (*i*) the preliminary design of an Industri-plex regional transportation center to be located in Woburn on land commonly known as the Woburn Industri-plex site, with such center, including Massachusetts bay transportation authority commuter rail service and related facilities, including new parking spaces for approximately eleven hundred vehicles, a department of highways park-and-ride facility for approximately four hundred vehicles and related high occupancy vehicle commuter facilities, and parking facilities for approximately nine hundred vehicles, passenger shelters and amenities and related support facilities in connection with shuttle bus service to and from General Edward Lawrence Logan International Airport,.

SECTION 50. Said section 86 of said chapter 273 is hereby further amended by striking out subsection (*c*) and inserting in place thereof the following subsection:-

(*c*) The port authority, its nominees, successors-in-interest, assigns, tenants, lessees, sublessees, licensees, transferees, and other assignees shall, in the event it or its nominee acquires any interest in the Industri-Plex site, be exempt from any and all liability to third parties and to the commonwealth that may be imposed under sections, four, five and eleven

of chapter twenty-one E of the General Laws for releases of oil or hazardous substances or material existing as of the date of the port authority's or its nominee's acquisition, whichever occurs first, of an interest in said Industri-Plex site, except for such liability, if any, that the port authority, its nominees, successors-in-interest, assigns, tenants, lessees, sublessees, licensees, transferees and other assignees, respectively, may have had at the Industri-Plex site prior to the date of such acquisition by the authority or its nominee; provided further, that the port authority shall comply with any and all restrictions and obligations imposed by the United States Environmental Protection Agency or the department of environmental protection on the use of the Industri-plex site; including any "institutional controls", so-called, and nothing contained herein shall be construed to limit the enforceability of any such restrictions and obligations by the United States Environmental Protection Agency or by the commonwealth, including the department of environmental protection; provided further, that solely in connection with the development of a regional transportation center at the Industri-plex site, as provided in this section, the actions taken by the port authority, its nominee, successors in interest, assigns, tenants, lessees, sublessees, licensees, transferees, and other assignees relative to the funding of certain additional remedial activities at said Industri-plex site, provided the scope of such actions is agreed upon by the department of environmental protection are hereby deemed to satisfy any and all requirements of subsection (j) of section three A of chapter twenty-one E of the General Laws and any regulations, policy statements, and guidances promulgated or published thereunder; provided further, that notwithstanding any provisions to the contrary, any exemption from liability provided for in this section shall be limited to releases existing at the Industri-plex site as of the date of the acquisition of an interest in said Industri-plex site by the port authority or its nominee, whichever occurs first, and shall not bar enforcement or claims against any entity for any act by such entity that is determined to have exacerbated such existing releases.

SECTION 51. Subsection (*d*) of said section 86 of said chapter 273 is hereby amended by inserting after the word "any", in line 3, the first time it appears, the following words:- significant risk of.

SECTION 52. Clause (*e*) of section 7 of chapter 325 of the acts of 1994, as appearing in section 10 of chapter 79 of the acts of 1995, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- To contract with the university and any other persons or entities, public or private, with respect to the use and occupancy by the university or such persons or entities by lease, rental or otherwise, of all or any portion of the civic arena and civic stadium under such terms and conditions, for such fees, rentals or other charges, and for such period, not exceeding ten years, as the commission shall deem in the best interest of the city, except that a contract with the university for university use may be for a period in excess of ten years.

SECTION 53. Section 8 of said chapter 325, as appearing in section 11 of said chapter 79, is hereby further amended by striking out paragraph (*a*) and inserting in place thereof the following paragraph:-

(*a*) The commission is hereby authorized to maintain and operate a civic arena and

civic stadium or to contract with the university or to contract with any person acting jointly with the university or any other person, public or private, for the maintenance and operation of the civic arena and civic stadium or any portion thereof, provided, however, that any such contract shall not exceed a term of ten years and shall be subject to the limitations and procedures established by section twenty-nine of chapter forty-three of the General Laws.

SECTION 54. Section 23 of chapter 102 of the acts of 1995 is hereby amended by striking out the seventh paragraph, as amended by section 2 of chapter 273 of the acts of 1995, and inserting in place thereof the following paragraph:-

Said Boston Redevelopment Authority, said Boston transportation department and said authority shall submit a copy of a final report to the chairmen of the house and senate committees on ways and means and the chairmen of the joint committee on transportation on or before January first, nineteen hundred and ninety-seven, and shall file said report with the clerk of the house of representatives.

SECTION 55. Section 2 of chapter 267 of the acts of 1995 is hereby amended by inserting before item 1102-0961 the following item:-

1102-0960 For the purpose of establishing and constructing a civic stadium as defined in section two of chapter three hundred and twenty-five of the acts of nineteen hundred and ninety-four, pursuant to said chapter three hundred and twenty-five; provided, however, that no funds shall be expended from this item until a comprehensive plan for said civic stadium is submitted to the house and senate committees on ways and means, and the city of Lowell shall have appropriated not less than two million dollars for this purpose, including improvements to the Alumni Field to accommodate professional baseball prior to the completion of the civic stadium; provided further, that, notwithstanding the provisions of any general or special law to the contrary, the university of Massachusetts shall not be required to pay a fee or charge of any kind for the use of any stadium or arena constructed with funds authorized herein $8,000,000

SECTION 56. Section 3 of said chapter 267 is hereby amended by striking out the words "six hundred seventeen million, six hundred and eighty-three thousand, nine hundred eleven dollars" and inserting in place thereof the words:- six hundred twenty-five million, six hundred and eighty-three thousand, nine hundred eleven dollars.

SECTION 57. Item 2120-8964 of section 2 of chapter 15 of the acts of 1996 is hereby amended by inserting after the words "Maudsley Park;" the following words:- provided, that not more than one million six hundred thousand dollars be expended for the rehabilitation and reconstruction of the Ellis Pond dam immediately adjacent to state highway route 1A in the town of Norwood for the purpose of protecting the roadways, road fixtures, and residential structures on said state highway route 1A within the vicinity of said dam.

SECTION 58. Item 2000-6966 of section 2 of chapter 28 of the acts of 1996 is here-

by amended by striking out the words "a matching contribution of twenty-five percent" and inserting in place thereof the following words:- a matching contribution of twenty percent.

SECTION 59. Section 2 of chapter 113 of the acts of 1996 is hereby amended by striking out item number "6033-1961" and inserting in place thereof the following item number:- 6036-9615.

SECTION 60. Said section 2 of said chapter 113 is hereby further amended by striking out item number "6033-1962" in the second item and inserting in place thereof the following item number:- 6036-9616.

SECTION 61. Section 2A of said chapter 113 is hereby amended by striking out item number "6033-1963" and inserting in place thereof the following item number:- 6036-9617.

SECTION 62. Said section 2A of said chapter 113 is hereby further amended by striking out item number "6033-1967" in the second item and inserting in place thereof the following item number:- 6036-9669.

SECTION 63. Said section 2A of said chapter 113 is hereby further amended by striking out item number "6033-1969" in the third item and inserting in place thereof the following item number:- 6036-9698.

SECTION 64. The first sentence of section 9 of said chapter 113 is hereby amended by striking out item number "6033-1969" and inserting in place thereof the following item number:- 6036-9698.

SECTION 65. The last sentence of section 12 of said chapter 113 is hereby amended by striking out item number "6033-1967" and inserting in place thereof the following item number:- 6036-9669.

SECTION 66. Section 15 of said chapter 113 is hereby amended by striking out the item number "6033-1969" and inserting in place thereof the following item number:- 6036-9698.

SECTION 67. The department of highways, hereinafter called the department, is hereby authorized and directed to expend the sums authorized in section two for the following purposes:

Projects for the laying out, construction, reconstruction, resurfacing, relocation or necessary or beneficial improvement of highways, bridges, bicycle paths or facilities, on-street bicycle projects and sidewalks, telecommunications, parking facilities, auto-restricted zones, scenic easements, grade crossing eliminations and alterations of other crossings, traffic safety devices on state highways and on roads constructed under the provisions of section thirty-four of chapter ninety of the General Laws, highway or mass transportation studies including, but not limited to, traffic, environmental or parking studies, the establishment of school zones in accordance with section two of chapter eighty-five, improvements on routes not designated as state highways without assumption of maintenance responsibilities and, notwithstanding the provisions of any general or special law to the contrary, projects to alleviate contamination of public and private water supplies caused by the department's storage and use of snow removal chemicals which are necessary for the purposes of highway safety, and for the relocation of persons or businesses, or re-

placement of dwellings or structures including, but not limited to, the provision of last resort housing under federal law and such functional replacement of structures in public ownership as may be necessary for the foregoing purposes and for relocation benefits to the extent necessary to satisfy the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act, 42 USC 4601 et seq., PL 90-646, and to sell any structure the title to which has been acquired for highway purposes. When dwellings or other structures are removed, in furtherance of any of the foregoing projects, the excavations or cellar holes remaining shall be filled in and brought to grade within one month after such removal. In planning projects funded by section two, consideration shall be made to accommodate and incorporate provisions to facilitate the use of bicycles and walking as a means of transportation; provided, that nothing herein shall give rise to enforceable legal rights in any party or a cause of action or an enforceable entitlement as to the projects provided herein; and provided, further, that nothing stated herein shall be construed as to giving rise to such enforceable legal rights in any party or a cause of action or an such enforceable entitlement as to the projects provided herein.

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

Notwithstanding the provisions of sections thirty-eight C, forty A and forty B of chapter seven of the General Laws, the department shall have jurisdiction over the selection of designers performing design services in connection with the ventilation of buildings, utility facilities and toll booths to be constructed as part of the central artery/third harbor tunnel project, and shall construct, control, supervise or contract said structures; provided, however, that no construction or contractual agreement for construction shall begin prior to the review and approval of the inspector general. The inspector general shall file with the house and senate committees on ways and means and the joint committee on transportation all notices of approval for projects undertaken pursuant to the provisions of this paragraph.

In addition to the foregoing, the department is further authorized:

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

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

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

In carrying out the provisions of this section, the department may enter into contracts

or agreements with cities to mitigate the impacts of projects undertaken pursuant to this act and to undertake additional transportation measures within such cities, and may enter into such contracts or agreements with other state, local or regional public agencies, authorities, or political subdivisions as may be necessary to implement such city agreements. Cities and other state, local or regional public agencies, authorities or political subdivisions are hereby granted the authority to enter into such contracts or agreements with the department. In relation to such agreements the department is hereby authorized to and may advance to such agencies or authorities without prior expenditure by such agencies or authorities, monies necessary to carry out such agreements; provided however, that the department certifies to the comptroller the amount so advanced; and, provided further, that all monies not expended under such agreement shall be credited to the account of the department from which it was advanced.

SECTION 68. In carrying out the provisions of sections two to two C, inclusive, the department of highways may enter into such contracts or agreements as may be appropriate with other state, local or regional public agencies or authorities. In relation to such agreements between the department and other state agencies or authorities, the department is hereby authorized to advance monies to such agencies or authorities, without prior expenditure by such agencies or authorities, and such agencies and authorities are hereby authorized to accept monies necessary to carry out such agreements; provided, however, that the department shall certify to the comptroller the amounts so advanced; provided further, that such agreements shall contain provisions satisfactory to the department for the accounting of such monies as expended by such agency or authority; and, provided further, that all monies not expended under such agreement shall be credited to the account of the department from which they were advanced. The department shall report to the house and senate committees on ways and means any transfers completed pursuant to the provisions of this section.

SECTION 69. All sums expended either pursuant to this act or for which reimbursement is made under this act for the purpose of acquiring, constructing, or altering public transportation passenger vehicles or facilities, shall be expended in accordance with the provisions of 42 USC 12141 to 12150, inclusive.

SECTION 70. Notwithstanding the provisions of any general or special law to the contrary, the department of highways, hereinafter referred to as the department, is hereby authorized and directed to take all necessary actions to secure federal highway or mass transportation assistance which is or may become available to the department including, but not limited to, actions authorized under or in compliance with the provision of title 23 of the United States Code and section one hundred and forty-five of the Surface Transportation and Uniform Relocation Assistance Act of 1982, PL 97-424, the Surface Transportation and Uniform Relocation Act of 1987, PL 10-17, the Intermodal Surface Transportation Efficiency Act of 1991, PL 102-240, and actions such as filing applications for federal assistance, supervising the expenditure of funds under federal grants or other assistance agreements, and making any determinations and certifications necessary or appropriate to the foregoing. If any federal law, administrative regulation or practice requires any action

relating to such federal assistance to be taken by any department, agency or other instrumentality of the commonwealth other than the department of highways, such other department, agency or instrumentality is hereby authorized and directed to take such action.

In furtherance of the foregoing purposes, the department, as appropriate, shall apply for and accept any federal funds available for projects authorized in section two, and such federal funds, when received, shall be credited to the Federal Highway Construction Program Fund. To meet a portion of the expenditures authorized by section two, there is hereby appropriated to the Federal Highway Construction Program Fund a sum of one billion one hundred thirty million seven hundred twenty-eight thousand five hundred dollars which shall be expended, subject to the limitations contained in Article LXXVIII of the Amendments to the Constitution of the Commonwealth and which shall be in addition to the amounts appropriated in section one of chapter fifteen of the acts of nineteen hundred and eighty-eight, section one of chapter thirty-three of the acts of nineteen hundred and ninety-one, section two of chapter one hundred and two of the acts of nineteen hundred and ninety-four, section two of chapter two hundred and seventy-three of the acts of nineteen hundred and ninety-four and section two of chapter one hundred and thirteen of the acts of nineteen hundred and ninety-six.

SECTION 71. The department of highways, hereinafter referred to as the department, may provide functional replacement of real property in public ownership whenever the department has acquired such property in whole or in part under the provisions of this act or such property is significantly and adversely affected as a result of the acquisition of property for a highway or highway-related project and whenever the department determines such functional replacement is necessary and in the public interest. For purposes of this section, the words "functional replacement" shall mean the replacement, pursuant to the provisions of chapter seven of the General Laws including sections forty F and forty F½, requiring authorization of the general court prior to disposition of real property, including either land or facilities thereon, or both, which shall provide equivalent utility and the words "real property in public ownership" shall mean any and all present and future interest in land, including rights of use, now existing or hereafter arising, held by an agency, authority, board, bureau, commission, department, division or other unit, body, instrumentality or political subdivision of the commonwealth. This section shall not constitute authorization by the general court as required by said chapter seven.

Whenever the department determines it is necessary that any utility or utility facility, as defined under federal law, shall be relocated because of construction of a project which is to be reimbursed federally, in whole or in part, then such facilities shall be relocated by the department or by the owner thereof in accordance with an order from the department; provided, however, that the commonwealth may reimburse the owner of such utility or utility facility for the cost of relocation; provided further, that any relocation of facilities carried out under this section which is not performed by employees of the owner shall be subject to the provisions of section twenty-seven of chapter one hundred forty-nine of the General Laws.

Notwithstanding the provisions of any general or special law to the contrary, any

utility facility that is required to be relocated because of the construction of a project federally funded under the Federal-Aid Highway Act of 1982 and the Federal-Aid Highway Act of 1987 may be relocated temporarily above ground during the construction of said project.

SECTION 72. Notwithstanding the provisions of any general or special law to the contrary, the provisions of section sixty-one and sections sixty-two A to sixty-two H, inclusive, of chapter thirty of the General Laws and chapter ninety-one of the General Laws and section forty of chapter one hundred and thirty-one of the General Laws shall not apply to bridge projects of the department authorized under this act for the repair, reconstruction, replacement or demolition of existing state highway bridges and other bridges, including the immediate roadway approaches necessary to connect said bridges to the existing adjacent highway system, in which the design is substantially the functional equivalent of, and in similar alignment to, the structure to be reconstructed or replaced; provided, that notwithstanding the foregoing, the provisions of said section sixty-one and sections sixty-two A to sixty-two H, inclusive, of said chapter thirty and said chapter ninety-one and said section forty of chapter one hundred and thirty-one shall apply to any portions of the bridge and roadway approaches to the crossing of the Charles River for the central artery/third harbor tunnel project; provided further, that in the case of any state highway or other bridge crossing over a railroad right-of-way or railroad tracks, the department shall seek the opinion of any railroad company, railway company, or its assigns operating on said track of a necessary clearance between said track and the state highway bridge; provided, however, said clearance shall be at the discretion of the department; provided further, that the department, its agents or contractors may enter upon any right-of-way, land or premises of a railroad company or railway company or its assigns for such purposes as the department may deem necessary or convenient to carry out the provisions of this act; provided further, that if a flagman is needed to carry out the provisions of this act, the railroad company, railway company, or its assigns shall provide such flagman. For the purposes of this section and item 6033-9669 of section two A, the word "bridge" shall include any structure spanning and providing passage over water, railroad right-of-way, public or private way, other vehicular facility or other area.

SECTION 73. Notwithstanding the provisions of any general or special law to the contrary, operating expenditures for the fiscal year ending June thirtieth, nineteen hundred and ninety-six of a regional transit authority not operating for a full year during fiscal year nineteen hundred and ninety-five may exceed one hundred and three percent of its operating expenditure for the fiscal year ending June thirtieth, nineteen hundred and ninety-five.

SECTION 74. No payment in excess of one hundred seventy-five thousand dollars by way of purchase of real estate or any interest therein shall be made by the department of highways and no settlement in excess of one hundred seventy-five thousand dollars or in excess of the amount recommended by the real estate review board established by section six of chapter seven hundred eighteen of the acts of nineteen hundred fifty-six shall be made out of court for damages recoverable under chapter seventy-nine of the General Laws, by reason of a purchase or taking under this act. Each recommendation of the real estate review

board shall be in writing and shall be accompanied by a written statement of the reasons for such recommendation.

No settlement by reason of taking under this act in excess of one hundred seventy-five thousand dollars or in excess of the recommendation of the real estate review board shall be made by agreement of the parties during or after trial except with the written approval of the court; provided, however, that settlements in excess of the recommendation of the board may be made without such approval if the settlement does not exceed the amount of any verdict or finding which has been rendered, together with interest and costs.

SECTION 75. As used in this section the following words shall have the following meanings:-

"Minority", a person with permanent residence in the United States who is Black, Portuguese, Western Hemisphere Hispanic, Asian, Native American or Cape Verdean.

"Minority business enterprise", an individual, business organization or nonprofit corporation which is certified as a minority business enterprise, as defined in section forty of chapter twenty-three A of the General Laws and all applicable regulations by the state office of minority and women business assistance established pursuant to section forty-one of said chapter twenty-three A.

"Women business enterprise", any individual, business organization or nonprofit corporation which is certified as a women business enterprise as defined in section forty of said chapter twenty-three A and all applicable regulations by the state office of minority and women business assistance established pursuant to section forty-one of said chapter twenty-three A.

Each agency, commission, authority and political subdivision authorized to make expenditures pursuant to the provisions of this act, shall establish a narrowly tailored affirmative action program for minority and women business enterprises designed to ensure that certified minority and women-owned businesses are awarded contracts to perform such services consistent with their availability. Affirmative market programs established pursuant to this act may include race-conscious contracting preferences when necessary to accomplish remedial goals.

The secretary of each agency or commission and the executive officer of each authority or political subdivision authorized to make expenditures under the provisions of this act shall monitor the implementation of this section to ensure that the best efforts of each agency, commission and authority are utilized in the implementation of this section. Each agency, commission or authority authorized to make expenditures under the provisions of this act shall provide written annual reports to its respective secretary and, in the case of a political subdivision, said annual reports shall be filed with the office granting or otherwise providing funds authorized in this act, detailing the number of contracts entered into, the dollar value of each contract, the number of contracts entered into with minority and women business enterprises, and the dollar value of each contract entered into with minority and women business enterprises.

Notwithstanding the provisions of any general or special law to the contrary, each executive office, agency, commission, authority or political subdivision may initiate certifi-

cation of minority and women business enterprises in a manner consistent with the rules and regulations promulgated by the state office of minority and women business assistance. If an executive office, agency, commission, authority or political subdivision makes a referral that a business may be a minority or women business enterprise, such referral, together with supporting documentation and a letter indicating the intent of the executive office, agency, commission, authority or political subdivision to contrast with the business, shall be sent to said state office, which shall approve or disapprove said business within thirty business days. Upon the certification of a business as a minority or women business enterprise by said state office of minority and women business assistance, such certification shall be effective for all executive offices and agencies for the purposes of this section.

There is hereby established a special commission to consist of three members of the house of representatives, and three members of the senate to review and evaluate the policies, programs and practices of each executive office, agency, commission, authority and political subdivision established in connection with minority and women business enterprises. The programs and policies to be reviewed shall include but not be limited to those established in connection with affirmative market programs to ensure that such programs include race and gender contracting preferences consistent with the provisions of sections thirty-nine to forty-four, inclusive, of chapter twenty-three A of the General Laws.

Said special commission is hereby authorized to consult with such persons, organizations, experts and interested parties as it deems necessary to facilitate its examination. Said special commission shall report its findings to the clerks of the senate and house of representatives not later than March first, nineteen hundred and ninety-seven.

The provisions of this section shall apply to this act and to chapter one hundred thirteen of the acts of nineteen hundred and ninety-six.

SECTION 76. Notwithstanding the provisions of sections thirty-eight C, forty A and forty B of chapter seven of the General Laws, the department of highways shall have jurisdiction over the selection of designers performing design services in connection with the construction of tourist information and sanitary buildings, and shall construct, control, supervise or contract such buildings; provided, however, that this section shall not apply to the construction of such buildings estimated to cost in excess of one million dollars per contract; and provided further, that no construction or contractual agreement for construction shall begin prior to the review and approval of the inspector general.

SECTION 77. The department of highways is hereby authorized and directed to undertake a feasibility review of the safety improvements between the Phillipston/Templeton townline and the Greenfield interstate highway Route 91 intersection as recommended by the state highway Route 2 safety improvement study authorized by section sixty-eight of chapter two hundred and seventy-three of the acts of nineteen hundred and ninety-four. Said department is further authorized and directed to prepare a design and construction implementation plan for said safety improvements within ninety days after completion of said study.

SECTION 78. The department of highways is hereby authorized and directed to conduct a feasibility study and preliminary design of the relocation of the ramps for inter-

state highway Route 91 in the city of Springfield between State street and Broad street. The department is further authorized and directed to undertake the construction of said ramp relocations and other related improvements as approved by the federal highway administration.

SECTION 79. The department of highways is hereby authorized and directed to acquire by eminent domain the necessary land for the Great River Bridge Project in the city of Westfield.

SECTION 80. The department of highways is hereby authorized and directed to conduct a feasibility study for the construction of ramps on interstate highway Route 91 between exits 17 and 18; provided, however, that a gambling facility is first approved in the city of Holyoke.

SECTION 81. The department of highways is hereby authorized and directed to conduct a study of a portion of interstate highway Route 91, from exit 3 to the Broad street exit in the city of Springfield. The study shall include, but not be limited to, the modifications necessary to improve the efficiency and safety related to the movement of vehicular traffic.

SECTION 82. The department of highways shall acquire by eminent domain the necessary land in the city of Chicopee for the Shawinigan Drive Project, so-called.

SECTION 83. The department of highways is hereby authorized and directed to evaluate the feasibility of a northbound ramp at Exit 24 of interstate highway Route 91 in the town of Whately.

SECTION 84. The department of highways shall include a retaining wall and sidewalk in the scope of the North Avenue Corridor Project, so-called, in the town of Wakefield. The Massachusetts Bay Transportation Authority is hereby authorized to permit the department of highways to undertake this work on its property.

SECTION 85. The department of highways is hereby authorized to immediately construct a sound barrier wall along the northbound section of the southeast expressway from one hundred Playstead road northerly to the rear of Savin Hill court in the Dorchester section of the city of Boston.

SECTION 86. The Massachusetts Bay Transportation Authority is hereby authorized and directed to designate the JFK/UMass station on the red line in the Dorchester section of the city of Boston as the southern most terminus for the circumferential transit way, so-called.

SECTION 87. Notwithstanding any provision of general or special law to the contrary, all Massachusetts Bay Transportation Authority level crossings on the Haverhill and Wildcat lines in the town of Wilmington shall have gates at level crossings installed and functional not later than December thirty-first nineteen hundred and ninety-six.

SECTION 88. The department of environmental management is hereby authorized and directed to conduct a study of cleanup and water diversion of the Fells section, so-called, of the Mystic River at the Melrose/Malden line for the purposes of flood alleviation to the residential property located at the Converse Lane/Washington street section of said municipalities. Said report shall be filed with the clerk of the house of representatives on

or before November tenth, nineteen hundred and ninety-six.

SECTION 89. Notwithstanding the provisions of any general or special law to the contrary, the department of highways is hereby authorized and directed to complete the construction of a temporary bridge structure on River street in the town of Westford not later than October first, nineteen hundred and ninety-six. Said department is further authorized and directed to complete construction of a permanent bridge structure on said River street in said town of Westford not later than September first, nineteen hundred and ninety-seven.

SECTION 90. The department of highways is hereby authorized to include considerations of unique, distinctive and historical characteristics, including, but not limited to, characteristics typical of rural roadways, during design and planning of reconstruction and improvement projects. The department is further authorized to consult with the appropriate regional, local, or municipal agencies, and to incorporate preferences identified by said agencies, during the roadway design and planning process.

SECTION 91. The department of highways is hereby authorized and directed to complete the project of widening of state highway Route 85 causeway in the towns of Marlborough and Hudson; provided, however, that the department of highways and the Massachusetts Water Resources Authority are authorized to arrange for excavation material from the Metrowest tunnel project to be used in said widening project.

SECTION 92. The Massachusetts Bay Transportation Authority is hereby authorized and directed to complete the Arborway restoration project authorized in item 6005-9524 of section two H of chapter two hundred and seventy-three of the acts of nineteen hundred and ninety-four, and to submit a report to the joint committee on transportation not later than December thirty-first, nineteen hundred and ninety-six concerning the status of said project.

SECTION 93. The executive office of transportation and construction is hereby directed to complete the study to determine the noise impact of train service along the southwest corridor in the city of Boston, authorized in item 6005-9582 of section two H of chapter two hundred and seventy-three of the acts of nineteen hundred and ninety-four, and to submit a report and recommendations to the joint committee on transportation not later than September thirtieth, nineteen hundred and ninety-six.

SECTION 94. The department of highways is hereby authorized and directed to conduct a study of alternatives to alleviate traffic congestion on a portion of state highway route 68, one-quarter mile north of the intersection of Pitcherville road and Morgan road in the town of Hubbardston and to undertake the design and construction of the necessary improvements.

SECTION 95. The department of highways and the office of travel and tourism are hereby authorized and directed to make a study and recommendations concerning the feasibility and desirability of acquiring land adjoining limited access highways and leasing such land for the development and operation of restaurants, motorist information service facilities and comfort stations. The report of said study and recommendations shall be filed with the joint committee on transportation not later than June thirtieth, nineteen hundred and ninety-seven.

SECTION 96. Whenever the language of a general capital authorization item of this act includes a smaller allocation for a specific project, the amount of said allocation may be adjusted to a greater or lesser amount if required to conform to contract requirements; provided, that it shall not exceed the total amount authorized by the item; and, provided further, that in any instance in which said allocation is adjusted to a greater or lesser amount, the appropriate department shall report to the joint committee on transportation and the house and senate committees on ways and means.

SECTION 97. Notwithstanding the provisions of any general or special law to the contrary, the department of highways and the Massachusetts Bay Transportation Authority are hereby authorized and directed to coordinate and complete repairs of the George Roper memorial bridge, so-called, the Adams street bridge, so-called, and the Medway street bridge, so-called, in the Dorchester section of the city of Boston.

SECTION 98. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Bay Transportation Authority shall, within sixty days after the effective date of this act, file with the joint committee on transportation and the house and senate committees on ways and means the existing long range capital development spending plan for the authority; provided, that to the extent that said plan does not exist or does not include the information detailed herein, said plan shall be revised to include the following: (*a*) the status of all previously authorized construction projects, maintenance and infrastructure repair projects, and major equipment purchases, including the unexpended balances for said projects and purchases; (*b*) the schedule of planned expenditures for the projects authorized in section two J; and (*c*) a ten year schedule of planned improvements to the authority's commuter rail and rapid transit systems, including plans for the green line, so-called, and the Mattapan high speed line, so-called; provided, that said schedule shall be revised, if necessary, to include improvements and repairs at the Fields Corner and Savin Hill red line stations, including, but not limited to, improvements necessary to comply with the Americans with Disabilities Act, traffic improvements and lighting re-design; provided further, that the authority shall complete work on said Fields Corner and Savin Hill stations within five years of the effective date of this act. Said authority shall annually, not later than September fifteenth, update the long range capital development plan authorized herein and file said plan with the joint committee on transportation and the house and senate committees on ways and means.

SECTION 99. Notwithstanding the provisions of any general or special law to the contrary, no funds authorized in section two J shall be available for expenditure until the Massachusetts Bay Transportation Authority files the long range capital development spending plan required by section ninety-eight.

SECTION 100. Notwithstanding the provisions of any general or special law to the contrary, the state treasurer is hereby authorized and directed to make a study of the cash management practices of the Massachusetts Bay Transportation Authority. Said study shall (*a*) detail how the practice of payment of net cost of service advances, so-called, originated; (*b*) explain how said advances are utilized by said authority in its day-to-day operations; (*c*) focus on the continued need for said authority to receive net cost of service advances, so-

called, from the state treasurer; (*d*) make recommendations on the methods to reduce or eliminate the need for said advances; and (*e*) detail the annual interest paid on the borrowing undertaken to finance said advances for fiscal years nineteen hundred and ninety to nineteen hundred and ninety-six, inclusive, and an estimate of such interest costs for fiscal years nineteen hundred and ninety-seven and nineteen hundred and ninety-eight. The report of said study shall be filed with the special commission established under the provisions of section one hundred and one of this act and the joint committee on transportation and the house and senate committees on ways and means within six months of the effective date of this act.

SECTION 101. (*a*) There is hereby established a special commission to review the financing of the Massachusetts Bay Transportation Authority. Said commission shall be chaired by the secretary of administration and finance and shall include the secretary of transportation and construction, or his designee, the general manager of the Massachusetts Bay Transportation Authority or his designee, the state treasurer, or his designee, the state comptroller, or his designee, the chairman of the Massachusetts bay transportation authority advisory board or his designee, one person with experience in the field of public transportation to be appointed by the governor, the inspector general or his designee, the state auditor or his designee, the chairmen of the house and senate committees on ways and means or their designees, the chairmen of the joint committee on transportation or their designees, the chairmen of the house and senate committees on post audit and oversight or their designees, one member of the house of representatives to be appointed by the house minority leader, and one member of the senate to be appointed by the senate minority leader.

(*b*) The commission shall review all aspects of the financing of the Massachusetts Bay Transportation Authority, including, but not limited to, accounting practices and cash flow management, program budgeting, fare collections and fare structure, assessments made to cities and towns within the authority district as defined in chapter one hundred and sixty-one A of the General Laws, the need for assessments to those cities and towns which are not included in the authority district as so defined, but which are benefiting directly or indirectly from services provided by the authority, and the current structure for making contract assistance payments to the authority.

(*c*) The commission shall develop a plan to implement a prospective budgeting system for the authority and shall develop a schedule to phase in said prospective budgeting system. The first phase of said implementation plan shall be structured so as not to exceed the authorization included in section two K and shall comply with the conditions set on the funds authorized by said section two K. Said plan shall be submitted concurrently with the terms bill, so-called, for the authorization made in said section two K or within nine months of the effective date of this act; provided, however, that nothing in this section shall be construed to require the governor to file a terms bill, so-called, within nine months of the effective date of this act.

(*d*) The commission shall develop, within fifteen months of the effective date of this act, a plan for the second phase of the implementation of the prospective budgeting system for the authority. Said plan shall detail the components of the authority's operations which

shall be subject to prospective budgeting and shall detail the costs and savings associated with the implementation of said prospective budgeting system.

SECTION 102. Notwithstanding the provisions of any general or special law to the contrary, the John W. McCormack institute of public affairs is hereby authorized to review and explore possible cost savings within the central artery/third harbor tunnel project. The institute may employ such staff or consultants as may be necessary for the purpose of this review and may use the funds authorized in item 7400-6969 of section two B for all costs associated with such review. The McCormack institute is hereby authorized to request any and all information which it deems necessary to undertake the review authorized herein. The executive office of transportation and construction, the executive office for administration and finance, the department of highways, the Massachusetts port authority, the state auditor, the inspector general, and the attorney general are hereby authorized to provide information to said McCormack institute when requested to do so. The McCormack institute shall submit its findings to the house and senate committees on ways and means and the joint committee on transportation not later than nine months after the effective date of this act.

SECTION 103. Notwithstanding the provisions of any general or special law to the contrary, the uncommitted balances of bond funded authorizations 1100-1561 and 1100-1562 previously made available for the purposes of the off-street parking program established by chapter four hundred and eighty-seven of the acts of nineteen hundred and eighty shall be expended for off-street parking facilities as herein provided: an amount not to exceed two hundred and forty thousand dollars shall be expended for an off-street parking facility in the town of Wellesley, an amount not to exceed three million five hundred thousand dollars shall be expended for an off-street parking facility in the city of Medford, an amount not to exceed two hundred thousand dollars shall be expended for an off-street parking facility in the town of Avon, an amount not to exceed five million dollars shall be expended for an off-street parking facility in the city of Newburyport, an amount not to exceed two million five hundred thousand dollars shall be expended for an off-street parking facility in the city of Haverhill, an amount not to exceed one hundred and seventy-five thousand dollars shall be expended for an off-street parking facility in the city of Gloucester, an amount not to exceed four million five hundred thousand dollars shall be expended for an off-street parking facility in the city of Springfield, and an amount not to exceed three million dollars shall be expended for an off-street parking facility in the town of Amherst. Said authorizations 1100-1561 and 1100-1562 shall not expire until June thirtieth, two thousand and one.

SECTION 104. Notwithstanding the provisions of any general or special law to the contrary, the department of highways is hereby authorized to allow the use of polyethylene pipe products for drainage projects.

SECTION 105. Any amounts made available by this act or heretofore made available by chapter fifteen of the acts of nineteen hundred and eighty-eight and chapter thirty-three of the acts of nineteen hundred and ninety-one and chapter one hundred and two of the acts of nineteen hundred and ninety-four and chapter two hundred and seventy-three of the acts of nineteen hundred and ninety-four and chapter one hundred thirteen of the acts

of nineteen hundred and ninety-six shall be made available for expenditure until June thirtieth, two thousand.

SECTION 106. The department of highways is hereby authorized and directed to conduct a feasibility study of all aspects related to improving access, including the construction of additional access roadways, to and from Worcester airport. Said study shall be completed on or before December thirty-first, nineteen hundred and ninety-six.

SECTION 107. The division of capital planning and operations of the executive office of administration and finance is hereby authorized to expend not more than ten thousand dollars to evaluate any appropriate uses of Spaulding Rehabilitation Hospital by the commonwealth.

SECTION 108. To provide for certain proposed capital projects and the continuation of other capital projects already in progress, item 2120-7848 of section three B of chapter seven hundred and twenty-three of the acts of nineteen hundred and eighty-three and the funds made available in section two of chapter eight hundred of the acts of nineteen hundred and seventy-nine, are hereby authorized to be revived and continued, subject to the conditions set forth in the original authorizations and any amendments thereto, and subject to the provisions of law regulating the disbursement of public funds.

SECTION 109. For the purpose of making available for expenditure certain balances of authorizations which reverted on February twenty-eighth, nineteen hundred and ninety-six, the expiration dates of item 2120-7848 in section three A of chapter seven hundred and twenty-three of the acts of nineteen hundred and eighty-three and the funds made available in section two of chapter eight hundred of the acts of nineteen hundred and seventy-nine are hereby extended through June thirtieth, nineteen hundred and ninety-seven.

SECTION 110. The personnel authorized under chapter twenty-two C of the General Laws shall be the sole police authority of the General Edward Lawrence Logan international airport and Massachusetts port authority properties. Within said airport properties, no airport or port employee, or special state police officer appointed pursuant to section fifty-eight of said chapter twenty-two C, assigned to airport properties shall be entitled to carry any type of firearm, as defined in section one hundred and twenty-one of chapter one hundred and forty of the General Laws, tear gas cartridge or a device or instrument which contains a liquid gas, powder or any other substance designed to incapacitate while on official duty; provided, however, that bird control officers, so-called, may be authorized to carry such weapons as may be necessary to carry out their assigned duties pursuant to said authority's wildlife management program.

SECTION 111. Notwithstanding the provisions of any general or special law to the contrary, the University of Massachusetts Building Authority, as successor in interest to the Lowell Technological Institute Building Authority, is hereby authorized to transfer to the city of Lowell the property acquired in nineteen hundred and sixty-three known as the Lowell arena and civic subdivision plan of land shown on plan 26607B filed with certificate of Title 10165, recorded in the registry of deeds of the northern district of Middlesex county, and the lot of land situated at Aiken and Pawtucket streets, known as Lot 354 consisting of six thousand seven hundred and one square feet more or less, as recorded in Book 2489 on

Page 108 in the registry of deeds of the northern district of Middlesex county, for a nominal sum to the extent such transfer or price is not otherwise prohibited by contractual obligations of the authority. Notwithstanding any general or special law to the contrary, the commission and the city of Lowell are hereby authorized to indemnify the authority regarding any potential liability of the authority pursuant to chapter twenty-one E of the General Laws with respect to any property now owned by the authority but appropriate to transfer to the commission.

SECTION 112. Notwithstanding the provisions of section twenty-seven C of chapter twenty-nine of the General Laws, chapter four hundred and sixty-five of the acts of nineteen hundred and fifty-six or any other general or special law to the contrary, the executive office of transportation and construction, the department of highways, the Massachusetts Bay Transportation Authority, the Massachusetts Turnpike Authority, and the city of Boston are hereby authorized, for the purpose of undertaking or completing transportation or roadway infrastructure improvements in the area of New Northern avenue, as defined below to work with the Massachusetts Port Authority and abutting landowners as defined below, to establish street lines and pedestrian and roadway malls and to realign street patterns and make street connections so as to enhance pedestrian, visual, and marine amenities and to encourage tourism and related activities in and around the area of New Northern avenue. The executive office of transportation and construction, the department of highways, the Massachusetts Bay Transportation Authority, the Massachusetts Turnpike Authority, and the city of Boston are hereby further authorized in connection with such transportation or roadway infrastructure improvements to work with the Massachusetts Port Authority and abutting landowners to establish plazas, pedestrian access, natural plantings, fountains, lighting, sculptures and statuary, to design and create stations, head houses, arcades and public spaces, to provide for security and maintenance of public spaces, to impose limitations on truck traffic and other inconsistent uses and, with respect to the Massachusetts Bay Transportation Authority, to provide a relocate site or sites for abutting landowners dislocated by a transportation infrastructure improvement. Undertaking such activities in conjunction with abutting landowners in furtherance of or incidental to a transportation or roadway infrastructure improvement being constructed by one or more of the agencies or bodies politic set forth in this section is hereby found and declared to be a public purpose.

For the foregoing purposes, and notwithstanding the provisions of any general or special law to the contrary, and without being subject to the provisions of chapter seven of the General Laws, chapter thirty B of the General Laws, section five of chapter one hundred sixty-one A of the General Laws, or clause (*q*) of section 5 of chapter three hundred fifty-four of the acts of nineteen hundred and fifty-two, the department of highways, the Massachusetts bay transportation authority, the Massachusetts turnpike authority, and the city of Boston, acting individually or jointly, and in the sole discretion of each agency or body politic, are hereby authorized to enter into one or more contracts. Such contracts may provide for the sale, exchange, lease, or other transfer at fair market value, of any interest, including the fee interest, in real property owned or acquired by the department of highways,

the Massachusetts Bay Transportation Authority, the Massachusetts Turnpike Authority or the city of Boston in the area of New Northern avenue. The consideration for such sale, exchange, lease or other transfer of real property or any interest in real property may be in the forms of (*a*) payment in cash of the fair market value of such real property or interest in real property; (*b*) conveyance to the agency or body politic of real property or interest in real property of a substantially equivalent fair market value; (*c*) contribution to the transportation or roadway infrastructure improvement services, construction, or other in kind contributions of a kind and nature customarily provided by such agency or body politic, with a monetary value substantially equivalent to the fair market value of the real property or interest in real property so conveyed; or (*d*) compensation to the agency or body politic through a combination of the alternatives set forth in (*a*), (*b*), and (*c*) above. Nothing in this section shall be construed to require any of the agencies or bodies politic to enter into a contract or contracts as provided above. The authority granted under the terms of this section shall expire five years after the effective date of this act, except as to any contract or contracts made prior to such expiration date. For the purposes of this section, the term "abutting landowners" shall mean the person or persons with a fee interest in property abutting New Northern avenue between the easterly sideline of Sleeper street and the westerly sideline of East Service road, and the term "area of New Northern avenue" shall mean the area bounded by Summer street, B street, Boston harbor, and the Fort Point channel in the city of Boston.

SECTION 113. The department of highways is hereby authorized and directed to design and construct the East Boston Parks, so-called, to mitigate the impact of the construction of the central artery/third harbor tunnel project, as provided in the January second nineteen hundred and ninety-one MEPA Certificate, the November, nineteen hundred and ninety, Final Supplemental Environmental Impact report, and the May, nineteen hundred and ninety-one Federal Record of Decision. Said department of highways shall submit an implementation plan for this project within sixty days of the effective date of this act to the joint committee on transportation and the house and senate committees on ways and means.

SECTION 114. The executive office of transportation and construction is hereby authorized and directed to submit a report to the joint committee on transportation and the house and senate committees on ways and means, within sixty days of the effective date of this act, detailing the standards currently used by the Massachusetts Bay Transportation Authority and the department of highways, for both state and federal projects, to determine when operating and construction noise levels, air quality, odor, vibration, or other conditions warrant the use of mitigation measures, such as sound barriers.

SECTION 115. The Massachusetts Bay Transportation Authority is hereby authorized and directed to study the feasibility of establishing commuter rail service to the town of Millis via the Needham branch and to submit a report on said study to the joint committee on transportation not later than December thirty-first, nineteen hundred and ninety-six.

SECTION 116. Notwithstanding the provisions of any general or special law to the contrary, for every dollar expended on the central artery/third harbor tunnel project from items 6033-9617 and 6033-9669 of section two A of this act and items 6036-9617 and

6036-9669 of section two A of chapter one hundred and thirteen of the acts of nineteen hundred and ninety-six, at least four dollars shall be expended on the state-wide road and bridge program, so-called; provided, that the department of highways is hereby authorized and directed to report on a quarterly basis to the house and senate committees on ways and means and the joint committee on transportation relative to said department's success in meeting the requirements of this section, including, but not limited to, a list of the contracts awarded which are funded from said items 6033-9617, 6033-9669, 6036-9617, and 6036-9669 along with a description of the contract and its award value.

SECTION 117. Notwithstanding the provisions of any general or special law to the contrary, the open space created above the depressed central artery shall be designated as the Rose Kennedy greenway; provided, however, that nothing in this section shall preclude the future designation or sale of particular parcels contained within said greenway.

SECTION 118. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Bay Transportation Authority shall not further extend or expand any additional commuter rail service on the Providence/Attleboro line, so-called, until the current layover facility located in the city of Attleboro is relocated to the city of Pawtucket in the state of Rhode Island.

SECTION 119. Notwithstanding the provisions of any general or special law to the contrary, the department of highways is hereby authorized and directed to develop and implement a plan which would expand the use of the high occupancy vehicle lane, so-called, on the Southeast expressway, so-called, to vehicles occupied by two persons.

Said plan shall be implemented in accordance with the following criteria: (*a*) said plan shall only apply to vehicles occupied by two persons; provided, however, that vehicles occupied by three or more persons shall not be subject to the criteria herein delineated; (*b*) vehicles with an odd last number on the registration plate shall be issued a blue windshield sticker; (*c*) vehicles with an even last number on the registration plate shall be issued a red windshield sticker; (*d*) vehicles with vanity registration plates shall be issued a blue windshield sticker; (*e*) vehicles with blue windshield stickers shall be allowed access to said high occupancy vehicle lane on odd numbered calendar days; (*f*) vehicles with red windshield stickers shall be allowed access to said high occupancy vehicle lane on even numbered calendar days.

Commuters who wish to participate in the expanded use of said high occupancy vehicle lane shall make an application to the department of highways in accordance with regulations promulgated by said department and the executive office of transportation and construction under the provisions of this section; provided, however, that two thousand red windshield stickers shall be issued by said department and two thousand blue windshield stickers shall be issued by said department; provided, that said department shall not charge a fee to commuters for the application, production, or distribution of said windshield stickers; and, provided further, that said windshield stickers shall not be transferrable and shall be valid for a period of one year.

The secretary of transportation and construction and the commissioner of the department of highways are hereby authorized and directed to promulgate such regulations

or policies as may be necessary to implement the expanded use of said high occupancy vehicle lane authorized herein within sixty days of the effective date of this act. Said secretary and commissioner shall monitor the results of the plan herein authorized and submit an interim report detailing the result of said plan to the joint committee on transportation and the house and senate committees on ways and means not later than six months after the implementation of the plan authorized herein; provided further, that said secretary and said commissioner shall file a final report detailing the results of said plan not later than fourteen months after the effective date of this act.

SECTION 120. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Bay Transportation Authority is hereby authorized and directed to immediately restore employees employed as guards, so-called, on the blue line to their employment status as said blue line guards as of June first, nineteen hundred and ninety-six; provided, however, that no further changes shall be made to the employment status of said guards until the commission created by this section files the study herein authorized.

There is hereby created a commission to study the needs for guards on blue line trains and the need to maintain staffing levels of not less than one employee during all hours of operation at all stations equiped with automatic token machines, so-called, or electronic token machines, so-called. Said commission shall be convened by the chairmen of the joint committee on transportation. The membership of said commission shall be the chairmen of said joint committee on transportation, the general manager of said Massachusetts Bay Transportation Authority, the chairman of the Massachusetts Bay Transportation Authority advisory board, and the secretary of public safety. The chief of said Massachusetts Bay Transportation Authority police force shall serve as an ex officio member of said commission.

Said commission shall complete a study which shall ascertain whether the safety of the public is better served by the guarding of the blue line trains or whether the electronic surveillance and safety measures currently employed on said trains are sufficient and whether the safety of the public is better served by maintaining an employee at stations equipped with automatic token machines, so-called, or electronic token machines, so-called. Said study shall be submitted to the house and senate committees on ways and means not later than August thirtieth, nineteen hundred and ninety-six.

SECTION 121. Pursuant to the provisions of sections two and two A of this act and sections two and two A of chapter one hundred and thirteen of the acts of nineteen hundred and ninety-six, the department of highways is hereby authorized and directed to expend a sum of not less than five hundred million dollars for projects in the counties of Berkshire, Hampden, Hampshire, Franklin, Norfolk, Worcester, Essex, Middlesex, Barnstable, Bristol, Dukes, Nantucket and Plymouth; provided, however, that the department shall expend not less than one hundred million dollars in the counties of Berkshire, Hampden, Hampshire, and Franklin; not less than one hundred million dollars in the counties of Norfolk and Worcester; not less than one hundred million dollars in the counties of Essex and Middlesex; and not less than one hundred million dollars in the counties of Barnstable, Bristol, Dukes, Nantucket and Plymouth.

Sections disapproved: Sections 86, 92, 98, 99, 118 and 120.

The remainder of the bill was approved by the Governor July 30, 1996.

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 31, 1996 the House of Representatives and the Senate passed the following Sections: 118 and 120 and therefore they have the force of law.

Chapter 206. AN ACT AUTHORIZING THE COMMISSIONER OF THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE CERTAIN PARCELS OF LAND IN THE TOWN OF ASHLAND.

Be it enacted, etc., as follows:

The commissioner of the division of capital planning and operations is hereby authorized, notwithstanding the provisions of section forty H and section forty I of chapter seven of the General Laws, to acquire by eminent domain under the provisions of chapter seventy-nine of the General Laws, or by purchase, gift or otherwise, and the town of Ashland is hereby authorized to convey to the commonwealth acting by and through the division of capital planning and operations, three parcels of land in said town of Ashland; provided, however, that if the acquisition is by purchase the purchase price for said property shall be based on an appraisal of the value of the property for highway use by a professional appraiser using professional appraising practices. Said parcels are owned by said town and are presently used for recreational purposes. Said parcels are to be diverted from their present use to a highway use. The parcels are shown as parcels 4-2, 4-T-1 and 4-WSD-1-T on a plan entitled, "Plan of Land Owned by the Town of Ashland showing Parcels Needed for Highway Purpose," dated January tenth, nineteen hundred and ninety-five, which shall be kept on file by the chief engineer of the department of highways.

Approved July 30, 1996.

Chapter 207. AN ACT AMENDING AN ENVIRONMENTAL ENHANCEMENT AND PROTECTION PROGRAM AND A CERTAIN OTHER MATTER.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately amend the environmental enhancement and protection program and a certain other matter, 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 280 of the acts of 1994 is hereby amended by striking out sec-

tion 3 and inserting in place thereof the following section:-

Section 3. The lease price paid by the town of Framingham for said parcel shall be for an amount of one dollar; and, provided further, that the town of Framingham or its designee shall make improvements to the parcel of land to allow for its continued recreational use beyond the expiration of the lease agreement.

SECTION 2. Item 2530-8969 of section 2 of chapter 15 of the acts of 1996 is hereby amended by striking out the words "provided further, that five hundred thousand dollars shall be expended for the study, design, and preparation of plans, if necessary and for the construction and related costs of the establishment of a commercial food processing kitchen to be operated by the department of food and agriculture;" and inserting in place thereof the following words:- provided further, that five hundred thousand dollars shall be expended for the purpose of establishing a commercial food processing, time shared kitchen or kitchens, including, but not limited to, the study, design, preparation of plans, construction and operation of said facility or facilities; provided further, that notwithstanding the provisions of any general or special law to the contrary, the department may enter into agreements with one or more entities for this purpose; provided further, that expenditures for this purpose may be provided through a competitive grant or loan process;.

SECTION 3. Item 2120-8964 of said section 2 of said chapter 15 is hereby amended by adding after the word "Wrentham" the following words:- *Fulton's Pond Dam in* Mansfield;,- and by striking out the figure "$5,000,000" and inserting in place thereof the following figure:- $5,060,000.

Approved July 30, 1996.

Chapter 208. AN ACT RELATIVE TO THE REVITALIZATION AND DEVELOPMENT OF THE COMMONWEALTH'S SEAPORTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for the immediate revitalization of the seaports and associated equipment 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. To provide for a capital outlay program of revitalization and development of the commonwealth's seaports and associated equipment the sum set forth in section two of this act, for the several purposes and subject to conditions specified under said section two is hereby made available, subject to the provisions of law regulating the disbursements of public funds and the approval thereof.

SECTION 2.

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Office of the Secretary.

2000-8978 For the purchase, design, construction or acquisition of a replica of the Schooner Friendship $500,000

SECTION 3. To meet the expenditures necessary in carrying out the provisions of section two, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor, from time to time, but not exceeding in the aggregate, the sum of five hundred thousand dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Schooner Friendship Revitalization Loan, Act of 1996, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-one. All interest and payments on account of principal of such obligations shall be payable from the General Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 4. The state treasurer may borrow from time to time on the credit of the commonwealth sums of money as may be necessary for the purpose of meeting payments authorized by section two and may issue and renew from time to time notes of the commonwealth thereof bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes shall be issued and may be renewed one or more times for such 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 final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and two. Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

Approved July 30, 1996.

Chapter 209. AN ACT AUTHORIZING THE TOWN OF BELLINGHAM TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALCOHOLIC BEVERAGES.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section seventeen of chapter one hundred and thirty-eight of the General Laws, the licensing authority of the town of Bellingham is hereby authorized to issue, in accordance with the provisions of section fifteen of said chapter one hundred and thirty-eight, one additional license for the sale of all alcoholic beverages not to

be drunk on the premises. Said license shall be subject to all the provisions of said chapter one hundred and thirty-eight except said section seventeen.

Approved July 30, 1996.

Chapter 210. AN ACT AUTHORIZING THE TOWN OF KINGSTON TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES NOT 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 Kingston is hereby authorized to issue to Whit's, Inc., d/b/a Whits Market, a license for the sale of all alcoholic beverages not to be drunk on the premises under the provisions of section fifteen of said chapter one hundred and thirty-eight. Said license shall be subject to all the provisions of said chapter one hundred and thirty-eight except said section seventeen.

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

Approved July 30, 1996.

Chapter 211. AN ACT RELATIVE TO THE ADJOURNMENT OF EXAMINATIONS AND TRIALS.

Be it enacted, etc., as follows:

Chapter 276 of the General Laws is hereby amended by striking out section 35, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 35. The court or justice may adjourn an examination or trial from time to time, and to the same or a different place in the county. In the meantime, if the defendant is charged with a crime that is not bailable, he shall be committed; otherwise, he may recognize in a sum and with surety or sureties to the satisfaction of the court or justice, or without surety, for his appearance for such examination or trial, or for want of such recognizance he shall be committed. While the defendant remains committed, no adjournment shall exceed thirty days at any one time against the objection of the defendant.

Approved July 31, 1996.

Chapter 212. AN ACT RELATIVE TO THE EDUCATION AND TRAINING OF CADET ENGINEERS IN MUNICIPAL LIGHT AND GAS PLANTS.

Be it enacted, etc., as follows:

SECTION 1. Section 69C of chapter 164 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The contract shall provide:

(a) that the cadet engineer shall, by a date to be specified, begin or continue attendance at a duly accredited college or university having a course of study leading to a degree of bachelor of science in engineering or shall begin or continue attendance at a duly accredited community college or other educational institution, having a course of study in the sciences or engineering and who shall thereafter begin or continue attendance at a duly accredited college or university, having a course of study leading to a bachelor of science in engineering. The contract may, in the discretion of the municipal light board, prescribe certain minimum courses of study to be undertaken by the cadet engineer in such community college, college, university or other educational institution;

(b) that the cadet engineer shall, throughout the course of his community college, college, university or other educational institution training as aforesaid, engage in work to be known as on the job training, at the plant under the supervision and direction of the manager or his duly authorized representative for such number of weeks during regular community college, college, university or other educational institution vacations as the municipal light board may determine. The compensation for on the job training shall be at an hourly rate to be determined by the municipal light board;

(c) that the cadet engineer shall, throughout his course of study at a community college, college, university or other educational institution as aforesaid, maintain such minimum academic standing in such community college, college, university or other educational institution as may be prescribed in the contract by the municipal light board;

(d) that the cadet engineer shall, upon final completion of his course of study at a community college, college, university or other educational institution as aforesaid, engage in work to be known as graduate on the job training on a full-time basis at the plant under the supervision and direction of the manager or his duly authorized representative for a period of time to be determined by such municipal light board and specified in the contract, which period of time shall in no event exceed a period of five years; provided, however, that the compensation for such graduate on the job training shall be at an hourly rate to be determined by the municipal light board;

(e) that the cadet engineer shall not work for any other person, corporation or municipality until such time as he has completed graduate on the job training as prescribed in the contract; provided, however, that the municipal light board may credit all or any part of time spent by a cadet engineer in active service in the armed forces of the United States as part of the cadet engineer's prescribed graduate on the job training;

(f) that the city or town shall pay all or such portion of the cadet engineer's tuition at the community college, college, university or other educational institution attended by him as aforesaid, as the municipal light board shall determine and prescribe in such contract. The term tuition shall include the actual cost of all books or laboratory or similar equipment that may be required by the cadet engineer in his course of study;

(g) that the municipal light board may, in the event that the cadet engineer at any time fails to maintain his attendance or academic standing in the community college, college, university or other educational institution as prescribed in the contract or in any other way fails to perform his obligations under such contract, terminate the contract by written notice to the cadet engineer; provided, however, that such remedy shall not be deemed to be conclusive and shall not prejudice any other remedies which the contracting city or town may have for breach of such contract, whether at law or in equity.

SECTION 2. Section 69D of said chapter 164, as so appearing, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

An applicant for appointment as a cadet engineer shall be a resident of the contracting city or town, a graduate of a duly accredited high school, not less than seventeen nor more than twenty-five years of age and shall have been accepted for admission to or be enrolled in a duly accredited college or university having a course of study leading to a degree of bachelor of science in engineering, or shall have been accepted for admission to or be enrolled in a duly accredited community college or other educational institution, having a course of study in the sciences or engineering which courses would be accepted at a college or university having a course of study leading to a degree of bachelor of science in engineering.

SECTION 3. Section 69E of said chapter 164, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

The employment of a cadet engineer in graduate on the job training shall not be subject to civil service law and rules but such cadet engineer shall be subject to and entitled to the benefit of retirement laws and pensions, and deductions shall be made from his salary and paid into the contributory retirement system of the city or town in accordance with the provisions of the contributory retirement laws. The on the job training period of any cadet engineer who continues in the employ of the contracting city or town as a permanent full-time employee shall be considered as creditable service for purposes of retirement laws, pension laws and other laws pertaining to municipal employees; provided, however, that such cadet engineer shall pay into the retirement fund such sums as may be required by the retirement board to acquire such creditable service; and, provided, further, that time in attendance at a community college, college, university or other educational institution shall not be considered as creditable service under this section.

Approved July 31, 1996.

Chapter 213. AN ACT RELATIVE TO THE ADMINISTRATION OF ESTATES OF DECEASED RESIDENTS OF DEPARTMENT OF MENTAL RETARDATION FACILITIES.

Be it enacted, etc., as follows:

Section 13 of chapter 123B of the General Laws, as appearing in the 1994 Official

Edition, is hereby amended by striking out, in line 2, the word "five" and inserting in place thereof the following word:- fifteen.

Approved July 31, 1996.

Chapter 214. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF HEAD INJURY AWARENESS MONTH.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15UUU, inserted by chapter 144 of the acts of 1995, the following section:-

Section 15VVV. The governor shall annually issue a proclamation setting apart the month of October as Head Injury Awareness Month and recommending that said month be observed in an appropriate manner by the people.

Approved August 1, 1996.

Chapter 215. AN ACT REGULATING THE NOTIFICATION REQUIREMENTS OF THE DEPARTMENT OF SOCIAL SERVICES IN CHILD ABUSE CASES.

Be it enacted, etc., as follows:

Section 51B of chapter 119 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out clause (4) and inserting in place thereof the following clause:-

(4) notify in writing the district attorney for the county in which the child resides and for the county in which the offense occurred 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.

The department shall within forty-five days after making such notification further notify the district attorney of the service plan, if any, developed for such child and his family. No provision of chapter sixty-six A, section one hundred and thirty-five of chapter one hundred and twelve, and sections fifty-one E and fifty-one F of this chapter relating to confidential data or confidential communications shall prohibit the department from making such notifications or from providing to the district attorney any information obtained pursuant to clause (1) or furnished pursuant to this clause. No person providing notification or information to a district attorney pursuant to the provisions of this clause shall be liable in any civil or criminal action by reason of such action. Nothing herein shall be construed to prevent the department from notifying a district attorney relative to any incidents reported to the department pursuant to section fifty-one A or to limit the prosecutorial power of a district attorney.

The department shall forward to the local law enforcement authorities in the town in which the child resides and the town in which the offense occurred a copy of the report provided to the district attorney pursuant to this clause.

Approved August 1, 1996.

Chapter 216. AN ACT AUTHORIZING THE TOWN OF HOLDEN TO REIMBURSE CERTAIN TAX PAYMENTS.

Be it enacted, etc., as follows:

The town of Holden is hereby authorized to reimburse Edith Tremblay, from available funds, the sum of one thousand seven hundred and ninety-six dollars and seventy-three cents paid to said town as real estate taxes in error.

Approved August 1, 1996.

Chapter 217. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF HANSON AS THE ROBERT S. HAMMOND BRIDGE.

Be it enacted, etc., as follows:

The bridge on State street spanning the Indian Head River in the town of Hanson shall be designated and known as the Robert S. Hammond Bridge, in honor of Robert S. Hammond who was killed in action on March fourth, nineteen hundred and forty-five, in Erdorf, Germany during World War II. A suitable marker bearing such designation shall be attached thereto by the department of highways in compliance with the standards of said department.

Approved August 1, 1996.

Chapter 218. AN ACT LIMITING THE LANDING OF LOBSTERS TAKEN BY DRAGGING APPARATUS.

Be it enacted, etc., as follows:

SECTION 1. Section 44 of chapter 130 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 8, the words "twenty-five nor more than fifty" and inserting in place thereof the following words:- one hundred nor more than five hundred.

SECTION 2. Said section 44 of said chapter 130, as so appearing, is hereby further amended by striking out, in lines 9 and 10, the words "fifty nor more than one hundred" and inserting in place thereof the following words:- five hundred nor more than one thousand.

SECTION 3. Said chapter 130 is hereby further amended by inserting after section 44A the following section:-

Section 44B. No commercial fishing vessel landing lobsters taken by any method other than by pots or traps shall land for the purpose of sale or distribution any lobsters or any part thereof at any location within the jurisdiction of the commonwealth in excess of one hundred lobsters for a fishing trip of one twenty-four hour day or less duration, with a maximum limit of five hundred lobsters within a period of seven consecutive days. The director, with approval of the marine fisheries advisory commission, shall promulgate rules to implement this section within ninety days of its effective date.

The director shall monitor the performance of vessels taking and landing lobsters in the commonwealth taken by other than pots and traps. If landings by vessels landing lobsters taken by other than by pots or traps exceed six percent of total lobster landings in any year, the director shall implement regulations, subject to the approval of said marine fisheries advisory commission, to limit lobster landings in subsequent years by vessels using other than pots or traps to no more than six percent of total lobster landings in the commonwealth.

The provisions of this section governing the landing of lobsters by vessels fishing with other than pots or traps, shall be superseded by the development or implementation subsequent to the effective date of this act of either a federal or interstate fishery management plan governing the taking or landing of lobsters under the jurisdiction of the federal government.

SECTION 4. The division of marine fisheries within the department of fisheries, wildlife and environmental law enforcement is hereby authorized and directed to conduct an investigation and study of the environmental and economic effects of capping the maximum size of lobsters allowed to be caught, distributed or sold at any location within the jurisdiction of the commonwealth. Said investigation and study shall include the potential economic effects of such a cap on the commonwealth and affected individuals, industries and communities within the commonwealth. Said study shall also include information regarding similar lobster maximum size caps proposed or in effect by the federal government and other states, including, but not limited to, New Hampshire, Maine, Rhode Island, Connecticut and New York. The division shall report the results of said investigation and study, together with its recommendations and drafts of legislation necessary to carry such recommendations into effect by filing the same with the clerk of the house of representatives on or before November first, nineteen hundred and ninety-six.

Approved August 2, 1996.

Chapter 219. AN ACT RELATIVE TO CERTAIN ADMINISTRATIVE OFFICES IN TOWNS.

Be it enacted, etc., as follows:

Section 23A of chapter 41 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "secretary", in lines 2 and 4, in each instance, the following words:- or town administrator.

Approved August 2, 1996.

Chapter 220. AN ACT RELATIVE TO THE REPORTS OF ABUSE OF DISABLED PERSONS.

Be it enacted, etc., as follows:

Section 5 of chapter 19C of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following two paragraphs:-

Upon receipt of a report of abuse of a disabled person, or upon receipt of a written determination and evaluation prepared and forwarded to the commission pursuant to the provisions of this section, the commission, notwithstanding any provisions of chapter sixty-six A regarding personal data to the contrary, shall immediately report such conditions and forward said investigation and evaluation report, together with any other material or information which the commission has obtained or received and which is relevant to the alleged abuse, to the district attorney for the county in which the abuse is alleged to have occurred if there is reasonable cause to believe that any of the following conditions exist:

(a) a disabled person has been sexually abused or raped, or assaulted or battered, as set forth in chapter two hundred and sixty-five; (b) a disabled person has suffered brain injury, loss or substantial impairment of a bodily function or organ, or substantial disfigurement; or (c) a disabled person has suffered serious bodily injury as a result of a pattern of repetitive actions or inactions by a caretaker.

No person providing notification or information to a district attorney or providing testimony in court pursuant to the provisions of this section, shall be liable in any civil or criminal action by reason of such action.

Approved August 2, 1996.

Chapter 221. AN ACT RELATIVE TO THE BOUNDARIES OF THE SHIRLEY VILLAGE WATER DISTRICT.

Be it enacted, etc., as follows:

Chapter 119 of the acts of 1903 is hereby amended by striking out section 1, as amended by chapter 103 of the acts of 1988, and inserting in place thereof the following section:-

Section 1. The inhabitants of the town of Shirley liable to taxation in said town and residing within the territorial limits of said town and the inhabitants of the town of Lancaster, liable to taxation in said town and residing within the territory comprised within the following boundary lines to wit:-

Starting at a southwest boundary between Lancaster, Lunenburg and Shirley town lines; east along the Lancaster and Shirley town line, to a bound in the Nashua River; south along the Department of Corrections land to Route 2; west along Route 2, to exit ramp number 35; north to the boat ramp at Fort Pond; northeast across Fort Pond, to the point of beginning at the southwest bound of Lancaster, Lunenburg and Shirley shall constitute a water district, and are hereby made a body corporate, by the name of the Shirley Village Water District, for the purpose of supplying themselves with water for the extinguishment of fires and for domestic 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 therefor, and to take by lease, purchase or otherwise and hold, property, lands, rights of way and easements, for the purposes mentioned in this act, and to prosecute and defend in all actions relating to the property and affairs of the district.

Approved August 2, 1996.

Chapter 222. AN ACT AUTHORIZING VETERANS TO DISPLAY AND EXHIBIT CERTAIN MEMORABILIA IN THE STATE HOUSE.

Be it enacted, etc., as follows:

Chapter 8 of the General Laws is hereby amended by inserting after section 18 the following two sections:-

Section 18A. The superintendent is hereby authorized to display flags, artifacts, documents, photographs, uniforms, medals and other relics and mementos of veterans on the fourth floor of the state house and may provide space, arrangements and designation for such exhibits and to change such exhibits, from time to time in consultation with the commissioner of veterans services. Said commissioner shall review such exhibits from time to time. Said commissioner may communicate with veterans and veterans organizations, inform them of such exhibits, elicit their interest and contributions and receive such memorabilia as the commissioner and the superintendent deem appropriate to properly display and exhibit in a fashion to remember and honor appropriately those veterans who served the nation. Said superintendent shall exercise proper care, custody and preservation of such memorabilia and keep a record of all such items. Such record shall be open to public inspection at all reasonable times.

Section 18B. The superintendent is hereby authorized to accept works of art executed as a memorial to the contribution of women to the government of the commonwealth and to display said works in an appropriate public area or areas of the state house. Said superintendent shall exercise proper care, custody and preservation of such art work.

Approved August 2, 1996.

Chapter 223. AN ACT AUTHORIZING THE TOWN OF ANDOVER TO CONVEY A CERTAIN PARCEL OF CONSERVATION LAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Andover, acting by and through its board of selectmen, is hereby authorized to convey a certain parcel of conservation land, presently under the care and control of the conservation commission of said town to William and Eileen Walsh of said town of Andover. Said parcel is shown as Parcel Y on a plan of land entitled "Plan of Land in Andover, Mass. showing proposed land transfer between William & Eileen Walsh and the Town of Andover" dated February 29, 1996 drawn by Merrimack Engineering Services which is on file in the office of the town clerk.

SECTION 2. In consideration of the conveyance authorized in section one, William and Eileen Walsh shall convey a certain parcel of land to the town of Andover to be used for conservation purposes in the care, custody and control of the conservation commission. Said parcel is shown as Parcel X on the plan described in section one. As further consideration, William and Eileen Walsh shall convey to said town of Andover a drainage easement for maintenance and upkeep of the existing drainlines, as shown on said plan.

Approved August 2, 1996.

Chapter 224. AN ACT AUTHORIZING THE TOWN OF ANDOVER TO USE CERTAIN CONSERVATION LAND FOR RECREATIONAL PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The conservation commission of the town of Andover is hereby authorized to transfer care, custody and control of certain parcels of conservation land located in said town to the board of selectmen to be used for recreational purposes, including but not limited to, playing fields and necessary improvements to said playing fields. Said parcels are shown on Andover's Assessor's Map 117 as lots 15 and 22.

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

Approved August 2, 1996.

Chapter 225. AN ACT DESIGNATING JOHNNY APPLESEED AS THE OFFICIAL FOLK HERO OF THE COMMONWEALTH.

Be it enacted, etc., as follows:

Chapter 2 of the General Laws is hereby amended by adding the following section:- Section 40. Johnny Appleseed shall be the official folk hero of the commonwealth.

Approved August 2, 1996.

Chapter 226. AN ACT RELATIVE TO THE MEMBERSHIP OF THE ARMORY COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. Section 18 of chapter 6 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 3 and 4, the words "major general commanding the twenty-sixth division" and inserting in place thereof the following words:- air guard commander.

SECTION 2. Said section 18 of said chapter 6, as so appearing, is hereby further amended by striking out, in lines 7, 10, 13 and 18 the words "major general", each time they appear, and inserting in place thereof, in each instance, the following words:- air guard commander.

Approved August 2, 1996.

Chapter 227. AN ACT AUTHORIZING THE TOWN OF BELMONT TO GRANT AN EASEMENT IN CERTAIN PARK LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of Belmont, acting by and through its board of selectmen, is hereby authorized to grant an easement over a certain parcel of park land to the New England Telephone and Telegraph Company for the purpose of maintaining a controlled environmental vault. Said easement is shown on a plan of land entitled "Plan Showing Proposed Transfer of Easement, Grove Street, Belmont, MA", dated November 7, 1995 prepared by Thomas G. Gatzunis, town engineer, on file in the office of the town clerk. The consideration for the granting of said easement shall not be less than twenty thousand dollars.

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

Approved August 2, 1996.

Chapter 228. AN ACT ESTABLISHING A COMMUNITY DEVELOPMENT TRUST FUND ACCOUNT IN THE TOWN OF HULL.

Be it enacted, etc., as follows:

SECTION 1. The town accountant of the town of Hull is hereby authorized to establish an account to be known as the Hull community development trust fund account into which shall be deposited the monies, with interest and earnings derived therefrom, from a certain letter of credit posted as a deposit for the sale of certain land owned by the Hull Redevelopment Authority and which was forfeited to said authority. Said monies deposited into said account shall include the balance of said monies after deductions for prior expenditures made therefrom in accordance with law, deductions called for under a certain close-out agreement entered into by said Hull Redevelopment Authority, said town of Hull and the United States Department of Housing and Urban Development and expenditures authorized by town meeting vote.

SECTION 2. Said account shall be under the jurisdiction of the treasurer-collector of said town who shall maintain said monies and invest them so as to realize the maximum earnings reasonably possible in a prudent and lawful manner.

SECTION 3. The interest and earnings derived from said account may be expended for eligible and qualifying community development purposes and activities in accordance with said close-out agreement.

SECTION 4. Any refunds or reimbursements from current or future projects funded by said account shall be returned to said account.

SECTION 5. The principal of said account may be expended for eligible and qualifying community development purposes and activities pursuant to a two-thirds vote of a town meeting and for matching grant purposes only.

SECTION 6. The annual town report shall include a report on the status of said

account and the uses of the income and principal thereof.

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

Approved August 2, 1996.

Chapter 229. AN ACT PROVIDING FOR THE INSTALLATION OF PLAQUES HONORING VETERANS IN THE STATE HOUSE.

Be it enacted, etc., as follows:

The superintendent of state office buildings is hereby authorized and directed, subject to the approval of the art commission pursuant to section twenty of chapter six of the General Laws as to size and content, to install a plaque on each of the four corridors of the fourth floor of the main building of the state house. One plaque shall honor World War II veterans, one plaque shall honor Korean veterans, one plaque shall honor Vietnam veterans and one plaque shall honor veterans of all wars.

Said superintendent is hereby further authorized and directed to install in a suitable place on the fourth floor of the state house a plaque, to be provided and maintained by the Disabled American Veterans honoring former state representative and commissioner of veterans' services, Nathaniel M. Hurwitz.

Approved August 2, 1996.

Chapter 230. AN ACT RELATIVE TO LIFE CARE, CONTINUING CARE AND CERTAIN OTHER RESIDENTIAL LONG-TERM CARE SERVICES FOR THE ELDERLY.

Be it enacted, etc., as follows:

SECTION 1. Subsection (a) of section 76 of chapter 93 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the definition of "Living unit" the following definition:-

"Long term care services", a combination of nursing home care, in-home nursing care, assisted living services, independent living services, home health care, personal care, homemaking, case management or comparable services designed to enable a functionally impaired resident to maintain himself and his living unit, as safely and comfortably as is reasonably possible in a continuing care setting as defined herein. For the purposes of this chapter, the term "long term care services" shall also be construed to include necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, or custodial care.

SECTION 2. Said section 76 of said chapter 93, as so appearing, is hereby further amended by adding the following two subsections:-

(d) For the purpose of this subsection, "marketing" shall include but not be limited

to establishment of a waiting list, acceptance of money, property or other consideration or distribution of marketing brochures by the provider. Any provider intending to market or develop continuing care pursuant to a contract which would require prepayment for some or all of the covered long-term care services or intending to market or develop additional units of such continuing care shall forward a copy of the following information to the executive office of elder affairs within thirty days following the implementation of marketing of the continuing care facility:

(1) the disclosure statement required under subsection (b) to be delivered to the persons with whom the contract for continuing care is to be entered;

(2) the contracts for continuing care to be entered into by the provider under subsection (c) with a person who will occupy a living unit in a continuing care facility; and

(3) any available advertising or promotional material to be used in conjunction with such marketing effort.

A provider shall forward a copy of any changes in the information required to be provided within thirty days after the provider's utilization of such changed materials with prospective residents or residents of the continuing care facility. A provider intending to market or develop additional units of continuing care who has filed such information with the executive office of elder affairs pursuant to a previous marketing effort on the same units shall not be required to refile unless there has been a change in the information submitted. Said executive office of elder affairs shall make such information available to the public in a manner which shall allow residents and prospective residents to make informed choices regarding the selection of a provider, packages of services and coverage and care alternatives.

Such provider shall forward a copy of the building permit for such continuing care facility to said executive office of elder affairs within thirty days after its issuance by the city or town wherein such facility shall be located.

(e) A provider providing continuing care on the effective date of this statute under a contract which would require prepayment for some or all of the covered long-term care services shall, within thirty days after such effective date, forward a copy of the following information to the executive office of elder affairs:

(1) the disclosure statement required under subsection (b) to be delivered to the persons with whom the contract for continuing care shall be entered;

(2) the contract for continuing care to be entered into by the provider under subsection (c) with a person who will occupy a living unit in any such continuing care facility;

(3) any available advertising or promotional material to be used in conjunction with such marketing effort; and

(4) a copy of the building permit for such continuing care facility.

Any such provider shall forward a copy of any changes in the information required to be provided within thirty days after the provider's utilization of such materials with prospective residents or residents of the continuing care facility. A provider intending to market or develop additional units of continuing care who has filed such information with

said executive office of elder affairs pursuant to a previous marketing effort on the same units shall not be required to refile unless there has been a change in the information submitted. Said executive office of elder affairs shall make such information available to the public in a manner which shall allow residents and prospective residents to make informed choices regarding the selection of a provider, packages of services and coverage and care alternatives.

Notwithstanding the remedy set forth in subsection (c), violation of the provisions of this section by a facility shall constitute an unfair and deceptive trade practice under the provisions of chapter ninety-three A.

Approved August 2, 1996.

Chapter 231. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF BOYLSTON.

Be it enacted, etc., as follows:

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

SECTION 2. Ten qualified voters of the town of Boylston may make and file with the town clerk of said town an affidavit containing the name of the officer sought to be recalled and removed and a statement of the grounds of removal. Said town clerk shall thereupon deliver, to the voters making such affidavit, a sufficient number of copies of petition blanks for such recall and removal. Such blanks shall be issued by said town clerk with his signature and official seal attached thereto and shall be dated and addressed to the board of selectmen. Such blanks shall contain the name of the person sought to be removed, the office from which removal is sought, the grounds of removal 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 said town clerk. Said recall petition shall be returned and filed with said town clerk within twenty business days after the filing of the affidavit. Said petition, before being returned and filed, shall be signed by qualified voters of said town of Boylston, equal in number to at least fifteen per cent of the qualified voters of the town as of the date such affidavit was filed with said town clerk.

SECTION 3. If the petition shall be found and certified by the town clerk of the town of Boylston to be sufficient, he shall submit the same with his certificate to the board of selectmen without delay, and said board of selectmen shall forthwith give written notice to said officer of the receipt of said certificate and shall, if the officer sought to be recalled and removed does not resign within five days thereafter, thereupon order a removal election to be held on a day fixed by them not less than sixty nor more than ninety days after the date of said 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 board of selectmen shall postpone the holding of the removal election to the date of such

other election.

SECTION 4. The incumbent shall continue to perform the duties of his office until the recall election. If the recall fails, or if the incumbent seeks reelection and is reelected, he shall continue in office for the remainder of his unexpired term subject to recall as before. If the recall is successful and the incumbent has not been reelected in the recall election, he shall be deemed removed upon the qualifications 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 5. The nomination of candidates, the publication of the warrant for the recall election, and the conduct of same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided by this act.

SECTION 6. The ballots used at the recall election shall submit the following proposition in the order indicated.

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 candidate need not be counted unless the incumbent officer has previously resigned from office pursuant to section three.

Approved August 2, 1996.

Chapter 232. AN ACT RELATIVE TO CERTAIN RETIREMENT RIGHTS OF JOHN DOHERTY, A TEACHER IN THE PUBLIC SCHOOL SYSTEM OF THE CITY OF BOSTON.

Be it enacted, etc., as follows:

John Doherty, a teacher in the public school system of the city of Boston, while on leave of absence from his position as a teacher in said city for the purpose of acting as a full-time officer of the Boston teachers union, shall be considered, for the purposes of chapter thirty-two of the General Laws, to be on leave of absence without pay. Said John Doherty shall receive credit in the teachers retirement system for service from July first, nineteen hundred and seventy-one to June thitieth, nineteen hundred and seventy-five, inclusive. Said period of creditable service shall be dependent upon his contribution to the

annuity savings fund of said teachers retirement system, the amount which he would have contributed to said fund had he remained in the service of the city of Boston as a teacher for the applicable period pursuant to subdivision (3) of section three of said chapter thirty-two. No retirement allowance under said chapter thirty-two shall become effective for said John Doherty until he has paid to the annuity savings fund of said teachers retirement system, a make-up payment, calculated with interest, for the amount equal to that which would have been withheld as regular deductions from his regular compensation.

Approved August 2, 1996.

Chapter 233. AN ACT AUTHORIZING THE TOWN OF SHREWSBURY TO GRANT AN EASEMENT ON CERTAIN CONSERVATION LAND.

Be it enacted, etc., as follows:

The town of Shrewsbury, acting by and through its board of selectmen, is hereby authorized to grant an easement in a certain parcel of park land located in said town to lay and maintain sanitary sewers. Said easement is shown on a plan of land entitled, "Definitive Plan Subdivision of Land in Shrewsbury, Massachusetts, Prospect Hill", dated May 13, 1996, and drawn by Land Design Inc., which is on file in the office of the town engineer.

Approved August 2, 1996.

Chapter 234. AN ACT PROVIDING FOR DISCLOSURE OF CERTAIN INFORMATION RELATING TO TOBACCO PRODUCTS SOLD IN THE COMMONWEALTH.

Be it enacted, etc., as follows:

SECTION 1. Chapter 94 of the General Laws is hereby amended by inserting after section 307 the following section:-

Section 307A. For the purpose of protecting the public health, any manufacturer of cigarettes, snuff or chewing tobacco sold in the commonwealth shall provide the department of public health with an annual report, in a form and at a time specified by that department, which lists for each brand of such product sold the following information:

(a) The identity of any added constituent other than tobacco, water or reconstituted tobacco sheet made wholly from tobacco, to be listed in descending order according to weight, measure, or numerical count; and

(b) The nicotine yield ratings, which shall accurately predict nicotine intake for average consumers, based on standards to be established by the department of public health.

The nicotine yield ratings so provided, and any other such information in the annual reports with respect to which the department determines that there is a reasonable scientific

basis for concluding that the availability of such information could reduce risks to public health, shall be public records; provided, however, that before any public disclosure of such information the department shall request the advice of the attorney general whether such disclosure would constitute an unconstitutional taking of property, and shall not disclose such information unless and until the attorney general advises that such disclosure would not constitute an unconstitutional taking.

This section shall not require a manufacturer, in its report to the department or otherwise, to identify or disclose the specific amount of any ingredient that has been approved by the Food and Drug Administration, Public Health Service, United States Department of Health and Human Services ("FDA"), or its successor agency, as safe when burned and inhaled or that has been designated by the FDA, or its successor agency, as generally recognized as safe when burned and inhaled, according to the Generally Recognized As Safe list of the FDA.

SECTION 2. The annual reports required in section one of this act shall be filed beginning in the year nineteen hundred and ninety-seven.

Approved August 2, 1996.

Chapter 235. AN ACT AUTHORIZING THE CONSERVATION COMMISSION OF THE TOWN OF PALMER TO ALTER THE USE OF ITS PROPERTY AND TO SELL FOREST AND AGRICULTURAL PRODUCTS.

Be it enacted, etc., as follows:

SECTION 1. The conservation commission of the town of Palmer is hereby authorized to:

(*a*) establish a comprehensive written management plan for all real and personal property under its care, custody and control and to amend same from time to time. Said plan shall describe the manner in which said property may be used, developed, leased, restricted or made or kept available for recreational and conservation use;

(*b*) operate, maintain and manage said property and to sell forest and agricultural products derived therefrom to the extent described in said plan, consistent with its mandates pursuant to the provisions of section eight C of chapter forty of the General Laws;

(*c*) enter into contracts to carry out the provisions of this act; provided, however, that said contracts shall not be subject to the provisions of chapter thirty B of the General Laws.

SECTION 2. Said commission is hereby authorized to establish and promulgate standards of operation and performance criteria for all work done in connection with said property which may include, but not be limited to, restrictions on the nature and kind of work performed, the manner and method pursuant to which such work is performed, restrictions on performance of work according to season or other conditions, methods of stream crossings, repair of stone walls, the use of oil or other toxic or harmful material on its property or in connection therewith, imposition of hold harmless requirements on those

with whom it contracts. Said commission may require any person performing labor or services to maintain liability insurance and performance bonds. Any standards adopted by said commission may be incorporated into contracts said commission enters into.

SECTION 3. Notwithstanding the provisions of sections fifty-three and fifty-three A of chapter forty-four of the General Laws, any income received from the sale or lease of forest agricultural products by said commission shall be deposited in a special fund with the town treasurer who shall be the custodian thereof; provided, however, that the total income received from such sale or lease shall not exceed ten thousand dollars in any fiscal year. Said treasurer may invest and deposit said funds in the same manner and with the same limitations as provided in section eight C of chapter forty of the General Laws and any income derived therefrom shall be credited to said special fund. Said funds shall be available to the commission, without further appropriation, to maintain and improve property under its control, to purchase and acquire real property or interests therein, including restrictions affecting land use, and for any other purpose for which the commission may expend funds under the provisions of said section eight C or any other general or special law. Such purposes may include, but not be limited to:

(*a*) land surveys, recording fees and costs, plant and wildlife surveys, marking of trees or areas for cutting management surveys and mapping;

(*b*) improvements to its property, including trail establishment or improvement, parking, road improvements, trash, rubbish and garbage pickup, improvements to the environmental quality of its property, protection and development of wildlife and plant habitats, protection and development of soils and restoration of historic sites; and

(*c*) the purchase of legal and other professional or consulting services.

SECTION 4. Said commission may receive gifts of funds from any source and appropriation from the town of Palmer for deposit into said special fund.

SECTION 5. The town accountant shall annually audit said special fund and submit a copy thereof to the board of selectmen. Said audit shall be published in the annual report of said town.

SECTION 6. This act is intended to expand and not limit the powers and authority of said commission and shall not be construed to limit or deny said commission any rights, powers or authority otherwise granted by any general or special law or by-law.

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

Approved August 2, 1996.

Chapter 236. AN ACT RELATIVE TO THE DEFINITION OF SHELLFISH.

Be it enacted, etc., as follows:

Section 1 of chapter 130 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "conchs", in line 60, the following word:- , limpets.

Approved August 2, 1996.

Chapter 237. AN ACT AUTHORIZING THE CONVEYANCE OF PARK LAND LOCATED IN THE CITY OF NORTHAMPTON.

Be it enacted, etc., as follows:

SECTION 1. The city of Northampton is hereby authorized to convey a certain parcel of land located in said city, which was acquired for park purposes, to the Valley Community Development Corporation for such consideration as the city council of said city shall determine. Said city of Northampton shall maintain an easement in said parcel for the location and maintenance of a sanitary sewer. Said parcel is shown as Lot 1-A on a plan of land entitled, "Plan of Land for Valley Community Development Corporation", dated June 5, 1995, prepared by Hill Engineers, Architects, Planners.

SECTION 2. The Valley Community Development Corporation shall pay all costs of said conveyance, including, but not limited to preparation of plans and documents, recording fees, and tax stamps.

Approved August 2, 1996.

Chapter 238. AN ACT RELATIVE TO THE BANKING INDUSTRY IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to further regulate the banking industry 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 subsection (a) of section 4 of chapter 140D of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following clause:-

(6) Borrower-paid mortgage broker fees, including fees paid to the broker or to the lender for delivery to the broker, whether such fees are paid in cash or financed.

SECTION 2. Subsection (d) of said section 4 of said chapter 140D, as so appearing, is hereby amended by adding the following clause:-

(3) Any tax levied on security instruments or on documents evidencing indebtedness if the payment of such taxes is a precondition for recording the instrument securing the evidence of indebtedness.

SECTION 3. Said section 4 of said chapter 140D, as so appearing, is hereby amended by striking out subsection (e) and inserting in place thereof the following two subsections:-

(e) The following items, when charged in connection with any extension of credit secured by an interest in real property, shall not be included in the computation of the finance charge with respect to that transaction:

(1) Fees or premiums for title examination, title insurance, or similar purposes.

(2) Fees for the preparation of loan-related documents.

(3) Escrows for future payments of taxes and insurance.

(4) Fees for notarizing deeds and other documents.

(5) Appraisal fees, including fees related to any pest infestation or flood hazard inspections conducted prior to closing.

(6) Credit reports.

(7) Fees and amounts imposed by third party closing agents including settlement agents, attorneys and escrow and title companies, if the creditor does not require the imposition of such fees and amounts or the services provided and does not retain said fees and amounts.

(f) In connection with credit transactions not under an open end credit plan that are secured by real property or a dwelling, the disclosure of the finance charge and other disclosures affected by any finance charge -

(1) shall be treated as being accurate for the purposes of this chapter if the amount disclosed as the finance charge -

(a) does not vary from the actual finance charge by more than one hundred dollars; or

(b) is greater than the amount required to be disclosed under this chapter; and

(2) shall be treated as being accurate for the purposes of section ten if:-

(a) except as provided in subsection (b), the amount disclosed as the finance charge does not vary from the actual finance charge by more than an amount equal to one-half of one percent of the total amount of credit extended; or

(b) in the case of a transaction, other than a mortgage referred to in section 1602(aa) of 15 USC 1601 et seq., which:

(i) is a refinancing of the principal balance due and any accrued and unpaid finance charges of a residential mortgage transaction as defined in section one of this chapter, or is any subsequent refinancing of such a transaction; and

(ii) does not provide any new consolidation or new advance if the amount disclosed as the finance charge does not vary from the actual finance charge by more than an amount equal to one percent of the total amount of credit extended.

SECTION 4. Subsection (c) of section 7 of said chapter 140D, as so appearing, is hereby amended by adding the following sentence:- In the case of any consumer credit transaction, a portion of the interest on which is determined on a per diem basis and is to be collected upon the consummation of such transaction, any disclosure with respect to such portion of interest shall be deemed to be accurate for the purposes of this chapter if the disclosure is based on information actually known to the creditor at the time that the disclosure documents are being prepared for the consummation of the transaction.

SECTION 5. Section 10 of said chapter 140D, as so appearing, is hereby amended by adding the following two subsections:-

(h) An obligor shall have no rescission rights arising solely from the form of written notice used by the creditor to inform the obligor of the rights of the obligor under this sec-

tion, if the creditor provided the obligor the appropriate form of written notice published and adopted by the commissioner, or a comparable written notice of the rights of the obligor, that was properly completed by the creditor, and otherwise complied with all other requirements of this section regarding notice.

(i)(1) Notwithstanding the provisions of section thirty-five, and subject to the time period provided in subsection (f), in addition to any other right of rescission available under this section for a transaction, after the initiation of any judicial or nonjudicial foreclosure process on the primary dwelling of an obligor securing an extension of credit, the obligor shall have a right to rescind the transaction equivalent to other rescission rights provided by this section, if:

(a) a mortgage broker fee is not included in the finance charge in accordance with the laws and regulations in effect at the time the consumer credit transaction was consummated;

(b) the form of notice of rescission for the transaction is not the appropriate form of written notice published and adopted by the commissioner or a comparable written notice, and otherwise complied with all the requirements of this section regarding notice.

(2) Notwithstanding the provisions of subsection (f) of section four, and subject to the time period provided in subsection (f) of this section, for the purposes of exercising any rescission rights after the initiation of any judicial or nonjudicial foreclosure process on the principal dwelling of the obligor securing an extension of credit, the disclosure of the finance charge and other disclosures affected by any finance charge shall be treated as being accurate for the purposes of this section if the amount disclosed as the finance charge does not vary from the actual finance charge by more than thirty-five dollars or is greater than the amount required to be disclosed under this chapter.

(3) Nothing in this section shall be construed so as to affect a consumer's right of recoupment under the laws of the commonwealth.

(4) The provisions of this subsection shall apply to all consumer credit transactions in existence or consummated on or after September thirtieth, nineteen hundred and ninety-five.

SECTION 6. Subsection (a) of section 32 of said chapter 140D, as so appearing, is hereby amended by inserting after the word "creditor", in line 17, the following words:- or (c) in the case of an individual action relating to a credit transaction not under an open-end credit plan that is secured by real property or a dwelling, not less than two hundred dollars or greater than two thousand dollars.

SECTION 7. Section 33 of said chapter 140D, as so appearing, is hereby amended by adding the following two paragraphs:-

(d)(1) Except as otherwise specifically provided in this chapter, or any rule or regulation issued thereunder, any civil action against a creditor with respect to a consumer credit transaction secured by real property for a violation of this chapter and any proceeding under section six may be maintained against any assignee of such creditor only if -

(i) the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement provided in connection with such transaction pursuant to this

chapter; and

(ii) the assignment to the assignee was voluntary.

For the purposes of this section, a violation is apparent on the face of the disclosure statement if:

(i) the disclosure can be determined to be incomplete or inaccurate by a comparison among the disclosure statement, any itemization of the amount financed, the note, or any other disclosure of disbursement; or

(ii) the disclosure statement does not use the terms or format required to be used by this chapter.

(e)(1) A servicer of a consumer obligation arising from a consumer credit transaction shall not be treated as an assignee of such obligation for the purposes of this section unless the servicer is or was the owner of the obligation.

(2) A servicer of a consumer obligation arising from a consumer credit transaction shall not be treated as the owner of such obligation for the purposes of this section on the basis of an assignment of said obligation from the creditor or another assignee to the servicer solely for the administrative convenience of the servicer in servicing the obligation. Upon written request by the obligor, the servicer shall provide the obligor, to the best knowledge of the servicer, with the name, address and telephone number of the owner of the obligation or the master servicer thereof.

(3) For the purposes of this section, the word "servicer" shall have the same meaning as in section 6(I)(2) of the Federal Real Estate Settlement Procedures Act of 1974.

(4) This paragraph shall apply to all consumer credit transactions in existence or consummated on or after September thirtieth, nineteen hundred and ninety-five.

SECTION 8. Said chapter 140D is hereby further amended by adding the following section:-

Section 35. (a) For any consumer credit transaction subject to this chapter that is consummated before September thirtieth, nineteen hundred and ninety-five, a creditor or any assignee of a creditor shall have no civil, administrative or criminal liability under this chapter for, and a consumer shall have no extended rescission rights under section ten with respect to:

(1) the creditor's treatment, for disclosure purposes, of:

(i) taxes described in clause (3) of subsection (d) of section four;

(ii) fees described in clauses (2) and (5) of subsection (e) of said section four;

(iii) fees and amounts referred to in clause (7) of subsection (e) of said section four;

(iv) borrower-paid mortgage broker fees referred to in clause (6) of subsection (a) of said section four.

(2) the form of written notice used by the creditor to inform the obligor of the rights of the obligor under the provisions of section ten if the creditor provided the obligor with a properly dated form of written notice published and adopted by the commissioner or a comparable written notice, and otherwise complied with all the requirements of this chapter regarding notice; or

(3) any disclosure relating to the finance charge imposed with respect to the transac-

tion if the amount or percentage actually disclosed -

(i) may be treated as accurate for the purposes of this chapter if the amount disclosed as the finance charge does not vary from the actual finance charge by more than two hundred dollars;

(ii) may, under clause (2) of said subsection (a) of said section four, be treated as accurate for the purposes of section ten; or

(iii) is greater than the amount or percentage required to be disclosed under this chapter.

(b) Subsection (a) shall not apply to:

(1) any individual action or counterclaim brought under this chapter which was filed before June first, nineteen hundred and ninety-five;

(2) any class action brought under this chapter for which a final order certifying a class was entered before January first, nineteen hundred and ninety-five;

(3) the named individual plaintiffs in any class action brought under this chapter which was filed before June first, nineteen hundred and ninety-five; or

(4) any consumer credit transaction with respect to which a timely notice of rescission was sent to the creditor before June first, nineteen hundred and ninety-five.

SECTION 9. Chapter 167 of the General Laws is hereby amended by striking out section 1, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 1. The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings:-

"Bank", any association or corporation chartered by the commonwealth under the provisions of chapter one hundred and sixty-eight, one hundred and seventy, one hundred and seventy-one, or one hundred and seventy-two or any individuals, association, partnership or corporation incorporated or doing a banking business in the commonwealth, subject to the supervision of the commissioner.

"Commissioner", the commissioner of banks.

"Federal bank", a national banking association, savings and loan association or savings bank which exists by authority of the United States, the main office of which is located in the commonwealth.

"Federal branch", a branch in the commonwealth of any out-of-state federal bank.

"Foreign bank", any association or corporation authorized to do a banking business the main office of which is located outside the commonwealth and which exists by authority of a country other than the United States.

"Massachusetts bank", any bank, other than an association or corporation chartered pursuant to chapter one hundred and seventy-one.

"Massachusetts branch", a branch in the commonwealth of any out-of-state bank.

"Out-of-state bank", any association or corporation authorized to do a banking business the main office of which is located outside the commonwealth and which exists by authority of any state of the United States other than the commonwealth.

"Out-of-state branch", a branch of any Massachusetts bank located outside the com-

monwealth.

"Out-of-state federal bank", a national banking association, savings and loan association or savings bank which exists by authority of the United States the main office of which is located outside the commonwealth.

"State", any state, commonwealth or territory of the United States, the District of Columbia, or any foreign country.

SECTION 10. Section 2 of said chapter 167, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following two paragraphs:-

The commissioner, either personally or by his examiners, or such other of his assistants as he may designate, shall, at least once in each calendar year, or at least once in an eighteen month period in the case of a bank which is well capitalized as defined in 12 USC 1831(o) and the regulations promulgated thereunder, make a thorough examination of the books, securities, cash, assets and liabilities and ascertain the condition of all banks under his supervision, including Massachusetts and out-of-state branches, the ability of each bank to fulfill its obligations, and also whether it has complied with all applicable law; and he may also, whenever he considers it expedient, make or cause to be made, at the expense of the bank, such further examinations or audits as he deems advisable, by his examiners or by certified public accountants or public accountants not connected with such bank approved by him and subject to his direction, and he may also, whenever he considers it expedient, appoint individuals certified as real estate appraisers by the society of real estate appraisers, or similar successor society, to make, at the expense of the bank, appraisals of real estate securing loans of the bank and at the time he names such appraiser, he shall so notify the bank and advise it of the date on which he has requested submission of the appraisal report to him, whereupon the bank may then appoint an appraiser who may submit the report of his appraisal to the commissioner on the same date.

An annual charge shall be paid by each bank under the supervision of the commissioner which shall be based on the total amount of assets held by each such bank as stated on the report to the commissioner filed most recent to the thirty-first day of December of each preceding year which will be sufficient to reimburse the commonwealth for all direct and indirect costs of the operations of the office of the commissioner of banks, and each such bank shall within thirty days notice from the commissioner of the charge assessed, pay such charge. Said notice shall be issued annually by the commissioner on the thirty-first day of January of each calendar year. Such charge shall be determined annually by the commissioner of administration, with the assistance of the commissioner, under the provisions of section three B of chapter seven and may contain such classifications and differentiations based upon the financial condition of such banks as he deems appropriate; provided, however, that such classifications of individual institutions shall be exempt from the provisions of section ten of chapter sixty-six. Such annual charge shall be paid, on a pro rata basis, by the successor of any bank which is merged into, or whose assets are purchased and its deposit liabilities are assumed by a federally chartered or out-of-state bank during the preceding year. No annual charge shall be collected from a bank which has been in opera-

tion for one year or less. The aggregate amount of charges assessed by the division of banks for a fiscal year under the provisions of this section and other applicable fee provisions shall not be less than the aggregate amount of revenues for such fiscal year as estimated for the division of banks or its successor agency in section one B of the general appropriation act for such fiscal year.

SECTION 11. Said section 2 of said chapter 167, as so appearing, is hereby further amended by striking out the sixth paragraph and inserting in place thereof the following paragraph:-

Copies of reports of such examinations shall be furnished to such bank for its use only and shall not be exhibited to any other person, organization or agency without the prior written approval of the commissioner. The commissioner may, in his discretion, furnish to the chief national bank examiner, the Federal Reserve Bank of Boston, the Federal Deposit Insurance Corporation, the Mutual Savings Central Fund, Inc., the Cooperative Central Bank, the Massachusetts Credit Union Share Insurance Corporation, the National Credit Union Administration, the Office of Thrift Supervision, or any successor to such entities, any other bank regulatory or law enforcement agency, or the banking departments of other states or foreign countries, such information, reports and statements relating to the institutions under his supervision as he deems appropriate.

SECTION 12. Section 2A of said chapter 167, as so appearing, is hereby amended by striking out the definition of "Bank" and inserting in place thereof the following definition:-

"Bank", any bank, any Massachusetts or out-of-state branch, any association or corporation chartered and authorized to do a banking business by a state of the United States other than the commonwealth, by the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States or by a country other than the United States, or a national banking association, federal savings and loan association, federal savings bank or federal credit union, which has its main office located in the commonwealth or in any other jurisdiction named herein.

SECTION 13. Said chapter 167 is hereby further amended by striking out section 14, as so appearing, and inserting in place thereof the following section:-

Section 14. The commissioner shall assess the record of each supervised bank in satisfying their continuing and affirmative obligation to help meet the credit needs of the communities in which offices and branches are maintained, including areas contiguous thereto and low and moderate income neighborhoods, consistent with the safe and sound operation of such banks.

To assist in carrying out the provisions of this section, the commissioner shall promulgate regulations which shall include said regulations promulgated pursuant to said federal law; provided, however, that with respect to such assessments of corporations chartered pursuant to chapter one hundred and seventy-one, the commissioner may make such adjustments and exceptions thereto as are deemed required; and provided, further, that such regulations may include, but not limited to, a consideration of a bank's origination of loans and other efforts to assist existing low and moderate income residents to be able to

remain in affordable housing in their neighborhoods, a bank's origination of loans that show an undue concentration and a systematic pattern of lending resulting in the loss of affordable housing units, a bank's participation, including investments in community development and redevelopment programs and small business technical assistance programs, pursuant, but not limited to, paragraphs eight, twenty-nine and thirty of section two of chapter one hundred and sixty-seven F, and such other requirements as in the judgment of the commissioner reasonably bear upon the extent to which a bank is helping to meet the credit needs of its entire community. Except for emergency regulations adopted pursuant to section two of chapter thirty A, any such regulation, or any amendment or repeal thereof, shall, after compliance with all applicable provisions of chapter thirty A except section five, be submitted to the general court.

The commissioner shall file the proposed regulation, amendment or repeal with the clerk of the house of representatives, together with a statement that the pertinent provisions of said chapter thirty A have been complied with and a summary of the regulations in layman's terms. The clerk shall refer such filing to the joint committee on banks and banking within five days of the filing thereof. No such regulation shall take effect until ninety days after it has been so filed; provided, however, that such ninety day period shall not include days when the general court is prohibited by law or rule from meeting in formal session.

In considering an application for the establishment of a domestic branch or other facility with the ability to accept deposits, the relocation of the main office or branch office, or a merger or consolidation with or the acquisitions of assets or assumption of liabilities of any Massachusetts bank, federal bank, foreign bank, out-of-state bank or out-of-state federal bank, the commissioner shall consider, but not be limited to, the record of performance of any such bank and its holding company, including all subsidiaries thereof, relative to the provisions of this section; provided, however, that notwithstanding any other law to the contrary, the commissioner shall establish an alternative procedure for the consideration of an application for the establishment of a domestic branch by any supervised bank which, as of the latest federal or state community reinvestment examination, has been assigned a rating of outstanding record of performance in meeting its community credit needs.

Said record of performance of any such bank and holding company may be the basis for the denial of any such application.

Upon the completion of the examination of a bank under this section, the commissioner shall prepare a written evaluation of the bank's said record of performance which shall be open to public inspection upon request. Said written evaluation shall include:

(1) the assessment factors utilized to determine the bank's descriptive rating;

(2) the commissioner's conclusions with respect to each such assessment factor;

(3) a discussion of the facts supporting such conclusions; and

(4) the bank's descriptive rating and the basis therefor.

Based upon such examination, the bank shall be assigned one of the following ratings:

(a) outstanding record of performance in meeting its community credit needs;

(b) high satisfactory record of performance in meeting its community credit needs;

(c) satisfactory record of performance in meeting its community credit needs;

(d) needs to improve record of performance in meeting its community credit needs; or

(e) substantial noncompliance in meeting its community credit needs.

For the purposes of this section, the commissioner may conduct any such examinations or may enter into cooperative agreements with bank regulators in jurisdictions other than the commonwealth, including federal regulators, relative to the coordination of or joint participation in any such examinations, the amount and assessment of fees therefor or enforcement actions relevant thereto, and may accept reports of examinations by such regulators pursuant to such agreements. Nothing in this section shall be construed as limiting in any way the authority of the commissioner to independently conduct examinations of and enforcement actions against any Massachusetts or out-of-state branch.

Notwithstanding the foregoing, the commissioner shall establish an alternative community reinvestment examination procedure for any supervised bank which, as of the most recent federal or state examination, has been assigned a rating of outstanding record of performance in meeting its community credit needs. On January first, nineteen hundred and ninety-eight, said procedure, shall be applicable to any such bank which, as of the most recent federal or state community reinvestment examination, has been assigned a rating of high satisfactory record of performance in meeting its community credit needs.

Any such alternative procedure established pursuant to this section shall seek to effect cost reductions for banks; provided, however, that any such procedure shall not limit public participation therein as permitted under said federal regulations.

SECTION 14. Said chapter 167 is hereby further amended by striking out sections 38 to 42, inclusive, as so appearing, and inserting in place thereof the following eight sections:-

Section 38. No foreign bank shall, except as herein provided, transact a banking business in the commonwealth, other than as provided in chapter one hundred and sixty-seven B; provided, however, that the board of bank incorporation may, conditioned upon the performance of such requirements as to auditing as the board may prescribe, grant a certificate authorizing the same to any such bank. Said board, upon application thereof which shall be accompanied by 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, except that such fee shall not be less than ten thousand dollars, may grant such certificate in accordance with the provisions of this section. Any such bank transacting banking business in the commonwealth pursuant to such certificate shall be subject to the commissioner and shall comply with all laws of the commonwealth applicable to a Massachusetts bank.

In deciding whether or not to issue such certificate, the board shall determine whether the applicant is adequately capitalized, as defined in the Federal Deposit Insurance Act 12 USC 1811 et seq., whether competition among banking institutions will be unreasonably affected and whether public convenience and advantage will be promoted. In making such determination, the board shall consider, but not be limited to, the applicant's record of com-

pliance with all applicable community reinvestment requirements and a showing of net new benefits. For the purposes of this section, the term "net new benefits" shall mean initial capital investments, job creation plans, consumer and business services including small business loans, farm loans, commitments to maintain and open branch offices within a bank's delineated local community, as such term is used within section fourteen, and such other matters as the board may deem necessary or advisable.

The board shall not issue such certificate until it has received notice from the Massachusetts Housing Partnership Fund established by section thirty-five of chapter four hundred and five of the acts of nineteen hundred and eighty-five, that arrangements satisfactory to such fund have been made for such foreign bank to make ninety hundredths of one percent of its assets in the commonwealth available for call by said fund for a period of ten years for the purpose of providing loans to said fund for financing, down payment assistance, share loans, closing costs and other costs related to creating affordable rental housing, limited equity cooperatives and affordable home ownership opportunities, and tenant management programs and tenant unit acquisition or ownership programs in state funded public housing developments. All of the benefits and assistance provided by said fund under funds made available by this section shall be to persons with incomes of 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, however, that at least twenty-five percent of such assistance shall be to persons with incomes of less than fifty percent of said area-wide median income. All loans made to the fund by such banks shall be deemed to be legal investments for such banks; provided, however, that (a) such loans shall be evidenced by notes, or other evidence of indebtedness of the fund, which shall bear interest at rates approved by the commissioner which shall be based upon the costs, not to include any so-called lost opportunity costs, incurred by the bank in making funds available to the fund; provided, however, that the fund may, by agreement with such bank, accept a reduction in the amount of said call based upon a lower rate of interest; and (b) no loan to the fund shall be secured in any manner unless all outstanding loans to the fund shall be secured equably and ratably in proportion to the unpaid balance of such loans and in the same manner.

Said fund shall file with the commissioner a report subsequent to any call to borrow funds pursuant to this section. Such report shall contain the total amount of the call, the allocation of the call to each such bank, the amount loaned by each to the fund, and the rate of interest thereon. Said report shall be filed within sixty days of any such call.

No such certificate shall be issued until the board has received written assurances from such foreign bank that a resident or residents of the commonwealth shall occupy a position of an executive officer in any resulting Massachusetts bank or Massachusetts branch. For the purposes of this section, the term "executive officer" shall have the same meaning as contained in section four of chapter one hundred and sixty-seven A.

Section 39. Any foreign bank which has obtained a certificate issued by the board of bank incorporation in accordance with section thirty-eight, if such bank is expressly authorized to do so by the laws under which it is organized and operates, may, upon approval

by the commissioner of an application thereof in prescribed manner and form, establish and maintain branches through a merger or consolidation with any Massachusetts bank or federal bank; provided, however, that in each instance the laws of the jurisdiction in which such foreign bank has its principal place of business expressly authorize, under conditions no more restrictive than those imposed by this chapter as so determined by the commissioner, any Massachusetts bank or federal bank to exercise like authority therein.

Any such foreign bank which establishes a branch through such merger, consolidation or purchase of assets or stock of any Massachusetts bank, shall operate the same as a Massachusetts branch under the supervision of the commissioner and in accordance with all applicable laws which govern such activities by Massachusetts banks.

Any such foreign bank which establishes a branch through such merger, consolidation or purchase of assets or stock of any federal bank, shall operate the same as a federal branch which shall be subject to all laws of the commonwealth relative to community reinvestment, consumer protection, fair lending, establishment of intra-state branches, and the application or administration of any tax or method of taxation including, but not limited to, sections one to fourteen A of chapter ninety-three and applicable sections of chapters ninety-three A, one hundred and sixty-seven to one hundred and sixty-seven G, inclusive, chapter one hundred and eighty-three and chapter one hundred and eighty-four, including all rules and regulations established thereunder pursuant to law, and to such other laws of the commonwealth as are applicable to a national bank with its main office in the commonwealth.

Any such merger, consolidation or purchase of assets shall comply with all applicable provisions of law relative to filing requirements of out-of-state non-banking corporations doing business in the commonwealth. The commissioner shall not approve any such application if the Massachusetts bank or federal bank sought to be acquired thereby has been in existence for a period of less than three years or if, as a result thereof, the applicant would control in excess of twenty-eight percent of the total deposits, exclusive of foreign deposits, of all depository institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that the commissioner may waive either said age requirement or concentration limit, or both, if it is deemed that economic conditions warrant granting such waiver. For the purposes of this section, the term "foreign deposits" shall mean deposits received in a foreign country and deposits in Edge and Agreement subsidiaries and international banking facilities.

Section 39B. Any out-of-state bank or out-of-state federal bank, if such bank is expressly authorized to do so by the laws under which it is organized and operates, may, upon approval by the commissioner of an application thereof in prescribed manner and form, establish and maintain branches through a merger or consolidation with or the purchase of assets or stock of any Massachusetts bank; provided, however, that in each instance the laws of the jurisdiction in which such out-of-state bank or out-of-state federal bank has its principal place of business expressly authorize, under conditions no more restrictive than those imposed by this chapter as so determined by the commissioner, a Massachusetts bank to exercise like authority therein.

Any such out-of-state bank shall, upon any such merger or consolidation with or purchase the assets or stock of a Massachusetts bank, operate the same as a Massachusetts branch under the supervision of the commissioner and in accordance with all applicable laws which govern such activities by Massachusetts banks.

Any out-of-state federal bank shall, upon such merger or consolidation with or purchase of assets or stock of a Massachusetts bank, shall operate the same as a federal branch which shall be subject to all laws of the commonwealth relative to community reinvestment, consumer protection, fair lending, establishment of intra-state branches, and the application or administration of any tax or method of taxation including, but not limited to, sections one to fourteen A of chapter ninety-three and applicable sections of chapters ninety-three A, one hundred and sixty-seven to one hundred and sixty-seven G, inclusive, chapter one hundred and eighty-three and chapter one hundred and eighty-four, including all rules and regulations established thereunder pursuant to law, and to such other laws of the commonwealth as are applicable to a national bank with its main office in the commonwealth.

Any such merger, consolidation or purchase of assets shall comply with all applicable provisions of law relative to filing requirements of out-of-state non-banking corporations doing business in the commonwealth. The commissioner shall not approve any such application if the Massachusetts bank sought to be acquired has been in existence for a period of less than three years or if, as a result thereof, the applicant would control in excess of twenty-eight percent of the total deposits, exclusive of foreign deposits, of all depository institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that the commissioner may waive either said age requirement or concentration limit, or both, if it is deemed that economic conditions warrant granting such waiver. For the purposes of this section, the term "foreign deposits" shall mean deposits received in a foreign country and deposits in Edge and Agreement subsidiaries and international banking facilities.

Section 39C. A foreign bank, out-of-state bank, or out-of-state federal bank, if such bank does not operate a branch in the commonwealth, may, upon approval by the commissioner of an application thereof in prescribed manner and form and in accordance with the requirements of section thirty-nine B, establish and maintain a branch de novo in the commonwealth or may purchase a branch of a Massachusetts bank without purchasing the bank; provided, however, that in each instance the laws of the jurisdiction in which such bank has its principal place of business expressly authorize, under conditions no more restrictive than those imposed by this chapter as so determined by the commissioner, a Massachusetts bank to establish therein a branch de novo or to acquire a branch of a bank without acquiring the bank. Any such foreign bank or out-of-state bank shall operate the same as a Massachusetts branch under the supervision of the commissioner and in accordance with all applicable laws which govern such activities by Massachusetts banks.

Any out-of-state federal bank shall operate the same as a federal branch which shall be subject to all laws of the commonwealth relative to community reinvestment, consumer protection, fair lending, establishment of intra-state branches, and the application or adminis-

tration of any tax or method of taxation including, but not limited to, sections one to fourteen A, inclusive, of chapter ninety-three, and the applicable sections of chapters ninety-three A, one hundred and sixty-seven to one hundred and sixty-seven G, inclusive, chapter one hundred and eighty-three and chapter one hundred and eighty-four, including all rules and regulations promulgated thereunder, and to such other laws of the commonwealth as are applicable to a national bank with its main office in the commonwealth.

Section 40. The commissioner shall, in the manner prescribed in section two, examine every foreign bank authorized to do a banking business in the commonwealth pursuant to section thirty-eight and conducting such business pursuant to section thirty-nine and any out-of-state bank which operates a Massachusetts branch and shall inspect and examine the affairs of any such foreign or out-of-state bank, to the extent of its operations in the commonwealth, to ascertain its financial condition and whether it has complied with all applicable law. The lawful charges incurred by reason of any such examination shall be paid by the bank examined. The commissioner shall preserve a full record of each such examination. Such records and information contained in the report of any such examination, other than information required by law to be published or to be open to the inspection of the public, shall be open only to the inspection of the commissioner, his examiners and assistants, and such other officers of the commonwealth as may have occasion and authority to inspect them in the performance of their official duties. Nothing in this section shall be construed to prohibit the required production of such records, and information contained in examination reports, before any court of this commonwealth or any master or auditor appointed by any such court, in any criminal or civil proceeding therein pending, affecting such Massachusetts or out-of-state branch, its officers, directors or employees.

Copies of reports of such examinations shall be furnished to the parent bank of the branch examined for its use only and shall not be exhibited to any other person, organization or agency without the prior written approval of the commissioner. The commissioner may, in his discretion, furnish to the chief national bank examiner, the Federal Reserve Bank of Boston, the Federal Deposit Insurance Corporation, the Mutual Savings Central Fund, Inc., the Cooperative Central Bank, the Massachusetts Credit Union Share Insurance Corporation, the National Credit Union Administration, the Office of Thrift Supervision, or any successor to such entities, any other bank regulatory or law enforcement agency, or the banking departments of other states or foreign countries, such information, reports and statements relating to the institutions under his supervision as he deems appropriate.

Notwithstanding the foregoing, the commissioner may enter into cooperative agreements with bank regulators in jurisdictions other than the commonwealth to facilitate the regulatory supervision of Massachusetts and out-of-state branches including agreements relative to the coordination of examinations or joint participation in examinations of said branches, and may accept reports of examinations by such regulators pursuant to such agreements. The commissioner may also enter into such agreements providing for enforcement actions against Massachusetts and out-of-state branches. Any such agreement may include provisions relative to the amount and assessment of fees for any such examina-

tion or enforcement actions. Nothing in this section shall be construed as limiting in any way the authority of the commissioner to independently conduct examinations of and enforcement actions against any Massachusetts or out-of-state branch.

Section 40A. Each foreign bank, out-of-state bank and out-of-state federal bank which operates a Massachusetts branch shall register with the commissioner on forms prescribed by him which shall include such information with respect to the financial condition, operations, and management of such bank and related matters as he may deem necessary or appropriate to carry out the purposes of this chapter.

The commissioner, from time to time, may require reports under oath to keep him informed as to whether the provisions of this chapter and the rules and regulations established thereunder have been complied with.

Section 41. For the purposes of section forty, the commissioner or the person making the examination shall have free access to the vaults, books and papers of any such foreign bank and out-of-state bank, and may summon the directors, officers or agents thereof, and such other witnesses as deemed necessary for examination relative to the affairs, transactions and condition of such banks, and for that purpose is empowered to administer oaths.

Section 42. If, upon examination, it appears that any such foreign bank or out-of-state bank is insolvent, or that its capital is impaired, or that its condition is such as to render the continuance of business hazardous to the public or to those having funds in its custody, the commissioner shall apply, or if any such bank appears to have exceeded its powers or failed to comply with any provision of applicable law, may apply to the supreme judicial court, which shall have jurisdiction in equity on such application, to issue an injunction restraining any such bank, in whole or in part, from further proceeding with its business, and to make further orders or decrees as justice and equity may require. The court may appoint one or more receivers to take possession of its property and effects, subject to such directions as may from time to time be prescribed by the court.

SECTION 14A. Section 39 of said chapter 167 is hereby amended by striking out the fourth paragraph, as appearing in section 14 of this act, and inserting in place thereof the following paragraph:-

Any such merger, consolidation or purchase of assets shall comply with all applicable provisions of law relative to filing requirements of out-of-state non-banking corporations doing business in the commonwealth. The commissioner shall not approve any such application if the Massachusetts bank or federal bank sought to be acquired thereby has been in existence for a period of less than three years or if, as a result thereof, the applicant would control in excess of thirty percent of the total deposits, exclusive of foreign deposits, of all depository institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that the commissioner may waive either said age requirement or concentration limit, or both, if it is deemed that economic conditions warrant granting such waiver. For the purposes of this section, the term "foreign deposits" shall mean deposits received in a foreign country and deposits in Edge and Agreement subsidiaries and international banking facilities.

SECTION 14B. Section 39B of said chapter 167 is hereby amended by striking out

the fourth paragraph, as so appearing, and inserting in place thereof the following paragraph:-

Any such merger, consolidation or purchase of assets shall comply with all applicable provisions of law relative to filing requirements of out-of-state non-banking corporations doing business in the commonwealth. The commissioner shall not approve any such application if the Massachusetts bank sought to be acquired has been in existence for a period of less than three years or if, as a result thereof, the applicant would control in excess of thirty percent of the total deposits, exclusive of foreign deposits, of all depository institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that the commissioner may waive either said age requirement or concentration limit, or both, if it is deemed that economic conditions warrant granting such waiver. For the purposes of this section, the term "foreign deposits" shall mean deposits received in a foreign country and deposits in Edge and Agreement subsidiaries and international banking facilities.

SECTION 15. Said chapter 167 is hereby further amended by inserting after section 43 the following section:-

Section 43A. The commissioner may, subject to such conditions as he may prescribe, grant to an out-of-state bank or an out-of-state federal bank a certificate authorizing it to act in a fiduciary capacity under the provisions, so far as applicable, of chapter one hundred and sixty-seven G; provided, however, that such out-of-state bank is authorized so to act by the laws of the jurisdiction where its principal office is located; and provided, further, that the laws of such jurisdiction, as determined by the commissioner, grant a similar privilege or privileges to Massachusetts banks. Any such out-of-state bank holding a certificate as aforesaid and appointed a fiduciary shall be subject to the provisions of General Laws with respect to the appointment of agents by out-of-state bank fiduciaries and to the same taxes, obligations and penalties, with respect to its activities as such fiduciary and the property held by it in its fiduciary capacity, as Massachusetts banks, and no such certificate shall be issued to any such out-of-state bank until it has filed with said board of bank incorporation an agreement in writing in which it binds itself to perform said obligations and pay any such taxes and penalties as aforesaid as may be levied or imposed upon it in this commonwealth. Such an out-of-state bank, to the extent only that it acts as fiduciary as hereinbefore authorized, shall not be deemed to transact business in the commonwealth for the purposes of sections thirty-eight to forty-two, inclusive.

SECTION 16. Section 2 of chapter 167A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first and second paragraphs and inserting in place thereof the following two paragraphs:-

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. Notwithstanding the foregoing, no approval shall be given under clauses (1), (2), (3) and (4) if the bank to be acquired has been in existence for a period of less than three years, or if as a result thereof, any such bank holding company would hold or control in excess of twenty-eight percent of the total deposits, exclusive of foreign deposits, of all depository institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that the commissioner may waive either said age requirement or concentration limit, or both, if it is deemed that economic conditions warrant granting such waiver.

Notwithstanding the provisions of this section, an out-of-state bank holding company, with the prior written approval of the board of bank incorporation, may establish or acquire direct or indirect ownership or control of more than five percent of the voting stock of one or more banking institutions or bank holding companies; provided, however, that the laws of the state in which operations of the subsidiary banks of such out-of-state bank holding company are principally conducted expressly authorize, under conditions no more restrictive than those imposed by the laws of the commonwealth as determined by the commissioner, the establishment or the acquisition of direct or indirect ownership or control of more than five percent of the voting stock of banks, or companies controlling one or more banks in that state, by bank holding companies whose banking institutions principally conduct their operations in the commonwealth; and provided, further, that any such acquisition or merger shall not be allowed if the bank to be acquired has been in existence for a period of less than three years, or if as a result thereof, the out-of-state bank holding company would hold or control in excess of twenty-eight percent of the total deposits, exclusive of foreign deposits, of depository institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that the commissioner may waive either said age requirement or concentration limit, or both, if it is deemed that economic conditions warrant granting such waiver. Any such establishment or acquisition or merger by an out-of-state bank holding company shall be effected in accordance with the laws of the commonwealth which are applicable to such activities carried out by bank holding companies. For the purposes of this section, the term "out-of-state bank holding company" shall have the same meaning as set forth in the Bank Holding Company Act of 1956 12 USC 1841 et seq. For the purposes of this section, the term "foreign deposits" shall mean deposits received in a foreign country and deposits in Edge and Agreement subsidiaries and international banking facilities.

SECTION 16A. Said section 2 of said chapter 167A is hereby further amended by striking out the first and second paragraphs, as amended by section 16 of this act, and insert-

ing in place thereof the following two paragraphs:-

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. Notwithstanding the foregoing, no approval shall be given under clauses (1), (2), (3) and (4) if the bank to be acquired has been in existence for a period of less than three years, or if as a result thereof, any such bank holding company would hold or control in excess of thirty percent of the total deposits, exclusive of foreign deposits, of all depository institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that the commissioner may waive either said age requirement or concentration limit, or both, if it is deemed that economic conditions warrant granting such waiver.

Notwithstanding the provisions of this section, an out-of-state bank holding company, with the prior written approval of the board of bank incorporation, may establish or acquire direct or indirect ownership or control of more than five percent of the voting stock of one or more banking institutions or bank holding companies; provided, however, that the laws of the state in which operations of the subsidiary banks of such out-of-state bank holding company are principally conducted expressly authorize, under conditions no more restrictive than those imposed by the laws of the commonwealth as determined by the commissioner, the establishment or the acquisition of direct or indirect ownership or control of more than five percent of the voting stock of banks, or companies controlling one or more banks in that state, by bank holding companies whose banking institutions principally conduct their operations in the commonwealth; and provided, further, that any such acquisition or merger shall not be allowed if the bank to be acquired has been in existence for a period of less than three years, or if as a result thereof, the out-of-state bank holding company would hold or control in excess of thirty percent of the total deposits, exclusive of foreign deposits, of depository institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that the commissioner may waive either said age requirement or concentration limit, or both, if it is deemed that economic conditions warrant granting such waiver. Any such establishment or acquisition or merger by an out-of-state bank holding company shall be effected in accordance with the laws of the commonwealth which are applicable to such

activities carried out by bank holding companies. For the purposes of this section, the term "out-of-state bank holding company" shall have the same meaning as set forth in the Bank Holding Company Act of 1956 12 USC 1841 et seq.

SECTION 17. Said chapter 167A is hereby further amended by inserting after section 3 the following section:-

Section 3A. Any banking institution doing business in the commonwealth that is a subsidiary of a bank holding company may receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations in the commonwealth as an agent for another banking institution, whether located within the commonwealth or in another state, which is a subsidiary of the same bank holding company; provided, however, that the banking institution so acting as agent pursuant to this section shall not be deemed to be a branch of the principal banking institution. A banking institution acting as such agent pursuant to this section shall not conduct any activity which it would be prohibited from conducting as a principal under any state or federal law or, as a principal, have any such agent conduct any activity which such institution would be prohibited from conducting under any state or federal law. Any such agency relationship shall be consistent with safe and sound banking practices and all applicable regulations of the commissioner. For the purposes of this section, the term "bank holding company" shall have the same meaning as set forth in the Bank Holding Company Act of 1956 12 USC 1841 et seq.

SECTION 18. The third paragraph of section 4 of said chapter 167A, as appearing in the 1994 Official Edition, is hereby amended by striking out clause (a) and inserting in place thereof the following clause:-

(a) such loans shall be evidenced by notes, or other evidence of indebtedness of the fund, which shall bear interest at rates approved by the commissioner which shall be based upon the costs, not to include any so-called lost opportunity costs, incurred by the company or bank holding company in making funds available to the fund, provided, however, that the fund may, by agreement with such company or bank holding company, accept a reduction in the amount of said call based upon a lower rate of interest;.

SECTION 19. Section 1 of chapter 167B of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Account" the following definition:-

"Bank", any association or corporation chartered by the commonwealth under the provisions of chapter one hundred and sixty-eight, one hundred and seventy, one hundred and seventy-one, or one hundred and seventy-two or any individuals, association, partnership or corporation incorporated or doing a banking business in the commonwealth, subject to the supervision of the commissioner.

SECTION 20. Said section 1 of said chapter 167B, as so appearing, is hereby further amended by striking out the definition of "Financial institution" and inserting in place thereof the following five definitions:-

"Federal bank", a national banking association, savings and loan association or savings bank which exists by authority of the United States, the main office of which is located in the commonwealth;

"Foreign bank", any association or corporation authorized to do a banking business

the main office of which is located outside the commonwealth and which exists by authority of a country other than the United States;

"Financial institution", a bank, federal bank, federal credit union, foreign bank, out-of-state bank, out-of-state federal bank or any other person who (a) directly or indirectly holds an account belonging to a consumer, or (b) issues an access device and agrees with a consumer to provide electronic fund transfer services; provided, however, that said term shall mean a bank for the purposes of the first, second and third paragraphs of section three and for the purposes of section four;

"Out-of-state bank", any association or corporation authorized to do a banking business the main office of which is located outside the commonwealth and which exists by authority of any state of the United States other than the commonwealth;

"Out-of-state federal bank", a national banking association, savings and loan association or savings bank which exists by authority of the United States the main office of which is located outside the commonwealth.

SECTION 21. Section 3 of said chapter 167B, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

No financial institution, other than a bank, or organization, other than an organization which is a subsidiary of a bank holding company with its main office in the commonwealth, or bank holding company or subsidiary of a bank holding company organized under the laws of or having its main office in any state other than the commonwealth, and no foreign bank shall purchase, establish, install, operate, lease or use individually or with any financial institution or organization or share with any financial institution or organization any such electronic branch in the commonwealth unless the financial institution, organization, bank holding company or subsidiary of a bank holding company or foreign bank purchasing, establishing, installing, operating, leasing or using individually or with any other financial institution or organization or sharing with any financial institution or organization any such electronic branch in the commonwealth for any purposes authorized by this section has its main office in one of the states of the United States, and the laws of such state expressly authorize, under conditions no more restrictive than those imposed by this chapter as determined by the commissioner, financial institutions or organizations organized under the laws of the commonwealth to purchase, establish, install, operate, lease, use or share electronic branches in such other state; provided, however, that any such financial institution, organization or bank holding company or subsidiary of a bank holding company shall have applied for and obtained approval of the commissioner prior to engaging in any activity pursuant to this section. For the purposes of this paragraph, the term "bank holding company" shall have the meaning set forth in the Bank Holding Company Act of 1956, 12 USC 1841 et seq.

SECTION 22. Chapter 167C 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. As used in this chapter, the following words shall, unless the context otherwise requires, have the following meanings:-

"Bank", any association or corporation chartered by the commonwealth under the

provisions of chapter one hundred and sixty-eight, one hundred and seventy, or one hundred and seventy-two.

"Commissioner", the commissioner of banks.

"Foreign bank", any association or corporation authorized to do a banking business the main office of which is located outside the commonwealth and which exists by authority of a country other than the United States.

"Out-of-state bank", any association or corporation authorized to do a banking business the main office of which is located outside the commonwealth and which exists by authority of any state of the United States other than the commonwealth.

"Out-of-state branch", a branch of any bank located outside the commonwealth.

"Out-of-state federal bank", a national banking association, savings and loan association or savings bank which exists by authority of the United States the main office of which is located outside the commonwealth.

SECTION 23. Said chapter 167C is hereby further amended by striking out section 7, as so appearing, and inserting in place thereof the following four sections:-

Section 7. A bank, upon approval by the commissioner of an application thereof in prescribed manner and form and in accordance with applicable provisions of chapters one hundred and sixty-eight, one hundred and seventy and one hundred and seventy-two, may establish and maintain branches through a merger or consolidation with or by the purchase of the whole or any part of the assets or stock of any foreign bank, out-of-state bank or out-of-state federal bank. A request for such approval by the commissioner shall be accompanied by 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, a copy of the terms of any agreement reached by the respective governing boards of the bank involved, and certified copies of the votes of such boards. Upon approval of such merger or consolidation:

(1) The corporate existence of the acquired bank shall be discontinued and consolidated into that of the acquiring bank. All and singular the rights, privileges and franchises of said acquired institution and its right, title and interest to all property of whatever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest or asset of conceivable value or benefit then existing shall be deemed fully and finally, and without any right of reversion, transferred to or vested in the acquiring bank, without further act or deed, and such bank shall have and hold the same in its own right.

(2) The rights, obligations and relations of the acquired institution to any shareholder or depositor, creditor, trustee, beneficiary of a trust, or other person, as of the effective date of such merger or consolidation, shall remain unimpaired, and the acquiring bank shall succeed to all of said rights, obligations and relations.

(3) A pending action or other judicial proceeding to which any of the institutions involved in such merger or consolidation is a party shall not be deemed to have been abated or discontinued by reason of such merger or consolidation, but may be prosecuted to final judgment, order or decree in the same manner as if said merger or consolidation had not occurred; provided, however, that the acquiring bank may be substituted as a party to any

such action or proceeding, and any such judgment, order or decree may be rendered in the name of the acquiring bank.

(4) A foreclosure of a mortgage begun by the acquired institution prior to the approval of such merger or consolidation may be completed by the acquiring bank, and publication previously made by the acquired institution may be continued in the name of said acquired institution.

The offices of any foreign bank, out-of-state bank or out-of-state federal bank merged or consolidated with or whose assets or stock were purchased pursuant to the provisions of this section, may be maintained as branch offices of said bank; provided, however, that the resulting branch shall be deemed to be an out-of-state branch and subject to the supervision of the commissioner and the applicable laws of the jurisdiction in which such out-of-state branch is located.

Section 8. Any bank, with the approval of and under such conditions as may be imposed by the commissioner, may establish a branch de novo in any state of the United States other than the commonwealth or in a foreign country in accordance with the laws of any such state or foreign country.

Section 9. Any bank, which has established and maintains an out-of-state branch pursuant to the provisions of this chapter, may exercise such powers at any such out-of-state branch as are permitted to banks existing by the authority of the jurisdiction in which such out-of-state branch is located unless the commissioner determines that the exercise of any such powers is unsafe or unsound.

Section 10. Notwithstanding any other law to the contrary, the commissioner may enter into cooperative agreements with bank regulators in jurisdictions other than the commonwealth to facilitate the regulatory supervision of Massachusetts and out-of-state branches including agreements relative to the coordination of examinations or joint participation in examinations of said branches, and may accept reports of examinations by such regulators pursuant to such agreements. The commissioner may also enter into such agreements providing for enforcement actions against Massachusetts and out-of-state branches. Any such agreement may include provisions relative to the amount and assessment of fees for any such examination or enforcement actions. Nothing in this section shall be construed as limiting in any way the authority of the commissioner to independently conduct examinations of and enforcement actions against any such branch.

SECTION 24. Section 2 of chapter 167F of the General Laws, as so appearing, is hereby amended by striking out paragraph 8 and inserting in place thereof the following paragraph:-

8. Such corporation may make any investment not otherwise eligible under any other provision of this chapter or any other provision of law including, but not limited to, investment in any capital stock of a corporation organized for the purpose of acquiring and managing interests in real property and acquiring, constructing, rehabilitating, leasing, financing and disposing of housing facilities, or in any other interest in real or personal property or activities incidental thereto, debt security, equity security, loan or community benefits; provided, however, that (a) not more than seven percent of the deposits of such

corporation shall be invested pursuant to the provisions of this paragraph; and provided, further, that any amount in excess of three percent of said seven percent shall be invested by such corporation in the following manner: (i) in the capital stock of a corporation organized for the purpose of acquiring, constructing, rehabilitating, leasing, financing and disposing of housing facilities; (ii) for the purpose of micro-lending in the area of small business, including the fishing industry, and farm loans; and (iii) for the purpose of providing technical assistance to nonprofit housing corporations, small businesses and farms for the purpose of establishing credit worthiness; (b) no investment shall be made by such corporation in the equity securities of any one issuer pursuant to this paragraph if the aggregate amount invested by it in the equity securities of such issuer pursuant to this paragraph together with the amount invested in such securities pursuant to any other provision of law exceeds, or by the making of such investment will exceed, two percent of the deposits of such corporation, and no investment shall be made by such corporation in a loan to, or the debt securities of, any one issuer pursuant to this paragraph, if the aggregate amount invested by it pursuant to this paragraph together with the amount invested in a loan to, or in the debt securities, of such issuer pursuant to any other provision of law exceeds two percent of the deposits of such corporation; (c) any loan made or debt security purchased pursuant to this paragraph shall be secured over the term of the loan or the debt security; (d) this paragraph shall not be deemed to alter any provision of this chapter or other provision of law limiting the aggregate amount that may be invested in any class of loan or investment, except for (ii) and (iii), above, which shall be in addition to any such provision of this chapter or other provision of law; and (e) investments authorized solely by this paragraph shall not be deemed investments in which savings banks may legally invest for the purposes of any other provision of law which restricts investments to those in which savings banks may legally invest.

SECTION 25. Said section 2 of said chapter 167F, as so appearing, is hereby further amended by striking out paragraph 29 and inserting in place thereof the following paragraph:-

29. To contribute such sum or sums of money as the board of investment in a savings bank or the board of directors in a cooperative bank or trust company may determine to be reasonable, (a) to any private nonprofit organization organized for improving the social and economic conditions, including community development programs and small business technical assistance, in communities in which any such institution has an office or branch including any educational institution, (b) to any educational institution for the purpose of providing scholarships for the benefit of residents of such communities, or (c) to any fund being raised by a committee or agency for the purpose of relieving suffering or distress resulting from disaster or other calamity occurring in any part of the commonwealth; and.

SECTION 26. Said section 2 of said chapter 167F, as so appearing, is hereby further amended by adding the following paragraph:-

31. To exercise any power and engage in any activity that is permissible for a national banking association with its main office located in the commonwealth in accordance with regulations promulgated by the commissioner pursuant to this section; provided, how-

ever, that any such activity is not otherwise prohibited under the laws of the commonwealth. In determining whether or not to authorize any such activity, the commissioner shall also determine whether or not competition among banking institutions will be unreasonably affected and whether public convenience and advantage will be promoted. The commissioner shall prescribe from time to time such regulations as may be necessary in carrying out the provisions of this paragraph. Except for emergency regulations adopted pursuant to section two of chapter thirty A, any such regulation, or any amendment or repeal thereof, shall, after compliance with all applicable provisions of chapter thirty A except section five, be submitted to the general court.

The commissioner shall file the proposed regulation, amendment or repeal with the clerk of the house of representatives, together with a statement that the pertinent provisions of said chapter thirty A have been complied with and a summary of the regulations in layman's terms. The clerk shall refer such filing to the joint committee on banks and banking within five days of the filing thereof. No such regulation shall take effect until ninety days after it has been so filed; provided, however, that such ninety day period shall not include days when the general court is prohibited by law or rule from meeting in formal session.

SECTION 27. Subparagraph 1 of the first paragraph of section 34A of chapter 168 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following sentence:- Notwithstanding the foregoing or any other provision of law, upon any such merger or consolidation pursuant to this section by any such corporation into a cooperative bank, such corporation, hereinafter referred to as a former member bank, shall cease to be a member bank of the Mutual Savings Central Fund, Inc., and such cooperative bank shall not succeed to or acquire any rights, including but not limited to rights to dividends or to the proceeds of any distribution in complete or partial dissolution or liquidation, in the Mutual Savings Central Fund, Inc., or in its Liquidity Fund or Deposit Insurance Fund.

SECTION 28. Section 34B of said chapter 168, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Upon a merger or consolidation pursuant to this section by any such corporation into a single thrift institution, such corporation, hereinafter referred to as a former member bank, shall cease to be a member of the Mutual Savings Central Fund, Inc. Notwithstanding the foregoing or any other provision of law, upon any such merger or consolidation, such thrift institution shall not succeed to or acquire any rights, including but not limited to rights to dividends or to the proceeds of any distribution in complete or partial dissolution or liquidation, in the Mutual Savings Central Fund, Inc., or in its Liquidity Fund or Deposit Insurance Fund.

SECTION 29. Section 34D of said chapter 168, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Upon a merger or consolidation pursuant to this section by any such stock corporation into a state chartered trust company or federally chartered stock corporation, such stock corporation, hereinafter referred to as a former member bank, shall cease to be a member bank in the Mutual Savings Central Fund, Inc. Notwithstanding any other provi-

sion of law, upon any such merger or consolidation, such stock corporation shall not succeed to or acquire any rights, including but not limited to rights to dividends or to the proceeds of any distribution in complete or partial dissolution or liquidation, in the Mutual Savings Central Fund, Inc., or in its Liquidity Fund or Deposit Insurance Fund.

SECTION 29A. Said chapter 168 is hereby further amended by inserting after section 35 the following section:-

Section 35A. The commissioner shall not approve an application for a merger or consolidation pursuant to this chapter if the bank sought to be acquired has been in existence for a period of less than three years or if, as a result of any such merger, the applicant would control in excess of twenty-eight percent of the total deposits, exclusive of foreign deposits, of all depository institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that either said age requirement or concentration limit, or both, may be waived by the commissioner if economic conditions warrant such waiver. For the purposes of this section, the term "foreign deposits" shall mean deposits received in a foreign country and deposits in Edge and Agreement subsidiaries and international banking facilities.

SECTION 29B. Said chapter 168 is hereby further amended by striking out section 35A, inserted by section 29A of this act, and inserting in place thereof the following section:-

Section 35A. The commissioner shall not approve an application for a merger or consolidation pursuant to this chapter if the bank sought to be acquired has been in existence for a period of less than three years or if, as a result of any such merger, the applicant would control in excess of thirty percent of the total deposits, exclusive of foreign deposits, of all depository institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that either said age requirement or concentration limit, or both, may be waived by the commissioner if economic conditions warrant such waiver. For the purposes of this section, the term "foreign deposits" shall mean deposits received in a foreign country and deposits in Edge and Agreement subsidiaries and international banking facilities.

SECTION 30. Section 36 of said chapter 168, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Upon the acceptance by such corporation of a federal charter, it shall cease to be a member bank in the Mutual Savings Central Fund, Inc. Notwithstanding any other provision of law, following its acceptance of a federal charter such corporation shall not retain, succeed to, or acquire any rights, including but not limited to rights to dividends or to the proceeds of any distribution in complete or partial dissolution or liquidation, in the Mutual Savings Central Fund, Inc., or in its Liquidity Fund or Deposit Insurance Fund, except to the extent specifically provided in this paragraph. In the event that such corporation shall, subsequent to its acceptance of a federal charter, (i) convert to a Massachusetts-chartered savings bank and become a member of the Mutual Savings Central Fund, Inc., or (ii) become a federal member of the Mutual Savings Central Fund, Inc., such corporation shall, for so long as it shall remain a member or federal member bank of the Mutual Savings Central

Fund, Inc. participate in any dividends paid pursuant to section three of chapter forty-three of the acts of nineteen hundred and thirty-four and in any distributions made pursuant to section ten of said chapter forty-three, and in any dividends paid and any withdrawals or returns of deposits authorized pursuant to section four of chapter forty-four of the acts of nineteen hundred and thirty-two, in each case based upon the retained amounts paid in by such corporation to the Deposit Insurance Fund and the Liquidity Fund, respectively, without regard to whether such amounts were paid before or after acceptance of a federal charter, or upon the unexpended portion thereof, in the same manner and to the same extent as it would have been entitled to participate if such corporation had not accepted a federal charter.

SECTION 31. Section 37 of said chapter 168, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

Notwithstanding any other provision of law, following its acceptance of a federal charter such corporation shall not retain, succeed to, or acquire any rights, including but not limited to rights to dividends or to the proceeds of any distribution in complete or partial dissolution or liquidation, in the Mutual Savings Central Fund, Inc., or in its Liquidity Fund or Deposit Insurance Fund, except as specifically provided in this paragraph. In the event that such corporation shall, subsequent to its conversion to a federal charter, (i) convert to a Massachusetts-chartered savings bank and become a member of the Mutual Savings Central Fund, Inc., or (ii) become a federal member of the Mutual Savings Central Fund, Inc., such corporation shall, for so long as it shall remain a member or federal member bank of the Mutual Savings Central Fund, Inc. participate in any dividends paid pursuant to section three of chapter forty-three of the acts of nineteen hundred and thirty-four and in any distributions made pursuant to section ten of said chapter forty-three, and in any dividends paid and any withdrawals or returns of deposits authorized pursuant to section four of chapter forty-four of the acts of nineteen hundred and thirty-two, in each case based upon the retained amounts paid in by such corporation to the Deposit Insurance Fund and the Liquidity Fund, respectively, without regard to whether such amounts were paid before or after conversion to a federal charter or upon the unexpended portion thereof, in the same manner and to the same extent as it would have been entitled to participate if such corporation had not converted to a federal charter.

SECTION 32. Said section 37 of said chapter 168, as so appearing, is hereby further amended by striking out the fifth to the seventh paragraphs, inclusive.

SECTION 32A. Chapter 170 of the General Laws is hereby amended by inserting after section 26F the following section:-

Section 26G. The commissioner shall not approve an application for a merger or consolidation pursuant to this chapter if the bank sought to be acquired has been in existence for a period of less than three years or if, as a result of any such merger, the applicant would control in excess of twenty-eight percent of the total deposits, exclusive of foreign deposits, of all depository institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that either said age requirement or concentration limit, or both, may be waived by the commissioner if economic conditions warrant such waiver. For the purposes of this section, the term "foreign deposits"

shall mean deposits received in a foreign country and deposits in Edge and Agreement subsidiaries and international banking facilities.

SECTION 32B. Said chapter 170 is hereby further amended by striking out section 26G, inserted by section 32A of this act, and inserting in place thereof the following section:-

Section 26G. The commissioner shall not approve an application for a merger or consolidation pursuant to this chapter if the bank sought to be acquired has been in existence for a period of less than three years or if, as a result of any such merger, the applicant would control in excess of thirty percent of the total deposits, exclusive of foreign deposits, of all depository institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that either said age requirement or concentration limit, or both, may be waived by the commissioner if economic conditions warrant such waiver. For the purposes of this section, the term "foreign deposits" shall mean deposits received in a foreign country and deposits in Edge and Agreement subsidiaries and international banking facilities.

SECTION 32C. Chapter 172 of the General Laws is hereby amended by inserting after section 38 the following section:-

Section 38A. The commissioner shall not approve an application for a merger or consolidation pursuant to this chapter if the bank sought to be acquired has been in existence for a period of less than three years or if, as a result of any such merger, the applicant would control in excess of twenty-eight percent of the total deposits, exclusive of foreign deposits, of all depository institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that either said age requirement or concentration limit, or both, may be waived by the commissioner if economic conditions warrant such waiver. For the purposes of this section, the term "foreign deposits" shall mean deposits received in a foreign country and deposits in Edge and Agreement subsidiaries and international banking facilities.

SECTION 32D. Said chapter 172 is hereby further amended by striking out section 38A, inserted by section 32C of this act, and inserting in place thereof the following section:-

Section 38A. The commissioner shall not approve an application for a merger or consolidation pursuant to this chapter if the bank sought to be acquired has been in existence for a period of less than three years or if, as a result of any such merger, the applicant would control in excess of thirty percent of the total deposits, exclusive of foreign deposits, of all depository institutions in the commonwealth insured by the Federal Deposit Insurance Corporation, or any successor corporation thereto; provided, however, that either said age requirement or concentration limit, or both, may be waived by the commissioner if economic conditions warrant such waiver. For the purposes of this section, the term "foreign deposits" shall mean deposits received in a foreign country and deposits in Edge and Agreement subsidiaries and international banking facilities.

SECTION 33. Chapter 43 of the acts of 1934 is hereby amended by striking out section 3, as most recently amended by section 3 of chapter 219 of the acts of 1992, and

inserting in place thereof the following section:-

Section 3. The corporation may pay dividends to member banks and federal member banks at such rates and at such times as the directors may determine, subject to the prior approval of the commissioner of any such payment, rates and times and subject to his prior approval as to the terms, conditions and use of such payments to member banks, upon the amounts paid in by such banks to the Deposit Insurance Fund. The Fund may be invested by the corporation only as provided in subsections (a), (b), (c) and (e) of section seven of said chapter forty-four except that the Fund may be used as provided by section three A, and except, further, that the Fund may be used for the purchase of all or any part of the property of any member bank in the possession of the commissioner under sections twenty-two to thirty-six, inclusive, of chapter one hundred and sixty-seven of the General Laws, on such terms and conditions and at such valuations as the directors may determine. The corporation may by vote of its directors borrow money for the purposes of the Deposit Insurance Fund and pledge any assets in which said Fund is invested as security for such loans. In case of the liquidation of any member bank under section thirty-three of chapter one hundred and sixty-eight of the General Laws, the corporation shall, provided that the directors are satisfied that such bank has paid or will be able to pay its depositors in full, return the unexpended portion, as determined by said directors, of all assessments paid by such bank into the Deposit Insurance Fund, after deducting as a charge for insurance of its deposits during the period from October first, nineteen hundred and thirty-nine, to the date of the vote authorizing such liquidation, an amount equal to the sum of the annual assessments due and payable on October first, nineteen hundred and thirty-nine and on October first of each year thereafter while a member bank as provided in sections one and seventeen. In the case of a merger or consolidation of a savings bank with one or more other savings banks under section thirty-four or section thirty-four D of said chapter one hundred and sixty-eight, or in the case of a sale of assets of such bank to and the assumption of the liabilities by one or more other savings banks under section thirty-five of said chapter one hundred and sixty-eight, the continuing bank shall succeed to any of the rights of the discontinuing bank in the assessments theretofore paid by the discontinuing bank; provided, however, that if the continuing bank is, and the discontinuing bank is not, a member of the federal deposit insurance agency the provisions of section fifteen shall apply to such assessments of the discontinuing bank as though such bank had become a member of a federal deposit insurance agency as provided in sections twelve to fifteen, inclusive.

SECTION 34. Said chapter 43 is hereby further amended by adding the following section:-

Section 21. The Mutual Savings Central Fund, Inc. may compromise or otherwise settle any claims relating to rights to receive dividends from or to participate in distributions to be made by said Mutual Savings Central Fund, Inc., including without limitation rights with respect to distributions to be made pursuant to section ten of chapter forty-three of the acts of nineteen hundred and thirty-four held by any thrift institution or stock institution pursuant to sections thirty-four B or thirty-four D, respectively, of chapter one hundred and sixty-eight of the General Laws, or by any federal savings bank or federal savings and loan

association pursuant to sections thirty-six or thirty-seven, respectively, of said chapter one hundred and sixty-eight, as each such section existed immediately prior to the effective date of this act, or by any successor in interest thereto; provided, however, that any such compromise or settlement, which may be entered into with respect to any one or more holders of such rights individually or as a group, shall extinguish all rights of any type held by such holder in the Mutual Savings Central Fund, Inc., including the Deposit Insurance Fund and the Liquidity Fund; and provided, further, that the terms of any such compromise or settlement, including the amount and timing of any payments to be made pursuant thereto, shall be subject to the approval of the commissioner.

SECTION 35. (*a*) Notwithstanding the provisions of section five C of chapter twenty-nine of the General Laws or any other general or special law to the contrary, the comptroller shall annually, on or before September fifteenth, certify to the commissioner of administration the amount of the consolidated net surplus in the operating funds, as defined in section one of said chapter twenty-nine, at the close of the preceding fiscal year. The amounts so certified shall be disposed of as follows: (1) an amount equal to one-half of one percent of the total revenue from taxes in the preceding fiscal year, as certified in accordance with the provisions of section five of chapter twenty-nine, shall be made available to be used as revenue for the current fiscal year; (2) any remaining amount of such consolidated net surplus, up to one million dollars, shall be transferred to the Division of Banks Fund established in subsection (b) of this section; (3) any remaining amount of such consolidated net surplus shall be transferred pursuant to clause (b) of said section five C of said chapter twenty-nine.

(*b*) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Division of Banks Fund. Amounts credited to said fund, pursuant to clause (2) of subsection (a), shall be used, subject to appropriation, for the purposes of examinations as delineated in section two of chapter one hundred and sixty-seven of the General Laws, as amended. Any balances in said fund which exceed one million dollars shall be deposited in the General Fund.

SECTION 36. The committee on banks and banking of the general court is hereby authorized to make an investigation and study of the feasibility of the applicability of section fourteen of chapter one hundred and sixty-seven of the General Laws to state-chartered credit unions.

Said committee may report, from time to time, to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry such recommendations into effect by filing the same with the clerk of the senate or the clerk of the house of representatives on or before the last Wednesday in December, nineteen hundred and ninety-six.

SECTION 37. The commissioner of banks shall study, with respect to the provisions of section two of this act, the effectiveness of said provisions, the amounts of revenue generated by the fees established pursuant to said provisions, and the relationship between said fees and the direct and indirect costs of bank regulation and examination. The commissioner may recommend legislative changes to said provisions if such changes are

required to allow for the alteration of said fee structure in accordance with the findings of said study. The commissioner shall report any such recommendations to the legislature prior to January first of the year two thousand.

SECTION 38. For the calendar year nineteen hundred and ninety-six, the notice of assessment required to be issued by the commissioner of banks by January thirty-first in each calendar year under section two of this act shall be deferred until thirty days from the effective date of regulations relative thereto by the commissioner of administration pursuant to section three B of chapter seven of the General Laws.

SECTION 39. The provisions of section one of this act shall take effect (*a*) sixty days after the date on which the board of governors of the Federal Reserve System issues final regulations implementing section one of the Federal Truth in Lending Act Amendments of 1995, or (*b*) September thirtieth, nineteen hundred and ninety-six, whichever first occurs.

SECTION 40. The commissioner of banks of the commonwealth, in the conduct of his responsibilities pursuant to section thirteen of this act, shall, until the regulations required by said section thirteen have been issued, utilize, in addition to requirements of existing law, the applicable factors contained in federal regulations promulgated on April twenty-fourth, nineteen hundred and ninety-five, pursuant to 12 USC 2901, et seq.; provided, however, that said commissioner shall file the regulations required by said section thirteen with the clerk of the house of representatives on January first, nineteen hundred and ninety-seven.

SECTION 41. Sections fourteen A, fourteen B and sixteen A of this act shall take effect on July first, nineteen hundred and ninety-eight.

SECTION 42. Sections twenty-nine B, thirty-two B and thirty-two D of this act shall take effect on July first, nineteen hundred and ninety-eight.

SECTION 43. There is hereby established a special commission to consist of the chairpersons of the joint committee on banks and banking of the general court, the commissioner of banks, and seven persons to be appointed by the governor, three of whom shall be representatives of the banking industry in the commonwealth, two of whom shall be representatives of consumer groups, and two of whom shall be representatives of small business, for the purpose of making an investigation and study relative to determining the total amount of bank deposits of state and federally chartered banks and credit unions in the commonwealth and further determining the percentage of the total amount of said deposits held or controlled by each bank, credit union or bank holding company in the commonwealth. Said commission shall submit a comprehensive report including recommendations on the effect of deposit concentration levels of employment, economic conditions, consumer choice and competition in the financial services 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 necessary to carry such recommendations into effect by filing the same with the clerk of the house of representatives on or before March fifteenth, nineteen hundred and ninety-seven.

Approved August 2, 1996.

Chapter 239. AN ACT RELATIVE TO SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION.

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

Be it enacted, etc., as follows:

SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section 178B the following thirteen sections:-

Section 178C. As used in sections one hundred and seventy-eight C to one hundred and seventy-eight O, inclusive, the following words shall have the following meanings:-

"Agency", the department of correction, any county correctional facility, the department of youth services, the department of social services, the parole board, the department of probation, or the department of mental health when the department of mental health is acting for persons who have been classified pursuant to the provisions of section fifteen, sixteen, seventeen or eighteen of chapter one hundred and twenty-three at any time during the term of hospitalization.

"Sex offense", an 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 said 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 said chapter two hundred and sixty-five; rape under the provisions of section twenty-two of said chapter two hundred and sixty-five; rape of a child under sixteen with force under the provisions of section twenty-two A of said chapter two hundred and sixty-five; rape and abuse of a child under the provisions of section twenty-three of said chapter two hundred and sixty-five; assault with intent to commit rape under the provisions of section twenty-four of said chapter two hundred and sixty-five; assault of a child under sixteen with intent to commit rape under the provisions of section twenty-four B of said chapter two hundred and sixty-five; kidnapping of a child under the age of sixteen under the provisions of section twenty-six of said chapter two hundred and sixty-five; open and gross lewdness and lascivious behavior under the provisions of section sixteen of chapter two hundred and seventy-two; unnatural and lascivious acts with a child under sixteen under the provisions of section thirty-five A of said chapter two hundred and seventy-two; including an attempt to commit a violation of any of those sections pursuant to section six of chapter two hundred and seventy-four, or a like violation of the law of another state.

"Sex offender", a person convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from incarceration or parole or probation supervision for such a conviction or adjudication, whichever last occurs, on or after August first, nineteen hundred and eighty-one.

Section 178D. The criminal history systems board known as the board in this section and sections one hundred and seventy-eight E to one hundred and seventy-eight O, inclusive, shall establish and maintain a central computerized registry of all sex offenders known as the sex offender registry. The sex offender registry shall be updated based on information made available to the board, including information acquired pursuant to the registration provisions of sections one hundred and seventy-eight C to one hundred and seventy-eight O, inclusive. The file on each sex offender shall include the following information, hereinafter referred to as registration data:

(a) the sex offender's name, aliases used, date and place of birth, sex, race, height, weight, eye and hair color, social security number, home address and work address;

(b) a photograph and set of fingerprints;

(c) a description of the offense for which the sex offender was convicted or adjudicated, the city or town where the offense occurred, the date of conviction or adjudication and the sentence imposed;

(d) any other information which may be useful in assessing the risk of the sex offender to reoffend; and

(e) any other information which may be useful in identifying the sex offender.

The board shall develop a standardized registration form, which shall include all registration data. The board shall make blank copies of said form available to all agencies having custody of sex offenders and all city and town police departments; provided, however, that the board shall determine the format for the collection and dissemination of registration data, which may include the electronic transmission of data. Records maintained in the sex offender registry shall be open to any law enforcement agency in the commonwealth, the United States or any other state. The board may promulgate rules and regulations to implement the provisions of sections one hundred and seventy-eight C to one hundred and seventy-eight O, inclusive.

Section 178E. (a) Not less than thirty days prior to the release of any sex offender from custody, the agency which has custody of the sex offender shall transmit his registration data to the board. The board shall promptly transmit the registration data to the police departments where the sex offender intends to live and work and where the offense was committed and to the Federal Bureau of Investigation. The agency which has custody of the sex offender shall notify the sex offender in writing of the duty to register and shall require the sex offender to acknowledge in writing that he has been advised of his duty to register. Within two days of his release from custody, the sex offender shall register in person at the police department in the city or town where he resides.

(b) Any agency that has supervision of a sex offender on probation or parole shall transmit the sex offender's registration data to the board within five days of assuming supervision of the offender, or by October first, nineteen hundred and ninety-six, whichever is later. The agency shall also report any changes of address of any sex offender within its jurisdiction to the board. The board shall promptly transmit the registration data to the police departments where the sex offender intends to live and work and where the offense was committed and to the Federal Bureau of Investigation. The agency that has supervision

of the sex offender shall also notify the sex offender in writing of his duty to register and shall require the sex offender to acknowledge in writing that he has been advised of his duty to register. Any sex offender who is under supervision on October first, nineteen hundred and ninety-six shall, within two days of said October first, register in person at the police department in the city or town where he resides. Failure to register may be grounds for revocation of probation or parole.

(c) Any court which enters a conviction or adjudication for a sex offense but does not impose a sentence of confinement to be served immediately shall inform the sex offender in writing of the duty to register and shall require the sex offender to acknowledge in writing that he has been advised of his duty to register. The court shall cause the sex offender's registration data to be transmitted to the board within five days of sentencing. The board shall promptly transmit the registration data to the police departments where the sex offender intends to live and work and where the offense was committed and to the Federal Bureau of Investigation. Any sex offender who is convicted or adjudicated delinquent of a sex offense but who is not sentenced to serve a term of confinement immediately upon sentencing, shall, within two days of being sentenced, register in person at the police department in the city or town where he resides. Failure to register may be grounds for revocation of probation.

(d) Any sex offender who moves into the commonwealth from another jurisdiction shall, within two days of moving into the commonwealth, register in person at the police department in the city or town where he resides. The police department shall transmit the registration data to the police department where the offender works and to the board and the board shall transmit the same to the Federal Bureau of Investigation.

(e) Any sex offender who intends to move to a different city or town within the commonwealth must register in person at the police department where he intends to reside five days prior to establishing the new residence. The sex offender shall also send written notice within five days of the change of address to the police department where he last registered. Each such police department shall transmit notice of the change of address to the board and the board shall transmit the same to the Federal Bureau of Investigation.

Any sex offender who intends to change his address within a city or town shall notify the police department in writing five days prior to establishing the new residence. The police department shall transmit notice of the change of address to the board and the board shall transmit the same to the Federal Bureau of Investigation.

Any sex offender who intends to move out of the commonwealth shall notify the police department where he last registered not later than five days before leaving the commonwealth. The police department shall transmit notice of the change to the board and the board shall transmit the same to the Federal Bureau of Investigation. The board shall notify the offender of the duty to register in the new jurisdiction and shall forward a copy of his registration data to the appropriate law enforcement agency in the new jurisdiction.

(f) Any sex offender who intends to change his work address shall notify the police department where he resides in writing five days prior to establishing the new work address. Such police department shall transmit notice of the change of address to the police department where the offender previously worked and to the police department where the

offender intends to work and to the board. The board shall transmit the same to the Federal Bureau of Investigation.

(g) The registrar of motor vehicles shall inform all persons applying for or renewing a license to operate a motor vehicle in the commonwealth that they have a duty to register at their local police department if they have ever been convicted of a sex offense as defined in this section in the commonwealth or in any other jurisdiction.

(h) Except as provided above, any sex offender residing in the commonwealth shall, on or before October first, nineteen hundred and ninety-six, register in person at the police department in the city or town where he resides. The police department shall promptly transmit the registration data to the board. The board shall promptly transmit the registration data to the police departments where the sex offender works and where the offense was committed and to the Federal Bureau of Investigation. The board shall send written notification of the requirements of this act to the last known address of all sex offenders residing in the commonwealth who, on or before October first, nineteen hundred and ninety-six, have been released from all custody and supervision.

Section 178F. Every sex offender shall appear in person at least one time per year at the local police department to verify that the registration data on file remains true and accurate. In addition, on each anniversary of the sex offender's initial registration date, the board shall mail, by certified mail, a nonforwardable verification form to the last reported address of each sex offender. The sex offender shall, within five days of receipt, sign the verification form under the penalties of perjury and mail it back to the board.

Section 178G. The duty of a sex offender to comply with the requirements of sections one hundred and seventy-eight C to one hundred and seventy-eight O, inclusive, shall end twenty years after the sex offender has been convicted or adjudicated or has been released from all custody or supervision, whichever last occurs, unless the sex offender was convicted of two or more sex offenses committed on different occasions, in which case the duty to register shall last for the offender's life. A person required to register with the sex offender registry board may make an application to said board to terminate the obligation upon proof, by clear and convincing evidence, that the person has not committed a sex offense within fifteen years following conviction, adjudication or release from all custody or supervision, whichever is later, and is not likely to pose a threat to the safety of others. The board shall notify the victim and the district attorney in the county where the offender resides and give the victim and district attorney the opportunity to respond to such application.

Section 178H. A sex offender who knowingly fails to register or verify registration information as required by law shall, upon a first conviction, be punished by imprisonment for not more than two and one-half years in a house of correction or by a fine of not more than one thousand dollars, or by both a fine and imprisonment. Upon a second and subsequent conviction for failure to register or verify registration information, the offender shall be sentenced to the house of correction for not less than ninety days nor more than two and one-half years and shall pay a fine of not more than five thousand dollars.

Section 178I. Any person who is eighteen years of age or older, upon the verification

of his age and identity, shall receive at no cost from the board a report which indicates whether an individual identified by name, date of birth or sufficient personal identifying characteristics is a sex offender as defined in section one hundred and seventy-eight C, the offenses for which he or she was convicted or adjudicated, and the dates of said convictions or adjudications. Any records of inquiry shall be kept confidential; provided, however, that the records may be disseminated to assist any criminal prosecution.

All reports to persons making inquiries shall include a warning regarding the criminal penalties for use of sex offender registry information to commit a crime or to engage in illegal discrimination or harassment of an offender and the punishment for threatening to commit a crime under the provisions of section four of chapter two hundred and seventy-five.

Section 178J. (a) A person who requests sex offender registry information shall:

(i) be eighteen years of age or older;

(ii) appear in person at a city or town police station and present proper identification;

(iii) state that he requests sex offender registry information for his own protection or for the protection of a child under the age of eighteen or another person for whom said inquirer has responsibility, care or custody; and

(iv) complete and sign a record of inquiry, designed by the board, which includes the following information: the name and address of the person making the inquiry; the person or geographic area or street which is the subject of the inquiry; the reason for the inquiry; and the date and time of the inquiry.

Said records of inquiries shall include a warning regarding the criminal penalties for use of sex offender registry information to commit a crime or to engage in illegal discrimination or harassment of an offender and the punishment for threatening to commit a crime under the provisions of section four of chapter two hundred and seventy-five. Said records of inquiries shall state, before the signature of the inquirer: "I understand that the sex offender registry information disclosed to me is intended for my own protection or for the protection of a child under the age of eighteen or another person for whom I have responsibility, care or custody." Said records of inquiries shall be kept confidential; provided, however, that the records may be disseminated to assist any criminal prosecution.

(b) The person making the inquiry may either:

(i) identify a specific individual by name or provide personal identifying information sufficient to allow the police to identify the subject of the inquiry; or

(ii) inquire whether any sex offenders live or work within a one mile radius of a specific address, including, but not limited to, a residential address, a business address, school, after-school program, day care center, playground, recreational area, or other identified address; or

(iii) inquire whether any sex offenders live or work on a specific street.

(c) If the search of the sex offender registry results in an identification of a sex offender as defined in section one hundred and seventy-eight C, the police shall disseminate to the person making the inquiry:

(i) the name of the offender;

(ii) the home address; if located in the areas described in clause (ii) or (iii) of paragraph (b);

(iii) work address, if located in the areas described in said clause (ii) or (iii);

(iv) the offense for which he was convicted or adjudicated, and the dates of such conviction or adjudication;

(v) the offender's age, sex, race, height, weight, eye and hair color; and

(vi) a photograph of the offender, if available.

The police shall not release information identifying the victim by name, address or relation to the offender.

Section 178K. (1) There shall be a sex offender registry board which shall exist as a subdivision of the board and shall share staff and resources with board. The sex offender registry board shall promulgate guidelines for determining the level of risk of reoffense of sex offenders, apply the guidelines to assess the risk level of particular offenders, develop guidelines for use by city and town police departments in disseminating sex offender registry information, and make recommendations to the superior court regarding risk levels and community notification plans in the cases where the offender has a right to judicial review and has requested a hearing as provided in section one hundred and seventy-eight L.

The sex offender registry board shall consist of five members appointed by the governor: one of whom shall be the secretary of the executive office of public safety or his designee, who shall also act as chair of the board; one of whom shall be a licensed psychologist or psychiatrist with special expertise in the assessment and evaluation of sex offenders and who has knowledge of the forensic mental health system; one of whom shall be a licensed psychologist or psychiatrist with special expertise in the assessment and evaluation of sex offenders, including juvenile sex offenders, and who has knowledge of the forensic mental health system; one of whom shall be a person who has at least five years of training and experience in probation, parole or corrections; and one of whom shall be a person who has expertise or experience with victims of sexual abuse. The term of office of each member of the sex offender registry board shall be for six years.

The sex offender registry board shall develop guidelines to assess the risk of reoffense by a sex offender and shall provide for three levels of notification depending on the degree of the risk of reoffense. The attorney general and the chief counsel of the committee for public counsel services or their designees, shall assist in the development of said guidelines. Factors relevant to the risk of reoffense shall include, but not be limited to, the following:

(a) criminal history factors indicative of a high risk of reoffense, including:

(i) whether the sex offender has a mental abnormality;

(ii) whether the sex offender's conduct is characterized by repetitive and compulsive behavior;

(iii) whether the offender committed a sex offense on a child;

(iv) the age of the sex offender at the time of the commission of the first sex offense; and

(v) whether the sex offender served the maximum term of incarceration.

(b) other criminal history factors to be considered in determining risk, including:

(i) the relationship between the sex offender and the victim;

(ii) whether the offense involved the use of a weapon, violence or infliction of bodily injury;

(iii) the number, date and nature of prior offenses;

(c) conditions of release that minimize risk of reoffense, including whether the sex offender is under probation or parole supervision; whether the offender is receiving counseling, therapy or treatment; whether the offender is residing in a home situation that provides guidance and supervision, including sex offender-specific treatment in a community based residential program;

(d) physical conditions that minimize risk of reoffense, including, but not limited to, debilitating illness;

(e) whether the sex offender was a juvenile when he committed the offense, his response to treatment and subsequent criminal history;

(f) whether psychological or psychiatric profiles indicate a risk of recidivism;

(g) the sex offender's history of alcohol or substance abuse;

(h) the sex offender's participation in sex offender treatment and counseling while incarcerated or while on probation or parole and his response to such treatment or counseling;

(i) recent behavior, including behavior while incarcerated or while supervised on probation or parole;

(j) recent threats against persons or expressions of intent to commit additional offenses;

(k) review of any victim impact statement; and

(l) review of any materials submitted by the sex offender, his attorney or others on behalf of the such offender.

(2) The guidelines shall provide for three levels of notification depending on the degree of risk of reoffense by the sex offender:

(a) If the risk of reoffense is low, a level one designation shall be given to the sex offender. In such case, the board shall transmit the registration data to the police departments where the sex offender intends to live and work and where the offense was committed and to the Federal Bureau of Investigation. The public shall have access to information regarding a level one offender in accordance with the provisions of sections one hundred and seventy-eight I and one hundred and seventy-eight J.

(b) If the risk of reoffense is moderate, a level two designation shall be given to the sex offender. In such case, the board shall transmit the registration data to the police departments where the sex offender intends to live and work and where the offense was committed and to the Federal Bureau of Investigation. A level two community notification plan shall require the police department to notify organizations in the community which are likely to encounter the offender including, but not limited to, schools, day care centers, religious and youth organizations, and sports leagues. The police shall disseminate: (i) the name of the offender; (ii) home address; (iii) work address; (iv) the offense for which he was

convicted or adjudicated, and the date of the conviction or adjudication; (v) the offender's age, sex, race, height, weight, eye and hair color; and (vi) a photograph of the offender, if available; provided, however, that the police shall not release information identifying the victim by name, address or relation to the offender. All notices to the community shall include a warning regarding the criminal penalties for use of sex offender registry information to commit a crime or to engage in illegal discrimination or harassment of an offender and the punishment for threatening to commit a crime under the provisions of section four of chapter two hundred and seventy-five.

(c) If the risk of reoffense is high, a level three designation shall be given to the sex offender. In such case, the board shall transmit the registration data to the police departments where the sex offender intends to live and work and where the offense was committed and to the Federal Bureau of Investigation. A level three community notification plan shall require the police department to notify organizations in the community which are likely to encounter the offender and individual members of the public which are likely to encounter the offender. The police shall disseminate: (i) the name of the offender; (ii) home address; (iii) work address; (iv) the offense for which he was convicted or adjudicated, and the date of the conviction or adjudication; (v) the offender's age, sex, race, height, weight, eye and hair color; and (vi) a photograph of the offender, if available; provided, however, that the police shall not release information identifying the victim by name, address or relation to the offender. All notices to the community shall include a warning regarding the criminal penalties for use of sex offender registry information to commit a crime or to engage in illegal discrimination or harassment of an offender and the punishment for threatening to commit a crime under the provisions of section four of chapter two hundred and seventy-five.

(3) The sex offender registry board shall make a determination regarding the level of risk of reoffense of each sex offender listed in the sex offender registry, beginning with offenders who have been released from incarceration within the past twelve months, are currently on parole or probation supervision or are scheduled to be released from incarceration within six months. All criminal justice agencies and the department of mental health shall cooperate in providing files to the sex offender registry board and any information the sex offender registry board deems useful in assessing the risk of reoffense by the sex offender. If the sex offender registry board gives an offender a level one designation, the determination shall be final and there shall be no judicial review of its decision.

No Section 178L.

Section 178M. An offender who has been given a level two or level three designation may petition the superior court where the offender resides or intends to reside to challenge his risk designation. Such offender may request an opportunity to appear and be heard. At such hearing, the rules of evidence shall not apply and the court may review any materials described in the guidelines. The court shall, if requested, appoint counsel to represent the sex offender in the proceedings if the offender is deemed indigent in accordance with section two of chapter two hundred and eleven D. An attorney employed

by the board may make an appearance to defend the risk designation given by the sex offender registry board and to represent the public interest. The court may modify the risk designation given by the sex offender registry board only if such designation is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law. The court shall reach its final decision within sixty days of the offender's petition for review. The court shall keep proceedings conducted pursuant to this paragraph and records from such proceedings confidential.

Section 178N. Information contained in the sex offender registry shall not be used to commit any crime against any sex offender or to engage in illegal discrimination or harassment of an offender. Any person who uses information disclosed pursuant to the provisions of sections one hundred and seventy-eight C to one hundred and seventy-eight O, inclusive, to commit a crime shall be punished by not more than two and one-half years in a house of correction or by a fine of not more than one thousand dollars or by both such fine and imprisonment.

Section 178 O. Police officials and other public employees acting in good faith shall not be liable in any civil or criminal proceeding for providing or failing to provide sex offender registry information pursuant to provisions of sections one hundred and seventy-eight C to one hundred and seventy-eight O, inclusive.

SECTION 2. Section 36 of chapter 123 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 8, the word "and",- and by inserting after the word "department", in line 10, the following words:- and (4) as required by section one hundred and seventy-eight C to one hundred and seventy-eight O, inclusive, of chapter six.

SECTION 3. The first paragraph of section 49 of chapter 127 of the General Laws, as so appearing, is hereby amended by adding the following two sentences:- No sex offender in the custody of the department of correction shall be eligible to participate in any program outside a correctional facility established under section forty-eight unless he has completed the department's voluntary sex offender treatment program. The voluntary sex offender treatment program shall be administered pursuant to the rules and regulations of the department.

SECTION 4. Sections one hundred and seventy-eight C to one hundred and seventy-eight H, inclusive, and sections one hundred and seventy-eight J to one hundred and seventy-eight O, inclusive, of chapter six of the General Laws inserted by section one of this act, shall take effect on October first, nineteen hundred and ninety-six.

Approved August 5, 1996.

Chapter 240. AN ACT RELATIVE TO THE CALENDAR OF PRISONERS IN JAILS AND HOUSES OF CORRECTION.

Be it enacted, etc., as follows:

SECTION 1. Section 5 of chapter 127 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "book", in line 2, the following words:- or an electrionic computer database.

SECTION 2. Said section 5 of said chapter 127, as so appearing, is hereby further amended by inserting after the word "book", in line 7, the following words:- or electronic computer database.

Approved August 5, 1996.

Chapter 241. AN ACT FURTHER REGULATING THE OFFENSE OF OBSTRUCTING EMERGENCY VEHICLES.

Be it enacted, etc., as follows:

Section 7 of chapter 89 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Whoever wilfully obstructs or retards the passage of any of the foregoing in the exercise of such right shall be punished by a fine of fifty dollars or by imprisonment for not more than three months for the first offense and by a fine of not more than five hundred dollars or by imprisonment for up to one year for a second and subsequent offenses; provided, however, that for a third or subsequent offense the court or the registry of motor vehicles, in addition to any such fine or imprisonment, may suspend the license of the person so convicted and may order mandatory classroom retraining in motor vehicle and traffic laws.

Approved August 5, 1996.

Chapter 242. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF PAXTON.

Be it enacted, etc., as follows:

SECTION 1. Any holder of an elected office in the town of Paxton with more than six months remaining in the term of office may be recalled therefrom by the registered voters of said town as herein provided.

SECTION 2. Any one hundred and twenty-five registered voters of the town of Paxton may initiate a recall petition by filing with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. Said town clerk shall thereupon deliver, to said voters making the affidavit, copies of petition blanks demanding such recall, copies of which printed forms shall be kept available. Such blanks shall be issued by said town clerk, with said town clerk's signature and official seal attached

thereto. Such blanks shall be dated, shall be addressed to the board of 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 said town clerk. Said recall petitions shall be returned and filed with said town clerk within twenty days after the filing of the affidavit, signed by at least fifty percent of the total number of persons who voted at the most recent annual town election, who shall add to their signatures the street and number, if any, of their residences. Said town clerk shall, within twenty-four hours of receipt, submit the petitions to the board of registrars who shall forthwith certify thereon the number of signatures which are names of voters in said town.

SECTION 3. If the petition shall be certified by the town clerk of the town of Paxton to be sufficient, said town clerk shall forthwith submit the same with his certificate to the board of selectmen within five working days, and said board of selectmen, within five working days, shall give written notice of the receipt of the certificate to the officer sought to be recalled. If the officer does not resign within five days thereafter, said board of selectmen shall order an election to be held on a date fixed by them not less than sixty-five nor more than ninety days after the date of said 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 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 removal election has been so ordered, the election shall nevertheless proceed as provided for in this section.

SECTION 4. Any officer whose recall is sought may be a candidate to succeed himself at the recall election. The nomination of all candidates, the publication of the warrant for the recall election and any election to fill a vacancy caused by a recall election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this act.

SECTION 5. The incumbent shall continue to perform the duties of his office until the recall election. If then reelected, said incumbent shall continue in office for the remainder of his unexpired term subject to recall as before, except as provided in this section. If not reelected in the recall election, said incumbent 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, said incumbent shall thereupon be deemed removed and the office vacant.

SECTION 6. Ballots used in a recall election in the town of Paxton shall submit the following propositions in the order indicated:

For 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 proposition shall appear the word "Candidates" and the directions to the voters as 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 on the recall question is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes on the question is in the negative, the ballots for candidates to fill the potential vacancy need not be counted.

SECTION 7. No recall petition shall be filed against an officer of the town of Paxton within ninety days after he takes office, nor in the case of an officer subjected to a recall election and not recalled thereby, until at least ninety days after the election at which the officer's 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 August 5, 1996.

Chapter 243. AN ACT AUTHORIZING THE CITY OF QUINCY TO USE CERTAIN PARK LAND FOR SCHOOL PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The city of Quincy is hereby authorized to use a certain parcel of land located in said city which was acquired for park purposes for the construction and maintenance of a public school. Said parcel comprising 6.1 acres more or less is shown on a plan of land entitled "outline plan of proposed Victory Park" recorded in the Norfolk registry of deeds as number 1010 of 1926.

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

Approved August 6, 1996.

Chapter 244. AN ACT RELATIVE TO THE LENDING LIMITS OF STATE-CHARTERED BANKS.

Be it enacted, etc., as follows:

Paragraph 5 of subsection B of section 2 of chapter 167E of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the last sentence.

Approved August 6, 1996.

Chapter 245. AN ACT RELATIVE TO THE FIRE PREVENTION ASSOCIATION OF MASSACHUSETTS, INC.

Be it enacted, etc., as follows:

SECTION 1. Section 164 of chapter 6 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 12 and 13, the words "Massachusetts fire prevention association" and inserting in place thereof the following words:- Fire Prevention Association of Massachusetts, Inc.

SECTION 2. Section 14 of chapter 22 of the General Laws, as so appearing, is hereby amended by striking out, in line 19, the words "Massachusetts Fire Prevention Association" and inserting in place thereof the following words:- Fire Prevention Association of Massachusetts, Inc.

Approved August 6, 1996.

Chapter 246. AN ACT RELATIVE TO THE REGULATION OF DOGS IN THE TOWN OF STONEHAM.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section one hundred and fifty-seven of chapter one hundred and forty of the General Laws, the chief of police of the town of Stoneham or a member of the police department of said town designated by said chief of police shall have the powers and duties assigned to the board of selectmen and chief of police under the provisions of said section one hundred and fifty-seven of said chapter one hundred and forty.

Approved August 6, 1996.

Chapter 247. AN ACT PROHIBITING STANDEES ON SCHOOL BUSES.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 7B of chapter 90 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out clause (2) and inserting in place thereof the following clause:-

(2) The operator of a school bus shall not allow the number of school pupils riding in the bus at any one time to exceed the number of adequate thirteen inch seats therein nor shall the operator drive said bus until each pupil is seated; provided however, that any such bus, in which adequate straps, handles or other supports are available for standing passengers, may carry not more than three standees in any case of an emergency for a period not to exceed five consecutive school days.

SECTION 2. This act shall take effect on September fifteenth, nineteen hundred and ninety-eight.

Approved August 6, 1996.

Chapter 248. AN ACT RELATIVE TO THE ISSUANCE OF A LICENSE TO SELL ALCOHOLIC BEVERAGES IN THE CITY OF WORCESTER.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section twelve, section nineteen or section nineteen C of chapter one hundred and thirty-eight of the General Laws or any other general or special law to the contrary, the city of Worcester shall have authority to issue to the Main Street Brewing Co., Ltd., a Massachusetts corporation, a license to sell all alcoholic beverages or a license to sell wines and malt beverages only, as the case may be. Such license shall be issued by and through the license commission of said city in accordance with the provisions of said section twelve of said chapter one hundred and thirty-eight notwithstanding that the Main Street Brewing Co., Ltd. may hold a license pursuant to the provisions of said section nineteen or section nineteen C of said chapter one hundred and thirty-eight.

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

Approved August 6, 1996.

Chapter 249. AN ACT INCREASING THE BORROWING AUTHORIZATION FOR THE COUNTY OF DUKES COUNTY.

Be it enacted, etc., as follows:

SECTION 1. The county commissioners of the county of Dukes County are hereby authorized to spend such sums as may be necessary, not to exceed eight hundred thousand dollars for the renovation of and improvements to certain buildings in the town of Oak Bluffs for the purposes of providing adequate space for the Martha's Vineyard Commission and for the county administration.

SECTION 2. For the purposes authorized by section one, the treasurer of said 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 eight hundred thousand dollars and may issue bonds or notes of the county thereof, which shall bear on their face, the words, Dukes County Improvements Loan.

Each authorized issue shall constitute a separate loan and each such loan shall be payable in not more than ten years from its date of issue. Said 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 sale, upon such terms and conditions 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 the provisions of chapter thirty-five of the General Laws.

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

Approved August 6, 1996.

Chapter 250. AN ACT RELATIVE TO THE BOARD OF REGISTRATION OF BARBERS.

Be it enacted, etc., as follows:

SECTION 1. Section 87H of chapter 112 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 40, the words "one year" and inserting in place thereof the following words:- three years.

SECTION 2. Said section 87H of said chapter 112, as so appearing, is hereby further amended by striking out, in line 43, the word "year" and inserting in place thereof the following words:- three years.

Approved August 6, 1996.

Chapter 251. AN ACT PROVIDING FOR THE APPOINTMENT OF THE TAX COLLECTOR AND THE TREASURER IN THE TOWN OF MONROE.

Be it enacted, etc., as follows:

SECTION 1. The tax collector and the treasurer of the town of Monroe shall be appointed by the board of selectmen of said town, and the persons so appointed shall serve at the pleasure of said board and shall have the powers and duties by law vested in the offices of tax collector and treasurer and such additional powers as may be conferred by town by-laws or administrative code.

SECTION 2. Notwithstanding the provisions of section one, the incumbents in the offices of tax collector and treasurer, upon the effective date of this act, shall continue to hold their respective offices and perform the duties thereof until the expiration of the terms for which they were elected or a precedent vacating of office.

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

Approved August 6, 1996.

Chapter 252. AN ACT AUTHORIZING THE CITY OF SOMERVILLE TO PLACE MUNICIPAL CHARGES LIENS ON CERTAIN PROPERTIES IN THE CITY OF SOMERVILLE FOR NONPAYMENT OF ANY LOCAL CHARGE, FEE OR FINE.

Be it enacted, etc., as follows:

The city of Somerville is hereby authorized to impose a lien on property located within said city for any local charge, fee or fine that has not been paid by the due date, said lien shall be known as a municipal charges lien; provided, however, that a vote by the board of aldermen is taken for each type of charge, fee or fine; and provided, further, that an addi-

tional initial vote is taken to allow the charge, fee or fine to be collected in this manner.

A lien authorized under this act shall take effect upon recording of the unpaid municipal charge, fee or fine, by parcel of land and by the name of the property owner assessed for the fine in the southern district of the registry of deeds of Middlesex county.

If a charge, fee or fine which is secured by a municipal charges lien, remains unpaid, when the assessors are preparing a real estate tax list and warrant to be committed under section fifty-three of chapter fifty-nine of the General Laws, then the board or officer in charge of the collection of the municipal charge, fee or fine shall certify such charge, fee or fine to the assessors, who shall forthwith add such charge, fee or fine to the tax on the property to which it relates and commit it with their warrant to the collector of taxes as part of such tax.

If the property to which such charge, fee or fine relates is tax exempt, such charge, fee or fine shall be committed as the tax.

A lien under this section may be discharged by filing in the southern district of the registry of deeds of Middlesex county, a certificate from the tax collector that all municipal charges, fees or fines constituting the lien, together with any interest and costs thereon, have been paid or legally abated. All costs of recording or discharging a lien under this section shall be borne by the owner of the property.

Approved August 6, 1996.

Chapter 253. AN ACT RELATIVE TO THE BOARD OF HEALTH OF THE TOWN OF PLYMOUTH.

Be it enacted, etc., as follows:

SECTION 1. Section 6 of chapter 3 of the charter of the town of Plymouth, as appearing in section 4 of chapter 19 of the acts 1991 and 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, in line 4, the number "3-7-2" and inserting in place thereof the following number:- 3-6-2.

SECTION 2. Said chapter 3 of said charter, as so appearing, is hereby further amended by adding the following section:-

Section 7. Board of Health.

3-7-1 A board of health of five members shall be appointed by the board of selectmen for three year overlapping terms.

3-7-2 The board shall exercise such powers and duties as prescribed by the General Laws, this charter and by-laws, subject to the approval by the voters of the town of Plymouth.

Approved August 6, 1996.

Chapter 254. AN ACT AUTHORIZING THE LEASE OF A CERTAIN PARCEL OF LAND IN THE TOWN OF TEWKSBURY.

Be it enacted, etc., as follows:

Chapter 275 of the acts of 1994 is hereby amended by adding the following section:-

Section 5. The town manager of the town of Tewksbury is hereby authorized to solicit license agreements or lease the parcel of land conveyed to said town pursuant to section two for a skating rink and related recreational and cultural activities for a period of up to thirty years; provided, however, that any such solicitation shall be subject to the provisions of chapter thirty B of the General Laws.

Approved August 6, 1996.

Chapter 255. AN ACT DIRECTING THE STATE SECRETARY TO PLACE A CERTAIN NONBINDING QUESTION ON THE BIENNIAL STATE ELECTION BALLOT IN BARNSTABLE COUNTY IN THE CURRENT YEAR.

Be it enacted, etc., as follows:

For the purpose of ascertaining the will of the people of Barnstable county, the state secretary shall cause the following nonbinding question on public policy to be placed on the official ballot to be used in said county at the biennial state election to be held in the year nineteen hundred and ninety-six. This question is nonbinding.

Do you support the establishment of a Cape Cod Land Bank that would: protect public drinking water supplies, acquire open space and conservation land, provide bicycling and walking trails, enhance opportunities for recreation, assist first time home buyers, and be funded by a one percent fee on all land transfers at the Barnstable county registry of deeds, exempting the first one hundred thousand dollars of the purchase price?

Approved August 7, 1996.

Chapter 256. AN ACT PROVIDING FOR THE LICENSING AND OPERATION OF LARGE FAMILY DAY CARE HOMES.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 28A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "homes", in line 17, the second time it appears, the following words:- ; large family day care homes.

SECTION 2. Section 4 of said chapter 28A, as so appearing, is hereby amended by inserting after the word "homes", in line 8, the following words:- and large family day care homes.

SECTION 3. Said section 4 of said chapter 28A, as so appearing, is hereby further amended by inserting after the word "homes", in lines 13 and 36, each time it appears, the following words:- , large family day care homes.

SECTION 4. Section 9 of said chapter 28A, as so appearing, is hereby amended by inserting after the definition of "Group care facility" the following definition:-

"Large family day care home", a private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs, and receives for temporary custody and care for a limited number of hours, children of school age in accordance with regulations promulgated by the office; provided, however, that the number of children under the age of sixteen in a large family day care home shall not exceed ten, including participating children living in the residence. A large family day care home shall have at least one approved assistant when the total number of children participating in such day care exceeds six. Large family day care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor.

SECTION 5. Said section 9 of said chapter 28A, as so appearing, is hereby further amended by inserting after the word "home", in line 96, the following words:- except as provided under large family day care home.

SECTION 6. Section 10 of said chapter 28A, as so appearing, is hereby amended by inserting after the word "home", in lines 6, 16, 21, 49 and 63, in each instance, the following words:- or large family day care home.

SECTION 7. Said section 10 of said chapter 28A, as so appearing, is hereby further amended by inserting after the word "homes", in line 35, the following words:- or large family day care homes.

SECTION 8. Paragraph (c) of said section 10 of said chapter 28A, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- Such regulations as they relate to standards and requirements for licensure and approval of large family day care homes shall include, but not be limited to, appropriate standards for one or more approved assistants as provided in section nine, additional floor space, staff/child ratios for multiple age and size groupings, including limitations on the number of infants in care at one time, the hours of school age care, the number and age of school age children cared for, a prerequisite that a provider have at least three years of experience in licensed family child care and requirements for completion of at least five hours of specialized training prior to licensure as a large family day care provider and at least ten hours of training each subsequent year.

SECTION 9. Said section 10 of said chapter 28A, as so appearing, is hereby further amended by inserting after the word "home", in line 49, the following words:- , large family day care home.

SECTION 10. Said section 10 of said chapter 28A, as so appearing, is hereby further amended by inserting after the word "homes", in line 51, the following words:- , large family day care homes.

SECTION 10A. Said chapter 28A is hereby further amended by inserting after section 10A the following section:-

Section 10B. The office for children shall make an unannounced monitoring inspection of all large family day care homes within six months of the issuances of licenses therefor and shall, annually, make at least one such unannounced monitoring inspection thereafter.

SECTION 11. Section 11 of said chapter 28A, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "home", in line 2, the following words:- , large family day care home.

SECTION 12. Said section 11 of said chapter 28A, as so appearing, is hereby further amended by inserting after the word "home", in line 5, the following words:- or large family day care home.

SECTION 13. Section 12 of said chapter 28A, as so appearing, is hereby amended by inserting after the word "homes", in line 6, the following words:- or large family day care homes.

SECTION 14. Section 14 of said chapter 28A, as so appearing, is hereby amended by inserting after the word "care", in line 5, the second time it appears, the following words:- , large family day care.

SECTION 15. Said section 14 of said chapter 28A, as so appearing, is hereby amended by inserting after the word "home", in line 8, the following words:- , large family day care home.

SECTION 16. The office for children shall promulgate regulations relative to the licensing of large family day care homes not later than twelve months after the effective date of this act and shall file copies of such proposed regulations with the committee on human services and elder affairs not later than sixty days before said regulations are adopted. Said office is hereby authorized and directed to establish a pilot program to evaluate the advisability of exempting large family day care homes with eight or fewer children, at least two of whom are school age and in care for a limited number of hours, from certain provisions of large family day care regulations. Said office is hereby authorized to issue provisional licenses to large family day care homes participating in the pilot program. Said office is hereby directed to design the pilot program, in consultation with representatives of the family day care and school age child care community, parents of children in family day care and a representative of the academic community with expertise in early care and education policies and issues. Said office is further directed to engage the assistance of academics with expertise in early care and education and program evaluation in the evaluation of said pilot program. Said office shall report the results of the pilot program along with drafts of any proposed legislation to the legislature's joint committee on human services and elderly affairs on or before September thirtieth, nineteen hundred and ninety-six.

Approved August 7, 1996.

Chapter 257. AN ACT AUTHORIZING THE TOWN OF AMESBURY TO ISSUE TWO ADDITIONAL ALL ALCOHOLIC BEVERAGES LICENSES.

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 Amesbury is hereby authorized to issue two licenses to sell all alcoholic beverages to be drunk on the premises under the provisions of section twelve of said chapter one hundred and thirty-eight. Said licenses shall be subject to all the provisions of said chapter one hundred and thirty-eight except said section seventeen.

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

Approved August 7, 1996.

Chapter 258. AN ACT PROVIDING PROTECTION FOR THE RIVERS OF THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately protect the commonwealth's rivers, streams and adjacent lands, 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 purposes of this act are to protect the private or public water supply; to protect the ground water; to provide flood control; to prevent storm damage; to prevent pollution; to protect land containing shellfish; to protect wildlife habitat; and to protect the fisheries.

It shall be the policy of the commonwealth to protect the natural integrity of its rivers; provided, however, that, the commonwealth shall, subject to appropriation, encourage and support the establishment of a system of open space lands along the rivers as defined herein consistent with the purposes of this act. This act shall be interpreted and administered consistent with its purposes as stated in this section.

Nothing in the act shall be construed to compromise or in any way diminish the protections and exemptions provided for in section forty of chapter one hundred and thirty-one of the General Laws and regulations promulgated thereunder; and provided further, that such protections and exemptions shall extend to the riverfront area as defined in this act.

SECTION 2.

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Department of Fisheries, Wildlife and Environmental Law Enforcement.

2300-8970 For the acquisition of lands fronting on rivers and streams pursuant to section eight of this act $30,000,000

SECTION 3. Notwithstanding the provisions of any general or special law or any rule or regulation to the contrary, activities associated with the renovation of cranberry bogs on property currently in agricultural use, which have been abandoned since nineteen hundred and fifty-nine shall be allowed as provided below not to exceed five acres in three years on land in common ownership; provided, however, that renovation of such bogs shall not adversely impact the habitat of endangered or threatened species as defined by the Natural Heritage and Endangered Species Program, be located within a defined Zone II aquifer, be located within an Area of Critical Environmental Concern, or contain a navigable stream as defined by chapter ninety-one. All activities shall be conducted in accordance with USDA Natural Resources Conservation Service standards and Best Management Practices for Massachusetts Cranberry Experiment Station and approved by the USDA Natural Resources Conservation Service, where applicable. The cranberry farm shall have in place a USDA Natural Resources Conservation Service approved Conservation Farm Plan prior to the commencement of renovation of said abandoned bogs.

The department of environmental protection shall implement by regulation, no later than December first, nineteen hundred and ninety-six, the provisions of this section providing for a permit process for the review and necessary conditioning for the renovation of eligible abandoned cranberry bogs as defined herein and for appropriate fees and performance standards relative thereto; said regulations shall provide that review for such permits shall consider the provisions in this section and the impacts of the renovation; the department is authorized to issue as a part of any reviews pursuant to this section, such conditions as are necessary to protect the interests identified in this act.

The department of environmental protection is directed to undertake a review and prepare an inventory of abandoned cranberry bogs in the commonwealth which have been abandoned since nineteen hundred and fifty-nine and report to the joint committee on natural resources and agriculture such information by December first, nineteen hundred and ninety-six, including in such report appropriate recommendations on the feasibility and impacts to the environment of authorizing for renovation said abandoned cranberry bogs as it has inventoried pursuant to this paragraph.

Nothing in this section shall supersede the powers of any city or town to regulate the renovation of abandoned bogs.

SECTION 4. The commissioner of the department of environmental protection shall, within one year of the effective date of this act, adopt such regulations as are deemed necessary to carry out the purposes of this act. Such regulations shall include, but not be limited to, provisions setting forth (1) procedures required to implement this act, and (2) reasonable fees to be charged by local bodies in administering the terms of this act. All final rules and regulation promulgated hereunder shall be filed with the joint committee on natural resources and agriculture sixty days prior to their effective date and all emergency rules and regulations promulgated hereunder shall be filed with said committee fourteen days prior to their effective date.

SECTION 5. Nothing in this act shall be construed to supersede the provisions of section sixty-one and sixty-two of chapter thirty, chapter ninety-one, and chapter one hun-

dred thirty-one A of the General Laws and chapter thirty-six of the acts of nineteen hundred and ninety-two or any regulations promulgated thereunder.

Nothing in this act shall apply to the portions of any river or adjacent land that are covered by a protective order pursuant to section seventeen B of chapter twenty-one.

SECTION 6. The provisions of this act shall not apply to any excavation, structure, road, clearing, driveway, landscaping, utility lines, rail lines, airports and marine cargo terminals owned by a political subdivision of the commonwealth and any bridge over two miles long, septic system, or parking lot within the riverfront area in existence on the date of enactment of this act nor shall the provisions of this act apply to the expansion of any structure, airports and marine cargo terminals owned by a political subdivision which expansion has commenced on or before November first, nineteen hundred and ninety-six, or for which any of the following conditions have been met: (i) a draft environmental impact report has been prepared and submitted pursuant to section sixty-two B of chapter thirty of the General Laws on or before November first, nineteen hundred and ninety-six, (ii) a building permit conforming to local requirement has been filed for on or before October first, nineteen hundred and ninety-six and said permit is granted on or before April first, nineteen hundred and ninety-seven, or (iii) a definitive plan has been approved or endorsed under section eighty-one U of chapter forty-one of the General Laws on or before August first, nineteen hundred and ninety-six. At the written request of the applicant and for just cause, the department of environmental protection may grant an extension from the time limit under clause (i) and upon written request of an applicant and for just cause, a local conservation commission may grant one extension of no more than sixty days from the time limit under clause (ii).

SECTION 7. The executive office of environmental affairs and the department of housing and community development shall study jointly the feasibility of establishing transferable development rights. Said study shall include, but not be limited to, the use of riverfront and other transferable rights to increase the intensity of use, density or clustering of units, amount of floor area, or percent of lot coverage, above that which would otherwise be permissible on land not within the riverfront area. Said study shall examine how such rights may be based on the impact of any restrictions on land use development which are the result of the application of this act. The executive office of environmental affairs and the department of housing and community development shall submit the report to the joint committee on natural resources and agriculture no later than one year following the adoption of regulations under this act.

SECTION 8. The commissioner of the department of fisheries, wildlife and environmental law enforcement is hereby authorized to expend a sum not to exceed thirty million dollars for the acquisition of lands fronting on rivers and streams, including cold water streams; provided, that said commissioner shall give priority to linking segmented portions of land along rivers; provided, however, that not more than one million dollars shall be expended for the purchase, but not construction or maintenance costs, of fencing, posts or other materials for the purpose of mitigating non-point pollution in rivers as defined herein within existing farmland; provided further, that the department of environmental pro-

tection shall recommend locations for such mitigation measures to mitigate such non-point pollution to the department of food and agriculture which administers said funds, and provided further that any land acquired pursuant to this section shall be open to the public for hunting, fishing, and trapping unless otherwise specified to the contrary by the executive office of environmental affairs pursuant to section sixty of chapter fifteen of the acts of nineteen hundred and ninety-six. The amount hereby authorized is to be in addition to any funds previously authorized for this purpose, including, but not limited to, monies authorized pursuant to section twenty-nine of chapter five hundred and sixty-four of the acts of nineteen hundred and eighty-seven and chapter fifteen of the acts of nineteen hundred ninety-six.

SECTION 9. 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 in an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of thirty million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, River Lands Acquisition Loan, Act of 1996, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and twenty-one. All interest and payments on account of principal and 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 10. 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 purposes of meeting payments as authorized by section two of this act, and may issue and renew from time to time notes of the commonwealth thereof, 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 maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and one. Notes and the interest thereon issued under the authority of this act, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

SECTION 11. There is hereby established a riverfront advisory committee for the purpose of participating in the review of the rules and regulations promulgated pursuant to the provisions of section four of this act. Said advisory committee shall consist of eight members appointed by the commissioner of the department of environmental protection, four of whom shall represent environmental organizations, one of which shall represent the real estate community, one of which shall be a developer, one of which shall be represent the agriculture community, and one of which shall represent the aquaculture community. At least two of the members, one from an environmental organization and one other appointee from other than an environmental organization, shall own or have an interest in land located

in a riverfront area as defined by this act. Meetings of the advisory committee shall be at the discretion of said commissioner; provided, however, that the committee shall meet at least four times in the first twelve months after the effective date of this act, and at least once annually thereafter. Said commissioner may dissolve the advisory committee following the adoption of regulations for chapter one hundred and thirty-one B of the General Laws or at any time thereafter.

SECTION 12. The executive office of environmental affairs is hereby authorized and directed to develop a twenty-five year plan to protect the natural integrity of the rivers of the commonwealth, and to acquire open space lands fronting rivers and streams; provided, further, that said plan shall be submitted to the joint committee on natural resources and agriculture and the house and senate committees on ways and means no later than January thirty-first nineteen hundred and ninety-seven.

SECTION 13. An amount no less than one hundred thousand dollars per year for a period up to five years shall be expended from funds controlled by the trust fund, established by section seven of chapter two hundred and thirty-six of the acts of nineteen hundred and eighty-eight for the use by the department of environmental protection for technical assistance and training for conservation commission for the purposes of this act; provided, further, that the department of environmental protection shall receive support in the development and provisions of such technical assistance and training from the Massachusetts Soil and Water Conservation Districts, Coastal Zone Management, the Department of Fisheries, Wildlife and Environmental Law Enforcement, the Department of Food and Agriculture, and the Department of Environmental Management.

SECTION 14. Notwithstanding any general or special law or rule or regulation to the contrary, any construction, expansion, repair, restoration, alteration, replacement, operation and maintenance of public or private local or regional wastewater treatment plants and their related structures, conveyance systems, and facilities, including utility lines shall be exempt from the provisions of this act.

SECTION 15. Section 8C of chapter 40 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting before the penultimate sentence the following sentence:- Prior to the adoption of any rule or regulation which seeks to further regulate matters established by section forty of chapter one hundred and thirty-one or regulations authorized thereunder relative to agricultural or aquacultural practice, the commission shall, no later than seven days prior to the commission's public hearing on the adoption of said rules and regulations, give notice of the said proposed rules and regulations to the farmland advisory board established pursuant to section forty of chapter one hundred and thirty-one.

SECTION 16. Section 5 of chapter 40A of the General Laws, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:-

Prior to the adoption of any zoning ordinance or by-law or amendment thereto which seeks to further regulate matters established by section forty of chapter one hundred and thirty-one or regulations authorized thereunder relative to agricultural and aquacultural practices, the city or town clerk shall, no later than seven days prior to the city council's or

town meeting's public hearing relative to the adoption of said new or amended zoning ordinances or by-laws, give notice of the said proposed zoning ordinances or by-laws to the farmland advisory board established pursuant to section forty of chapter one hundred and thirty-one.

SECTION 17. Section 40 of chapter 131 of the General Laws, as so appearing, is hereby amended by inserting after the "bank", in line 1, the following words:- , riverfront area.

SECTION 18. Said section 40 of said chapter 131, as so appearing, is hereby further amended by inserting after the eleventh paragraph the following five paragraphs:-

The term "Densely developed areas", as used in this section shall mean, any area of ten acres or more that is being utilized, or includes existing vacant structures or vacant lots formerly utilized as of January first, nineteen hundred and forty-four or sooner for, intensive industrial, commercial, institutional, or residential activities or combinations of such activities, including, but not limited to the following: manufacturing, fabricating, wholesaling, warehousing, or other commercial or industrial activities; retail trade and service activities; medical and educational institutions; residential dwelling structures at a density of three or more per two acres; and mixed or combined patterns of the above. Designation of a densely developed area is subject to the secretary of the executive office of environmental affair's approval of a city or town's request for such designation. Land which is zoned for intensive use but is not being utilized for such use as of January first, nineteen hundred and ninety-seven or which has been subdivided no later than May first, nineteen hundred and ninety-six shall not be considered a densely developed area for the purposes of this chapter.

The term "Mean annual high-water line", as used in this section, shall mean with respect to a river, the line that is apparent from visible markings or changes in the character of soils or vegetation due to the prolonged presence of water and which distinguishes between predominantly aquatic and predominantly terrestrial land. The mean high tide line shall serve as the mean annual high water line for tidal rivers.

The term "River", as used in this section, shall mean a natural flowing body of water that empties to any ocean, lake, or other river and which flows throughout the year.

The term "Riverfront area", as used in this section, shall mean that area of land situated between a river's mean annual high-water line and a parallel line located two hundred feet away, measured outward horizontally from the river's mean annual high-water line. This definition shall not create a buffer zone, so-called, beyond such riverfront area. Riverfront areas within municipalities with (i) a population of ninety thousand or more persons or (ii) a population density greater than nine thousand persons per square mile, as determined by the nineteen hundred and ninety federal census; (iii) that are within densely developed areas as defined herein; (iv) land in Waltham between the Charles river on the north, and the Crescent street and Pine street on the south, and the intersection of the Charles river and a line extended from the center line of Walnut street on the west, and the railroad right-of-way now or formerly of the Boston and Maine Railroad on the east; or (v) property located in the town of Milton shown on Milton assessors Map G, Block 56, Lot 13, located

on 2 Granite Avenue shall be defined as that area of land situated between a river's mean annual high-water line and a parallel line located twenty-five feet away, measured outward horizontally, from the river's mean annual high-water line. The riverfront area shall not include land now or formerly associated with historic mill complexes including, but not limited to, the mill complexes in the Cities of Holyoke, Taunton, Fitchburg, Haverhill, Methuen and Medford in existence prior to nineteen hundred and forty-six and situated landward of the waterside facade of a retaining wall, building, sluiceway, or other structure existing on the effective date of this act. The riverfront area shall not apply to any mosquito control work done under the provisions of clause (36) of section five of chapter forty, of chapter two hundred and fifty-two or of any special act or to forest harvesting conducted in accordance with a cutting plan approved by the department of environmental management, under the provisions of sections forty to forty-six, inclusive, of chapter one hundred and thirty-two; and shall not include any area beyond one hundred feet of river's mean annual high water mark: in which maintenance of drainage and flooding systems of cranberry bogs occurs; in which agricultural land use or aquacultural use occur; to construction, expansion, repair, maintenance or other work on piers, docks, wharves, boat houses, coastal engineering structures, landings, and all other structures and activities subject to licensing or permitting under chapter ninety-one and its regulations; provided that such structures and activities shall remain subject to statutory and regulatory requirements under chapter ninety-one and section forty of chapter one hundred and thirty-one or is the site of any project authorized by special act prior to January first, nineteen hundred and seventy-three.

The term "Riverfront area boundary line", as used in this section, shall mean the line located at the outside edge of the riverfront area.

SECTION 19. Said section 40 of said chapter 131, as so appearing, is hereby further amended by inserting after the word "fisheries", in lines 163 and 191, in each instance, the following words:- or to the protection of the riverfront area consistent with the following purposes: to protect the private or public water supply; to protect the ground water; to provide flood control; to prevent storm damage; to prevent pollution; to protect land containing shellfish; to protect wildlife habitat; and to protect the fisheries.

SECTION 20. The fourteenth paragraph of said section 40 of said chapter 131, as so appearing, is hereby amended by inserting after the sixth sentence the following four sentences:- In the case of riverfront areas, no order issued by a conservation commission, board of selectmen, mayor, or the department shall permit any work unless the applicant, in addition to meeting the otherwise applicable requirements of this section, has proved by a preponderance of the evidence that (1) such work, including proposed mitigation measures, will have no significant adverse impact on the riverfront area for the following purposes: to protect the private or public water supply; to protect the ground water; to provide flood control; to prevent storm damage; to prevent pollution; to protect land containing shellfish; to protect wildlife habitat; and to protect the fisheries, and (2) there is no practicable and substantially equivalent economic alternative to the proposed project with less adverse effects on such purposes. An alternative is practicable and substantially economically equivalent if it is available and capable of being done after taking into consideration: costs,

and whether such costs are reasonable or prohibitive to the owner; existing technology; the proposed use; and logistics in light of overall project purposes. For activities associated with access for one dwelling unit, the area under consideration for practicable alternatives will be limited to the lot; provided, that said lot shall be on file with the registry of deeds as of the August first, nineteen hundred and ninety-six. For other activities including, but not limited to, the creation of a real estate subdivision, the area under consideration shall be the subdivided lots, any parcel out of which the lots were created, and any other parcels that are adjacent to such parcel or adjacent through other parcels formerly or presently owned by the same owner at any time on or after August first, nineteen hundred and ninety-six or any land which can reasonably be obtained; provided, that an ownership interest can reasonably be obtained after taking into consideration: cost, and whether such cost is reasonable or prohibitive to the owner; existing technology; the proposed use; and logistics in light of overall project purposes.

Approved August 7, 1996.

Chapter 259. AN ACT FURTHER DEFINING RECOMMENDATIONS FOR PURPOSES OF DISABLED PERSONS PROTECTION COMMISSION INVESTIGATIONS.

Be it enacted, etc., as follows:

Section 1 of chapter 19C of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the definition of "Mandated reporter" the following definition:-

"Recommendations", a statement or statements contained in an investigation report prepared pursuant to this chapter and based upon a conclusion that abuse has occurred which sets forth specific action or actions intended by the investigator to remedy said abuse, protect the particular disabled person or persons who are the subject or subjects of the report from further abuse and which responds to the specific protective needs of said disabled person or persons or group of disabled persons similarly situated.

Approved August 7, 1996.

Chapter 260. AN ACT AUTHORIZING THE CITY OF LOWELL TO APPROPRIATE MONEY FOR THE PAYMENT OF AN UNPAID BILL.

Be it enacted, etc., as follows:

SECTION 1. The city of Lowell is hereby authorized to appropriate for the payment of, and after such appropriation, the treasurer of said city is hereby authorized to pay to Whitman & Howard, Inc. an unpaid bill incurred by said city totalling thirty thousand five

hundred dollars, said bill being legally unenforceable against said city and as certified for payment by the department of public works of said city wherein said bill was contracted; provided, however, that the money so appropriated to pay such bill shall be paid by said department of public works from the unappropriated surplus funds of the city.

SECTION 2. No bill shall be approved by the auditor of the city of Lowell for payment or paid by the treasurer thereof under the authority of this act unless and until certificates have been signed and filed with said auditor, stating under the penalties of perjury, that the services and supplies for which said bill has been submitted were ordered by an official or an employee or agent of said city and that such services and supplies were rendered to said city or official or agent.

SECTION 3. Any person who knowingly files a certificate required by section two which is false and who thereby receives payment for services which were not rendered to the city of Lowell, shall be punished by imprisonment for not more than one year or by a fine of not more than three hundred dollars, or both such fine and imprisonment.

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

Approved August 7, 1996.

Chapter 261. AN ACT FURTHER REGULATING THE EXCHANGES OF CERTAIN POLICIES ISSUED BY INSURANCE COMPANIES OR AFFILIATES.

Be it enacted, etc., as follows:

Section 139 of chapter 175 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "it", in line 3, the following words:- or a company that is admitted and authorized under this chapter and is an affiliate of it, as defined in section two hundred and six.

Approved August 7, 1996.

Chapter 262. AN ACT PROHIBITING DISCRIMINATION ON THE BASIS OF HANDICAP BY TEMPORARY AGENCIES.

Be it enacted, etc., as follows:

The first paragraph of subsection 16 of section 4 of chapter 151B of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following sentence:- For purposes of this subsection, the word employer shall include an agency which employs individuals directly for the purpose of furnishing part-time or temporary help to others.

Approved August 7, 1996.

Chapter 263. AN ACT RELATIVE TO THE MASSACHUSETTS WATER RESOURCES AUTHORITY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of paragraph (c) of section 8 of chapter three hundred and seventy-two of the acts of nineteen hundred and eighty-four any general or special law to the contrary, the Massachusetts Water Resources Authority is hereby authorized and directed to permit a direct sewer attachment from the property located at seventy Willow street in the town of Dover to the Wellesley extension relief sewer; provided, however, that all construction costs incurred as a result of such attachment shall be paid by the owner of said property; and, provided further, that such attachment to the sewer line shall be subject to an agreement between the owner and the town of Needham for the billing of sewer use charges.

SECTION 2. The provisions of section one shall not be construed to alter the non-member status of the town of Dover in the Massachusetts Water Resources Authority.

Approved August 7, 1996.

Chapter 264. AN ACT RELATIVE TO PROMOTING JOB GROWTH IN THE COMMONWEALTH.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 23A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following sentence:- Marketing and disseminating promotional information to mutual fund service corporations based both within and without the commonwealth. Such information shall include, but not be limited to, details concerning changes in the tax structure of the commonwealth as it affects the mutual fund industry.

SECTION 2. Section 38 of chapter 63 of the General Laws is hereby further amended by striking out subsection (c), as amended by section 1 of chapter 280 of the acts of 1995, and inserting in place thereof the following subsection:-

(c) If a corporation, other than a defense corporation as described in subsection (k), a manufacturing corporation as described in subsection (l), or a mutual fund service corporation to the extent of its mutual fund sales as described in subsection (m), has income from business activity which is taxable both within and without this commonwealth, its taxable net income, as determined under the provisions of subsection (a), shall be apportioned to this commonwealth by multiplying said taxable net income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice times the sales factor, and the denominator of which is four.

SECTION 3. Subsection (f) of said section 38 of chapter 63, as appearing in the 1994 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding the foregoing, mutual fund sales by a mutual fund service corpora-

tion as defined in subsection (m), other than the sale of tangible personal property, shall be assigned to this commonwealth to the extent that shareholders of the regulated investment company are domiciled in this commonwealth as follows:

(a) by multiplying the mutual fund service corporation's total dollar amount of sales of such services on behalf of each regulated investment company by a fraction, the numerator of which shall be the average of the number of shares owned by the regulated investment company's shareholders domiciled in this commonwealth at the beginning of and at the end of the regulated investment company's taxable year that ends with or within the mutual fund service corporation's taxable year, and the denominator of which shall be the average of the number of shares owned by the regulated investment company shareholders everywhere at the beginning of and at the end of the regulated investment company's taxable year that ends with or within the mutual fund service corporation's taxable year.

(b) A separate computation shall be made to determine the sale for each regulated investment company, the sum of which shall equal the total sales assigned to the commonwealth.

The commissioner shall promulgate regulations to implement the provisions of this paragraph.

SECTION 4. Said section 38 of said chapter 63 is hereby further amended by adding the following subsection:-

(m) (1) As used in this subsection and in subsections (c) and (f), the following words shall, unless the context otherwise requires, have the following meaning:

"Administration services", include, but are not limited to, clerical, fund or shareholder accounting, participant record keeping, transfer agency, bookkeeping, data processing, custodial, internal auditing, legal and tax services performed for a regulated investment company, but only if the provider of such service or services during the taxable year in which such service or services are provided also provides or is affiliated with a person that provides management or distribution services to any regulated investment company.

"Affiliate", the meaning as set forth in 15 USC section a-2(a)(3)(C), as may be amended from time to time.

"Base period employment level", the number of qualified employees in this commonwealth of a mutual fund service corporation as of January first, nineteen hundred and ninety-six, or if the mutual fund service corporation is one of the mutual fund service corporations filing a combined return for the tax year ending as of December thirty-first, nineteen hundred and ninety-six, the aggregate number of all qualified employees as of January first, nineteen hundred and ninety-six of all of the mutual fund service corporations participating in such combined return. If a mutual fund service corporation was not engaged in business in the commonwealth on January first, nineteen hundred and ninety-six, the base period employment level shall be the average employment level for the first two taxable years during which it is engaged in business in the commonwealth. In the event of the acquisition of a business or line of business or any other corporate restructuring that increases the number of qualified employees of the mutual fund service corporation, the base

period employment level to be applied in the taxable year in which the acquisition or restructuring occurs and in all subsequent taxable years shall be increased to reflect such an increase. In the event of a divestiture of a line of business or other corporate restructuring that decreases the number of qualified employees of the mutual fund service corporation, the base period employment level to be applied in the taxable year in which such divestiture or other corporate restructuring occurs and in all subsequent taxable years shall be recalculated to reflect such decrease only if the mutual fund service corporation can demonstrate that such divestiture or other corporate restructuring will not result in any reduction in the number of jobs in the commonwealth.

"Distribution services", include, but are not limited to, the services of advertising, servicing, marketing or selling shares of a regulated investment company, but, in the case of advertising, servicing or marketing shares, only where such service is performed by a person who is, or in the case of a close end company, was, either engaged in the services of selling regulated investment company shares or affiliated with a person that is engaged in the service of selling regulated investment company shares. In the case of an open end company, such service of selling shares must be performed pursuant to a contract entered into pursuant to 15 USC section a-15(b), as from time to time amended.

"Domicile", presumptively the shareholder's mailing address on the records of the regulated investment company. If, however, the regulated investment company or the mutual fund service corporation has actual knowledge that the shareholder's primary residence or principal place of business is different than the shareholder's mailing address said presumption shall not control. If the shareholder of record is a company which holds the shares of the regulated investment company as depositor for the benefit of a separate account, then the shareholder shall be the contract owners or policyholders of the contracts or policies supported by the separate account, and it shall be presumed that the domicile of said shareholder is the contract owner's or policyholder's mailing address to the extent that the company maintains such mailing addresses in the regular course of business. If the regulated investment company or the mutual fund service corporation has actual knowledge that the shareholder's principal place of business is different than the shareholder's mailing address said presumption shall not control.

"Employment level", the number of qualified employees of the mutual fund service corporation in the taxable year, or if the mutual fund service corporation is one of the mutual fund service corporations filing a combined return for such taxable year, the sum of the number of qualified employees of all such mutual fund service corporations in this commonwealth for the taxable year.

"Jobs commitment level", except as provided in subparagraph (b) of paragraph (4), for taxable years beginning on or after January first, nineteen hundred and ninety-seven, but before January first, nineteen hundred and ninety-eight, an employment level of one hundred and five percent of the base period employment level; for taxable years beginning on or after January first, nineteen hundred and ninety-eight, but before January first, nineteen hundred and ninety-nine, an employment level of one hundred and ten percent of the base period employment level; for taxable years beginning on or after January first, nineteen hundred

and ninety-nine, but before January first, two thousand, an employment level of one hundred and fifteen percent of the base period employment level; for taxable years beginning on or after January first, two thousand, but before January first, two thousand and one, an employment level of one hundred and twenty percent of the base period employment level; for taxable years beginning on or after January first, two thousand and one, but before January first, two thousand and two, an employment level of one hundred and twenty-five percent of the base period employment level; for taxable years beginning on or after January first, two thousand and two, but before January first, two thousand and three, an employment level of one hundred and twenty-five percent of the base period employment level. If a mutual fund service corporation was not engaged in business in the commonwealth on January first, nineteen hundred and ninety-six, for all taxable years beginning before January first, two thousand and three, the jobs commitment level shall be the base period employment level increased by five percent of the base period employment level for every year after which the base period employment level is established.

"Management services", include, but are not necessarily limited to, the rendering of investment advice directly or indirectly to a regulated investment company, making determinations as to when sales and purchases of securities are to be made on behalf of the regulated investment company, or the selling or purchasing of securities constituting assets of a regulated investment company, and related activities, but only where such activity or activities are performed: (i) pursuant to a contract with the regulated investment company entered into pursuant to 15 USC section a-15(a), as from time to time amended; (ii) for a person that has entered into such contract with the regulated investment company; or (iii) for a person that is affiliated with a person that has entered into such contract with a regulated investment company.

"Mutual fund sales", taxable net income derived within the taxable year directly or indirectly from the rendering of management, distribution or administration services to a regulated investment company, including net income received directly or indirectly from trustees, sponsors and participants of employee benefit plans which have accounts in a regulated investment company.

"Mutual fund service corporation", any corporation doing business in the commonwealth which derives more than fifty percent of its gross income from the provision directly or indirectly of management, distribution or administration services to or on behalf of a regulated investment company and from trustees, sponsors and participants of employee benefit plans which have accounts in a regulated investment company.

"Number of qualified employees", the number of qualified employees who are employed by a mutual fund service corporation in the commonwealth as of the last day of a given taxable year.

"Number of qualified employees worldwide", the total number of qualified employees worldwide who were employed by the mutual fund service corporation on a specified date.

"Qualified employee in this commonwealth", an individual who: (i) is employed by a mutual fund service corporation; (ii) works on a full-time basis with a normal work week

of thirty or more hours; (iii) at the inception of the employment relationship 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; (iv) is eligible to receive employee benefits including, but not limited to, paid holidays, vacation and unemployment benefits; and (v) is subject to Massachusetts income tax withholding. Three or fewer individuals who collectively fulfill the requirement of clause (ii) and who each meet the requirements of clauses (i), (iii), (iv) and (v) shall be counted as one qualified employee for purposes of this section.

"Qualified employee worldwide", an individual who meets the criteria in subsections (i) to (iv), inclusive, of the definition of "Qualified employee in this commonwealth." Three or fewer individuals who collectively fulfill the requirement of clause (ii) of said definition of "Qualified employee in this commonwealth" and who each meet the requirements of clauses (i), (iii) and (iv) of said definition of "Qualified employee in this commonwealth" shall be counted as one qualified employee for purposes of this section.

"Regulated investment company", the meaning as set forth in section 851 of the Internal Revenue Code as amended and in effect for the taxable year.

(2) Notwithstanding any other provision of the General Laws, any mutual fund service corporation having income from mutual fund sales to one or more regulated investment companies with shareholders domiciled within and without this commonwealth shall apportion such income pursuant to the provisions of subsection (c). Furthermore, any such mutual fund service corporation whose employment level in the current taxable year is equal to or greater than its jobs commitment level for such taxable year and who satisfies the requirements of paragraphs (3) and (4), or any such mutual fund service corporation for which the jobs commitment level requirement no longer applies shall apportion such income by multiplying it by one hundred percent of the sales factor, subject to the provisions of clause (i). The provisions of paragraph (2) of subsection (m) shall take effect as of July first, nineteen hundred and ninety-seven. For taxable years beginning on or after January first, nineteen hundred and ninety-seven and including July first, nineteen hundred and ninety-seven, a mutual fund service corporation shall apportion its taxable income to this commonwealth for such taxable year by multiplying taxable net income by the percentage calculated by weighting the apportionment percentage determined under subsection (c), as in effect before July first, nineteen hundred and ninety-seven, by the number of days in such taxable year preceding July first, nineteen hundred and ninety-seven and by weighting the apportionment percentage determined under said paragraph (2) of said subsection (m) by the number of days in such taxable year on and after July first, nineteen hundred and ninety-seven.

(3) Notwithstanding a mutual fund service corporation's failure to achieve its jobs commitment level in the taxable year, the percentage set forth in the second paragraph of paragraph (2) of subsection (m) may be applied, where the failure to achieve the jobs commitment level for any taxable year is demonstrated by the mutual fund service corporation to be a direct result of adverse economic conditions in that taxable year.

(a) Adverse economic conditions can affect only one taxable year except as set forth in subparagraph (b) and (c). Adverse economic conditions shall exist only where during any twelve month period ending during the taxable year, either: (A) the Standard & Poor's 500 Stock Index decreases ten percent or more compared to its level at the beginning of such twelve month period or (B) the average daily trading volume on the New York Stock Exchange decreases fifteen percent or more compared to the average over the preceding twelve months; or (C) at any time during the taxable year, the total assets under management of the mutual funds served by the mutual fund service corporation decreases twelve and one-half percent or more compared to such total assets under management twelve months earlier.

(b) If a mutual fund service corporation demonstrates that failure to achieve the jobs commitment level for one taxable year was the direct result of an adverse economic condition, such corporation may decrease its jobs commitment level by five percent of the base period employment level for all subsequent taxable years prior to the first taxable year beginning on or after January first, two thousand and two.

(c) If a mutual fund service corporation demonstrates that failure to achieve the jobs commitment level for more than one taxable year was the direct result of an adverse economic condition, such corporation may decrease its jobs commitment level by five percent of the base period employment level for each taxable year in which an adverse economic condition was established for all subsequent taxable years prior to the first taxable year beginning on or after January one, two thousand and two. However, for each taxable year beginning on or after January first, two thousand and two, but prior to the first taxable year beginning on or after January first, two thousand and four, the jobs commitment level shall be an employment level equal to the sum of: (i) the jobs commitment level for the most recent taxable year immediately prior to such year for which an adverse economic condition was not established; and (ii) five percent of the base period employment level.

(4) For the purposes of determining compliance with the provisions of this subsection, each mutual fund service corporation that seeks to rely on the provisions of this subsection for the taxable year in question shall submit, as part of its tax return, a report, with such supporting documentation as the commissioner may require, containing the following:

(i) the number, nature, and aggregate wages of the qualified employees in this commonwealth and qualified employees worldwide as of the end of the taxable year and the number of jobs added or lost as compared to the previous taxable year;

(ii) the number of the qualified employees in this commonwealth as of the last day of the taxable year sorted by place of employment;

(iii) the base period employment level;

(iv) the volume of sales attributable to this commonwealth and worldwide;

(v) the taxable income in this commonwealth;

(vi) net assets under management in this commonwealth and worldwide; and

(vii) the median income of all of qualified employees in the commonwealth and of all of its qualified employees worldwide.

The information provided by each individual mutual fund service corporation shall be treated as confidential under the provisions of section twenty-one of chapter sixty-two C. Said information shall be used by the commissioner of revenue to prepare a comprehensive annual report setting forth the changes in the aggregate from the previous taxable year for each of the items listed above. The commissioner's report shall also set forth any recommendations the commissioner may have for any amendments to the provisions of this section, and the reasons for any such recommendations. The commissioner's report shall be filed by October first of each year with the clerk of the senate and the clerk of the house of representatives who shall forward the same to the respective committees on ways and means and the joint committee on taxation.

(5) The commissioner of revenue shall promulgate regulations implementing the provisions of this subsection.

SECTION 5. The joint committee on taxation shall evaluate the costs and benefits of the tax reductions provided to the mutual fund service industry by sections one to three, inclusive, of this act. Said committee shall review and assess the impact of the provisions contained in said sections on the revenues of the commonwealth, on the provision of services by the commonwealth as a result of such revenue impact, and the effect, if any, directly or indirectly attributable to the implementation of said sections, on job creation or retention in the mutual fund industry or related industries in the commonwealth, and on the quality of life in those communities which experience either significant job loss or gain as a result of job loss or gain in the commonwealth. For the purposes of this study, said committee may consult with federal and state agencies, private businesses, nonprofit organizations, public and private institutions of higher education, or any other appropriate party necessary to obtain information relevant to said study. For the purposes of said study, the department of revenue shall make available the tax return data relevant to said study; provided, however, that such data shall be provided in such a manner that no individual taxpayer associated with such data may be disclosed or determined; and provided, further, that no person carrying out the duties set forth in this section shall use any such data for any purpose other than fulfilling the duties set forth in this section.

Said committee shall produce a report of its findings and conclusions, including its legislative recommendations for any amendments to sections two to four, inclusive, of this act. Said report shall be filed with the house and senate committees on ways and means on or before December thirty-first, two thousand and two.

SECTION 6. The provisions of section two of this act shall take effect as of July first, nineteen hundred and ninety-seven. The provisions of sections three, four, five of this act shall take effect as of January first, nineteen hundred and ninety-seven. For taxable years beginning on or after July first, nineteen hundred and ninety-six and including January first, nineteen hundred and ninety-seven, a mutual fund service corporation shall apportion its taxable net income to this commonwealth for such taxable year by multiplying taxable net income by the percentage calculated by weighting the apportionment percentage determined under section thirty-eight of chapter sixty-three of the General Laws as in effect before January first, nineteen hundred and ninety-seven, by the number of days in such taxable year

preceding January first, nineteen hundred and ninety-seven and by weighting the apportionment percentage determined under section three of this act by the number of days in such taxable year on and after January first, nineteen hundred and ninety-seven.

Approved August 8, 1996.

Chapter 265. AN ACT RELATIVE TO EQUIPMENT DEALERS.

Be it enacted, etc., as follows:

The General Laws are hereby amended by adding the following chapter:-

CHAPTER 93G. EQUIPMENT DEALERS.

Section 1. For purposes of this chapter the following words shall have the following meanings:

"Current net price", the price listed in the supplier's price list or catalog in effect at the time the dealer agreement is terminated, less any applicable discounts allowed.

"Dealer", a person, corporation or partnership primarily engaged in the business of retail sales of farm and utility tractors, forestry equipment, light industrial equipment, farm implements, farm machinery, yard and garden equipment, attachments, accessories and repair parts. The term "dealer" shall not include a single line dealer primarily engaged in retail sale and service of industrial, forestry and construction equipment.

"Dealer agreement", a written or oral contract or agreement between a dealer and a wholesaler, manufacturer or distributor by which the dealer is granted the right to sell or distribute goods or services or to use a trade name, trademark, service mark, logotype, or advertising or other commercial symbol.

"Inventory", farm, utility, forestry, or light industrial equipment, implements, machinery, yard and garden equipment, attachments or repair parts; provided, however, that inventory shall not include heavy construction equipment.

"Net cost", the price the dealer paid the supplier for the inventory, less all applicable discounts allowed, plus the amount the dealer paid for freight costs from the supplier's location to the dealer's location. In the event of termination of a dealer agreement by the supplier, "net cost" shall include the reasonable cost of assembly and/or disassembly performed by a dealer.

"Single line dealer", a person partnership or corporation who:

(1) has purchased seventy-five per cent or more of the dealer's total new product inventory from a single supplier; and

(2) who has a total annual average sales volume for the previous three years in excess of twenty million dollars for the entire territory for which the dealer is responsible.

"Supplier", a wholesaler, manufacturer, or distributor of inventory who enters into a dealer agreement with a dealer.

"Termination of dealer agreement", the cancellation, nonrenewal or discontinuance of the agreement.

Section 2. (a) Notwithstanding any agreement to the contrary, prior to the termination of a dealer agreement, a supplier shall notify the dealer of the termination not less than one hundred and twenty days prior to the effective date of the termination. No supplier may terminate, cancel or fail to renew a dealer agreement without cause. For purposes of this paragraph cause means failure by an equipment dealer to comply with requirements imposed upon the equipment dealer by the dealer agreement; provided however, that the requirements are not substantially different from those requirements imposed upon other similarly situated dealers in the commonwealth.

(b) The supplier may immediately terminate an agreement at any time upon the occurrence of any of the following events:

(1) the filing of a petition for bankruptcy or for receivership either by or against the dealer;

(2) the making by the dealer of an intentional and material misrepresentation as to the dealer's financial status;

(3) any default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier;

(4) the commencement of voluntary or involuntary dissolution or liquidation of the dealer if the dealer is a partnership or corporation;

(5) a change in location of the dealer's principal place of business as provided in the agreement without the prior written approval of the supplier;

(6) withdrawal of an individual proprietor, partner, major shareholder, or the involuntary termination of the manager of the dealership, or a substantial reduction in the interest of a partner or major shareholder without the prior written consent of the supplier.

(c) Unless there is an agreement to the contrary, a dealer who intends to terminate a dealer agreement with the supplier shall notify the supplier of such intent not less than one hundred and twenty days prior to the effective date of the termination.

(d) Notification required by either party under this section shall be in writing and shall be made by certified mail or by delivery in hand and shall contain:

(1) a statement of intention to terminate the dealer agreement;

(2) a statement of the reasons for the termination; and

(3) the date on which the termination shall be effective.

Section 3. (a) Whenever a dealer enters into a dealer agreement under which the dealer agrees to maintain an inventory, and the agreement is terminated by either party as provided in this chapter, the supplier, upon written request of the dealer filed within thirty days of the effective date of the termination, shall repurchase the dealer's inventory as provided in this chapter. There shall be no requirement for the supplier to repurchase inventory pursuant to this section if:

(1) the dealer has made an intentional and material misrepresentation as to the dealer's financial status;

(2) the dealer has defaulted under a chattel mortgage or other security agreement between the dealer and supplier; or

(3) the dealer has filed a voluntary petition in bankruptcy.

(b) Whenever a dealer enters into a dealer agreement in which the dealer agrees to maintain an inventory and the dealer or the majority stockholder of the dealer, if the dealer is a corporation, dies or becomes incompetent, the supplier shall, at the option of the heir, personal representative, or guardian of the dealer, or the person who succeeds to the stock of the majority stockholder, repurchase the inventory as if the agreement has been terminated. The heir, personal representative, guardian or succeeding stockholder has six months from the date of the death of the dealer or majority stockholder to exercise the option under this chapter.

Section 4. (a) Within ninety days from receipt of the written request of the dealer, a supplier under the duty to repurchase inventory pursuant to this chapter may examine the books and records of the dealer to verify the eligibility of any item for repurchase. Except as otherwise provided in this chapter, the supplier shall repurchase from the dealer all inventory, required signage, special tools, books, supplies, data processing equipment and software previously purchased from the supplier or other qualified vendor and in the possession of the dealer on the date of termination of the dealer agreement.

(b) The supplier shall pay the dealer:

(1) One hundred per cent of the net cost of all new and undamaged and complete farm and utility tractors, forestry equipment, light industrial equipment, farm implements, farm machinery, yard and garden equipment, purchased within the past thirty-six months from the supplier, less a reasonable allowance for deterioration attributable to weather conditions at the dealer's location;

(2) ninety per cent of the current net prices of all new and undamaged repair parts;

(3) eighty-five per cent of the current net price of all new and undamaged superseded repair parts;

(4) eighty-five per cent of the latest available published net price of all new and undamaged non-current repair parts;

(5) either the fair market value, or assume the lease responsibilities of any specific data processing hardware that the supplier required the equipment dealer to acquire or purchase to satisfy the reasonable requirements of the dealer agreement, including computer systems equipment required and approved by the supplier to communicate with the supplier; and

(6) repurchase at seventy-five per cent of the net cost specialized repair tools, signage, books and supplies previously purchased, pursuant to requirements of the supplier and held by the equipment dealer on the date of termination. Specialized repair tools must be unique to the supplier product line and must be complete and in usable condition.

(7) repurchase at average as-is value shown in current industry guides dealer-owned rental fleet financed by the supplier or its finance subsidiary.

(c) The party that initiated the termination of the dealer agreement shall pay the cost of the return, handling, packing and loading of such inventory.

(d) Payment to the dealer required under this section shall be made by the supplier not later than forty-five days after receipt of the inventory by the supplier. A penalty shall be assessed in the amount of two per cent per day of any outstanding balance over the re-

quired forty-five days. The supplier shall be entitled to apply any payment required under this section to be made to the dealer, as a set-off against any amount owed by the dealer to the supplier.

Section 5. The provisions of this chapter shall not require the repurchase from a dealer of:

(1) a repair part with a limited storage life or otherwise subject to physical or structural deterioration including, but not limited to, gaskets or batteries;

(2) a single repair part normally priced and sold in a set of two or more items;

(3) a repair part that, because of its condition, cannot be marketed as a new part without repackaging or reconditioning by the supplier or manufacturer;

(4) any inventory that the dealer elects to retain;

(5) any inventory ordered by the dealer after receipt of notice of termination of the dealer agreement by either the dealer or supplier;

(6) any inventory that was acquired by the dealer from a source other than the supplier.

Section 6. (a) No supplier shall unreasonably withhold or delay consent to any transfer of the dealer's business or transfer of the stock or other interest in the dealership, whenever the dealer to be substituted meets the material and reasonable business and financial requirements of the supplier. Should a supplier determine that a proposed transferee does not meet such requirements, it shall give the dealer written notice stating the specific reasons for withholding consent. No prospective transferee may be disqualified to be a dealer because it is a publicly held corporation. A supplier shall have ninety days to consider a dealer's request to make a transfer under this paragraph.

(b) No supplier shall unreasonably withhold consent to the transfer of the dealer's business to a member or members of the family of the dealer or the principal owner of the dealership, if the family member meets the reasonable business ability, business experience, and character standards of the supplier, and if the transferee can demonstrate that the dealership will be adequately capitalized. Should a supplier determine that the designated family member does not meet those requirements, the supplier shall provide the dealer with written notice of the supplier's objection and specific reasons for withholding its consent. As used in this subsection, "family", means and includes spouse, parent, siblings, children, stepchildren and lineal descendants, including those by adoption of the dealer or principal owner of the dealership.

(c) In any dispute as to whether a supplier has denied consent in violation of this section, the supplier shall have the burden of proving a substantial and reasonable justification for the denial of consent.

Section 7. Nothing contained in this chapter may be construed to release or terminate a perfected security interest of the supplier in the inventory of the dealer.

Section 8. Whenever a supplier and a dealer enter into an agreement providing consumer warranties, the supplier shall pay any warranty claim made for warranty parts and service within thirty days after its receipt and approval. The supplier shall approve or disapprove a warranty claim within thirty days after its receipt. If a claim is not specifically

disapproved in writing thirty days after its receipt, it shall be deemed to be approved and payment shall be made by the supplier within thirty days.

Section 9. Nothing contained in this chapter shall bar the right of a dealer agreement to provide for binding arbitration of disputes. Any arbitration shall be consistent with the provisions of this chapter and other applicable law. The place of any arbitration shall be in the city or county in which the dealer maintains the dealer's principal place of business in the commonwealth.

Section 10. (a) The provisions of this subchapter shall be deemed to be incorporated in every dealer agreement made under the provisions of this chapter and shall supersede and control all other provisions of the agreement to the contrary. No supplier may require any dealer to waive compliance with any provision of this chapter, and any dealer agreement purporting to do so shall be void and unenforceable to the extent of such waiver or variance.

(b) Nothing in this chapter shall be construed to limit or prohibit good faith settlements of disputes voluntarily entered into between the parties.

Section 11. The obligation of any supplier or dealer shall be applied to and made an obligation of any successor in interest or assignee of such supplier or dealer. A successor in interest shall include, but not be limited to, any purchaser of the assets or stock, and surviving entity resulting from merger or liquidation, any receiver or any trustee of the original supplier or dealer.

Approved August 8, 1996.

Chapter 266. AN ACT FURTHER REGULATING COMMITMENT FOR AID IN SENTENCING EVALUATIONS.

Be it enacted, etc., as follows:

Section 15 of chapter 123 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out paragraph (e) and inserting in place thereof the following paragraph:-

(e) After a finding of guilty on a criminal charge, and prior to sentencing, the court may order a psychiatric or other clinical examination and, after such examination, it may also order a period of observation in a facility, or at the Bridgewater state hospital if the court determines that strict security is required and if such person is male. The purpose of such observation or examination shall be to aid the court in sentencing. Such period of observation or examination shall not exceed forty days. During such period of observation, the superintendent or medical director may petition the court for commitment of such person. The court, after imposing sentence on said person, may hear the petition as provided in section eighteen, and if the court makes necessary findings as set forth in section eight, it may in its discretion commit the person to a facility or the Bridgewater state hospital. Such order of commitment shall be valid for a period of six months. All subsequent proceedings for commitment shall take place under the provisions of said section eighteen in the district

court which has jurisdiction of the facility or hospital. A person committed to a facility or Bridgewater state hospital pursuant to this section shall have said time credited against the sentence imposed as provided in paragraph (c) of said section eighteen.

Approved August 8, 1996.

Chapter 267. AN ACT REGULATING THE SALE AND WARRANTY OF CUSTOMIZED WHEELCHAIRS.

Be it enacted, etc., as follows:

Chapter 93 of the General Laws is hereby amended by adding the following section:-

Section 107. (A) As used in this section the following words shall have the following meanings unless the context clearly indicates otherwise:-

"Collateral costs", expenses incurred by a consumer in connection with the repair of a nonconformity, including the costs of obtaining an alternative wheelchair or other assistive device for mobility.

"Consumer", (1) the purchaser of a customized wheelchair if such wheelchair was purchased from a customized wheelchair dealer or manufacturer for purposes other than resale; (2) a person to whom the customized wheelchair is transferred for purposes other than resale, if such transfer occurs before the expiration of an express warranty applicable to such wheelchair; (3) a person who may enforce the warranty; or (4) a person who leases a customized wheelchair from a customized wheelchair lessor under a written lease.

"Customized wheelchair", a manual or motorized wheeled device which is adapted to meet the specific needs of a particular individual's disability, excluding an automobile, van or truck which a consumer purchases or accepts for transfer in the commonwealth.

"Customized wheelchair dealer", a person in the business of selling customized wheelchairs.

"Customized wheelchair lessor", a person who leases a customized wheelchair to a consumer or who holds the lessor's rights under a written lease.

"Early termination cost", an expense or obligation incurred by a customized wheelchair lessor as a result of both the termination of a written lease before the termination date set forth in such lease and the return of a customized wheelchair to a manufacturer pursuant to paragraph (c) of subsection (2) of subdivision (C). Early termination cost shall include a penalty for prepayment under a finance arrangement.

"Early termination savings", an expense or obligation avoided by a customized wheelchair lessor as a result of both the termination of a written lease before the termination date set forth in such lease and the return of a customized wheelchair to a manufacturer pursuant to said paragraph (c) of said subsection (2) of said subdivision (C). Early termination saving shall include interest charges that a customized wheelchair lessor would have paid to finance the customized wheelchair or, if the customized wheelchair was not financed, the difference between the total amount for which the lease obligates the consumer

during the period of the lease term remaining after the early termination and the present value of such amount at the date of the early termination.

"Manufacturer", a person or his agent who manufactures or assembles customized wheelchairs, including an importer, distributor, factory branch, distributor branch and warrantors of the manufacturer's customized wheelchair; provided, however, that "manufacturer" shall not include a customized wheelchair dealer.

"Nonconformity", a condition or defect that substantially impairs the use, value or safety of a customized wheelchair and which is covered by an express warranty applicable to the customized wheelchair or to a component of the customized wheelchair; "nonconformity" shall include a condition or defect which results from abuse, neglect or the unauthorized modification or alteration of the customized wheelchair by a consumer.

"Reasonable attempt to repair", any of the following occurring within the term of an express warranty period applicable to a new customized wheelchair within one year after delivery of the customized wheelchair to a consumer, whichever occurs first:

(1) a nonconformity within the warranty is subject to repair at least four times by the manufacturer, customized wheelchair lessor, or any of the manufacturer's authorized dealers and the nonconformity continues, or

(2) the customized wheelchair is out of service for an aggregate of at least thirty days because of a warranty nonconformity.

(B) A manufacturer who sells a customized wheelchair to a consumer, either directly or through a customized wheelchair dealer, shall furnish the consumer with an express warranty for the customized wheelchair. The duration of the express warranty shall be not less than one year after first delivery of the customized wheelchair to the consumer. In the absence of an express warranty from the manufacturer, the manufacturer shall be deemed to have expressly warranted to the consumer that, for a period of one year from the date of first delivery to such consumer, the customized wheelchair shall be free from any condition or defect which substantially impairs the use value or safety of the customized wheelchair.

(C)(1) If a new customized wheelchair does not conform to an applicable express warranty and the consumer reports such nonconformity to the manufacturer, to a customized wheelchair lessor or to an authorized customized wheelchair dealer and such consumer makes the customized wheelchair available for repair prior to the expiration of one year from the date of first delivery, the nonconformity shall be repaired at no charge to the consumer.

(2)(a) If, after a reasonable attempt to repair, the nonconformity is not repaired, the manufacturer shall carry out the requirements set forth in paragraph (b) or (c), whichever is appropriate.

(b) At the direction of a consumer other than one who leases a customized wheelchair, the manufacturer shall:

(i) accept return of the customized wheelchair and replace it with a comparable new customized wheelchair and refund any collateral costs; or

(ii) accept return of the customized wheelchair and refund to the consumer and to any holder of a perfected security interest, as their interest may appear, the full purchase price and any finance charge amount paid by the consumer at the point of sale and any col-

lateral costs, less a reasonable allowance for use. A reasonable allowance for use shall not exceed the amount obtained by multiplying the full purchase price of the customized wheelchair by a fraction, the denominator of which shall be one thousand eight hundred and twenty-five and the numerator of which shall be the number of days that the customized wheelchair was in the consumer's possession before the consumer first reported the nonconformity to the customized wheelchair dealer.

(c) At the direction of a consumer who leases a customized wheelchair, the manufacturer shall accept return of the customized wheelchair, refund to the customized wheelchair lessor and to any holder of a perfected security interest, as their interest may appear, the current value of the written lease and refund to the consumer the amount such consumer paid under the written lease and any collateral costs, less a reasonable allowance for use. A reasonable allowance for use shall not exceed the amount obtained by multiplying the total amount for which the written lease obligates the consumer by a fraction, the denominator of which shall be one thousand eight hundred and twenty-five and the numerator of which shall be the number of days that the consumer possessed the customized wheelchair before first reporting the nonconformity to the manufacturer, customized wheelchair lessor or customized wheelchair dealer.

The current value of the written lease shall be the total amount for which that lease obligates the consumer during the period of the lease remaining after its early termination, plus the customized wheelchair dealer's early termination costs and the value of the customized wheelchair at the lease expiration date if the lease sets forth that value, less the customized wheelchair lessor's early termination savings.

(3) In order to receive a comparable new customized wheelchair or a refund due under paragraph (b) of subsection (2), a consumer described thereunder shall offer to the manufacturer of the customized wheelchair having the nonconformity to transfer possession of that customized wheelchair to that manufacturer. No later than thirty days after such offer, the manufacturer shall provide the consumer with the comparable new customized wheelchair or refund. When the manufacturer provides the new customized wheelchair or refund, the consumer shall return the customized wheelchair having the nonconformity to the manufacturer, along with any endorsements necessary to transfer legal possession to the manufacturer.

(4)(1) In order to receive a refund due under paragraph (c) of subsection (2), a consumer described thereunder shall offer to return the customized wheelchair having the nonconformity to its manufacturer. Not later than thirty days after such offer, the manufacturer shall provide the refund to the consumer. When the manufacturer provides the refund, the consumer shall return to the manufacturer the customized wheelchair having the nonconformity.

(2) To receive a refund due under paragraph (c) of subsection (2), a customized wheelchair lessor shall offer to transfer possession of the customized wheelchair having the nonconformity to its manufacturer. No later than thirty days after such offer, the manufacturer shall provide the refund to the customized wheelchair lessor. When the manufacturer provides the refund, the customized wheelchair lessor shall provide to the

manufacturer any endorsements necessary to transfer legal possession to the manufacturer.

(3) No person may enforce the lease against the consumer after he receives a refund due under paragraph (c) of subsection (2).

(5) No customized wheelchair returned by a consumer or customized wheelchair lessor in the commonwealth or by a consumer or customized wheelchair lessor in another state under a similar law of that state, may be resold or leased in the commonwealth unless full disclosure of the reasons for such return has been made to a prospective buyer or lessee.

(D) Each consumer shall have the option of submitting any dispute arising under this section, upon the payment of a prescribed filing fee, to an alternate arbitration mechanism established pursuant to regulations promulgated hereunder by the secretary of the executive office of consumer affairs and business regulation. Upon application of the consumer and payment of the appropriate filing fee, all manufacturers shall submit to such alternative arbitration. Such alternate arbitration shall be conducted by a professional arbitrator or arbitration firm appointed by and under regulations established by the attorney general. Such mechanism shall ensure the personal objectivity of its arbitrators and the right of each party to present its case, to be in attendance during any presentation made by the other party and to rebut or refute such presentation.

(E) Nothing contained in this section shall be deemed to limit any rights or remedies available to a consumer under any other law. Any waiver by a consumer of rights under this section shall be void.

(F) In addition to pursuing any other remedy, a consumer may bring an action to recover for damages caused by a violation of this section. The court shall award a consumer who prevails in such an action twice the amount of any pecuniary loss, together with costs, disbursements and reasonable attorney fees, and any equitable relief that the court deems is appropriate.

Approved August 8, 1996.

Chapter 268. AN ACT FURTHER REGULATING CHILD LABOR LAWS.

Be it enacted, etc., as follows:

SECTION 1. Section 63 of chapter 149 of the General Laws, as amended by section 394 of chapter 151 of the acts of 1996, is hereby further amended by inserting after the first sentence the following sentence:- Employment of a minor between the ages of sixteen and eighteen in a facility licensed under section twenty-seven of chapter ten or under section three of chapter one hundred and twenty-eight A shall not be determined to be injurious to the morals of minors.

SECTION 2. Section 66 of said chapter 149, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "restaurants", in lines 8 and 9, the following words:- and race tracks.

SECTION 3. Section 67 of said chapter 149, as so appearing, is hereby amended

by striking out, in line 9, the word "ten" and inserting in place thereof the following word:- twelve.

Approved August 8, 1996.

Chapter 269. AN ACT RELATIVE TO THE ESTABLISHMENT OF A MUNICIPAL WATERWAYS IMPROVEMENT FUND IN THE TOWN OF MASHPEE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section five G of chapter forty 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 Mashpee Municipal Waterways Improvement and Maintenance Fund. Revenue received under subsection (i) of section two of chapter sixty B of the General Laws, all fees for mooring permits, other moneys appropriated to said fund by the town or the commonwealth and any donation or gift to said fund shall be deposited into said fund. All moneys deposited into said fund shall be used for waterways related expenses including maintenance, dredging, cleaning and improvement of harbors, inland waters and great ponds of the commonwealth, public access thereto and the breakwaters, retaining walls, piers, wharves and mooring thereof.

Approved August 8, 1996.

Chapter 270. AN ACT RELATIVE TO THE PRACTICE OF PSYCHOLOGY BY SCHOOL PSYCHOLOGISTS AND UNLICENSED INDIVIDUALS.

Be it enacted, etc., as follows:

SECTION 1. Section 122 of chapter 112 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 3 and 4, the words "in a manner that implies or would reasonably be deemed to imply that he is so licensed".

SECTION 2. Said chapter 112 is hereby further amended by striking out section 123, as so appearing, and inserting in place thereof the following section:-

Section 123. The penalties in section one hundred and twenty-two shall not apply to:

(a) the salaried employment of individuals in corporations, partnerships, associations, or for persons, providing psychological services for remuneration while performing those duties for which they are employed by such organizations or persons, under the supervision of a licensed psychologist;

(b) persons eligible for licensure under section one hundred and nineteen who provide consultative services for a fee no more than one day a month; or

(c) students of psychology, psychological interns or persons preparing for the practice of psychology under qualified supervision in a recognized training institution or facility; provided, however, that they are designated by such titles as "psychological intern", "psychological trainee" or others clearly indicating such training status.

Approved August 8, 1996.

Chapter 271. AN ACT RELATIVE TO POSSESSION OF MARIHUANA FOR MEDICAL PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. Section 34 of chapter 94C of the General Laws is hereby amended by adding the following paragraph:-

It shall be a prima facie defense to a charge of possession of marihuana under this section that the defendant is a patient certified to participate in a therapeutic research program described in chapter ninety-four D, and possessed the marihuana for personal use pursuant to such program.

SECTION 2. The commissioner of public health, within one hundred and eighty days of the effective date of this act, shall promulgate rules and regulations to establish such therapeutic research program. No less than thirty days before promulgating such rules and regulations, the commissioner shall submit such proposed regulations to the committees on health care and criminal justice. Said rules and regulations shall address, but not be limited to, matters of supervision, reporting, supply, and appropriate location of use.

Approved August 8, 1996.

Chapter 272. AN ACT AUTHORIZING CASH RENTAL SUBSIDIES FOR CERTAIN LOW-INCOME TENANTS IN THE TOWN OF BROOKLINE.

Be it enacted, etc., as follows:

SECTION 1. As used in this act, the following words shall have the following meanings:-

(a) "Income eligible", when applicable to subsections (a) to (e), inclusive, of section two shall mean having an income, which when combined with the incomes of all other persons residing in the same unit, is eighty percent or less of the median income for the Boston primary metropolitan statistical area as set forth in or determined based upon regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937 as amended, and calculated pursuant to said regulations.

(b) "Income eligible", when applicable to subsections (a), (b), (d), (e), and (f), of section two shall mean having an income, which when combined with the incomes of all

other persons residing in the same unit, is sixty percent or less of the median income for the Boston primary metropolitan statistical area as set forth in or determined based upon regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937 as amended, and calculated pursuant to said regulations.

(c) "Landlord", the owner of a rental unit, and in the case of an owner which is not a natural person, including without limitation a corporation, trust or partnership, shall include all officers, directors, agents, stockholders, partners, trustees, trust beneficiaries, or other beneficial owners.

SECTION 2. Notwithstanding the provisions of chapter two hundred and eighty-two of the acts of nineteen hundred and ninety-four or any other general or special law to the contrary the town of Brookline may, at any town meeting, appropriate money for providing cash rent subsidies to a tenant, and to the owner of the unit occupied by a tenant, where if the tenant is income eligible pursuant to subsection (a) of section one, satisfies all of the conditions of subsections (a) to (e), inclusive, of section two; or if the tenant is income eligible pursuant to subsection (b) of said section one, satisfies all of the conditions of subsections (a), (b), (d), (e) and (f) as set forth herein;

(a) was income eligible as of January first, nineteen hundred and ninety-five, and has continued thereafter to be and remains income eligible as so defined;

(b) was an occupant on November eighth, nineteen hundred and ninety-four of a covered rental unit, as defined in subsection (c) of section three of chapter two hundred and eighty-two of the acts of nineteen hundred and ninety-four, and has continued thereafter to be and remains an occupant of a rental unit in the town of Brookline;

(c) is a member of a household in which there is and continues to be at least one occupant who was an occupant of a covered rental unit as of November eighth, nineteen hundred and ninety-four, and (*i*) who had reached the age of sixty-two years on or before November eighth, nineteen hundred and ninety-four, or was physically or mentally disabled on November eighth, nineteen hundred and ninety-four and has continued thereafter to be and remains physically or mentally disabled, or (*ii*) who is and continues to be a dependent child under the age of eighteen;

(d) is not related by blood or marriage to his landlord;

(e) was found by the Brookline rent control board prior to January first, nineteen hundred and ninety-seven to be an occupant of a covered rental unit, as defined in subsection (c) of said section three; and

(f) is a member of a household in which there is and continues to be at least one occupant who was an occupant of a covered rental unit as of November eighth, nineteen hundred and ninety-four.

SECTION 3. Said town may impose additional restrictions on eligibility for cash rental subsidies in addition to those set forth in section two and in the definitions of section one; and such cash subsidies shall be exempt from the provisions of subsection (b) of section four of chapter forty O of the General Laws, to the extent that such provisions would be applicable and would prohibit such cash subsidies from being provided with respect to rental

units owned by a person or entity owning less that ten rental units or with respect to rental units having a fair market rent exceeding four hundred dollars.

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

Approved August 8, 1996.

Chapter 273. AN ACT RELATIVE TO THE PENALTY FOR INSUFFICIENT FUNDS CHECKS PAID TO MUNICIPALITIES.

Be it enacted, etc., as follows:

Section 69 of chapter 44 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

If a check in payment of a municipal or district service, fee or charge imposed by a city, town or district for a municipal or district service rendered or fee or charge imposed is not duly paid, there may, in addition to any other penalty provided by law, be imposed on the person who tendered such check, upon notice and demand by the city, town or district treasurer, a penalty in an amount equal to one percent of the amount of such check; provided, however, that if such check is for less than one thousand five hundred dollars, the penalty under this section shall be twenty-five dollars.

Approved August 8, 1996.

Chapter 274. AN ACT AUTHORIZING THE CITY KNOWN AS THE TOWN OF METHUEN TO GUARANTY A BORROWING BY THE NEVINS MEMORIAL.

Be it enacted, etc., as follows:

SECTION 1. The city known as the town of Methuen is hereby authorized to enter into a contract, guaranty or other credit support document pursuant to which said town shall pledge its full faith and credit to assure the timely payment by the Nevins Memorial, a corporation established pursuant to chapter forty-seven of the acts of eighteen hundred and eighty-five to provide a public library for the citizens of said town, 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 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 town consisting generally of the expansion and renovation of the library

facilities owned, maintained and operated by the Nevins Memorial 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 known as the town of Methuen.

SECTION 3. For the purposes authorized in section one and subject to section two, the mayor of the city known as the town of Methuen is hereby authorized on behalf of said town, to approve the form of and terms and conditions contained in said contract, guaranty or other credit support document, 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 known as the town of Methuen 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 town 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 town 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 town.

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

Approved August 8, 1996.

Chapter 275. AN ACT RELATIVE TO THE ALTERNATE METHODS OF FULFILLING PROFESSIONAL DEVELOPMENT.

Be it enacted, etc., as follows:

Section 38G of chapter 71 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the eighteenth paragraph the following paragraph:-

Notwithstanding the foregoing, 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, including paraprofessionals or assistant teachers, who are engaging in such activity for the purpose of satisfying the professional development requirement of this section.

Approved August 8, 1996.

Chapter 276. AN ACT RELATIVE TO BANKS CONDUCTING BUSINESS ON SUNDAYS.

Be it enacted, etc., as follows:

Section 6 of chapter 136 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following clause:-

(55) The conduct of banking operations by a bank as defined in section one of chapter one hundred and sixty-seven.

Emergency Letter: August 9, 1996 @ 9:42A.M. Approved August 8, 1996.

Chapter 277. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF NORTHBRIDGE AS THE STAFF SERGEANT JOSEPH E. FITZGERALD BRIDGE.

Be it enacted, etc., as follows:

The bridge, under construction, on Route 122 and known as bridge number B-21-13 spanning the Providence and Worcester railroad tracks in the town of Northbridge shall be designated and known as the Staff Sergeant Joseph E. Fitzgerald bridge in honor of Joseph E. Fitzgerald who was missing in action in the Vietnam conflict. A suitable marker bearing such designation shall be attached thereto by the department of highways in compliance with the standards of said department.

Approved August 8, 1996.

Chapter 278. AN ACT RELATIVE TO SEXUAL HARASSMENT, EDUCATION AND TRAINING IN THE WORKPLACE.

Be it enacted, etc., as follows:

SECTION 1. Chapter 151B of the General Laws is hereby amended by inserting after section 3 the following section:-

Section 3A. (a) All employers, employment agencies and labor organizations shall promote a workplace free of sexual harassment.

(b) Every employer shall:

(1) adopt a policy against sexual harassment which shall include:

(i) a statement that sexual harassment in the workplace is unlawful;

(ii) a statement that it is unlawful to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of a complaint for sexual harassment;

(iii) a description and examples of sexual harassment;

(iv) a statement of the range of consequences for employees who are found to have

committed sexual harassment;

(v) a description of the process for filing internal complaints about sexual harassment and the work addresses and telephone numbers of the person or persons to whom complaints should be made; and

(vi) the identity of the appropriate state and federal employment discrimination enforcement agencies, and directions as to how to contact such agencies.

(2) provide annually to all employees an individual written copy of the employer's policy against sexual harassment; provided, however, that a new employee shall be provided such a copy at the time of his employment.

(c) The commission shall prepare and provide to employers subject to this section a model policy and poster consistent with federal and state statutes and regulations, which may be used by employers for the purposes of this section.

(d) An employer's failure to provide the information required to be provided by this section shall not, in and of itself, result in the liability of said employer to any current or former employee or applicant in any action alleging sexual harassment. An employer's compliance with the notice requirements of this section shall not, in and of itself, protect the employer from liability for sexual harassment of any current or former employee or applicant.

(e) Employers and labor organizations are encouraged to conduct an education and training program for new employees and members, within one year of commencement of employment or membership, which includes at a minimum the information set forth in this section. Employers are encouraged to conduct additional training for new supervisory and managerial employees and members within one year of commencement of employment or membership, which shall include at a minimum the information set forth in subsection (b), the specific responsibilities of supervisory and managerial employees and the methods that such employees should take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints. Employers, labor organizations and appropriate state agencies are encouraged to cooperate in making such training available.

SECTION 2. Notwithstanding the provisions of subsection (b) of section three A of chapter one hundred and fifty-one B of the General Laws, employers shall provide individual copies of their written policies on sexual harassment to all employees as required in said section three A, on or before September first, nineteen hundred and ninety-six; provided, however, that for any person hired between the effective date of this act and the date the copy of such written policy is given hereunder, the employer shall not be required to provide such a copy at the time of employment, unless the employer has previously provided such a copy to other employees within the twelve months preceding said time of employment.

SECTION 3. Notwithstanding any provision of subsection (e) of section three A of chapter one hundred and fifty-one B of the General Laws to the contrary, employees and labor organizations are encouraged to conduct an education and training program on sexual harassment consistent with the provisions of said section three A on or before September first, nineteen hundred and ninety-six, for persons employed on the date such program is

conducted and employers are encouraged to conduct such an additional training program consistent with the provisions of said section three A, on or before September first, nineteen hundred and ninety-six, for persons employed in a supervisory or managerial position on the date such program is conducted.

SECTION 4. Notwithstanding any provisions of chapter one hundred and fifty-one B of the General Laws or any other law to the contrary, for the purpose of section three A of said chapter one hundred and fifty-one B, the term "employer" shall be as defined in section one of said chapter one hundred and fifty-one B, except, from the effective date of this act until January first, nineteen hundred and ninety-seven, it shall not include any employer with fourteen or fewer employees.

Approved August 8, 1996.

Chapter 279. AN ACT FURTHER REGULATING THE APPOINTMENT OF VETERANS' GRAVES OFFICERS.

Be it enacted, etc., as follows:

Section 9 of chapter 115 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The mayor of every city and the selectmen of every town shall appoint a resident of such city or town who shall be a veteran as defined in clause Forty-third of section seven of chapter four, as a veterans' graves officer, for a term to be determined by the appointing authority; provided, however, that said term shall not exceed five years.

Approved August 8, 1996.

Chapter 280. AN ACT AUTHORIZING THE CITY OF SPRINGFIELD TO SELL AND CONVEY CERTAIN PARK AND RECREATIONAL LAND TOGETHER WITH THE SALE OF THE MUNICIPAL HOSPITAL PROPERTY.

Be it enacted, etc., as follows:

SECTION 1. The city of Springfield is hereby authorized to sell and convey to an entity selected pursuant to a request for proposal for the sale of the Springfield Municipal Hospital property, all its right, title and interest in a certain parcel of park and recreational land in said city to be used for ingress and egress to and from said hospital's parking lots, and described as follows:

Said parcel is shown on a plan entitled "Plan of Land, Municipal Hospital Property, State Street and Blunt Park Road. Owned by the City of Springfield". Scale 1" = 50', dated September, nineteen hundred and ninety-five.

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

Approved August 8, 1996.

Chapter 281. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT CERTAIN EASEMENTS IN THE TOWN OF HUBBARDSTON AND IN THE TOWN OF NEWBURY.

Be it enacted, etc., as follows:

SECTION 1. Chapter two hundred and fifty of the acts of nineteen hundred and ninety-four is hereby repealed.

SECTION 2. 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 grant certain easements in certain parcels of land located in the town of Hubbardston, presently under the care and control of the metropolitan district commission, the department of fisheries, wildlife and environmental law enforcement and the department of environmental management and being used for environmental purposes, to Worcester county for highway and drainage purposes. Said parcels are shown as parcels 1, 23, 25, D-1, D-3, D-4, D-5, D-6, D-7, D-8, D-9, D11, D-13, D-14, D-15, D-18A, D-19A, D-21, D-23, D-24, D-25 and D-27 on plan H-4546-R entitled "Plan of Williamsville - Templeton road and Williamsville road in the town of Hubbardston - Proposed Highway and Drainage Easement from the commonwealth of Massachusetts Metropolitan District Commission, Division of environmental management and division of Fisheries and Wildlife" and filed in the Worcester county engineering department.

SECTION 3. The commissioner of the division of capital planning and operations is hereby authorized to grant an easement over a certain parcel of land located in the town of Newbury presently under the care, custody and control of the division of fisheries and wildlife to the Byfield water district for access to a well owned by said district upon such terms and conditions as said commissioner may prescribe in consultation with said division of fisheries and wildlife. Said parcel is shown as easement area A on a plan of land entitled "plan of land in Newbury (Byfield) MA" prepared by Port Engineering Associates, Inc., dated May seventeenth, nineteen hundred and ninety-six, and which is on file in the southern district of the Essex county registry of deeds.

SECTION 4. In consideration for the easement granted in section six, the Byfield water district shall convey to the commonwealth of Massachusetts a certain parcel of land located in the town of Newbury, which shall be placed under the care, custody and control of the division of fisheries and wildlife. Said parcel is described in a deed from Benjamin Pearson to Trustees of Dummer Academy dated November eighth, nineteen hundred and thirty-eight, and recorded in the southern district of the Essex county registry of deeds, Book 3168, Page 558.

There shall be an independent appraisal for the use described herein of the fair market value of the easement granted by the commonwealth to the Byfield water district and of the property conveyed by the Byfield water district to the commonwealth as consideration. 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 chairmen of the joint committee on state administration in accordance with this act. If the consideration offered by the Byfield water district is less than the value of the easement to be granted by the commonwealth, then the Byfield water district shall pay the amount of the difference between the two values to the commonwealth.

SECTION 5. The Byfield water district shall pay all expenses associated with and any cost of appraisals, surveys and other expenses relating to the transfer of the land, and any cost and liabilities and expenses of any kind for its use, maintenance or operation.

SECTION 6. In the event the easement granted by section six of this act is not used for the purpose described in said section six, or the conditions and restrictions to said easement are not fulfilled, title to all interests in said easement shall revert to the commonwealth.

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

Approved August 8, 1996.

Chapter 282. AN ACT RELATIVE TO THE FINANCING OF CERTAIN PAYMENTS BY THE CITY OF WOBURN.

Be it enacted, etc., as follows:

SECTION 1. The treasurer of the city of Woburn, with the approval of the mayor, is hereby authorized to borrow at one time or from time to time such sums of money as may be necessary, not to exceed an aggregate amount of one million one hundred and twenty-five thousand dollars, for the purpose of paying any judgment rendered against said city in the case currently pending in the United States District Court under Docket No. 95-12372 NG, and providing funds to make any required or agreed to indemnification payments to, or on behalf of, any city officials or employees with respect to any judgment rendered against such officials or employees or any settlement agreed to by said city with respect to the case currently pending in, or on appeal from, the Middlesex division of the superior court department of the trial court of the commonwealth under Docket No. 93-6797, and providing funds to make any settlement payments agreed to by said city with respect to such lawsuits. Notwithstanding the provisions of clause (11) of section seven of chapter forty-four of the General Laws or any other general or special law to the contrary, no further action by said city council shall be needed with respect to any such borrowing, each issue shall constitute a separate loan, each loan shall be payable within ten years from its date and indebtedness

incurred under this act shall be included in determining the limit of indebtedness of said city under section ten of said chapter forty-four but, except as provided herein, shall otherwise be subject to the provisions of said chapter forty-four. Proceeds of any such borrowing may be expended without further authorization or appropriation by said city.

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

Approved August 8, 1996.

Chapter 283. AN ACT RELATIVE TO THE POSITION OF HIGHWAY SURVEYOR IN THE TOWN OF SHIRLEY.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the board of selectmen of the town of Shirley shall appoint the highway surveyor in said town.

Approved August 8, 1996.

Chapter 284. AN ACT RELATIVE TO PRELIMINARY TAX BILLS IN CITIES AND TOWNS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the issuance of accurate preliminary tax bills in cities and towns, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 23D of chapter 59 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 6, the words "per cent" and inserting in place thereof the following words:- percent of one hundred and two and one-half percent.

SECTION 2. Said section 23D of said chapter 59, as so appearing, is hereby further amended by inserting after the word "year", in line 6, the following words:- and of the amount by which such tax would have increased if any referendum question submitted to the voters under the provisions of paragraph (g), (i½), (j) or (k) of section twenty-one C and approved for the fiscal year had been approved for the preceding fiscal year.

SECTION 3. Said section 23D of said chapter 59, as so appearing, is hereby further amended by inserting after the word "amount", in line 25, the following words:- and a referendum question submitted to the voters under the provisions of said paragraph (g), (i½), (j) or (k) has been approved.

SECTION 4. Said section 23D of said chapter 59, as so appearing, is hereby further

amended by inserting after the word "relates", in line 68, the following words:- and of the amount by which such tax would have increased if any referendum question submitted to the voters under the provisions of said paragraph (g), (i½), (j) or (k) and approved for the fiscal year had been approved for the preceding fiscal year.

SECTION 5. The first paragraph of section 57C of said chapter 59, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The preliminary tax shall in no event exceed fifty percent of one hundred and two and one-half percent of the tax payable during the preceding fiscal year and of the amount by which such tax would have increased if any referendum question submitted to the voters under the provisions of paragraph (g), (i½), (j) or (k) of section twenty-one C and approved for the fiscal year had been approved for the preceding fiscal year.

SECTION 6. Said section 57C of said chapter 59, as so appearing, is hereby further amended by inserting after the first paragraph the following paragraph:-

Notwithstanding the provisions of the first paragraph, a notice of preliminary tax may be sent out after July first; provided, however, that no such notice of preliminary tax shall be sent unless first approved by the commissioner of revenue; provided, further, that as a condition of 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, except the assessed valuation of all real and personal property subject to taxation for the current fiscal year. Any notice of preliminary tax mailed after July first shall be due and payable in two installments, the first installment due thirty days after the mailing of the notice, the second November first, after which dates if unpaid, they shall become delinquent and subject to interest as provided herein; provided, however, that in the event that such notice is mailed after August first, the entire notice shall be due and payable November first, or thirty days after the date of mailing, whichever is later.

SECTION 7. The third paragraph of said section 57C of said chapter 59, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Notwithstanding the provisions of the first paragraph, a city or town that seeks to issue a notice of preliminary tax for any fiscal year may require the payment of a preliminary tax in excess of fifty percent of one hundred and two and one-half percent of the tax payable during the preceding fiscal year and of the amount by which such tax would have increased if any referendum question submitted to the voters under the provisions of paragraph (g), (i½), (j) or (k) of section twenty-one C and approved for the fiscal year had been approved for the preceding fiscal year, to the extent that such excess represents one-half of the amount of tax accruing as a result of the loss of exemption from tax that had been granted in the preceding fiscal year, improvements to the parcel, or the parcel being taxed as a separate parcel for the first time.

SECTION 8. Said section 57C of said chapter 59, as so appearing, is hereby further amended by inserting after the third paragraph the following paragraph:-

Notwithstanding the provisions of any general or special law to the contrary, the assessors of any city or town that issues a notice of preliminary tax may add any betterment

assessment or apportionment thereof, water rate, annual sewer use charge and any other charge placed on the annual tax bill to the preliminary tax on the property to which it relates and such amount shall become part of the preliminary tax.

Approved August 8, 1996.

Chapter 285. AN ACT RELATIVE TO THE PRACTICE OF PUBLIC ACCOUNTANCY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate the practice of public accountancy, 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 87A of chapter 112 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the definition of "Firm" and inserting in place thereof the following definition:-

"Firm", a business or professional corporation, general or registered limited liability company, or any other organizational form of entity legally permitted to engage in the practice of public accounting.

SECTION 2. Section 87B½ of said chapter 112, as so appearing, is hereby amended by inserting after the word "partner", in lines 18 and 21, in each instance, the following word:- , member.

SECTION 3. Said section 87B½ of said chapter 112, as so appearing, is hereby further amended by inserting after the word "partners", in line 35, the following word:- , members.

SECTION 4. Said section 87B½ of said chapter 112, as so appearing, is hereby further amended by striking out, in line 40, the word "engaged" and inserting in place thereof the following words:- , including a registered limited liability partnership, registered pursuant to the laws of any state, engaged.

SECTION 5. Said section 87B½ of said chapter 112, as so appearing, is hereby further amended by striking out, in lines 47, 50 and 55, the word "paragraph (g)" and inserting in place thereof, in each instance, the following words:- paragraph (h) or a business corporation registered under paragraph (i).

SECTION 6. Said section 87B½ of said chapter 112, as so appearing, is hereby further amended by striking out paragraphs (g) and (h) and inserting in place thereof the following four paragraphs:-

(g) A limited liability company registered pursuant to the laws of any state engaged within the commonwealth in the practice of public accounting may register with the board as a limited liability company of certified public accountants; provided, however, that:

(1) each member thereof personally and regularly engaged within the commonwealth

in the practice of public accounting as a member thereof is a certified public accountant registered under section eighty-seven A½ and holds a valid biennial license issued under section eighty-seven B or is a professional or business corporation registered under paragraph (h) or (i) respectively;

(2) each active member thereof who is a resident of the United States is a certified public accountant in good standing of one state or is a professional or business corporation registered under paragraph (h) or (i) respectively; and

(3) each resident manager in charge of an office of the firm located within the commonwealth is a certified public accountant registered under section eighty-seven A> and holds a valid biennial license issued under section eighty-seven B or is a professional or business corporation registered under paragraph (h) or (i) respectively.

Application for such registration shall be made upon the affidavit of a member of such limited liability company who is a certified public accountant registered under section eighty-seven A½ and who holds a valid biennial license issued under section eighty-seven B. The board shall in each case determine whether the applicant is eligible for registration. A limited liability company which is so registered and which holds a valid biennial license issued under section eighty-seven B½ may use the words "certified public accountants" or the abbreviation "CPA" in connection with its company name. Notification shall be given the board within ninety days after the admission to or withdrawal of a member from any limited liability company so registered, and after the commencement or termination of any member's personal and regular practice of public accounting in the commonwealth as a member thereof. The board shall collect a fee for the registration of such a limited liability company.

(h) A professional corporation engaged within the commonwealth in the practice of public accounting may register with the board as a professional corporation of certified public accountants; provided, however, that such professional corporation either is organized pursuant to the provisions of chapter one hundred and fifty-six A or agrees to comply with all requirements of sections ten, eleven and twelve of chapter one hundred and fifty-six A. Application for such registration shall be made upon the affidavit of an officer, director or shareholder of such professional corporation who is a certified public accountant registered under section eighty-seven A½ and who holds a valid biennial license issued under section eighty-seven B. The board shall in each case determine whether the applicant is eligible for registration.

A professional corporation which is so registered and which holds a valid biennial license issued under section eighty-seven B½ may use the words "certified public accountants" or the abbreviation "CPA" in connection with the professional corporate name. Notification shall be given the board within ninety days after the admission to or withdrawal of an officer, director or shareholder from any professional corporation so registered, and after the commencement or termination of any officer's, director's or shareholder's personal and regular practice of public accounting in this state as a member thereof. The board shall collect a fee for the registration of such a professional corporation.

(i) A business corporation engaged within the commonwealth in the practice of

public accounting may register with the board as a corporation of certified public accountants; provided, however, that:

(A) Such corporation may issue share, fractional shares, and rights or options to purchase shares only to the following, which shall be deemed "qualified persons" for purposes of this section:

(1) natural persons who are licensed in the commonwealth or in any other state or territory of the United States or the District of Columbia to practice public accounting;

(2) general or registered limited liability partnerships in which all partners are natural persons described in clause (1);

(3) professional or other business corporations authorized by law to render public accounting services; and

(4) limited liability companies authorized by law to render public accounting services.

(B) No proxy for shares of such a business corporation shall be valid unless it shall be given to a qualified person. A voting trust with respect to shares of such a business corporation shall not be valid unless all the trustees and beneficiaries thereof are qualified persons, except that such voting trust may be validly continued for a period of not more than six months after the death of a trustee or beneficiary or for a period of not more than six months after a trustee or beneficiary has become a disqualified person.

(C)(1) It shall be provided in the articles of organization or by-laws of such a business corporation, or in an agreement binding upon all of its shareholders, that the corporation shall redeem all the shares of a shareholder upon the occurrence of any one or more of the following events, unless said shares are transferred to a qualified person within twelve months after occurrence of the event:

(i) if such shareholder dies;

(ii) if such shareholder is determined to be disqualified for a period of six months or more;

(iii) if such shareholder is determined in the manner set forth in the applicable instrument, to be incompetent or permanently disabled so as to be unable to render public accounting services on behalf of the corporation;

(iv) if any of the shares of such shareholder are transferred voluntarily or by operation of law to a disqualified person; or

(v) if any other event specified in the articles of organization or by-laws or said shareholder agreement shall occur.

(2) The redemption of shares shall take place within twelve months after the occurrence of any of the events described in subclause (1), unless a shorter time is specified in the articles of organization, by-laws or said shareholder agreement. The consideration for such redemption shall be an amount equal to the fair value of such shares on the dates of said event, unless otherwise provided in the articles of organization, by-laws or said shareholder agreement. In lieu of such redemption, all the shares of such shareholder may be transferred to a qualified person within such twelve month period.

(3) If a redemption or transfer of such shares of such a business corporation is not

completed within the prescribed time period, such shares may be canceled by the corporation and the holder shall have no further interest or rights of a shareholder of the corporation other than the right to receive an amount equal to the fair value of such shareholder's shares under clause (2), unless otherwise provided in the articles of organization, by-laws or said shareholder agreement.

(4) Nothing contained herein shall affect the obligations of such a business corporation to a shareholder whose interest in the corporation is terminated hereunder with respect to compensation, benefits or other matters accrued prior to such shareholder's termination or disqualification.

(5) During the pendency of a redemption or transfer hereunder of the shares of a shareholder who is deceased, disabled or incompetent said shares may be voted by the personal representatives of such shareholder.

A regulating board may by rule further restrict the authority of a business corporation registering under this paragraph (i) to issue or transfer shares, but no such rule shall have the effect of causing a shareholder of such corporation at the time such rule becomes effective to become a disqualified person.

A shareholder of a business corporation registering under this paragraph (i) may transfer shares and rights or options to purchase shares of the corporation only to qualified persons, as defined herein; provided, however, that subject to subparagraph (C), nothing contained herein shall prohibit the pledge of shares of such corporation to a disqualified person or the transfer of such shares by operation of law or court decree to a disqualified person.

Nothing contained herein shall prevent a business corporation registering under this paragraph (i) from adopting other restrictions on the transfer of its shares or requiring that transferees be approved by its shareholders or directors under provisions of its articles of organization, by-laws or an agreement binding on all of its shareholders.

Every certificate issued representing shares of a business corporation registering under this paragraph (i) shall state thereon in bold print that the shares represented thereby are subject to restrictions on transfer imposed hereby and any further restrictions on transfer imposed by the appropriate regulating board or boards from time to time pursuant to this chapter.

Application for such registration shall be made upon the affidavit of an officer, director or shareholder of such corporation who is a certified public accountant registered under section eighty-seven A½ and who holds a valid biennial license issued under section eighty-seven B. The board shall in each case determine whether the applicant is eligible for registration.

A business corporation which is so registered and which holds a valid biennial license issued under section eighty-seven B½ may use the words "certified public accountants" or the abbreviation "CPA" in connection with its corporate name. Notification shall be given the board within ninety days after the admission to or withdrawal of an officer, director or shareholder from any business corporation so registered, and after the commencement or termination of any officer's, director's or shareholder's personal and

regular practice of public accounting in this state as a member thereof. The board shall collect a fee for the registration of such a business corporation.

(j) The board shall revoke the registration of a partnership, including a registered limited liability partnership, or limited liability company, or a professional or business corporation registered as certified public accountants under this section, or corresponding provisions of prior law or as public accountants under the laws of the commonwealth if at any time it does not have all the qualifications prescribed by the provisions of law under which it qualified for registration, and the board may revoke or suspend any such registration of a partnership, including a registered limited liability partnership or limited liability company, or a professional or business corporation or may revoke, suspend or refuse to renew any biennial license issued to such partnership, including a registered limited liability partnership, or limited liability company, or professional or business corporation so registered for any of the causes enumerated in section eighty-seven D and for the following additional causes:-

(1) the revocation or suspension of the certificate, registration or biennial license of any partner or any officer, director, shareholder, member or employee thereof;

(2) the cancellation, revocation, suspension or refusal to renew the authority of the partnership, including a registered limited liability partnership, or limited liability company, or the professional or business corporation or any partner or officer, director, shareholder, member or employee thereof to practice public accounting in any other state, for any cause other than failure to pay a registration fee in such another state.

SECTION 7. Section 87C of said chapter 112, as so appearing, is hereby amended by striking out, in line 141, the word "engaged" and inserting in place thereof the following words:- , including a registered limited liability partnership, registered pursuant to the laws of any state, engaged.

SECTION 8. Said section 87C of said chapter 112, as so appearing, is hereby further amended by striking out, in lines 150 and 151, the words "professional corporation registered under the provisions of paragraph (g)" and inserting in place thereof the following words:- limited liability company, professional or business corporation registered pursuant to paragraph (g), (h) or (i).

SECTION 9. Said section 87C of said chapter 112, as so appearing, is hereby further amended by adding the following two paragraphs:-

(e) A business corporation engaged within the commonwealth in the practice of public accounting may register with the public accountants administrative committee as a corporation of public accountants; provided, however, that each officer, director of shareholder personally and regularly engaged within the commonwealth in the practice of public accounting as a member thereof, is a certified public accountant registered under section eighty-seven A½ or a registered public accountant under section eighty-seven C and holds a valid biennial license issued under section eighty-seven B½; and provided, further, that the corporation complies with the restrictions and transfer of shares and validity of proxies and voting trusts set forth in paragraph (i) of section eighty-seven B½. Application for such registration shall be made upon the affidavit of an officer, director or shareholder

who meets the requirements of this paragraph.

The public accountants administrative committee shall in each case determine whether the business corporation is eligible for registration. A business corporation which is so registered and which holds a valid biennial license issued under section eighty-seven B½ may use the words "public accountants" or the abbreviation "PA" in connection with its corporate name. Notification shall be given said committee within ninety days after the admission or withdrawal of an officer, director or shareholder from any business corporation so registered, and after the commencement or termination of any officer's, directors or shareholder's personal and regular practice of public accounting within the commonwealth as a member thereof. The committee shall collect a fee for the registration of such a business corporation.

(f) A limited liability company registered pursuant to the laws of any state engaged within the commonwealth in the practice of public accounting may register with the public accountants administrative committee as a limited liability company of public accountants; provided, however, that each member thereof personally and regularly engaged within the commonwealth in the practice of public accounting is a certified public accountant registered under section eighty-seven A½ or a registered public accountant under section eighty-seven C and holds a valid biennial license issued under said section eighty-seven B½. Application for such registration shall be made upon the affidavit of a member who meets the requirement of this paragraph.

The public accountant's administrative committee should in each case determine whether the limited liability company is eligible for registration. A limited liability company which is registered and which holds a valid biennial license issued under section eighty-seven B½ may use the words "public accountants" or the abbreviation "PA" in connection with its company name. Notification shall be given said committee within ninety days after the admission to or withdrawal of a member from any limited liability company so registered, and after the commencement or termination of any member's personal and regular practice of public accounting within the commonwealth as a member thereof. The committee shall collect a fee for the registration of such a limited liability company.

SECTION 10. Section 87C½ of said chapter 112, as so appearing, is hereby amended by inserting after the word "director", in line 93, the following word:- , member.

SECTION 11. Section 87D of said chapter 112, as so appearing, is hereby amended by inserting after the word "officers", in line 33, the following word:- , members.

SECTION 12. Said section 87D of said chapter 112, as so appearing, is hereby further amended by inserting after the word "officer", in line 62, the following word:- , member.

SECTION 13. Said section 87D of said chapter 112, as so appearing, is hereby further amended by inserting after the word "partners", in lines 74 and 76, in each instance, the following word:- , members.

SECTION 14. Section 87E of said chapter 112, as so appearing, is hereby amended by inserting after the word "partner", in lines 2, 11, 12 and 26, in each instance, the following word:- , member.

SECTION 15. This act shall take effect on January first, nineteen hundred and ninety-seven.

Approved August 8, 1996.

Chapter 286. AN ACT RELATIVE TO THE APPOINTMENT OF TENANT MEMBERS TO THE BOARDS OF HOUSING AUTHORITIES.

Be it enacted, etc., as follows:

The sixth paragraph of section 5 of chapter 121B of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following three sentences:- The mayor shall notify in writing tenant organizations as specified herein not less than ninety days prior to the expiration of the term of a tenant member. Whenever a vacancy occurs in the term of a tenant member for any reason other than the expiration of a term, the mayor shall notify in writing the tenant organizations specified herein within ten working days after the vacancy occurs. The mayor shall make an appointment within a reasonable time after the expiration of sixty days after said notice.

Approved August 8, 1996.

Chapter 287. AN ACT AUTHORIZING THE TOWN OF PLYMOUTH TO ESTABLISH A BUSINESS INVESTMENT FUND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section fifty-three E½ 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 revolving account to be known as the Plymouth Business Investment Fund into which account shall be deposited certain receipts which shall result from the repayment of loan funds provided initially to businesses located within said town under the business loan program.

Such funds may originate from a number of sources, including those appropriated by a majority vote of town meeting, those received from state or federal community or economic development grant programs, gifts received by said town for the purpose of making loans to local businesses, or other funds received by said town from the state or federal government that are designated for use in business loan programs.

SECTION 2. There is hereby established in the town of Plymouth a Plymouth business investment fund review board consisting of not less than five members nor more than nine members to be appointed by the board of selectmen as follows: one member shall be nominated by the Plymouth development and industrial commission, one member shall

be nominated by the program participating banks, one member shall be nominated by the local business community, one member shall represent the local low and moderate income population and one member shall represent the community at large.

In the event the Plymouth development and industrial commission, having nominating privileges, ceases to exist or operate, the board of selectmen may appoint in place of such nominee an individual qualified to serve on said review board as an appointee-at-large. Said board of selectmen shall fill any vacancies on said review board in a like manner.

All terms of appointment shall be for not more than three years. Any member can seek reappointment with no limit on the number of terms allowed.

SECTION 3. The Plymouth business investment fund review board shall oversee the use of program funds, shall review all qualified applications for potential loan funding and shall decide rate, terms and amount of loan award for such portion of the loan using public monies that are held in subject revolving fund.

The Plymouth Business Investment Fund created as a local loan program intended to stimulate business growth amongst the small and micro business sector. All loans are to be made in concert with a participating bank, a portion of the total to be funded through said investment fund and, the balance thereon to be made by private lenders.

SECTION 4. Upon approval of the review board and after the subject applicants have met the criteria for loan award, the office of economic development or its successor, with the approval of the town manager, shall be authorized to expend from said revolving fund for uses authorized.

SECTION 5. All monies received by the town of Plymouth as a result of repayment of town-funded loans, including grant funds, with the approval of the granting authority, shall be deposited in said revolving fund. All funds deposited in said account shall be subject to a regular schedule of audits to be conducted by the Plymouth department of finance of said town and any firms charged with the responsibility of auditing said account by said town, the board of selectmen, and state or federal agencies.

SECTION 6. This act shall take effect as of July first, nineteen hundred and ninety-six.

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

Approved August 8, 1996.

Chapter 288. AN ACT RELATIVE TO INSURANCE COVERAGE FOR EMPLOYEES OF POLITICAL SUBDIVISIONS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 32B of the General Laws is hereby amended by striking out section 15, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 15. (a) Upon acceptance of this subsection by its appropriate public authority and subject to any necessary appropriation, a governmental unit, acting by and through its appropriate public authority, may offer its employees a policy or policies of group long-term disability insurance, group dental insurance or group vision care insurance. A governmental unit may contract for such insurance coverage individually or through its membership in a trust or joint purchase group as provided in section twelve of this chapter. A governmental unit may elect to pay any part or none of the premium cost for such insurance coverage for its employees, and may bargain for such insurance coverage collectively.

(b) No governmental unit may appropriate or expend public funds for the payment of premiums for group life insurance, group accidental death and dismemberment insurance and group general or blanket hospital, surgical, medical, dental and other health insurance for its active or retired employees, or their dependents, unless such insurance is procured pursuant to the provisions of this chapter, or unless such payments are authorized by section five of chapter forty, or unless such payments are made, pursuant to an agreement of an employer and an employee organization, to a health and welfare trust fund agreement for the purposes of (i) providing health benefits not otherwise provided to such employees by said governmental unit under the provisions of this chapter or (ii) paying contributions by said governmental unit toward premium costs or rates in excess of the level of such premium cost or rate contributions otherwise provided for under the provisions of this chapter or (iii) providing health benefits required under this chapter. This subsection shall not apply to the county of Worcester.

SECTION 2. A governmental unit that has accepted section ten A or section eleven F of chapter thirty-two B of the General Laws shall continue to be bound by its acceptance of said section ten A or said section eleven F, notwithstanding acceptance by its appropriate public authority of subsection (a) of section fifteen of said chapter thirty-two B.

Approved August 8, 1996.

Chapter 289. AN ACT PROVIDING FOR A CHARTER FOR THE TOWN OF NANTUCKET.

Be it enacted, etc., as follows:

SECTION 1. The following shall be the charter of the town of Nantucket:-

Preamble.

We, the inhabitants of the town of Nantucket, in order to provide more perfectly for a municipal government known as the town of Nantucket, to provide for the common welfare, and to secure for ourselves and for our community all the rights, powers, privileges, duties and obligations which may now or in the future be derived from town government, do hereby establish for ourselves and for our community this instrument as the charter of and for the town of Nantucket.

ARTICLE I.

Powers of the Town.

Section 1.1. It is the intent of this charter to confer on the town of Nantucket, first incorporated in sixteen hundred and seventy-one, all powers possible under the Constitution of the commonwealth as fully and completely as though they were expressly enumerated in this charter. The town shall remain subject to the laws of the commonwealth, its rules and regulations and to the by-laws of the town, except to the extent they are inconsistent with the provisions of this charter. The charter shall not be construed as a codification of all such laws, rules, regulations and by-laws but as effecting those particular changes by which the inhabitants of Nantucket may secure a more efficient, responsive and wise government.

Section 1.2. The powers of the town under this charter shall be construed liberally in favor of the town.

ARTICLE II.

Legislative Functions.

Section 2.1. The legislative powers of the town shall remain vested in the town meeting open to all voters.

Notwithstanding the foregoing, certain powers of town meeting as to real estate acquisitions shall be vested in the board of selectmen, as specified in section 3.3, subject to the voters' right to petition, as specified in clause (*b*) of sections 2.1 and 3.3, to place before town meeting any real estate acquisition voted by the board of selectmen under said section 3.3.

The following additional powers may be exercised by town meeting:

(*a*) to exercise any power which a charter for the county of Nantucket may vest in town meeting; and

(*b*) to veto any real estate acquisition voted by the board of selectmen pursuant to section 3.3; provided, however, that a petition proposing such veto in the form of a town meeting warrant article is signed by at least ten registered voters and provided that the petition is timely filed with the town clerk. The town clerk shall then present the petition to the board of selectmen within the time permitted for inclusion of the article in the next town meeting warrant. The board of selectmen may proceed with the real estate acquisition unless the acquisition is vetoed by the town meeting.

Section 2.2. The moderator shall be elected for a term of one year and shall have all the powers and duties given to moderators under the Constitution and the laws of the commonwealth, and such additional powers and duties as are authorized by this charter.

Section 2.3. In advance of each town meeting, the town moderator shall by written notice to the town clerk appoint an alternate town moderator who shall, during such town meeting, serve as acting moderator in the event of absence or disability of the moderator.

Section 2.4. The town clerk shall serve as clerk of the town meeting. In advance of each town meeting, the town clerk shall by written notice to the moderator appoint an alternate clerk of the meeting who shall, during such town meeting, serve in the event of absence or disability of the clerk of the meeting. If an alternate clerk of the meeting is not appointed or is unable so to serve, the moderator shall appoint a clerk.

Section 2.5. (*a*) The board of selectmen shall include all proposed operating expenditures in a single article or in consecutive articles in the warrant and also all proposed capital improvement expenditures in a single article or in consecutive articles.

(*b*) The board of selectmen shall publish the warrant of each town meeting in a newspaper of general circulation within the town promptly after issuance of the warrant. After such publication of the warrant, the finance committee shall hold a public hearing on each article and vote its recommendations. For articles that do not call for the town to raise and appropriate, transfer or borrow sums of money, the finance committee may choose to make no recommendation.

(*c*) The board of selectmen shall publish the warrant with the recommendations of the finance committee by mailing a copy of such warrant to the address or postal box of each registered voter at least seven days prior to the town meeting.

Section 2.6. One spokesperson for the town's nonresident property owners shall be allowed to speak at any annual or special town meeting on matters before the meeting but only at such times during a meeting as the moderator may allow and in accordance with the rules of order.

Section 2.7. Except to the extent other procedures have been or are adopted by town meeting or by the moderator in conformity with this charter and the laws of the commonwealth, town meeting shall follow the latest revised edition of *Town Meeting Times: A Handbook of Parliamentary Law*, by Johnson, Trustman and Wadsworth.

ARTICLE III.

Board of Selectmen.

Section 3.1. The board of selectmen shall be composed of five members elected for terms of three years each, so arranged that the terms of as nearly equal number of members as possible expire each year. To qualify for office, each member shall be and remain a resident of the town. Three of the five members shall constitute a quorum. A majority of the quorum shall be sufficient to set the board's meeting agenda and to decide any question, except as may be otherwise provided in this charter.

Section 3.2. Within thirty days following each annual town election, the board of selectmen shall choose one of its duly elected members as chair and another as vice-chair, each to serve until a successor is elected. The vice-chair shall, during any temporary disability or absence of the chair, serve as acting chair. The chair shall:-

(*a*) execute, and cause the town clerk to affix the town seal to, all contracts, bonds or other instruments requiring the signature and seal of the town and having been duly approved by the board of selectmen;

(*b*) preside over all meetings of the board of selectmen with the right to vote on all questions, absent conflict of interest, and to propose the agenda prior to each such meeting;

(*c*) report annually to the people of the town on the work of the previous year; and

(*d*) serve as representative of the board of selectmen at ceremonial and civic occasions.

Section 3.3. Subject to applicable administrative procedures pursuant to the laws of the commonwealth or town by-law, the board of selectmen may, notwithstanding any law

to the contrary, vote the following:

To acquire any real estate, including any partial interest therein, by purchase or acceptance of gift; such acquisition being without the necessity of any vote of town meeting, but subject to the restriction that any acquisition of real estate by eminent domain may only be effected if first authorized by vote of town meeting pursuant to the laws of the commonwealth and subject also to the availability of any necessary funds appropriated for such acquisition.

The board of selectmen shall publish a public notice of such vote in a newspaper having general circulation within the town. Any such acquisition shall be subject to veto by town meeting if a petition as set forth in clause (*b*) of section 2.1 is filed with the town clerk within thirty days following the date such public notice is published.

Nothing in this section of the charter shall affect the acceptance of gifts pursuant to section fifty-three A of chapter forty-four of the General Laws.

Section 3.4. (*a*) The board of selectmen may, at a public meeting, exercise the following powers:

(1) to appoint the town administrator for the purposes set forth in Article IV. Such appointment shall be upon appropriate terms and conditions, including provision for annual performance reviews, in conformity with this charter and the General Laws. By a majority vote of the full count of members then in office, the board may remove the town administrator;

(2) to appoint town counsel, and registrars of voters and other election officials, upon the recommendation of the town clerk, also other town officers and employees to the extent so permitted to them by this charter;

(3) to appoint and, for cause, upon written charges and after a public hearing if so requested, to remove members of the following town boards, councils, commissions and committees:

Airport commission, conservation commission, commission on disability, council on aging, council for human services, finance committee, parks and recreation commission, our island home board of directors, personnel board to consist of four or five members, and the zoning board of appeals; and any other committee for which a town by-law makes the board of selectmen the appointing authority; also any advisory committee established by the board of selectmen and any committee acting for both the town and the county.

Cause for removals shall be put forward in good faith, and not arbitrary, irrational, unreasonable or irrelevant to the duties of the office, on grounds of incapacity beyond temporary illness, chronic non-attendance or violation of the oath of office.

Nothing in this clause shall mandate the continued existence of any such board or the specific number of members appointed;

(4) to exercise the power to disapprove of appointments made by the town administrator pursuant to paragraph (*b*) of section 3.4 or section 4.3 of this charter. All appointments by the town administrator to the position of assistant town administrator, of department head or of any other position pursuant to this charter, are subject to a vote of disapproval by the board of selectmen; provided, however, that such appointments shall take

effect unless the board of selectmen votes disapproval within a fifteen day period following the day on which notice of the proposed appointment is filed with the board chair;

(5) to fill by appointment any elective position on a town board, commission or council, vacant by reason of a member's resignation, death or incapacity beyond temporary illness, but only if the laws of the commonwealth allow for appointments in such cases, the appointee to serve, any such laws notwithstanding, only until a successor is elected at the next annual town election; and the successor so elected then to serve for the remainder, if any, of the member's unexpired term; and

(6) to appoint to the planning board three associate members to serve in zoning matters as alternates in lieu of any elected alternate, the terms of appointment being of such length and so arranged that the term of one associate member shall expire each year. Nothing in the charter shall affect the election of the regular planning board members in accordance with the laws of the commonwealth.

(*b*) Any vacancy occurring in an appointed position in town offices, boards, councils, commissions or committees shall be filled by the board of selectmen, the town administrator or other appointing authority, whichever is empowered to make the initial appointment to the position vacated, for the balance of the unexpired term.

Section 3.5. The board of selectmen shall have the power:-

(*a*) to act in the capacity of the board of county commissioners;

(*b*) to establish general town priorities, goals and policies;

(*c*) to establish an advisory committee to conduct any inquiry or investigation or to make planning, policy or other recommendations; further to establish a three member audit committee whose duties would include appointment of an outside audit firm, review of annual audit results and evaluation of the internal accounting procedures and controls. The audit committee will be composed of three voting members appointed for a one year term. The committee would consist of the chairman of the board of selectmen, the chairman of the finance committee and one appointed member from the board of selectmen;

(*d*) to adopt rules for the conduct of business and to fix times and places for meetings, to establish all five members as a committee of the whole, and to designate any number of its members as a subcommittee;

(*e*) to approve or disapprove town contracts, contract amendments, contract terminations and contract enforcement actions proposed by the town administrator;

(*f*) to identify emergency situations and to declare emergencies;

(*g*) to hear and decide upon license applications as may be provided by town by-laws or by general or special laws; and

(*h*) to hear and decide administrative appeals from the historic district commission or from any other town body as may be provided by town by-law or by the laws of the commonwealth.

ARTICLE IV.

Town Administration.

Section 4.1. (*a*) The administration of the town shall be vested in the town administrator who shall, with the assistance of the various town department heads, cause this

charter, the town's legislative actions pursuant to Articles II and III, and applicable General Laws to be enforced.

(*b*) It is the intent of this charter to confer upon the board of selectmen such limited legislative powers and general executive policy setting and investigative powers as are provided in Article III but at the same time, by virtue of this Article IV, to confer upon the town administrator full control over town administration, as defined in paragraph (*a*) of section 4.4 of this charter, and of the administration of town services provided for in this Article IV. Accordingly, this charter seeks to establish clear lines between Article III powers of the board of selectmen and Article IV administrative functions as follows:-

(1) the board of selectmen are to deal with individual town administration employees only through or jointly with the town administrator responsible for the overall administrative management of the town's affairs as specified in this Article IV; and

(2) all routine contact with town employees concerning the functions of town administration and its provision of services shall be from the board of selectmen through or jointly with the town administrator.

(*c*) Nothing in the foregoing nor in this charter shall be construed to prohibit informal, nondirective conversations of town selectmen with other town officials, nor the inquiry by the board of selectmen into any act or issue concerning town administration.

Section 4.2. (*a*) The board of selectmen shall appoint a town administrator for an initial term of two years. Any successive terms shall not exceed three years each. The town administrator so appointed shall, by education, experience and ability, be qualified to perform the duties established for the position. Such person need not be a resident of the town at the time of appointment but shall be a resident during the term of office starting not later than six months following appointment.

(*b*) The town administrator shall devote full time to the duties of the office.

(*c*) The town administrator shall be responsible to the board of selectmen for the efficient operation of town administration, for acting in conformity with policies established by the board with respect to budget and other matters, and for the proper implementation of legislation adopted by the town pursuant to Article II. The town administrator shall have all the powers, rights and duties delegated by the board of selectmen or as are commonly associated with the office of chief administrative officer of a local government unit.

(*d*) In particular, the town administrator:-

(1) shall supervise, direct and be responsible for the efficient administration of all officers, boards, councils, commissions and committees appointed by the town administrator, and all other town functions for which the town administrator is given responsibility by this charter, town by-law, administrative code, or other legislation; and may issue administrative orders;

(2) shall have appointment powers as provided in section 4.3;

(3) shall, with the assistance of the department heads, prepare and submit to the board of selectmen, all annual operating budgets and capital budgets, and any proposal for budget amendment; shall establish the schedules and procedures to be followed by all town departments, boards, councils, commissions and committees in connection therewith and

shall direct all phases of the budgetary process throughout each fiscal year;

(4) shall prepare the town meeting warrant for adoption by the board of selectmen pursuant to a schedule set by the board, by administrative code or town by-law.

(5) may be present at all meetings of the board of selectmen and may participate in all deliberations, without the right to vote;

(6) shall, with the assistance of the town department heads, ensure adequate inventory, care, construction and maintenance of all town properties, owned or leased, and foster centralized purchasing including, if so requested, for the school committee;

(7) may require reports from and may examine the records, accounts and operations of any town department, board, council, commission or committee and shall recommend whatever actions or programs are deemed necessary or desirable for the town, the welfare of its residents and of visitors to the Islands;

(8) shall review, analyze and forecast trends of town services and programs of all town departments, boards, councils, commissions and committees and make reports and recommendations thereon to the board of selectmen;

(9) shall negotiate and sign on behalf of the town contracts and contract amendments for the town and initiate contract terminations and enforcement actions, subject in each case to resolution of approval or disapproval of the board of selectmen, and including any town employment, but not union contracts, subject to the availability of funds;

(10) shall have the authority, subject to resolution of approval or disapproval of the board of selectmen, to prosecute, defend and compromise all litigation to which the town is party. In the event that a board, council, commission or committee of the town is a party defendant to litigation and the town a party plaintiff, that board may vote to be represented by special counsel funded from the same appropriation as town counsel would otherwise be;

(11) shall assure that all terms and conditions imposed in favor of the town or its inhabitants in any statute, franchise or contract are faithfully kept and performed;

(12) may order any town administration department head to undertake tasks for any other town administration department, on a temporary basis if deemed necessary for proper and efficient administration;

(13) shall make recommendations to the board of selectmen of actions they might take for the improvement of the town and for the welfare of its residents and island visitors, also for provision of adequate working space and conditions of town administration and other town agencies;

(14) shall approve warrants for payment before such warrants are submitted to the board of selectmen; and

(15) perform any other duties as may be required by this charter, by town by-law or by majority vote of a quorum of the board of selectmen.

Section 4.3. The town administrator:-

(*a*) shall appoint the heads of all town administration departments other than any elected heads, subject to resolution of disapproval pursuant to clause (4) of paragraph (*a*) of section 3.4 by the board of selectmen;

(*b*) shall appoint members of town boards, councils, commissions and committees,

but only to the extent that the power of appointment of the board of selectmen under section 3.4 of this charter to make such appointments is delegated by the board of selectmen to the town administrator and then subject to resolution of disapproval pursuant to clause (4) of paragraph (a) of section 3.4 by the board of selectmen;

(*c*) may, at the administrator's discretion and for cause, remove, suspend or otherwise discipline any appointee of the administrator, subject, however, to any grievance procedure as may be established by town by-law, rule or regulation or any applicable union contract provisions; and

(*d*) may, if the board of selectmen creates the office of assistant town administrator, appoint and, subject to the limitations set out in clause (*c*), remove, suspend or otherwise discipline the assistant town administrator. Such assistant town administrator shall serve as acting town administrator during the temporary absence or disability of the town administrator.

Section 4.4. (*a*) The town administration shall include the building, finance, fire, health, island home, marine and coastal resources, police, public works, and visitors services departments; provided, however, that nothing in this charter mandates the continued existence of any such town administration department or continuance of a department name or function.

(*b*) The town administration shall not include the airport, the park and recreation, the school and the water departments.

Section 4.5. The heads of town administration departments shall be responsible to the town administrator for the efficient operation of their respective departments and for the proper implementation of the laws and regulations of the commonwealth and of town by-laws applicable to their departmental functions.

Section 4.6. With authorization of the town administrator and subject to availability of budgeted funds, the heads of town administration departments shall appoint and hire the personnel of their respective departments. With authorization of the town administrator, the department heads may remove, suspend or otherwise discipline such personnel, subject, however, to any grievance procedures as may be established by town by-law, rule or regulation or any applicable union contract provisions.

Section 4.7. The town clerk shall be elected and shall have such duties and powers as are provided by General Law, including the power to appoint an assistant town clerk.

Section 4.8. The town administrator shall not exercise any control over the discretionary power vested by the laws of the commonwealth in any town board, council, commission, or committee not within town administration.

Section 4.9. Each town board, council, commission or committee not within the town administration shall have the power to appoint its respective staff personnel, subject to availability of budgeted funds and, except staff of the school committee, subject to prior written notification to the town administrator. Such staff personnel shall be responsive to the town administrator only in matters of the town's general administrative procedures but not as to substantive decisions entrusted to such board, council, commission or committee. With prior written notification to the town administrator, such boards may remove, suspend

or otherwise discipline their staff personnel, subject, however, to any grievance procedures as may be established by town by-law, rule or regulation or any applicable union contract provisions.

ARTICLE V.

Elections, Dismissals and Recalls.

Section 5.1. The regular elections to any town office shall be by official ballot for the annual town election. Except as may be provided generally for town governments by the General Laws of the commonwealth or as provided for recalls in section 5.4, nothing in this charter shall grant any power to remove or dismiss any elected town official.

Section 5.2. No selectman shall individually or collectively seek to influence the town administration to dismiss any person from or to appoint or to promote any person to any position in the town administration. However, the board of selectmen may, pursuant to clause (4) of paragraph (a) of section 3.4, adopt a resolution of disapproval as to appointments which the town administrator is empowered to make in accordance with paragraph (*b*) of said section 3.4 or section 4.3 of this charter.

Section 5.3. The town shall indemnify and hold harmless all town officers pursuant to section thirteen of chapter two hundred and fifty-eight of the General Laws.

Section 5.4. (*a*) Any holder of elective town office may be recalled by the voters of the town. Any two hundred registered voters may file with the town clerk an affidavit identifying the name of the officer sought to be recalled and stating in full the specific grounds for the recall. The affidavit shall be signed by each voter under pains and penalty of perjury and shall include the street address of each voter.

(*b*) Within ten days, the town clerk shall certify the signatures and, if sufficient, shall deliver upon request to any of the certified voters a blank recall petition form naming such voter. Each such petition form shall carry the clerk's signature and seal and date of the certification, shall be addressed to the board of selectmen, shall identify the officer's name and the stated grounds for recall, and shall demand election of a successor to the office.

(*c*) If, within twenty-one days after the certification date, such recall petition forms signed by a least twenty percent of the registered voters with town residence address shown are returned to the town clerk, the clerk shall, within fourteen days, certify the signatures of registered voters, to determine sufficiency of the petition.

(*d*) If sufficient, the town clerk shall thereupon submit the petition with date of its certification to the board of selectmen which shall forthwith give written notice thereof to the officer sought to be recalled. If the officer does not resign within seven days, the board of selectmen shall order a recall election to be held concurrently with the next annual election for town officers not less than seventy-five days after such certification date. The recall election, once ordered, shall proceed, even if the office becomes vacant, in the same manner as for an annual town election.

(*e*) The officer sought to be removed may seek renomination, may serve until expiration of the current term of office unless and until a successor is sooner elected, and may not be put twice to the recall process in the same term.

(*f*) Recall election ballots shall first submit the question:

For the recall of (name of officer) ☐

Against the recall of (name of officer) ☐

and then the heading "Candidates" followed by a listing of the names of candidates nominated for the office. Only if the majority of votes counted upon the question of recall is in the affirmative shall the votes upon the candidates be effective to elect the one receiving the highest number.

ARTICLE VI.

General Provisions.

Section 6.1. The provisions of this charter shall govern, notwithstanding any general or special law of the commonwealth to the contrary. Where not contrary to or inconsistent with the provisions of this charter, the town shall remain subject to the laws of the commonwealth.

Section 6.2. Unless expressly altered or superseded by the provisions of this charter, the code of the town of Nantucket shall remain in force and effect notwithstanding ratification of this charter unless and until amended, added to or repealed in accordance with this charter and the laws of the commonwealth.

Section 6.3. The town clerk shall have custody of the original of this charter and any amendments thereto.

Section 6.4. (*a*) To the extent any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provision shall prevail. The provisions are severable, the remaining provisions being unaffected if a charter provision is held to be invalid.

(*b*) To facilitate bringing town governmental organization and operations into conformity with this charter, the members of the town and county charter commission elected April fourth, nineteen hundred and ninety-five shall serve *ex officio* as members of a committee on charter conformance, but only during the continuance of the charter commission and, in any event, not later than April fourth, two thousand. Such committee shall serve in an advisory capacity to the board of selectmen, the town administrator and to such boards, councils, commissions and committees as may request advice.

Section 6.5. (*a*) This charter may be replaced, revised or amended in accordance with the procedure set forth in either chapter forty-three B of the General Laws or in chapter three hundred and twenty-eight of the acts of nineteen hundred and ninety-two.

(*b*) As permitted by Section 4 of Article II of the Articles of Amendment of the Constitution of the Commonwealth, this charter may also be amended as follows:

The town meeting may, by a two-thirds vote, propose amendments of this charter. All proposed charter amendments so voted shall be published and submitted for approval at the next annual town election in the same manner as provided for the adoption or revision of a charter upon the recommendation of a charter commission. Notwithstanding the foregoing, any change in the charter relating in any way to the composition, mode of election or appointment, or terms of office of the town meeting or the board of selectmen or a town manager shall be made only by the procedure of charter revision set forth in Section 3 of

Article II of the Articles of Amendment of the Constitution of the Commonwealth.

Section 6.6. This charter shall take effect on July first next following ratification by the voters of the town. All town officers, boards, councils, commissions and committees shall continue to perform their duties until reappointed or reelected or until successors to their respective positions are fully appointed or elected or until their duties have been transferred and assumed by another.

Any person holding a town office or employment under the town shall continue to retain such office or such employment and shall continue to perform the duties of the office or of the employment until such time as provisions shall have been made in accordance with this charter for the performance of such duties by another person or agency. No person in the permanent, full time service or employment of the town shall forfeit pay grade or time in service by reason solely of the adoption of this charter. All such persons, unless removed in accordance with this charter, shall be retained in an employment capacity as similar to their former employment capacity as is feasible.

SECTION 2. The town and county charter commission elected April fourth, nineteen hundred and ninety-five pursuant to chapter three hundred and twenty-eight of the acts of nineteen hundred and ninety-two shall continue to exist for thirty days after the effective date of this act and any act that it may recommend in furtherance of a merger of the town and county of Nantucket; provided, however, that it shall submit a final report of its recommendations as to such a merger by December thirty-first, nineteen hundred and ninety-eight; and provided, further, that in no event shall such commission continue beyond April fourth, two thousand.

SECTION 3. This act shall be submitted for acceptance to the qualified voters of the town of Nantucket at the next annual town election to be held at least two months after the effective date of this act 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-six, entitled 'An Act providing for a charter for the town of Nantucket' be accepted?"

A summary of the charter to be prepared by the town and county charter commission shall accompany the ballot question described herein.

If a majority of the votes cast in answer to such question is in the affirmative, this act shall take full effect, but not otherwise.

Approved August 8, 1996.

Chapter 290. AN ACT ESTABLISHING A CHARTER FOR NANTUCKET COUNTY.

Be it enacted, etc., as follows:

SECTION 1. We, the inhabitants of Nantucket county, in order to provide more perfectly for a regional government known as Nantucket county, to provide for the common

welfare and to secure for ourselves and for our community all the rights, powers, privileges, duties and obligations which may now or hereinafter be derived from county government, do hereby establish for ourselves and for our community this instrument to be known as the charter of and for Nantucket county within the commonwealth.

SECTION 1A. *Establishment of Charter.* The charter of and for Nantucket county shall be, and is hereby declared to be, as set forth in section four; provided, however, that the same shall be adopted by the voters of the town as set forth in section three.

SECTION 2. *Grant of Authority.* The intent of this act is to confer certain powers upon Nantucket county in addition to those granted by the General Laws applicable to counties generally and, accordingly, the charter and the powers set forth therein are hereby granted to Nantucket county, notwithstanding the provisions of any general or special law to the contrary.

SECTION 3. *Ratification by the Voters.* On the official ballot, to be used in Nantucket county at the next annual election for town officers at least two months after such enactment, the question shall be placed substantially as follows:

"Shall an act passed by the General Court in the year nineteen hundred and ninety-six entitled 'An Act establishing a charter for Nantucket county' be accepted?"

A summary of the charter, which summary is to be prepared and approved by the attorney general shall accompany the ballot question described herein.

If the majority of the votes cast in answer to said question is in the affirmative, the charter set forth herein shall take full effect but not otherwise.

SECTION 4. *Text of Charter.* The text of the charter of and for Nantucket county shall be as follows:

ARTICLE I

County Incorporation and Powers.

Section 1.1 - Incorporation.

Nantucket county shall continue to be a body politic and corporate and a public instrumentality providing regional governmental services within the geographical bounds fixed by law, including the islands of Nantucket, Tuckernuck and Muskeget. The exercise of the powers herein conferred upon the county shall be deemed the performance of an essential governmental function.

Section 1.2 - General Grant of Powers.

It is the intent of this charter to confer on the county all powers permitted under the Constitution of the Commonwealth of Massachusetts and the General Laws and special acts relating to county governments; this charter is intended to be liberally construed so to empower the county.

Section 1.3 - Enumerated Powers.

Without intending to limit the generality of county powers as stated in section 1.2 and notwithstanding the provisions of any general or special law to the contrary, the following enumerated powers are granted to the county government:

(*a*) to establish, subject to such approvals by the commonwealth as may from time to time be required by the General Laws, the annual operating and capital budgets for the

operation and maintenance of the various county offices, departments and functions and for county purposes, including the establishment of grants to the town of Nantucket;

(*b*) through the adoption, amendment or repeal of ordinances or the provisions of an administrative code, to organize and regulate county internal affairs; to create, alter and abolish county agencies, offices, positions and employments and to provide for the manner of appointment and removal and the salary or other compensation to be paid for such offices, positions and employments. Nothing in this charter shall be deemed to grant the power to effect any alteration, amendment or abolition of (*i*) the existence of the county of Nantucket as a county; (*ii*) the offices of the county sheriff, register of probate, clerk of courts or the register of deeds; or (*iii*) the composition, mode of election or term of office of the legislative body or of the county chair or vice-chair.

(*c*) notwithstanding any limitation on county purposes as may be contained in chapter thirty-four or chapter thirty-five of the General Laws, to adopt, amend, enforce and repeal resolutions and ordinances, with fines and penalties not to exceed three hundred dollars for a violation thereof, in furtherance of, or not inconsistent with, the bylaws, regulations and resolutions of the town of Nantucket, in order to provide for the general health, welfare and safety of the inhabitants of, and visitors to, the islands; provided, however, that this charter shall not in any way infringe upon or diminish the paramount powers and duties of the town of Nantucket under the General Laws, pursuant to which said town of Nantucket shall retain the right, by exercise of the local police power, to provide for the general health, safety and welfare of its citizens;

(*d*) to construct, acquire, operate and maintain public improvements, projects or enterprises for any public purpose, notwithstanding any limitation upon county purposes as may be contained in chapter thirty-four or chapter thirty-five of the General Laws, and specifically including roads, bike paths, public works, recreation, open space, sewage collection and disposal facilities, solid waste disposal facilities, law enforcement facilities such as regional lockups and corrections and police stations, and other such purposes, and to exercise the power of eminent domain in furtherance of any such purpose, subject to such procedures as are provided for county governments by the General Laws;

(*e*) to exercise powers of eminent domain, borrowing and taxation to the extent authorized for county governments by the laws of the commonwealth;

(*f*) to sue and be sued; to establish, maintain and use the corporate seal of the county; to enter contracts; to buy, sell, lease, hold, encumber, impose easements upon and dispose of real and personal property; and to appropriate and expend funds for county purposes;

(*g*) to contract with or sign agreements with other governmental entities for the provision of a joint, coordinated or cooperative service or function; and

(*h*) to apply for, to accept and to obtain federal and state grants, loans and other funds and in-kind grants, as if the county was a district, a city, a town, a region, an authority or a state or a state agency within the meaning of legislation authorizing a contract or grant consistent with the purposes of Nantucket county.

ARTICLE II

Legislative Functions.

Section 2.1 - Repository of Legislative Functions.

The legislative powers of the county shall be vested generally in the five members who are to perform the functions of county commissioners, except those specific legislative powers later identified in this charter as being vested in the town meeting of the town of Nantucket.

Section 2.2 - Composition and Compensation.

The five persons who have been elected and are serving as town of Nantucket selectmen shall constitute *ex officii* the members of the board of county commissioners and shall perform the functions of county commissioners; provided, however, that the five selectmen acting as the county commissioners may fix by ordinance an additional compensation for the county chair that is reasonable and commensurate with the special duties of that office.

Section 2.3 - Organization.

Within thirty days following each annual election of the board of selectmen of the town of Nantucket, the five members acting as the board of county commissioners shall choose one of its duly elected members as county chair and another as county vice-chair to serve until a successor is elected. Neither the county chair nor the county vice-chair shall concurrently serve respectively as chair or vice-chair of the Nantucket board of selectmen. The county vice-chair shall, during any temporary absence or temporary disability of the county chair, serve as acting county chair.

Three of the five members acting as the board of county commissioners shall constitute a quorum.

The county chair shall:

(*a*) execute, and cause the county clerk to affix the county seal to all contracts, bonds or other instruments requiring the signature and seal of the county and having been duly approved by the five members performing the functions of county commissioners;

(*b*) preside over all meetings of the five members who perform the functions of county commissioners with the right to vote on all questions, absent conflict of interest, and shall serve as representative of the five members at ceremonial and civic occasions;

(*c*) serve as an *ex officio* nonvoting member of all appointed bodies in county government; and

(*d*) report annually to the people of the county on the work of the previous year.

Section 2.4 - Exercise of five-member Legislative Powers.

The county's Article I powers may be exercised by the adoption, by vote of the five members who act as county commissioners, of ordinances or otherwise by the adoption of resolutions.

Section 2.5 - Legislative Ordinances.

After public advertisement in a newspaper of general circulation within the county at least seven days in advance and after holding a public hearing, the five members who perform the functions of county commissioners may vote to adopt legislative ordinances,

having an effective date seven days after enactment, unless prior to such effective date a petition as set forth in section 2.8(*d*) is filed with the county clerk, and such ordinances shall have permanent force and effect until amended or repealed by the five members, or amended or repealed by town meeting of the town of Nantucket as set forth in section 2.8 for the purposes specified below notwithstanding the provisions of any law to the contrary:

(*a*) to establish, alter or abolish a county department, office or agency except as prohibited by Article I or Article V;

(*b*) to provide for a fine or other penalty or to establish a rule or regulation as authorized in Article I, violation of which a fine or other penalty not to exceed three hundred dollars is imposed;

(*c*) notwithstanding any limitation as may be contained in chapter thirty-four or chapter thirty-five of the General Laws, to appropriate funds for the operation and maintenance of county government and for the furtherance of county purposes and to authorize the transfer of funds between county departments and agencies; or to grant funds to the town of Nantucket; provided, however, that such appropriation, transfer or grant is approved as described in section 2.7 or section 2.8 of Article II; and provided, further, that the amount of the county's assessment upon the town of Nantucket shall be fixed by a Nantucket town meeting pursuant to section 2.8 of Article II; and provided, further, that section twenty A of chapter fifty-nine of the General Laws shall not apply to county assessments applicable to the town of Nantucket;

(*d*) to grant, renew or extend a franchise, license, lease, permit or other authorization;

(*e*) to regulate the rate charged for services provided to any other governmental unit or authorize a contract with such unit for services;

(*f*) to implement the borrowing of money as may be authorized pursuant to section 2.8 of Article II of this charter;

(*g*) to initiate petitions to the general court for special legislation applicable to Nantucket county, subject to the limitation contained in section 2.8 of this charter;

(*h*) to acquire property, whether real or personal, including any partial interest therein, by purchase, acceptance of gift or eminent domain and to convey, lease or give by grant any such property, for any purpose permitted by this charter and this act; provided, however, that the procedures for such acquisition or disposition of real property shall comply with the General Laws and the Constitution of the Commonwealth; and

(*i*) to amend or repeal any ordinance previously adopted.

Section 2.6 - Legislative Resolutions.

The five members acting as the board of county commissioners may act informally at a public meeting without a public hearing to exercise Article I powers by the adoption of resolutions to be immediately effective:

(*a*) to establish an advisory council or committee on any subject and to conduct an inquiry or investigation;

(*b*) to elect, appoint and remove county officers and employees to the extent permitted by this charter or otherwise, and to establish general county personnel policies;

(*c*) to exercise the power of advice and consent to actions of the county administrator and to approve contracts presented by the county administrator;

(*d*) to adopt rules for the conduct of business and to fix times and places for meetings; to establish all five members as a committee of the whole, and to designate any number of its members as a subcommittee;

(*e*) to identify emergency situations and to declare emergencies;

(*f*) to designate newspapers for required advertisements or notices; and

(*g*) to take any other actions specified as resolutions.

Section 2.7 - Nantucket County Review Committee.

The Nantucket county review committee shall consist of those persons then serving as the finance committee of the town of Nantucket.

It shall be the duty and responsibility of the Nantucket county review committee:

(*a*) to review every article applicable to county matters presented to an annual or special town meeting of the town of Nantucket in accordance with section 2.8 of this charter and to provide to such town meeting the committee's guidance and recommendations; and

(*b*) to approve every appropriation and transfer of money.

No appropriation of county funds nor transfer of money nor issuance of a grant pursuant to Article II shall be effective unless and until the same has been approved by the Nantucket county review committee or the denial of approval by the Nantucket county review committee has been overturned as provided in section 2.8(*c*).

Section 2.8 - Legislative Powers granted to Nantucket Town Meeting.

Notwithstanding any other provision of this charter, the following Article I legislative powers may be exercised exclusively by a town meeting of the town of Nantucket:

(*a*) to authorize by a two-thirds vote the issuance of county bonds or other county borrowing;

(*b*) to ratify or confirm by majority vote any petitions to the general court for special legislation applicable to Nantucket county; provided, however, that such petitions may be submitted to the general court in advance of and pending a vote of the next regularly scheduled town meeting, or may be submitted with the proviso that any legislation enacted as a result shall not take effect unless accepted by such town meeting;

(*c*) to fix by majority vote the amount of the county assessment to be imposed upon the town of Nantucket without regard to any limit contained in section twenty A of chapter fifty-nine of the General Laws; to vote to approve any county appropriation, transfer or grant for which approval has been denied by the Nantucket county review committee pursuant to section 2.7(*b*); provided, however, that an appropriate article shall have been placed upon the warrant in accordance with the General Laws; and

(*d*) to vote, by two-thirds vote, to repeal, amend, or veto any county ordinance adopted pursuant to section 2.5; provided, however, that a petition proposing such repeal or veto at the next annual or special town meeting shall have been signed by the number of voters required by the General Laws for inclusion of an article upon the warrant and is presented to the board of selectmen of the town of Nantucket within the time permitted for inclusion in the warrant for such meeting; and, provided further, that if such petition is filed

by the proponents thereof with the county clerk prior to the effective date as described in section 2.5, the ordinance shall not take effect, and the same shall be stayed, until after the vote of the town meeting.

Section 2.9 - Appointment Powers.

The five members performing the functions of the county commissioners shall appoint, on such terms and conditions of employment as deemed appropriate, and shall have the power to remove, a county administrator by a majority vote of those present and voting, and may create the office of, appoint and remove, an assistant county administrator by such a majority vote, such assistant to serve as acting county administrator during the temporary absence or disability of the county administrator.

All Article III appointments by the county administrator for which county commissioner confirmation is specified in this charter or in an administrative code which may be adopted hereunder shall not take effect without the advice and consent of the five members who serve as county commissioners.

ARTICLE III

Executive Functions.

Section 3.1 - Executive Powers.

The executive powers of the county shall be vested in the county administrator who shall, with the assistance of the various county department heads, be responsible for the enforcement of this charter, the county's legislative actions pursuant to Article II, and any General Laws applicable thereto.

It is the intent of Article II of this charter to confer on the five members who perform the legislative functions of county commissioners broad general legislative and investigative powers as are germane to the exercise of their legislative powers, but at the same time, by virtue of Article III, to retain to the executive branch of county government full control over county administration and of the administration of county services provided for in this charter. Accordingly, this charter seeks to establish clear lines between Article II legislative and Article III executive functions as follows: the five members who perform the legislative functions are to deal with individual Article III county employees only through the executive officials responsible for the overall executive management of the county's affairs as specified in Article III. All routine contact with Article III county employees, all actions and communications concerning the administration of the county's government and provisions of services shall be from the legislative branch to and through the county's executive officials.

Nothing in the foregoing nor in this charter shall be construed to prohibit informal, nondirective conversations of county commissioners with county officials, nor shall they prohibit inquiry by the legislative branch into any act or problem of county administration. Any of the five members who perform the functions of county commissioners may require a report on any aspect of the government of the county at any time by making a request therefor to the county administrator. The five members may, by majority vote, require the county administrator to appear before them sitting as a committee of the whole and to bring before them such records and reports and such officials and employees of the county as the

five members shall deem necessary to insure clarification of any legislative matter under study. The five members may further vote to establish any number of its members as an ad hoc committee to consult with the executive branch to study any matter and to report thereon.

Section 3.2 - County Administrator.

Unless the five members who perform the functions of county commissioners vote to appoint another, the county administrator shall be the person then serving as Nantucket town administrator or executive secretary. The person so appointed shall, by education, experience and ability, be qualified to perform the duties established for the position. Such person shall not be required to be a resident of the county at the time of appointment but shall become a resident thereof during the period of service to said county.

The county administrator shall be responsible to the five members who perform the functions of county commissioners, for the efficient administration of the county government and the proper implementation of legislation adopted pursuant to Article II. The county administrator shall have all the powers, rights and duties designated by the five members performing the functions of county commissioners or as commonly associated with the office of chief administrative officer of a local government unit and, in particular, in exercising the county's Article III powers, the county administrator:

(*a*) may require reports from and may examine the records, accounts and operations of any agency of county government and shall recommend whatever actions or programs necessary or desirable for the county, the welfare of its residents and visitors to the Islands;

(*b*) shall appoint the heads of all county administrative departments, other than those who are elected, with the advice and consent of the five members who perform the functions of county commissioners, and shall appoint all members of county committees and other county administrative personnel whose appointment is not prescribed elsewhere in this charter; and may, except as may be provided by the General Laws or any applicable civil service regulations, at the administrator's discretion remove, suspend or otherwise discipline any such appointee subject to the provisions of Article IV of this charter; and may, subject to any applicable provisions of the General Laws, delegate to any department head the county administrator's powers of appointment and removal of departmental employees;

(*c*) shall coordinate, with the director of county finance, the preparation, for submission to the five members performing the functions of county commissioners, of a proposed annual operating budget and a capital budget, and any proposal for budget amendment; and shall establish the schedules and procedures to be followed by all county departments and agencies in connection therewith and shall coordinate, with the director of county finance, all phases of the budgetary process throughout each fiscal year;

(*d*) may be present at all meetings of the five members who perform the functions of county commissioners and may participate in all deliberations, without the right to vote;

(*e*) shall insure through the office of the various county department heads adequate supervision, direction and control of all county administrative departments and the care and maintenance of all county properties, institutions and agencies;

(*f*) shall organize the work of the county departments, subject to this charter, the

General Laws and any administrative code adopted by the five members performing the functions of county commissioners, and make any recommendations pertaining thereto;

(*g*) shall review, analyze and forecast trends of county services and programs of all county departments and other agencies and make reports and recommendations thereon;

(*h*) shall negotiate contracts for the county with the approval of the five members performing the functions of county commissioners, including any county employment and union contracts;

(*i*) shall assure that all terms and conditions imposed in favor of the county or its inhabitants in any statute, franchise or contract are faithfully kept and performed;

(*j*) may order any county agency or department head to undertake tasks for any other county agency, on a temporary basis, if deemed necessary for proper and efficient administration;

(*k*) shall make recommendations to the five members who perform the functions of county commissioners for actions they might take for the improvement of the county and for the welfare of its residents and visitors to the Islands; and

(*l*) shall perform any other duties as may be required by this charter, by county ordinance or by majority vote of the five members performing the functions of county commissioners.

Section 3.3 - Executive: Department Heads.

The following administrative positions and offices, all holders of which shall be charged with the implementation of county legislation adopted pursuant to Article II and with the enforcement of the laws of the commonwealth, shall be included in the executive branch:

(*a*) *County Sheriff, Register of Probate, Clerk of Courts & Register of Deeds.*

Nothing in this charter shall alter, change or affect the positions of sheriff, register of probate, clerk of courts or register of deeds, who shall continue to remain elected county officials and shall perform their duties in accordance with the General Laws. Such officials shall provide such reports to the five members who perform the functions of county commissioners or the county administrator and shall coordinate through the county administrator with other county departments as necessary or desirable for the county to exercise the powers and perform the duties given by this charter.

(*b*) *Clerk to the Five members performing the functions of County Commissioners.*

The clerk to the five members performing the functions of county commissioners shall be the clerk of the superior court for Nantucket county.

(*c*) *Other County Officials.*

Nantucket county offices which have counterpart town offices as part of the town of Nantucket shall be deemed to be filled *ex officii* by the person holding the counterpart town office, including:

(*i*) the director of county finance who shall be that person duly appointed and serving as director of municipal finance for the town of Nantucket; and

(*ii*) the county treasurer who shall be that person duly appointed and serving as the town treasurer of the town of Nantucket.

The county clerk created and established in section 3.5 of this charter shall be that person duly elected or appointed and serving as the town clerk of the town of Nantucket. The assistant county clerk shall be that person duly elected or appointed and serving as the assistant town clerk of the town of Nantucket.

County counsel shall be that person duly appointed and serving as town counsel for the town of Nantucket.

Section 3.4 - Executive: Department of County Finance.

The department of county finance shall be headed by the director of county finance. The director may draw upon the personnel and equipment of the office of municipal finance of the town of Nantucket as needed, and shall be responsible for the management of all financial aspects of county government, including:

(*a*) the preparation of financial statements and reports, including periodic reporting to appropriate agencies on the status of accounts;

(*b*) the receipt of all funds due to the county or to be held by the county for other agencies;

(*c*) the management, investment and control of county funds;

(*d*) the expenditure of all such funds;

(*e*) the preparation of budgets for all county departments;

(*f*) the assistance to all other county departments and officials in any matter related to financial affairs;

(*g*) the supervision of all purchases of goods, materials, supplies and equipment and of contract administration, and to the extent that the director deems necessary, maintenance of inventory controls;

(*h*) the supervision of all data processing facilities; and

(*i*) such other matters as may be determined necessary by the five members performing the functions of county commissioners.

Section 3.5 - Executive: County Clerk.

There is hereby established the position and office of county clerk, separate and distinct from the clerk of courts and clerk to the five members performing the function of county commissioners, with the duties set forth in this charter. The county clerk shall have jurisdiction over all county records and, unless otherwise provided by law not to be a public record, shall assure that the same are available to the general public to the same extent as records of the town of Nantucket. The county clerk shall have jurisdiction over and may impress the county seal.

Section 3.6 - Executive: County Personnel Board.

The personnel board of Nantucket county shall consist of those persons then serving as the personnel board of the town of Nantucket in accordance with chapter two hundred and sixty-four of the acts of nineteen hundred and seventy-nine, which board shall be vested with all the rights, powers and duties given the county personnel board under the General Laws; provided, however, that notwithstanding such law or any other law to the contrary, the employees of the sheriff's department shall be served by such statewide sheriff's personnel board as may hereafter be designated by the general court for sheriffs' employees statewide.

Until such agency is designated, the five members serving the functions of county commissioners shall act as the sheriff's personnel board for the employees of the county sheriff's department.

ARTICLE IV

Personnel: Elections, Appointments and Dismissals.

Section 4.1 - Elections.

The regular elections of those county officers who are elected to their positions shall be held in conjunction with town elections except to the extent state law requires they be held in conjunction with biennial state elections. Nothing in this charter, except as may be provided generally for county governments by the General Laws, shall grant any power to remove or dismiss any elected county official.

Section 4.2 - Dismissal or Removal of Appointed Executive Branch Officials and Employees.

(*a*) No member who performs the function of county commissioner shall individually or collectively seek to influence the executive branch to dismiss any person from or to appoint or to promote any person to any position in the executive branch of county government, except that the five members may, by a resolution of disapproval adopted by a majority vote of those present and voting, prevent the dismissal or suspension or other discipline of county officials and employees as set forth in paragraph (b).

(*b*) Nantucket county, by legislative ordinance, may adopt an employee personnel grievance procedure providing for progressive discipline and a hearing on dismissals, suspensions or other discipline. Unless and until so adopted, the procedures set forth as follows shall apply:

(*i*) suspensions, dismissals or other discipline shall take effect immediately upon personal service of notice setting forth the order of suspension, dismissal or other discipline. However, if within seven days of such service the officer or employee in writing requests a public hearing on his dismissal, suspension, or discipline, the action taken shall be deemed to be a temporary suspension with pay until the individual to be suspended, disciplined or dismissed is given a public hearing before the five members who perform the functions of county commissioners.

(*ii*) if, within thirty-five days of receiving such written request, the five members shall pass a resolution of disapproval by a majority vote of those present and voting, all proceedings, and any suspension, discipline or dismissal of the individual, shall be voided, and for purposes of pay, seniority and civil service standing, the action shall be deemed never to have transpired. If no resolution of disapproval is passed, the suspension, discipline or dismissal shall take final effect.

Section 4.3 - Indemnification of County Officials.

The county shall indemnify and hold harmless all county officers, elected or appointed, from personal financial loss and expense including reasonable legal fees and costs, if any, to the same extent as municipal officials of the town of Nantucket are indemnified and held harmless by the town of Nantucket pursuant to section thirteen of chapter two hundred and fifty-eight of the General Laws. More particularly, the county shall

indemnify and hold harmless all such county officers from personal financial loss and expense including reasonable legal fees and costs, if any, in an amount not to exceed one million dollars, arising out of any claim, demand, suit or judgment by reason of any act or omission, except for an intentional violation of the civil rights of any person, if the official at the time of such act or omission was acting within the scope of his official duties or employment.

ARTICLE V

General Provisions.

Section 5.1 - Application of General Laws of the Commonwealth.

The provisions of this charter shall govern notwithstanding any law to the contrary; where not contrary to or inconsistent with the provisions of this charter, Nantucket county shall remain subject to the General Laws.

Section 5.2 - Fiscal Procedures.

Unless otherwise required by the General Laws, the fiscal year of the county shall begin on July first of the prior calendar year and end one year later on June thirtieth.

For each fiscal year the financial statements of the county shall be prepared and shall be annually audited by independent certified public accountants who shall be engaged for that purpose upon recommendation of the county administrator and approved by the five members who perform the functions of county commissioners. Such accountants may, but shall not be required to be the same accountants engaged by the town of Nantucket.

Section 5.3 - Repeal and modification of special laws pertaining to the County.

Chapter seventy-one of the acts of eighteen hundred and thirty-eight and section thirty-three of chapter twenty of the nineteen hundred and two Revised Laws of Massachusetts, shall be repealed and chapter two hundred and sixty-four of the acts of nineteen hundred and seventy-nine shall be modified, to the extent that such act is inconsistent with the provisions of this charter.

Section 5.4 - Transfers of records and property.

All records, property and equipment whatsoever of any agency or part thereof, the powers and duties of which are assigned in whole or in part to another county agency, shall be transferred forthwith to such agency. All public county records under the jurisdiction of the county clerk shall, upon written request, be transferred to and thereafter maintained in the office of the county clerk, which records shall include the original of this charter and any amendments thereto.

Section 5.5 - Specific prevails over general.

To the extent any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

Section 5.6 - Amendment of charter.

This charter may be revised or amended in accordance with the procedure set forth in either chapter thirty-four A of the General Laws or chapter three hundred and twenty-eight of the acts of nineteen hundred and ninety-two, and may be amended in accordance with the provisions of this section.

The five members who perform the functions of county commissioners may, by a

two-thirds vote, provide for the submission of any proposed amendment of this charter to the voters. Amendments proposed by the five members shall become effective if approved by a majority of the voters voting thereon at the next regular annual town election held more than one hundred and fifty days following the date of the vote of the five members.

Nothing in this section or in section 1.3(*b*) or in this charter taken as a whole shall be deemed to grant the power to effect any alteration, amendment or abolition of (*i*) the existence of the county of Nantucket as a county, (*ii*) the offices of the county sheriff, register of probate, clerk of courts or the county register of deeds, or (*iii*) the composition, mode of election or terms of office of the legislative body or of the county chair or vice-chair.

Section 5.7 - Time of taking effect.

This charter shall become effective on the first day of January or the first day of July, whichever next follows ratification of this charter by the voters of Nantucket county. All county agencies shall continue to perform their duties until re-appointed or re-elected or until successors to their respective positions are fully appointed or elected or until their duties have been transferred and assumed by another; provisions of this charter which differ materially from the present administrative practices affecting elected county department heads and their employees shall come into effect upon the respective end of the current term of the elected incumbent department head.

Any person holding a county office or employment under the county shall continue to retain such office or such employment and shall continue to perform the duties of the office or of the employment until such time as provisions shall have been made in accordance with this charter for the performance of such duties by another person or agency. No person in the permanent, full time service or employment of the county shall forfeit pay grade or time in service by reason solely of the adoption of this charter. All such persons, unless removed in accordance with this charter, shall be retained in an employment capacity as similar to their former employment capacity as is feasible.

SECTION 5. Chapter seven of the acts of eighteen hundred and thirty-eight is hereby repealed.

SECTION 6. Section thirty-three of chapter twenty of the nineteen hundred and two Revised Laws of Massachusetts is hereby repealed.

SECTION 7. To the extent that any provision of this act is inconsistent with any of the provisions of chapter two hundred and sixty-four of the acts of nineteen hundred and seventy-nine, the provisions of this act shall apply.

Approved August 8, 1996.

Chapter 291. AN ACT RELATIVE TO SEX EDUCATION.

Be it enacted, etc., as follows:

Chapter 71 of the General Laws is hereby amended by inserting after section 32 the

following section:-

Section 32A. Every city, town, regional school district or vocational school district implementing or maintaining curriculum which primarily involves human sexual education or human sexuality issues shall adopt a policy ensuring parental/guardian notification. Such policy shall afford parents or guardians the flexibility to exempt their children from any portion of said curriculum through written notification to the school principal. No child so exempted shall be penalized by reason of such exemption.

Said policy shall be in writing, formally adopted by the school committee as a school district policy and distributed by September first, nineteen hundred and ninety-seven, and each year thereafter to each principal in the district. A copy of each school district's policy must be sent to the department of education after adoption.

To the extent practicable, program instruction materials for said curricula shall be made reasonably accessible to parents, guardians, educators, school administrators, and others for inspection and review.

The department of education shall promulgate regulations for adjudicatory proceedings to resolve any and all disputes arising under this section.

Approved August 9, 1996.

Chapter 292. AN ACT PROVIDING FOR AN EARLY RETIREMENT INCENTIVE PROGRAM FOR ANN BYRD SCHUMER.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any special law to the contrary and in order to promote the public good, the state board of retirement is hereby authorized and directed to accept an application for the retirement incentive program, established by chapter twenty-two of the acts of nineteen hundred and ninety-two, as submitted by Ann Byrd Schumer, for the purposes 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 Ann Byrd Schumer shall thereupon receive such increased allowance together with an amount equal to the difference between the allowance said Ann Byrd Schumer received from the date of retirement to the date of recalculation and the amount of the allowance which said Ann Byrd Schumer would have received had such recalculation allowance been paid to said Ann Byrd Schumer from the date of retirement.

Approved August 9, 1996.

Chapter 293. AN ACT AUTHORIZING LICENSED MENTAL HEALTH COUNSELORS TO RECEIVE CERTAIN INSURANCE PAYMENTS.

Be it enacted, etc., as follows:

SECTION 1. Paragraph (c) of section 47B of chapter 175 of the General Laws, as amended by section 1 of chapter 8 of the acts of 1996, is hereby further amended by striking out clause (4) and inserting in place thereof the following clause:- (4) consultations or diagnostic or treatment sessions; provided, however, that such services under this clause are rendered by a psychotherapist or by a psychologist or licensed independent clinical social worker licensed under the provisions of chapter one hundred and twelve, or by a mental health counselor licensed under the provisions of said chapter one hundred and twelve, or by a clinical specialist in psychiatric and mental health nursing certified under the provisions of said chapter one hundred and twelve; and provided, further, that such services are within the lawful scope of practice for such certified clinical specialist.

SECTION 2. Paragraph (c) of section 8A of chapter 176A of General Laws, as amended by section 5 of said chapter 8, is hereby further amended by striking out clause (4) and inserting in place thereof the following clause:- (4) consultations or diagnostic treatment sessions; provided, however, that such services under this clause are rendered by a psychotherapist or a psychologist or licensed independent clinical social worker licensed under the provisions of chapter one hundred and twelve, or by a mental health counselor licensed under the provisions of said chapter one hundred and twelve, or by a clinical specialist in psychiatric and mental health nursing certified under the provisions of said chapter one hundred and twelve; and provided, further, that such services are within the lawful scope of practice for such certified clinical specialist. For the purpose of this clause "psychotherapist" shall mean a person fully licensed to practice medicine under the provisions of said chapter one hundred and twelve, who devotes a substantial portion of his time to the practice of psychiatry.

SECTION 3. Paragraph (c) of section 4A of chapter 176B of the General Laws, as amended by section 7 of said chapter 8, is hereby further amended by striking out clause (4) and inserting in place thereof the following clause:- (4) consultations or diagnostic or treatment sessions; provided, however, that such services under this clause are rendered by a psychotherapist, psychologist, a licensed independent clinical social worker, a mental health counselor, or a clinical specialist in psychiatric and mental health nursing when such services are within the lawful scope of practice of such certified clinical specialist; provided, further, that each provider rendering services under this clause agrees in writing with a medical services corporation pursuant to sections four, seven and thirteen to render mental health services for subscribers and covered dependents and to abide by the by-laws, rules and regulations of such corporation; and provided, further, that each provider is licensed under the provisions of chapter one hundred and twelve. For purposes of this clause "psychotherapist" shall mean a person fully licensed to practice medicine under the provisions of said chapter one hundred and twelve, who devotes a substantial portion of his time to the practice of psychiatry.

SECTION 4. The first paragraph of section 4 of chapter 176G of the General Laws,

as appearing in the 1994 Official Edition, is hereby amended by adding the following sentence:- Coverage for services as set forth in clause (4) of paragraph (c) of section forty-seven B of chapter one hundred and seventy-five rendered by a mental health counselor licensed under the provisions of chapter one hundred and twelve shall be subject to the terms of a negotiated agreement between a health maintenance organization and a mental health counselor.

Approved August 9, 1996.

Chapter 294. AN ACT PROVIDING FOR CAPITAL OUTLAYS FOR THE ACQUISITION, UPGRADING, DEVELOPMENT, AND IMPLEMENTATION OF COMPREHENSIVE INTEGRATED INFORMATION TECHNOLOGY SYSTEMS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for capital outlays to enhance the efficiency of state government, 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 a program for the design, acquisition, and upgrading of major computer systems, and for certain other activities and projects, the sums set forth in section two of 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 FOR ADMINISTRATION AND FINANCE.

Division of Information Technology.

1790-8977 For a reserve to fund the acquisition, upgrading, development, and implementation of comprehensive major information technology systems for certain departments of the government of the commonwealth, including the purchase and installation of certain computer and data processing equipment, and for costs associated with planning, certain software development projects and related implementation costs, including the salaries and other personnel costs of staff assigned to said projects; provided, however, that an amount not to exceed two million two hundred thousand dollars may be expended for the district attorney database development project, so-called, of the district attorneys association; provided, further, that an amount not to exceed four million five hundred thousand dollars may be expended on the integrated legal and criminal justice information system of the executive office of

public safety, or ILCJIS, so-called; provided, further, that an amount not to exceed two million four hundred thousand dollars may be expended on a firearm licensing and imaging project of the executive office of public safety, or FLIP, so-called; provided, further, that an amount not to exceed five million dollars may be expended for NCIC-2000 workstations of the criminal history systems board; provided, further, that an amount not to exceed four million dollars may be expended on the re-engineering of the systems of the criminal history systems board; provided, further, that an amount not to exceed twelve million dollars may be expended on a state police information network of the state police department, or SPIN, so-called; provided, further, that an amount not to exceed eight million eight hundred thousand dollars may be expended on the inmate record imaging and archiving project of the department of correction; provided, further, that an amount not to exceed six hundred fifty thousand dollars may be expended to create an interface with district courts relating to driving under the influence to systems of the registry of motor vehicles; provided, further, that an amount not to exceed four hundred twenty thousand dollars may be expended for an automated testing system, so-called, of the registry of motor vehicles; provided, further, that an amount not to exceed forty thousand dollars may be expended to expand the automated booking system of the Massachusetts bay transportation authority police department; provided, further, that an amount not to exceed five million dollars may be expended on statewide law enforcement technology training centers for the executive office of public safety for the purpose of training law enforcement recruits in modern law enforcement technology; provided, further, that said statewide law enforcement technology training centers shall be established at all state, regional and municipal police training schools which can support a minimum of thirty law enforcement recruits and which the executive office of public safety and the division of information technology determine to have adequate space and facilities to implement computers and related equipment; provided, further, that law enforcement recruits receiving basic training at any regional or municipal police training school which does not qualify as a law enforcement technology training center shall attend the nearest regional or municipal training school designated as a law enforcement technology training site for the purpose of receiving a course of instruction in law enforcement technology; provided, further, that

no funds shall be expended from this item until a plan detailing said expenditures is submitted to the house and senate committees on ways and means and the house and senate committees on science and technology; and provided, further, that procurements made for the purposes of the projects funded herein shall satisfy the standards set by the governor's advisory council on information technology standards, or the GACIT standards, so-called $45,010,000

1790-8978 For a reserve to fund the acquisition, upgrading, development, and implementation of comprehensive major information technology systems for certain departments of the commonwealth, including the purchase and installation of certain computer and data processing equipment, and for costs associated with planning, certain software development projects and related implementation costs, including the salaries and other personnel costs of staff assigned to said projects; provided, however, that the division of information technology shall implement statewide comprehensive integrated information systems within and between the offices of the departments of the state government of the commonwealth, to the extent possible, which is intended, among other purposes, to allow for the exchange of information within and between said departments, other state agencies, and the public that interact with said departments; provided, further, that an amount not to exceed eleven million dollars may be expended to provide oversight and coordination by the division of information technology to all projects and systems funded herein; provided, further, that an amount not to exceed thirty-two million eight hundred and ninety thousand dollars may be expended on a Massachusetts access to government network project of the division of information technology, or MAGNET, so-called; provided, further, than an amount not to exceed three million dollars may be expended on a project to provide data interchange and system interoperability to reduce costs and increase revenues across multiple programs and departments by the division of information technology, or project intercept, so-called; provided, further, an amount not to exceed sixteen million dollars may be expended for major information technology systems development projects at the division of information technology; provided, further, that an amount not to exceed nine million two hundred and fifty thousand dollars may be expended to provide backup disaster recovery to the computer operations of the department of revenue; provided, further, that an amount not to exceed five

million one hundred and seventy thousand dollars may be expended to develop and implement a client server network of the department of revenue; provided, further, that an amount not to exceed three million fifty thousand dollars may be expended for the application of imaging and workflow technology to the operation of the department of revenue; provided, further, that an amount not to exceed two million six hundred and forty thousand dollars may be expended to expand mass storage capacity of the computer operations of the department of revenue; provided, further, that an amount not to exceed one million seven hundred and sixty-seven thousand dollars may be expended for the application for the robotics tape technology to the computer operations of the department of revenue; provided, further, that an amount not to exceed eight hundred and twenty thousand dollars may be expended to expand interactive voice/data systems for taxpayer services of the department of revenue; provided, further, that an amount not to exceed one million three hundred and twenty thousand dollars may be expended on a project to automate and enhance collections of the department of revenue, or the automated collection system, so-called; provided, further, that an amount not to exceed five hundred and seventy thousand dollars may be expended to enhance the audit capacity of the department of revenue, or the auditors workbench project, so-called; provided, further, that an amount not to exceed five hundred thousand dollars may be expended for a laser printer upgrade of the department of revenue; provided, further, that an amount not to exceed four hundred and forty thousand dollars may be expended for an executive information system of the department of revenue, or the EIS project, so-called; provided, further, that an amount not to exceed two hundred and sixty thousand dollars may be expended to enhance the wage reporting system for new hires at the department of revenue; provided, further, that an amount not to exceed two hundred and twenty thousand dollars may be expended for the application of artificial intelligence technology of the department of revenue; provided, further, that an amount not to exceed eighty thousand dollars may be expended for the automation of the George Fingold Library; provided, further, that an amount not to exceed two hundred thousand dollars may be expended to expand the community housing opportunity enforcement system of the Massachusetts commission against discrimination; provided, further, that an amount not to exceed thirty million dollars may be expended on

the electronic commerce project, so-called, of the office of the comptroller, and federal reimbursements received by the commonwealth on account of this project of electronic commerce shall be credited as unrestricted revenue to the General Capital Projects Fund; provided, further, that an amount not to exceed two million two hundred thousand dollars shall be expended for various automation projects for the house of representatives; provided further, that two million two hundred thousand dollars shall be expended for various automation projects for the senate, including two hundred thousand dollars which shall be expended for the development of a video conferencing system for the senate; provided, further, that an amount not to exceed nine hundred and eighty thousand dollars may be expended to enhance the automation for oversight and fee collection of the public charities division of the office of the attorney general; provided, further, that an amount not to exceed one million sixty thousand dollars may be expended for the systems migration project of the office of the attorney general; provided, further, that an amount not to exceed three million dollars may be expended for the automation of audit preparation and office activities of the office of the state auditor; provided, further, that an amount not to exceed four million dollars may be expended for various system migration and integration activities of the secretary of state; provided, further, that an amount not to exceed four million five hundred thousand dollars may be expended to create an integrated licensing and document management system of the executive office of consumer affairs; provided, further, that an amount not to exceed two million two hundred and fifty thousand dollars may be expended on the massbusnet project, so-called, of the department of economic development; provided, further, that an amount not to exceed one hundred and fifty thousand dollars may be expended to enhance telecommunications and computerization of the state office of women and minority businesses assistance; provided, further, that an amount not to exceed three million seven hundred and ten thousand dollars may be expended for the workforce development network, so-called, of the department of economic development; provided, further, that an amount not to exceed six hundred thousand dollars may be expended on a human resources investment information/ placement accountability system, so-called, of the department of economic development; provided, further, that an amount not to exceed four hundred thousand dollars may be expended for the

expansion of the home care management information system of the executive office of elder affairs, or HOMIS, so-called; provided, further, that an amount not to exceed one million ninety thousand dollars may be expended for an environmental police mobile network of the executive office of environmental affairs; provided, further, that not more than two million dollars may be expended for a permit streamlining information system of the executive office of environmental affairs; provided, further, that an amount not to exceed five hundred thousand dollars may be expended on a project of the executive office of environmental affairs to create an electronic interface to the billing and accounts receivable system of the state comptroller; provided, further, that an amount not to exceed three million dollars may be expended to create a facility based information system, so-called, of the executive office of environmental affairs; provided, further, that an amount not to exceed two million six hundred and seventy thousand dollars may be expended to create a system for on-line environmental licensing and reservations of the executive office of environmental affairs; provided, further, that an amount not to exceed five million dollars may be expended for a digital parcel base map project, so-called, of the executive office of environmental affairs; provided, further, that an amount not to exceed one million dollars may be expended on a client fiscal management system, so-called, of the department of housing and community development; provided, further, that an amount not to exceed five million dollars may be expended on various system integration projects of the executive office of health and human services; provided, further, that an amount not to exceed seven hundred and ninety thousand dollars may be expended to implement the priority reporting integrated system match of the department of transitional assistance, or PRISM, so-called; provided, further, that an amount not to exceed six million dollars may be expended to further enhance the automated benefit eligibility and control on-line network, or the BEACON project, so-called, of the department of transitional assistance, said amount to be in addition to amounts appropriated in item 4400-1111, and federal reimbursements received by the commonwealth on account of this additional six million dollars appropriation shall be credited as unrestricted revenue to the General Capital Projects Fund; provided, further, that an amount not to exceed one hundred and thirty thousand dollars may be expended on a consortium of northeastern states project of the

department of labor and workforce development, or CONES, so-called; provided, further, that an amount not to exceed two hundred and fifty thousand dollars may be expended for systems upgrades at the office of the inspector general; provided, further, that an amount not to exceed one million seven hundred and forty thousand dollars may be expended for the automation of the committee for public counsel services; provided, further, that an amount not to exceed five million dollars may be expended for the automation of the department of mental health; provided, further, that the secretary for administration and finance, on the recommendation of the division of information technology, may require initial or periodic approval processes, or project set-asides, for the purpose of ensuring the successful implementation of systems funded herein and the ability of such systems to interoperate where appropriate; provided, further, that no funds shall be expended from this item until a plan detailing said expenditures is submitted to the house and senate committees on ways and means and the house and senate committees on science and technology; provided further that, not less than four hundred fifty thousand dollars shall be expended to the Massachusetts Career Development Institute for educational and technical programming technologies; and, provided further, that not less than one million dollars shall be expended for regional economic development projects relative to telecommunications $179,397,000

1790-8979 For a reserve to fund the planning, design, acquisition, implementation and oversight of educational technology projects; provided, however, that not more than twelve million dollars may be expended on the acquisition, configuration, and installation of so-called community communication servers or other equipment or software needed to connect local networks to external networks for district and statewide connectivity, provided that preference shall be given to school districts who do not have connectivity to district or statewide networks; provided further, that not more than six million dollars may be expended on improvements to the commonwealths education technology network infrastructure, provided that ongoing costs shall be shared among the school districts utilizing said network; provided further, that not more than two million dollars may be expended for the state education information management system for the department of education; provided further, that not more than three million dollars may be expended on the conversion of three full-power noncommercial educational television stations provid-

ing free, accessible services to schools, homes, and organizations within and throughout the commonwealth, to digital broadcast advanced television capabilities, for the purpose of providing education and public interest programming and services, with said investment to be matched by the recipient; provided further, that not more than five hundred thousand dollars may be expended for the board of higher education to conduct systemwide planning for educational information technology at all public state and community colleges; provided further, that not more than twelve million dollars may be expended for campus infrastructure upgrades at all public state and community colleges; provided further, that no less than two hundred and fifty thousand dollars may be expended on the John Joseph Moakley Center for Technological Applications at Bridgewater State College for equipment and technology programs; provided, further, that not less than five hundred twenty thousand dollars shall be expended for Berkshire Community College for the costs associated with, but not limited to, the acquisition and upgrading of computer systems, including the purchase and installation of computer and data processing equipment and costs associated with the purchase and installation of certain software; provided, however, no funds shall be distributed for campus infrastructure upgrades until the board of higher education has completed said systemwide plan and said plan has been approved by the division of information technology; provided further, that not more than five hundred thousand dollars may be expended for the design of a state higher education information system for the board of higher education; provided further, that not more than five million dollars may be expended for information technology at all public state and community college campus libraries; provided further, that an amount not to exceed five million dollars may be expended on the public library for the twenty-first century project, so-called, of the university of Massachusetts; provided further, that an amount not to exceed five million dollars may be expended on the Massachusetts information turnpike initiative, so-called, of the university of Massachusetts; provided, further, that initiative shall include Berkshire county; provided further, that an amount not to exceed five million dollars may be expended for distance learning across all campuses of the university of Massachusetts; provided further, that the university of Massachusetts is hereby authorized and directed to collaborate with the public state and community college system for the

purpose of sharing technical educational applications; and provided further, that not more than thirty million dollars may be expended for matching grants to encourage and support local investments in education technology projects by school districts, regional school districts, charter school, and where applicable, educational collaboratives, who shall submit local technology plans to the department of education for approval no later than July first, nineteen hundred and ninety-seven. Said local technology plan shall identify a demonstration of broad-based community involvement and coordination with community resources; a clear vision statement with realistic goals describing how technology will be employed to enhance the education curriculum, professional development, classroom and school management, and equal access for all students; an inventory of current technology, a summary of recent expenditures and an assessment of technology skills among students, teachers and school administrators; a description of the hardware, software, and personnel initiatives that will be used to implement the plan over the succeeding five years following submission of the plan, including potential sources of funding and cost estimates; a specific plan for the first year of implementation; and a description of how the plan shall be monitored, evaluated, and, where applicable, revised; provided further, that within the city of Cambridge, schools categorized as being level one and level two in the Free or Reduced Lunch Program as of December thirty-first, nineteen hundred and ninety-five shall receive funds under the provisions of this act before any other school in the city of Cambridge; provided further, that anticipated capital spending levels in excess of thirty dollars per student contained within each local technology plan shall not be eligible for matching grant funds, and any such capital expenditures exceeding a spending level of thirty dollars per student shall be borne by the applicant school district, regional school district, charter school, or educational collaborative; provided further, that no grant funds shall be expended for administrative, personnel, and other operational costs; provided further, that each grant awarded herein shall be matched by the recipient from all sources, including local, federal or private resources; provided further, that fifty percent of all educational technology expenditures, including related administrative and operational costs, made in the fiscal year prior to the submission of the local technology plan by a school district, regional school district, charter school, or educa-

tional collaborative, shall be used for purposes of determining its local match, and one hundred percent of all educational technology expenditures, including related administrative and operational costs, made in the fiscal year within which occurs the submission of the local technology plan by a school district, regional school district, charter school, or educational collaborative, shall be used for purposes of determining its local match; provided further, that the department of education shall submit a report detailing the amount of grants awarded to grant recipients and descriptions of said projects to the house and senate committees on ways and means and the house and senate committees on science and technology; provided, further that fifty thousand dollars be expended for the proposed Stephen Palazzo Computer Center in the Bernardston elementary school in the town of Bernardston; provided further, that said matching resources do not exceed a ratio of three to one; and provided further, that the department of education shall ensure that said matching resources do not place an unreasonable financial burden upon grant recipients, based upon a recipients' available financial resources $86,000,000

University of Massachusetts, Dartmouth.

7100-0200 For the upgrade and acquisition of computers and related equipment $910,000

Bristol Community College.

7503-0200 For upgrade and acquisition of computers and related equipment $1,900,000

SECTION 3. To meet the expenditures necessary in carrying out the provisions of section two, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth to an amount specified by the governor from time to time, not exceeding, in the aggregate, three hundred two million two hundred and seventeen thousand dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Information Technology Loan Act of 1996, and shall be issued for a maximum term, not exceeding seven years, as the governor may recommend to the general court pursuant to section three 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 fifteen. 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 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 purposes 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 times and at such rates

as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with section three of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, two thousand and three. 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 5. Expenditures of funds for the purpose of section two shall be based upon schedules prepared by the division of information technology and submitted to the secretary for administration and finance, the house and senate committees on ways and means, and the house and senate committees on science and technology thirty days prior to the obligation of said funds. Said office is hereby further authorized and directed to file annually with said committees, commencing not later than September first, nineteen hundred and ninety-six, an accounting of expenditures for said projects contained in section two for the prior fiscal year, including, but not limited to an accounting of the amount expended for hardware, software and personnel, an assessment of whether such project is within budget and on schedule for completion, and an explanation of any deviations in completion timetables and funding needs that were originally established for such projects. Said office shall simultaneously file with said committees and said secretary a spending plan identifying projected expenditures on such projects in the current fiscal year, including but not limited to, expenditures by type, and projected milestones and completion schedules.

SECTION 6. Item 4400-1111 of section 2A of chapter 194 of the acts of 1992 is hereby amended by striking out, in line 14, the word "twenty-one" and inserting in place thereof the following word:- fifteen.

SECTION 7. Section 4 of said chapter 194 is hereby amended by striking out, in lines 4 and 5, the words "eleven million three" and inserting in place thereof the following words:- seventeen million eight.

SECTION 8. Notwithstanding the provisions of any general or special law to the contrary, whenever an office, bureau, board, division or department is transferred or renamed, or the functions thereof are transferred pursuant to an act effective subsequent to the effective date of this act, all projects funded in section two shall be transferred to the successor office, bureau, board, division or department established by operation of such subsequent act.

SECTION 9. The chief justice for administration and management of the trial court is hereby authorized and directed to conduct a study of the process of electronic imaging and electronic images of public records, criminal records, and financial and business records including, but not limited to, usage and admissibility in a court of law of the electronic image for evidentiary purposes, the validity and reliability of electronic records imaging, time and cost savings as to electronic records imaging, current and future technology of electronic imaging, the preservation of the electronic image as a public record of the original document, the necessity to preserve the original document for record-keeping purposes, and privacy and

security of confidential information. The chief justice for administration and management of the trial court shall report the results of said study, together with recommendations to ensure the appropriate response to the technology of electronic imaging of records, to the joint committee on the judiciary, senate and house committees on science and technology, and the house and senate committees on ways and means no later than December thirty-first, nineteen hundred and ninety-six.

SECTION 10. Notwithstanding the provisions of any general or special law to the contrary, the division of information technology shall maximize the use of the public institutions of higher education when providing training on matters pertaining to information technology to employees of the commonwealth.

SECTION 11.

ESTABLISHING THE MYSTIC VALLEY DEVELOPMENT COMMISSION

(a) The following words, whenever used in this section shall have the following meanings:

"Blighted open area", a predominantly open area which is detrimental to the safety, health or sound growth of a community and which is predominantly open because it is unduly costly to develop it soundly through the ordinary operations of private enterprise. Factors which might make an area unduly expensive to develop include, but are not limited to: existence of hazardous materials or other contaminants, existence of ledge, rock, unsuitable soil, or other physical conditions, need for unduly expensive excavation, fill or grading, need for unduly expensive foundations or retaining walls, need for unduly expensive waterproofing, drainage or flood prevention measures, need for unduly expensive measures to protect adjacent areas and the water tables therein, need for unduly expensive measure incident to building around or over rights-of-way through the area, existence of obsolete, inappropriate or otherwise faulty platting or subdividing, deterioration of site improvements or facilities, division of the area by rights-of-way, diversity of ownership, inadequate transportation facilities, inadequate systems, and special assessments delinquencies, a substantial change in business or economic conditions or practices, an abandonment or cessation of work begun on improvements, any combination of the above, or any other condition or conditions which are detrimental to the safety, health, morals or sound growth of a community.

"Commission", the Mystic Valley Development Commission, a public body politic and corporate created pursuant to subsection three.

"Decadent area", an area which is detrimental to the safety, health or sound growth of a community because of the existence of buildings which are physically deteriorated, unfit for human habitation, obsolete, or in need of major maintenance, or renovation, or repair, or because of much of the real estate in recent years has been sold or taken for nonpayment of taxes or upon foreclosure of mortgages, or because buildings have been torn down and not replaced and in which under existing conditions it is improbable that the buildings will be replaced, or because of a substantial change in business or economic conditions, or because of inadequate light, air or open space, or because of excessive land coverage, or because diversity of ownership, irregular lot sizes or obsolete street patterns make it improbable that

the area will be redeveloped by the ordinary operations of private enterprise, or by reason of any combination of the foregoing conditions.

"Department", division of housing and community development.

"Federal government", the United States of America, and any agency or instrumentality corporate or otherwise of the United States of America.

"Federal legislation", any legislation of the congress of the United States relating to federal assistance for clearance of decadent or blighted open areas, city or regional planning, economic development, rehabilitation, relocation or any related matters, and any regulations authorized thereunder.

"Municipal officers", the city council with the approval of the mayor. The municipal officers are hereby designated as the local governing body for purposes of any approval or action of such body required by federal legislation.

"Participating cities", such of the cities of Malden, Medford and Everett as accept the provisions of this section pursuant to subsection three hereof.

"Plan", the detailed plan, as it may exist from time to time, for the project, which plan may comply with all requirements from time to time prescribed by federal legislation in order to qualify the project for federal financial assistance. The plan shall be sufficiently complete (a) to locate the boundaries of the project area, (b) to indicate such land acquisition, demolition, removal, rehabilitation of structures, redevelopment and general public improvements as may be proposed to be carried out within the project area, (c) to specify zoning and planning changes, if any, and proposed land uses, maximum densities and building requirements and (d) to establish an assessment and collection plan for implementation by the commission, for the assessing of proportional and reasonable property taxes, betterment assessments and other fees and charges which can be levied or assessed by municipalities under the General Laws of the commonwealth against lands held by or acquired from the commission. The plan shall indicate or be accompanied by materials indicating the proposed method for relocation of persons and organizations to be displaced by the project.

"Project", the Mystic Valley Development Project, a project to be undertaken in accordance with the plan (1) for the development of an industrial and office park through the collaboration of government at all levels, public and private institutions of higher education, and private enterprise; which park may include, among other activities, facilities for the carrying on of research and development and production of innovative and advanced communication technologies, and (2) for the elimination of and for the prevention of the spread of decadent or blighted open areas included within the project area and covered by the plan through the development of the industrial and office park within the project area, including the restoration and renewal of portions of such area by a program of voluntary repair and rehabilitation of buildings or other improvements or by the acquisition by gift, purchase or eminent domain of land and improvements thereon, if any, and demolition, removal, rehabilitation or reconstruction of any such improvements whenever necessary to permit the development of the industrial and office park. "Project" may also include the provision of financial and other assistance in the relocation of persons and organizations

displaced as a result of carrying out the project, the installation, construction or reconstruction of public and private ways, public utilities and services, off-street parking lots, traffic systems and other like improvements necessary for carrying out the objectives of the project, together with such site improvements as are necessary for the preparation of any sites for uses in accordance with the plan, and making any land or improvements acquired in the area of the project available for redevelopment or rehabilitation by private enterprise or public charitable agencies, including sale by the commission itself for commercial, industrial, public, charitable or other uses in accordance with the plan. The term "redevelopment" shall include "development".

"Project area", those portions of the areas in the cities of Malden, Medford and Everett which are within the boundaries of the parcel shown on the plan entitled "Massachusetts Communications Technology Park - Everett - Malden - Medford" prepared by Cecil & Rizvi, Incorporated, Dated October tenth, nineteen hundred and ninety-five (the "project map").

"Relocation payments", payments whether or not required by federal legislation made by the commission as reimbursement or compensation for the reasonable moving expenses necessarily incurred and any actual, direct loss of property, except good will or profit, suffered by individuals, families, business concerns and nonprofit organizations, resulting from displacement, if such displacement is reasonably required to carry out the plan or because of the acquisition of property by the commission. Such relocation payments shall not include reimbursement or compensation for any expenses or losses for which reimbursement or compensation would be otherwise made, nor shall any person have any right of action for relocation payments, except as provided by federal legislation or chapter seventy-nine A.

(b) The provisions of this section are hereby declared to be severable and if any such provision or the application of such provision to any person or circumstances shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed to affect the validity or constitutionality of any of the remaining provisions of this section or application of such provision to persons or circumstances other than those as to which it is held invalid. It is hereby declared to be the legislative intent that this section would have been adopted had such invalid or unconstitutional provisions not been included therein.

(c) There is hereby created a public body politic and corporate to be known as the Mystic Valley Development Commission which shall consist of members from at least two of the participating cities; provided that the legal existence of the commission shall not commence unless and until on or before December thirty-first, nineteen hundred and ninety-six, the municipal officers of at least two of the participating cities shall have voted to accept the provisions of this section. Any participating city which has not accepted the provisions of this section on or before such date, may thereafter, with the consent of the municipal officers of each of the cities previously voting to accept the provisions of this section, accept the provisions of this section and become part of the commission.

(d) The commission shall be managed, controlled and governed by a board of either five or seven members selected and serving as provided in this subsection.

(1) The mayor of each participating city and one designee appointed by the mayor from time to time shall each serve as a member of the board of the commission; provided, however, that the mayor shall have the right to appoint an individual to act as a member of the board in the stead of the mayor. The mayor shall have the right to change any such appointment during the balance of the mayor's existing term.

(2) The governor or his designee shall serve as an ex officio member of the board.

(3) In the event that only two cities accept the provisions of this section, the board of the commission shall consist of five members. When the board consists of five members, three members shall constitute a quorum. In the event that three cities accept the provisions of this section, the board of the commission shall consist of seven members, of whom five shall constitute a quorum.

(4) Any person assuming the position of a member of the commission shall file a certificate of such assumption with the department. If the department finds that the commission has been duly organized and constituted, the department shall issue a certificate of organization to the commission and such certificate shall be conclusive evidence of the lawful organization of the commission and of the appointment of the members thereof. Every member shall serve until the qualification of his or her successor. Whenever the membership of the commission is changed by appointment, election, resignation or removal, a certificate and duplicate certificate to that effect shall be promptly so filed. A certificate so filed shall be conclusive evidence of the change in membership of the commission referred to therein.

(5) Notwithstanding anything in this section to the contrary:

(i) the mayor of each participating city shall have an absolute veto power over any action by the commission as that action applies to that city, the city council of that city having no power to override such veto. This veto shall be exercised within thirty days of the commission's taking such action.

(ii) no action taken by the commission shall be binding on any participating city unless all commission members representing such city vote to approve such action as it applies to such city;

(iii) no commission member representing one participating city shall have the right to act to prevent the commission from taking any action with respect to the other participating cities.

(e) The commission shall elect from among its members a chairman and a vice chairman, and a secretary and treasurer. Each member shall serve without compensation. The commission may employ counsel, an executive director and such other officers, agents and employees as it deems necessary or proper. The commission shall have the right to contract with any public agency qualified and authorized to carry out urban redevelopment activities, as set forth in subsection (s), to carry out the functions of the commission and to act as the agent of the commission. The commission may delegate to such agent such powers and duties as said commission deems necessary or proper for the carrying out of any action determined to be undertaken by said commission.

(f) The commission shall have the following powers:

(1) to sue and be sued; to have a seal; to have corporate succession;

(2) to act as agent of, or to cooperate with the federal government in any project which it is authorized to undertake;

(3) to receive loans, grants and annual or other contributions from the federal government or from any other source, public or private;

(4) to take by eminent domain under chapter seventy-nine or chapter eighty A property which is a blighted, open or decadent area within a participating city which property has been designated as property to be taken under the plan, provided that the mayor of such participating city has authorized the commission to exercise such power with respect to such property, or;

(5) to acquire by purchase, lease, gift, bequest or grant, and hold, clear, repair, or operate any property, real or personal, or any interest therein, found by it to be necessary or reasonably required to carry out the purposes of this section, or any of its sections; and to sell, exchange, transfer, lease or assign the same, provided, that in case of a taking by eminent domain under said chapter seventy-nine, the provisions of section forty of said chapter shall be applicable, except that the security therein required shall be deposited with the mayor of the city in which the property to be taken is situated. Except as herein otherwise provided, the provisions of chapters seventy-nine and eighty A relative to counties, cities, towns and districts, so far as pertinent, shall apply to the commission and the members of the commission shall act on its behalf under those chapters.

(6) to clear and/or improve any property acquired by it;

(7) to engage in or contract for the construction, reconstruction, alteration, remodeling or repair on any property acquired by it;

(8) to make relocation payments to persons and businesses displaced as a result of carrying out the project;

(9) to borrow money for any of its purposes upon the security of its bonds, notes or other evidences of indebtedness, and to secure the same by mortgages upon property held or to be held by it or by pledge of its revenue, including without limitation grants or contributions by the federal government, or in any other lawful manner, and in connection with the incurrence of any indebtedness to covenant that it shall not hereafter mortgage the whole or any specified part of its property or pledge the whole or any specified part of its revenues;

(10) to invest in securities legal for the investment of funds of savings banks any funds held by it and not required for immediate disbursement;

(11) to enter into agreements with the federal government and with the participating cities containing such covenants, terms and conditions as the commission may deem desirable;

(12) to enter into, execute and carry out contracts and all other instruments necessary or convenient to the exercise of the powers granted in this section;

(13) to make, and from time to time amend or repeal, subject to the approval of the department, by-laws, rules and regulations, not inconsistent with pertinent rules and regulations of the department to govern its proceedings and effectuate the purposes of this

act;

(14) to determine what areas within its jurisdiction constitute decadent or blighted open areas with the concurrence of the mayor of the participating city in which such areas are located;

(15) to prepare the plan for the clearance and development, or conservation and rehabilitation of decadent or blighted open areas for purposes of the project, including a program of voluntary repair and rehabilitation of buildings and improvements and a program for the demolition and removal of buildings and improvements;

(16) to prepare or cause to be prepared a workable program for development of the project;

(17) to enforce restrictions and controls contained in the plan or any covenant or agreement contained in any contract, deed or lease by the commission notwithstanding that the commission may no longer have any title to or interest in the property to which such restrictions and controls apply or to any neighboring property;

(18) to conduct investigations, make studies, surveys and plans and disseminate information relative to development of the project and the project area, including desirable patterns for land use, relocation, and any other matter deemed by it to be material in connection with any of its powers and duties, and to make such studies, plans and information available to the federal government, to agencies or subdivisions of the commonwealth and to interested persons;

(19) to receive gifts, loans, grants, contributions or other financial assistance from the federal government, the commonwealth, the participating cities or any other source;

(20) to implement, upon the approval of the plan, the assessing of property taxes, betterment assessments and other fees and charges provided for in the plan on land within the project area which was acquired or rehabilitated, by the commission or otherwise, with the proceeds of such bonds or with federal or state funds made available though the commission, and to exercise such powers as may be granted to cities and towns under the General Laws of the commonwealth to enable the collection of such taxes assessments and other fees and charges; and

(21) to exercise all other powers necessary or convenient to the implementation of the plan and the carrying out of the project.

(g) (1) Each contractor with the commission and each subcontractor shall comply with the applicable requirements of chapter one hundred and forty-nine as to wages and hours of labor and any other conditions relating to employment. The department generally enforcing the requirements of such chapter shall enforce this paragraph and shall also have power to petition the court for injunctive or other appropriate relief against any operating agency which fails to comply herewith.

(2) The provisions of chapter thirty-one and the rules made thereunder shall not apply to any officer or agent of the commission or to any person employed on or in connection with any project of the commission.

(3) The provisions of chapter thirty B and any rules or regulations issued thereunder shall apply to all procurement or disposition activities undertaken by the commission except

to real property acquisitions or dispositions made by the commission within the project area.

(4) All ordinances and regulations of the participating cities in which any portion of the project lies relating to the construction of buildings, municipal planning and zoning and the protection of public health shall apply to such portion of the project located in such city, except that in the event of any conflict between the plan and such ordinances or regulations, including without limitation ordinances governing zoning and other land use matters, the provisions of the plan shall govern with respect to real property which is designated in the plan to be acquired or rehabilitated.

(h) (1) The commission shall be liable in contract or in tort in the same manner as a private corporation. The members, employees, officers and agents of the commission shall not be liable as such on its contracts or for torts not committed or directly authorized by them nor shall said members be liable for any negligent or wrongful act or omission for which the commission would be liable under applicable rules of law, in which event any action either civil or criminal against the commission shall be the exclusive remedy for any injured party. The property or funds of the commission shall not be subject to attachment or to levy and sale on execution, but if the commission refuses to pay a judgment entered against it in any court of competent jurisdiction, the superior court, sitting within and for the county in which the commission is situated, may, by writ of mandamus, direct the treasurer of the commission to pay such judgment. The real estate of the commission shall not be subject to liens under chapter two hundred and fifty-four, but the provisions of sections twenty-eight and twenty-nine of chapter one hundred and forty-nine shall be applicable to any construction work by or on behalf of the commission. Notwithstanding anything to the contrary provided herein, no accepting city shall be responsible for any debt of the commission.

(2) The commission shall have the right to compel the removal and relocation of and shall reimburse the Massachusetts bay transportation authority and every railroad corporation for all reasonable costs and expenses incurred by the said transportation authority or such railroad corporation to relocate such of their respective facilities as are required to be removed as part of the project being undertaken pursuant to this act by the commission and as are necessary for the continuance of the common carrier services performed by said transportation authority or such railroad corporation. "Facilities", as used in this paragraph, shall mean poles, tracks, switches, wires, conduits, cables, signals, and structures and in additional thereto equipment appurtenant to any of the foregoing.

(i) (1) The bonds, notes and certificates of indebtedness of the commission, in the absence of an express recital to the contrary on the face thereof, shall constitute negotiable instruments for all purposes. They may be payable from the income of the commission or constitute a general obligation thereof, may be sold at not less than par, at public or private sale, may mature at such time or times, may be secured in such manner, may provide for such rights and remedies upon their default, may contain such other covenants, terms and conditions not inconsistent with law, may be executed by such officers, and may be issued with or without the corporate seal, all as may be authorized either by vote of the commission or by the officer or officers to whom the power to determine any or all the matters set forth

in this sentence may be expressly delegated by vote of the commission. The engraved or printed facsimile of the seal of the commission on its bonds, notes or certificates of indebtedness shall have the same validity and effect as if such seal were impressed thereon. Whenever a bond, note or certificate of indebtedness is required to bear the signatures of two or more officers, it shall be sufficient if the signature of any one of such officers upon such instrument is a written signature and the remaining signature or signatures are engraved, printed or stamped facsimile signatures; provided, that each officer whose facsimile signature appears on such instrument has, by a writing bearing his written signature and filed in the office of the secretary of the commission, authorized the officer whose written signature appears on such instrument to cause such facsimile to be placed thereon. The facsimile signature of any officer so engraved, printed or stamped thereon shall have the same validity and effect as his written signature. In case any officer whose signature or a facsimile thereof appears on any notes, bonds or coupons shall cease to be such officer before the delivery of such notes or bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery.

(2) The bonds, notes and certificates of indebtedness of the commission issued under this section and the interest thereon shall be exempt from taxation, with respect to principal and income. The bonds of the commission issued under this section shall be legal investments for the deposits and the income derived therefrom of savings banks, for the trust funds of trust companies, for the capital and other funds of insurance companies, and for funds over which the commonwealth has exclusive control.

(3) The proceeds of bonds issued pursuant to this section shall be available to pay the costs of issuance thereof, to reimburse the participating cities for monies advanced to the commission and to pay costs incurred by the commission in connection with the operation of the commission, the implementation of the plan and the carrying out of the project.

(j) (1) The real estate and tangible personal property of the commission shall be deemed to be public property used for essential public and governmental purposes and shall be exempt from taxation and from betterments and special assessments and other fees and charges. In lieu of such taxes, betterments, special assessments and other fees and charges, the commission shall make a payment to each participating city in an amount set forth in (c)(ii)(x) below on account of the real property of the commission located in such city.

(2) Except as provided in paragraph (3), nothing in this section shall be construed to prevent the taxation to the same extent and in the same manner as other real estate is taxed, of real estate acquired by the commission for the project and sold by it, or of the leasehold interests and buildings and other structures belonging to private individuals or corporations on land acquired by it; provided, however, that real estate so acquired by the commission and sold or leased to an urban redevelopment corporation or other entity operating under chapter one hundred and twenty-one A, or to an insurance company or savings bank or group of savings banks operating under said chapter, shall be taxed as provided in said chapter and not otherwise; and provided, further, that nothing in this chapter or in chapter fifty-nine shall be construed to require a city to impose a tax on the leasehold of real estate owned by the commission and leased by it beyond any amount which the city

and the commission have agreed to be the payment in lieu of taxes hereunder.

(3) (i) For the period during which any bonds issued by the commission pursuant to this section are outstanding, real property located within the project area which was acquired or rehabilitated, by the commission or otherwise, with the proceeds of such bonds or with federal or state funds made available though the commission, shall be exempt from taxation, as if such exemption was set forth in section five of chapter fifty-nine of the General Laws, and from all betterments and special assessments, provided that the owners of such real property shall have entered into an agreement (a "PILOT agreement") with the commission providing for the payment in lieu of taxes, by such owner, of an amount determined by the commission, in accordance with the provisions of paragraph (4) of this subsection, which PILOT agreement shall run with and be binding on the subject real property and that the payments under the PILOT agreement are made in accordance with the terms thereof. For purposes of this section "real property" shall be deemed to include the buildings and other improvements located thereon, and "real estate taxes" shall include, without limitation, betterments and special assessments. Amounts received by the commission under PILOT Agreements shall be available to the commission for the payment of amounts due as set forth in clause (ii) of paragraph (3) of this subsection.

(ii) Monies received during any fiscal year by the commission from any source other than the proceeds of bonds shall be paid and applied by the commission in the following order:

First, to each participating city in an amount equal to the product of the appraised value of the real property of the commission located in such city and the imposed rate, as defined in clause (ii) of paragraph (4) of this subsection.

Then to the payment of amounts due under bonds issued by the commission pursuant to this section;

The balance remaining to be paid to each participating city in an amount equal to the product of such balance and a fraction, the numerator of which is the number of square feet of property within such participating city which is included in the project area and the denominator of which is the total number of square feet included within the project area.

(4) (i) Prior to implementation of the plan, the commission shall retain an independent assessing firm to appraise all of the real property located within the project area, as shown on the project map. Such real property will be reappraised once every three years by an independent assessing firm.

(ii) The real property located within the project area which was acquired or rehabilitated, by the commission or otherwise, with the proceeds of such bonds or with federal or state funds made available though the commission, shall be taxed at a rate equal to the average of the rates imposed by the participating cities with respect to property used for purposes similar to the property being taxed (the "imposed rate").

(k) No bond, note or other evidence of indebtedness executed or obligation or liability incurred by the commission shall be a debt or charge against any of the participating cities or of the commonwealth or any political subdivision thereof other than the commission. Nothing in this section shall be construed to obligate the commonwealth, or

any political subdivision thereof other than the commission, to pledge its credit, to any payment whatsoever to the commission or to any creditor or bondholder thereof, nor shall anything therein contained be construed as granting to the commission any exemption from taxation except as expressly provided therein or to render the commonwealth, or any political subdivision other than such agency liable for any indebtedness or liability incurred, acts done, or any omissions or failures to act, of the commission.

(l) (1) The participating cities may raise and appropriate money for the purpose of defraying the initial costs and annual administrative expenses of the commission, including without limitation the expense of preparing any plans, studies, programs and surveys the commission is authorized to prepare, including the expense of the plan for the project.

(2) Without limiting the generality of the foregoing, the participating cities may from time to time appropriate or agree to appropriate money for the purpose of aiding in the preparation of plans and estimates needed to prepare applications for federal loans or grants and in the preparation of any other estimates, plans, orders of taking and contract documents in connection with any proposed or approved project. All moneys appropriated under the preceding sentence shall be repaid by the commission to such cities if the commission subsequently receives other moneys available for the purposes for which such moneys were appropriated, but otherwise such moneys need not be repaid.

(3) All moneys appropriated under this subsection in aid of the commission or received by the commission from any source shall be paid to the treasurer of the commission or to such agent of the commission as the commission may authorize, and shall be disbursed by such treasurer or agent, subject to accounting therefor as required by this section.

(4) Notwithstanding anything in this section provided to the contrary, a participating city shall have the right to elect not to raise or appropriate and make available to the commission any money for the purposes described in this subsection or in subsection (m). In such event, the other participating cities electing to raise, appropriate and make available to the commission money for the purposes set forth in this subsection and said subsection (m) shall be reimbursed for the money so made available, together with interest thereon at the per annum rate of the prime rate as established from time to time by the First National Bank of Boston plus two, from the date of such expenditures by the participating cities from any grant funds received by the commission, such reimbursement to be the first distribution made from any such grant funds received by the commission. The reimbursement provided for in this subsection shall be applicable only to funds raised, appropriated and made available by participating cities after the effective date of this section.

(m) (1) A participating city may raise and appropriate, or may borrow, in aid of the commission, such sums as may be necessary for defraying such city's share of the development, acquisition and operating costs of the project; and for the making of relocation payments by the commission.

(2) Indebtedness authorized under this section shall be outside the limit of indebtedness prescribed in section ten of chapter forty-four of the General Laws, and shall be payable within twenty-five years and otherwise subject to sections sixteen to twenty-seven, inclusive, of said chapter forty-four.

(n) To aid and cooperate in the planning, construction or operation of the project, a participating city may upon such terms, and with or without consideration, do or agree to do any or all of the following things, as such city may determine:

(1) Sell, convey or lease any of its interests in any property, or grant easements, licenses or any other rights or privileges therein to the commission;

(2) Cause water, sewer or drainage facilities, or any other public improvements which it is otherwise authorized to undertake, to be laid out, constructed or furnished adjacent to or in connection with the project;

(3) Lay out and construct, alter, relocate, change the grade of, make specific repairs upon or discontinue, public ways and construct sidewalks, adjacent to or through the project;

(4) Adopt ordinances or by-laws under chapter forty A or repeal or modify such ordinances or by-laws;

(5) Cause public improvements to be made and services and facilities to be furnished to or for the benefit of the commission and the project area or any portion thereof for which no betterments or special assessments may be levied or charges made;

(6) Purchase and hold any of the bonds or notes of the commission and exercise all of the rights of a holder of such bonds or notes;

(7) Make available to the commission the services of its agencies, officers and employees;

(8) Cause private ways, sidewalks, footpaths, ways for vehicular travel, or water, sewer or drainage facilities and similar improvements to be constructed or furnished within the site of the project for the particular use of the project;

(9) Enter into agreements with the commission, the term of which agreements may extend over twenty-five years, respecting action to be taken by such city pursuant to any of the powers granted by this section; and

(10) Do any and all other things necessary or convenient to aid and cooperate in the planning, construction or operation of the project.

The entering of a contract under this section between a city and the commission shall not be subject to any provision of law relating to publication or to advertising for bids.

(o) A participating city, in which the commission proposes to take, acquire or clear land constituting the whole or part or parts of an area which the commission has determined to be a decadent or blighted open area, may enter into an agreement with the commission to bear any loss that may arise as a result of such taking, acquisition or clearance in the event that such land is not used for project purposes.

(p) (1) The project shall not be undertaken until (1) a public hearing relating to the plan for the project has been held after due notice before the city council of each of the participating cities and (2) the plan has been approved by the municipal officers and the department as provided in this section. Notice of such public hearing shall be sent to the Massachusetts historical commission together with a map indicating the project area.

(2) Whenever the commission determines that the project should be undertaken, it shall apply to the municipal officers of the participating cities for approval of the plan. Such application shall be accompanied by the plan for such project, a statement of the proposed

method of financing the project and such other information as the commission deems advisable.

(3) When approved by the municipal officers, the plan shall be submitted to the department together with such other material as the department may require.

(4) The department shall not approve the plan unless it shall have found (a) the project would not by private enterprise alone and without either government subsidy or the exercise of governmental powers be undertaken; (b) the financial plan is sound; (c) the project area is a decadent or blighted open area; (d) the plan is sufficiently complete, as required by section one; and (e) the relocation plan has been approved under chapter seventy-nine A.

(5) Within sixty days after submission of the plan, the department shall give written notice to the commission of its decision with respect to the plan. If the department shall disapprove the plan, it shall state in writing in such notice its reasons for disapproval. The department may hold a public hearing upon the request of the commission, the mayor of a participating city, or seventy-five or more taxable inhabitants of such city.

(6) Any provision to the contrary notwithstanding, the commission may, without awaiting the approval of the department, proceed, by option or otherwise, to obtain control of such property within the project area as is necessary to carry out the plan; but it shall not, without the approval of the department, unconditionally obligate itself to purchase or otherwise acquire any such property.

(7) When the plan has been approved by the department and notice of such approval has been given to the commission, the commission may proceed at once to acquire real estate within the project area by purchase, taking by eminent domain or gift.

(8) In the event that any participating city shall not accept the plan, the other participating cities which have accepted the plan shall have the right to implement it by vote of the municipal officers of such other participating cities. Upon such affirmative vote, the non-accepting participating city shall be deemed to have withdrawn as a participating city from participation in the commission.

(q) If the commission shall sell or lease any property acquired by it for the project, the terms of such sales or leases shall obligate the purchasers or lessees (i) to devote the land to the use specified in the plan; (ii) to begin the building of their improvements within a reasonable time; and (iii) to comply with such other conditions as are deemed necessary to carry out the purposes of this chapter, or requirements of federal legislation or regulations under which loans, grants or contributions have been made or agreed to be made to meet a part of the cost of the project. Nothing in this section shall be construed as limiting the power of the commission in the event of a default by a purchaser or leasee of land in the project area to retake title to and possession of the property sold or leased free from the obligations in the conveyance or lease thereof.

(r) (1) The plan may require the payment of a linkage fee as a condition of the approval of the construction, enlargement, expansion, substantial rehabilitation or change of use of non-residential projects within the project area that require relief by the commission from the use, dimensional or other requirements of a nature customarily ad-

dressed in a zoning ordinance or by-law or that exceed a threshold established by the commission (a "development impact project"), for any future development within the project area.

(2) Any linkage fee collected by the commission shall be used solely for the purpose of defraying the costs incurred by the commission in connection with the making of capital improvements within the project area, which improvements are required to support development of the project area, including without limitation, improvements to public facilities, roads, sewers, water supply lines, job training facilities, public safety facilities, and parks and other recreational areas (collectively the "project infrastructure").

(3) The plan may impose a linkage fee if the following criteria are met:

(i) The commission shall have prepared a study (the "study") of the project infrastructure required in connection with the development of the project area, which shows a rational nexus between the creation of new office, commercial and industrial structures and the need for new or improved project infrastructure.

(ii) Any linkage fee imposed by the plan shall be set in accordance with the methodology set forth in the study, and shall be established in accordance with the projection of costs associated with required project infrastructure, as set forth in the study.

(iii) The commission shall have the authority to create a distinct and separate revolving trust account for linkage fee collected by the commission. Linkage fees collected by the commission shall be applied solely to reimburse the commission for expenditures for project infrastructure constructed in connection with the implementation of the plan. No linkage fees shall be paid to the commission's general fund.

(iv) The linkage fee schedule shall be reviewed at least every three years and shall be reset as required based upon the recommendation of the commission.

(v) Any funds not expended or encumbered by the end of the calendar quarter immediately following the sixth anniversary of the date of the payment of the linkage fee shall, upon application of the then owner of the land with respect to which the linkage fee was paid, be returned to such owner, provided that such application shall be made no earlier than the fifth anniversary and no later than the sixth anniversary of such payment date.

(4) The plan shall provide that there shall be credited against any linkage exaction fee due with respect to a development impact project any grants received by the commission or the participating city within which such development impact project is located with respect to such development impact project. The level of any exaction shall be reviewed by the commission at least every three years and reset as required.

(s) The commission is hereby authorized to delegate to any public agency qualified and authorized to carry out urban redevelopment activities any of the powers or functions of the commission with respect to the planning or undertaking of the project in the area in which the participating cities are authorized to act, and the public agency to which such delegation is made is hereby authorized to carry out or perform such powers or functions for the commission. Any public body is hereby authorized to enter into agreements which may extend over the period of the bonds issued by the commission notwithstanding any provision or rule of law to the contrary, with any other public body or bodies respecting action to be

taken pursuant to any of the powers granted by this section, including the furnishing of funds or other assistance in connection with the plan or project. To the extent it determines it is feasible, the commission shall afford maximum opportunity consistent with the sound needs of the city as a whole for the rehabilitation or redevelopment of decadent or blighted open areas by private enterprise.

(t) The commission shall keep an accurate account of all its activities, receipts and expenditures in connection with the planning and execution of the project and shall annually in the month of January make a report of such activities, receipts and expenditures to the department, the state auditor and the mayors of the participating cities. The department or state auditor shall have the power to examine into the properties and records of the commission and to prescribe methods of accounting, not inconsistent with federal legislation, for such activities, receipts and expenditures.

(u) The commission shall be dissolved upon the payment in full of all amounts outstanding under bonds issued by the commission pursuant to this section, and upon such payment the treasurer of the commission shall file a certificate of such payment with the secretary of state of the commonwealth, and the legal existence of the commission shall be deemed to have terminated upon the filing of such certificate, subject to the applicable provisions of section fifty-one of chapter one hundred and fifty-five of the General Laws. In connection with the application of said section fifty-one, any real property owned by the commission at the time of the termination of its legal existence shall be deemed to be distributed automatically to and become the property of the participating city in which it is located, and the personal property of the commission shall be equitably allocated to the participating cities.

(v) (1) The commission may enter upon any property within the project area, whether publicly or privately owned, after due notice by registered or certified mail, for the purpose of making such surveys, environmental site assessments, test pits, and borings as it finds necessary or convenient to determine the feasibility or desirableness of acquiring such property under the plan or to otherwise carry out the purposes of this section. Such entry shall not be deemed a trespass or an entry under any condemnation proceedings which may be then pending. The commission shall make reimbursement for any actual damage resulting to such property caused by it in the exercise of such right of entry and shall so far as possible restore such property substantially to the same condition as prior to the making of such surveys, environmental site assessments, test pits, and borings.

(2) The commission may take or arrange for necessary response actions, as defined in chapter twenty-one E of the General Laws, as determined by reference to the Massachusetts contingency plan, with respect to any release or threat of release of oil or hazardous materials. The commission shall be entitled to reimbursement from any other person liable for such release or threat of release for the reasonable costs of such response actions, including all litigation costs and attorney's fees. All claims for contribution, reimbursement or equitable share by the commission pursuant to this section and said chapter twenty-one E shall be brought in accordance with the procedures set forth in sections four A and eleven A of said chapter twenty-one E. The commission may enter into agree-

ments with prior owners or operators of a site, or persons who may have otherwise caused or may be legally responsible for releases or threats of release of oil or hazardous material, or any other persons, to conduct or reimburse the commission for the costs of response actions. In conducting any response action pursuant to the requirements of said chapter twenty-one E and the regulations promulgated thereto, the commission shall not be exempt from any compliance assurance or permit fees.

(3) The commission may enter into agreements with its response action contractors to indemnify and hold such contractors harmless against any liability for negligence, including legal fees and costs, if any, in an amount not to exceed a figure established by the indemnification agreement pursuant to the provisions of this subsection and section seventeen of chapter twenty-one E of the General Laws. In no event shall the amount of indemnification to be provided under an indemnification agreement exceed two million dollars for a single occurrence involving the release or threat of release of oil or hazardous material. No indemnification shall be provided pursuant to an indemnification agreement under this subsection if the response action contractor acts in a negligent, willful, or malicious manner or if the action or omission which gives rise to a claim is not within the scope of the response action contract. The indemnification provided under this subsection shall apply only to response action contractor liability arising out of a release or threat of release of oil or hazardous material resulting from response actions conducted by the response action contractor pursuant to its response action contract.

SECTION 12. Chapter 6 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after section 116B the following section:-

Section 116C. (a) The Massachusetts criminal justice training council shall develop and establish within the recruit basic training curriculum a course for regional and municipal police training schools on or before January first, nineteen hundred and ninety-seven for the training of law enforcement officers in the commonwealth in law enforcement and related public safety technology. The course of instruction shall stress the use and application of technology to increase public safety.

As used in this section, "law enforcement officer" shall mean any officer of a municipal police department, the department of the state police or the Massachusetts Bay Transportation Authority police department.

(b) The course of basic training for law enforcement officers shall, no later than January first, nineteen hundred and ninety-seven, include, but not be limited to, at least twenty hours of instruction in the use and application of the following:

(1) introduction to computer technology;

(2) use of the criminal history systems board law enforcement agencies processing system;

(3) general office automation applications;

(4) data usage and system security policy and procedure; and

(5) introduction to mobile computing.

(c) All law enforcement recruits shall receive the course of basic training for law enforcement officers, established in subsections (a) and (b), as part of their required certifi-

cation process.

(d) The course of instruction in law enforcement technology shall be taught so that there will not be an increase in the currently required four hundred and eighty hours of recruit training curriculum.

(e) The course of instruction, the learning and performance objectives, the standards for training, and the guidelines shall be developed by the Massachusetts Criminal Justice Training Council in consultation with the executive office of public safety, the office of management information systems, the criminal history systems board, and other appropriate groups and individuals having an interest and expertise in the field of public safety and law enforcement technology.

(f) The Massachusetts Criminal Justice Training Council periodically may include within its in-service training curriculum a course of instruction on public safety and law enforcement technology consistent with the provisions of subparagraphs one to six, inclusive, of subsection (b), and when law enforcement technology training centers are not being used by recruit classes they shall be available to in-service trainees and any other public safety officers.

Approved August 9, 1996.

Chapter 295. AN ACT ESTABLISHING THE BERKSHIRE ECONOMIC DEVELOPMENT AUTHORITY.

Be it enacted, etc., as follows:

SECTION 1. The cities of Pittsfield and North Adams, by majority vote of their respective city councils and any other town in Berkshire county, by majority vote of their respective town meetings may, subject to the provisions of this act, join together and create a body corporate to be known as the Berkshire Economic Development Authority, hereinafter called the Authority. Other municipalities in Berkshire county which accept the provisions of this act, at any time after the formation of the Authority as provided for in section sixteen, shall become members of the Authority.

SECTION 2. The purpose of the Authority shall be to acquire properties contaminated by oil or hazardous material, conduct response actions thereon, and construct, develop, maintain, lease, convey or otherwise transfer such property for the beneficial reuse or development of such property to promote economic development on behalf of its member communities. Said board, as defined in this act, acting for and on behalf of said Authority, may take by eminent domain under chapter seventy-nine of the General Laws or acquire by purchase or otherwise, any disposal site, as defined by section two of chapter twenty-one E, hereinafter referred to as twenty-one E sites, or a portion thereof, and associated lands, properties, water rights, rights of ways, or easements, public and private, necessary for accomplishing the purposes of this act; may conduct response actions pursuant to the requirements of said chapter twenty-one E and regulations promulgated pursuant thereto;

may construct, maintain or operate and lease such industrial or commercial facilities acquired by the Authority; may sell by negotiation to the participating member communities of the Authority or at public auction any property including land acquired by the Authority pursuant to this act and which in the Authority's opinion is no longer needed in the performance of the powers and duties conferred and imposed on it by this act may from time to time lease any property which in the Authority's opinion is not needed by it for the purposes of this act and may do any other thing proper or necessary for the purposes of this act; provided, that the Authority shall not take in fee any land of a railroad corporation, that it shall not enter upon or construct, maintain or operate any industrial or commercial facility within the location as it may agree upon with such corporation, or, in the case of failure to agree, as approved by the department of public utilities.

The Authority may acquire and hold not more than three properties at any given time. The authority may at any time submit, to the house and senate committees on ways and means and to the joint committee on commerce and labor, a report proposing legislation authorizing the Authority to acquire properties in addition to the three authorized herein. Any such report shall describe the following: properties acquired to date; response actions conducted; development activities; and income from the sale or lease of said properties. No more than two-thirds of the total pending projects, approved by action of the board of the Authority, may be situated in any one member community.

SECTION 3. The Authority may enter into agreements to indemnify and hold harmless future owners or operators of properties acquired by the Authority pursuant to this act from and against liability pursuant to sections four, four A and five of chapter twenty-one E of the General Laws with respect to any releases or threats of release of oil or hazardous material that first begin to occur before such owners or operators acquire ownership or possession of the property; provided, however, that such indemnification shall not apply to any violation of or change to a restriction in use imposed on the property as part of a response action conducted by the Authority. Notwithstanding any provision of said chapter twenty-one E to the contrary, such such owners or operators who acquire ownership or possession of property from the Authority shall not be deemed an owner or operator for purposes of said chapter twenty-one E with respect to any release or threat of release of oil or hazardous material that first began to occur at or from a site or vessel before the time that such owners or operators acquired ownership or possession provided, however, that: (1) such owners or operators is a bona fide new owner or operator and is not affiliated with any other person potentially liable for response costs or damages to natural resources caused by such release or threat through any direct or indirect familial relationship or any contractual, corporate or financial relationship other than that created by the instruments by which title to the property is conveyed or financed; (2) such such owners or operators provide reasonable access to the site or vessel to employees, agents and contractors of the department of environmental protection to conduct response actions and to other persons intending to conduct response actions; and (3) such such owners or operators does not violate or fail to comply with any restriction on future use of the site imposed pursuant to section six of said chapter twenty-one E and regulations promulgated pursuant thereto.

When such owner or operator is not an owner or operator pursuant to this definition, any person who owned or operated the site or vessel immediately prior to the Authority's acquisition of ownership or possession shall be deemed the owner or operator pursuant to said chapter twenty-one E.

Notwithstanding any other provision of this definition, the Authority's tenants, subtenant's or any other person using or acquiring a site from the owner may be deemed an owner or operator with respect to any release or threat of release that first begins to occur at or from a site or vessel after the time that the Authority takes ownership or possession of it for any purpose.

SECTION 4. (*a*) The Authority may enter into agreements with its response action contractors to indemnify and hold harmless its response action contractor against any liability for negligence, including legal fees and costs, if any, in an amount not to exceed a figure established by the indemnification agreement pursuant to the terms of this section. In no event shall the amount of indemnification to be provided under an indemnification agreement exceed two million dollars for a single occurrence involving the release or threat of release of oil or hazardous material. No indemnification shall be provided pursuant to an indemnification agreement under this section if the response action contractor acts in a grossly negligent, willful, or malicious manner or if the action or omission which gives rise to a claim is not within the scope of the response action contract.

(*b*) The indemnification provided under this section shall apply only to response action contractor liability arising out of a release or threat of release of oil or hazardous material resulting from response actions conducted by the response action contractor pursuant to its response action contract.

SECTION 5. The Authority shall be authorized to take or arrange for necessary response actions as determined by reference to the Massachusetts contingency plan. The Authority shall be entitled to reimbursement from any other person liable for such release or threat of release for the reasonable costs of such response actions, including all litigation costs and attorney's fees. All claims for contribution, reimbursement or equitable share by the Authority pursuant to this section and chapter twenty-one E of the General Laws shall be brought in accordance with the procedures set forth in section eleven A of said chapter twenty-one E.

The Authority may enter into agreements with prior owners or operators of a site or vessel or persons who may have otherwise caused or may be legally responsible for releases or threats of release of oil or hazardous material, to conduct or reimburse the Authority for the costs of response actions. In conducting any response action pursuant to the requirements of said chapter twenty-one E and the regulations promulgated thereto, the authority shall not be exempt from any compliance or permit fees.

SECTION 6. In the event that a response action or portion of a response action conducted by the Authority includes a restriction on future use of the site pursuant to section six of chapter twenty-one E of the General Laws and regulations promulgated pursuant thereto, the Authority shall have no liability or responsibility for any violation of such restriction or for any necessary and appropriate response action on account of use of the site

by a future owner and operator contrary to the requirements of such restriction.

SECTION 7. Except as expressly provided by this section, the Authority shall not be deemed an "owner" or "operator" under the provisions of clauses (2) and (5) of paragraph (a) of section five of chapter twenty-one E of the General Laws and shall be excluded from the definition of "owner" or "operator" with respect to releases and threats of release that first begin to occur before the Authority acquires ownership or possession of a site or vessel, provided that upon acquiring ownership or possession of a site or vessel, said Authority shall:

(1) provide notice to the department of environmental protection, immediately upon obtaining knowledge of release or threat of release of oil or hazardous material for which notification is required pursuant to, and in compliance with, section seven of said chapter twenty-one E or regulations promulgated pursuant thereto;

(2) provide reasonable access to the site or vessel to employees, agents, and contractors of said department to conduct response actions, if necessary, and to other persons intending to conduct necessary response actions;

(3) take or arrange for any and all response actions necessary and appropriate regarding releases or threats of release under said chapter twenty-one E and any regulations promulgated pursuant thereto.

In the event that the department incurs response action costs in connection with any site acquired by the Authority, the Authority shall reimburse the department for such reasonable response actions costs.

SECTION 8. There is hereby created the Berkshire economic development board, hereinafter called the board. The Authority shall be under the management and control of said board.

SECTION 9. The board may enter upon any land for the purpose of making surveys, environmental site assessments, test pits, borings, and may take by eminent domain under chapter seventy-nine of the General Laws by purchase or otherwise, the right to temporarily occupy any lands necessary for the carrying out of said purpose.

SECTION 10. The Authority, by vote of the board, shall be authorized to issue from time to time, general obligation serial bonds or notes of the Authority to pay for the costs of capital outlays in connection with assessment, containment and removal activities at properties acquired by the Authority and in connection with the construction and operation of industrial and commercial facilities and such other works as may be required, including land damages and costs of demolition of existing structures on lands that may be required.

Said bonds shall be issued in such amount or amounts as the Authority acting by and through the board may determine and the Authority may refund any such bonds and notes. Such serial bonds and notes may be callable with or without premium and shall contain such terms and conditions, bear such rate or rates of issue, be sold in such a manner, at private or public sale, and mature in such times and in such amounts as the board shall determine, providing that each issue of such bonds and notes shall be payable in annual installments, the first of which shall be payable not later than two years after its date and the last of which will be payable not more than thirty years from said date.

If the board votes to issue serial bonds or notes, said board may authorize the issuance in the name of the Authority, of general obligation temporary notes for a period of not more than two years in anticipation of the money to be received from the sale of such serial bonds or notes. The time within which such serial notes or bonds are issued shall not be extended by reason of the making of such temporary loans beyond the time fixed in the order authorizing such temporary bonds or notes.

For the purpose of paying the expenses of operations, including without limitation, any principal or interest due or about to become due on any bond or note issued by the Authority in which funds are not available, the board in the name of the Authority shall be authorized to issue from time to time general obligation temporary notes of the Authority in anticipation of assessments against member communities of the Authority and in the year such notes are issued.

Temporary notes in anticipation of assessment shall be payable not more than one year from their date, and shall not exceed in principal amount the amount of the outstanding assessment in anticipation of which they are issued.

Temporary notes issued under this section for a shorter period than the maximum permitted may be renewed by the issuance of other temporary notes maturing within the required period; provided, however, that the period from the date of issue of the original temporary note to the date of maturity of the renewal note shall not exceed the maximum period for which the original note may have been issued. Such temporary notes or renewal notes may be sold at discount or with interest payable at or before maturity.

Notes or bonds authorized by this section shall be signed by the treasurer of the board, as defined herein, and countersigned by the chairman of the board, as defined herein, and serial bonds and notes shall have the Authority's seal affixed. Section sixteen B of chapter forty-four of the General Laws shall be applicable to such bonds and notes.

SECTION 11. The cost of the original response action, acquisition, design and construction of the industrial or commercial facilities shall be apportioned among the participating member cities and towns in accordance with the level of participation by the community approved by its executive officer or body as the case may be in each city or town authorized and approved by the board. A participant or participating community is hereby defined as a member which has been authorized by its city or town council, or board of selectmen, to obligate the community to financially participate in a particular project and said participation has been approved by the board.

The board shall not approve the participation of any city or town in any project unless the director submits a detailed action plan, including a complete assessment of financial and environmental costs and benefits, which demonstrate that revenue from the project can reasonably be expected to meet or exceed costs. When appropriate, said report shall recognize costs to establish a reserve or purchase insurance to protect the Authority from future liability. Said report shall be available to each community prior to any vote to participate in the project.

SECTION 12. The board shall annually determine the amount required for the payment of principal and interest on such bonds and notes issued or to be renewed by the

Authority which shall be due during the ensuing calendar year and shall apportion the amount so determined among the members of the Authority in accordance with the provisions of this act, shall also determine the amounts annually to be raised to maintain and operate the Authority during the said year including capital outlay items the cost of which is not to be funded and for all other matters for which the Authority is required to raise money and shall apportion among members of the Authority the amounts so determined in accordance with the provisions of this act. Each amount so apportioned for each member shall, prior to December thirty-first of each year, be certified by the board of assessors of each city or town of such Authority. The assessors of each city or town shall without further vote include each amount so certified in those amounts to be annually raised by taxes under section twenty-three of chapter fifty-nine of the General Laws. The respective city or town shall pay the amount so certified to the treasurer of the Authority on or before July first of the then taxable year.

A city or town which has been assessed may raise all or a portion of the amounts certified annually by the Authority to the assessors of each city or town as provided in this act.

SECTION 13. The amount of money required each year by each city or each town in accordance with the apportionment determined as aforesaid shall be assessed upon each city, and each town in each year. Each such city and town shall be notified of the amount of such assessment by February first of the year following, which amount shall be paid by the city and each town to the treasurer of said Authority on or before July fifteenth following the receipt of notice of the amount of said assessment.

Host communities shall be responsible for contributing no less than ten percent and no greater than thirty percent of the total cost of the project. Total project cost shall be defined as the sum of the costs associated with purchase of the property, remediation, property assessment, marketing, and legal work performed on behalf of the Authority to acquire the property. The board shall give special consideration to any project in a member community that has yet to receive funding for projects from the Authority.

SECTION 14. To meet the costs of construction, maintenance, and operation of the facilities authorized by this act, the Authority may file an application for, or accept and use any federal or state funds or grants; or any federal or state assistance, or both, provided therefor, under any federal or state law or funds from any other sources.

The Authority may also apply for, and receive contributions from, public or private funding sources for the establishment of a capitalized mitigation fund, to be used for the purpose of financing project costs, and administered as a revolving loan fund to the host communities. Said contributions shall be reported in a yearly report of private contributions, to be prepared by the board, which shall, no later than February first of each year, submit a copy to the house and senate committees on ways and means, the state auditor, and to participating cities and towns. The Authority may expend funds from said capitalized mitigation fund on any project only after a majority vote of the board. Host communities receiving funding from said fund shall prepare a complete financial report detailing cost analysis and environmental impact.

SECTION 15. No lands, rights of ways, or other easements, property, structures, or rights acquired by the Authority, as herein provided, and located in the city or town in the Authority shall be assessed or taxed by the municipality so long as such property is owned by the Authority, response actions are on-going and the property and improvements thereon are not in beneficial reuse by third party as so determined in the judgment of the board. Following the completion of the response actions, transfer, or upon beneficial reuse of the property it shall be assessed or taxed by the municipality where the property is located and the municipality shall be responsible for paying annually on July first each year to each city or town which is a member of the Authority, less one percent of the tax collected to be paid as administrative fee, to the city or town wherein said property is located an amount equal to the amount it would receive if said property was located within its municipal boundaries in proportion to the amount of investment the city or town has made in said property pursuant to section eleven of this act.

SECTION 16. The board shall consist of one resident or municipal employee from each municipality that has voted to accept the provisions of this act and is a member of the Berkshire Economic Development Authority. The cities of Pittsfield and North Adams shall each have one member on the board. Official action shall require a positive vote of at least the majority of the board.

Members of the board of the cities of Pittsfield and North Adams shall be appointed by the mayor. Members of the board from the towns shall be appointed by the board of selectmen or the town manager in communities with a town manager form of government, according to each community's applicable provisions of the law. Members appointed to the board shall be residents or municipal employees of the community they represent.

Members of the board shall be appointed for terms of three years. Each member shall serve until the qualification of a successor. A board member may be reappointed by the legal appointing authority of such member's municipality as long as said municipality remains a member of the Authority.

SECTION 17. The board shall appoint and determine the compensation of an Authority director who shall be the chief executive officer of the Authority and shall administer the affairs and direct the work of the Authority as approved by the board; provided, however, that the Authority director shall not hold any elective office except that of town meeting member in any town within the jurisdiction of the Authority. The board shall set forth the powers and duties of the Authority's director in its bylaws.

The Authority's director may, upon approval of the board or as otherwise provided in the Authority's bylaws, enter into agreements for professional construction services to be provided to the Authority by private contractors. The Authority director shall be familiar with economic development in Berkshire county and shall possess such other qualifications as are determined by the board.

SECTION 18. The Authority shall have a seal consisting of a circular die bearing the words "Commonwealth of Massachusetts, Berkshire Economic Development Authority", which seal may be used whenever deemed advisable by the board on papers and documents issued or executed by the board or by any officer or employee designated by the board.

SECTION 19. The board shall prepare and adopt bylaws describing and stipulating its organization and operations. The board members shall annually, in the month of April, select a chairman, vice-chairman, and secretary, from among the membership who shall act as an executive committee. Members of the board may receive compensation from the Authority which shall not exceed five hundred dollars per year for a board member or one thousand dollars per year for the chairman, vice-chairman or secretary. Board members may be reimbursed for actual expenses incurred in performance of their duties on approval of the board.

The board shall appoint, and may at its pleasure, remove a treasurer and a clerk who shall not be members of the board. Both offices, if the board deems advisable, may be held by the same person. The treasurer shall give the board a bond payable to the Authority with a surety company authorized to transact business within the commonwealth and satisfactory to the board surety in such sums as the board may prescribe and conditioned on the faithful performance of the duties of treasurer. The duties of the treasurer and the clerk shall be those usually pertaining to such offices and, in addition, such as may be from time to time prescribed by the board. The board may retain legal counsel for any and all appropriate purposes.

The director, with the approval of the board, shall from time to time appoint or employ such other experts, agents, officers, clerks, and other employees as deemed necessary and shall determine their duties. The salaries or compensation of all persons appointed or employed under authority of this section shall be determined by the board and together with other expenses shall be paid by the Authority and shall be considered a part of the expense of maintenance of the Authority. The board shall establish an office within Berkshire county in which its business may be conducted and in which plans, documents, records and other paper relating to its business, land and other works and properties shall be kept.

The Authority shall at all times keep full and accurate accounts of its receipts, expenditures, disbursements, assets and liabilities, which shall be open at all times for inspection by the city, the towns, or other groups who are members of the Authority or by any officer or duly appointed agent of the commonwealth.

The board shall make a report each year of its activities for the preceding year and shall, prior to February first, submit a copy of such report to the state auditor and to participating cities and towns. A copy of such report shall also be submitted to the department of environmental protection.

SECTION 20. At any time not less than eight years after the acceptance of this act by a town or city, said town or city may, after approval by two-thirds of the qualified voters present and voting at an annual or special town meeting or election, notify the board of its desire to withdraw from the Authority.

Such withdrawal shall become effective in not less than two years after the receipt of such notice by the board and only after approval by the majority of the board. In the event of such withdrawal the withdrawing city or town shall:

(1) continue to pay annually to the Authority a share of the debt outstanding at the

time of withdrawal at a rate prevailing at the time of withdrawal until a share of such debt shall be paid in full;

(2) be paid by the Authority for a share of those taxes or lease payments which accrue to the participant or participating community in accordance with the original commitment of said participant or participating community to a particular project as described in this act.

SECTION 21. Initial organization of the board established under the provisions of section eight shall take place within one hundred eighty days after the affirmative vote of at least one town meeting or city council for the formation of the Authority. If the board does not organize itself and form the Authority within one hundred eighty days, the action of the city council or town meeting shall be null and void.

SECTION 22. The Authority shall provide for early direct community involvement in each significant phase of response activities taken under this authority. This shall include providing the community with access to information necessary to develop comments on decisions regarding site characterization, risks posed by the site, and selection of removal actions.

Process for involvement: (1) site assessment - whenever practicable, during the site assessment, the Authority shall solicit and evaluate the concerns and interests of the community likely affected by the site by whatever means deemed appropriate by the Authority, (2) site cleanup - after assessment and feasibility study, and a method of cleanup has been determined, the Authority shall solicit the views and preferences of the community likely affected by this cleanup including the disposition of the hazardous substances, pollutants, or contaminants at the site.

SECTION 23. This section shall apply only to industrial portions of contaminated sites in the city of Pittsfield that are over one hundred contiguous acres in size and owned by a single owner as of the effective date of this act. For purposes of this section, "industrial portions" shall include those portions of such a site where industrial uses only are allowed pursuant to existing zoning, and for which notification has been required pursuant to chapter twenty-one E of the General Laws and 42 U.S.C. 6901 et seq. as of the effective date of this act and shall exclude any rivers, streams, and other bodies of surface water and the banks thereof.

The department of environmental protection is directed to promulgate rules and regulations after notice and hearing in accordance with chapter thirty A of the General Laws, to set up and implement a pilot project in the city of Pittsfield for the purpose of reuse and redevelopment to promote economic growth at said site. The department shall involve in the process all interested parties, including but not limited to, the United States Environmental Protection Agency, the attorney general of the commonwealth, the elected officials in the city of Pittsfield and the Massachusetts office of business development, or its successor. The department shall prepare a preliminary plan no later one hundred and twenty days after the effective date of this act and publish notice thereof in the state environmental monitor. This pilot project requires as an active party or parties, a prospective owner or owners, or a lessee lesses creating a substantial number of new jobs. This pilot project shall include (1) allow-

ing the long-term use of one or more temporary solutions, as such term is defined in subsection (f) of section three A of chapter twenty-one E of the General Laws, to satisfy the remediation requirements of said section three A; (2) defining the standards that a proponent of such long-term temporary solution or solutions must satisfy with respect to the impacts of such solution or solutions on public health, safety, welfare and the environment; (3) establishing appropriate reporting and monitoring requirements for the construction and maintenance of such temporary solution or solutions; (4) defining the department's responsibilities for reviewing and approving such temporary solution or solutions and reporting and monitoring thereof; (5) providing for an appropriate and efficient process to allow public participation with respect to the department's approval and review of such temporary solution or solutions as set forth in clause (4); (6) defining the limited circumstances in which, upon petition of the department or another person or party, a permanent solution may be required in lieu of the continuation of such temporary solution or solutions; (7) providing a mechanism and financial assurances and standards for allowing an owner of such industrial or commercial property to sell or transfer a leasehold interest in such property to a third party and to transfer the responsibility for maintaining the temporary solution or solutions and for any other remediation which may be required as set forth herein; and (8) providing appropriate incentives to induce any participant in such a pilot project to complete remediation expeditiously.

SECTION 24. The department of environmental protection shall file with the clerks of the senate and the house of representatives on or before October fifteenth, nineteen hundred and ninety-six recommended legislation that addresses the issues of changes in remediation standards and liability requirements under chapter twenty-one E of the General Laws for "brownfields", so-called. The proposed legislation shall include but not be limited to: (1) establishing changes in existing law to provide appropriate relief to owners or leasehold tenants at sites from liability pursuant to clause (1) of subsection (a) of section 5 of said chapter 21E for response costs or for damage to personal or real property or natural resources arising from the actions or omissions of the prior owner; (2) establishing appropriate changes in existing law to allow the parties to such a sale or lease to indemnify the other with respect to liability as set forth in clause (1); and (3) establishing appropriate changes in law to relieve former owners of property from liability for injuries to real or personal property or natural resources that such former owner can demonstrate were caused by actions or omissions of third parties after the sale or transfer of the former owner's property.

SECTION 25. This act shall take effect upon its passage.

Approved August 9, 1996.

Chapter 296. AN ACT RELATIVE TO THE USE OF CERTAIN FIREARMS DURING THE HUNTING SEASON.

Be it enacted, etc., as follows:

Section 70 of chapter 131 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Notwithstanding the provisions of this section, the director may authorize the use of primitive firearms or shotguns with a rifled bore for hunting during any period when deer may be hunted by means of a firearm under rules and regulations promulgated in accordance with section five.

Approved August 9, 1996.

Chapter 297. AN ACT INCREASING THE AFFORDABILITY AND ACCESSIBILITY OF HEALTH INSURANCE IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately increase access to health 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. Section 2B of chapter 175 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following paragraph:-

4. To the extent that this section is inconsistent with the provisions of chapter one hundred and seventy-six M and any regulations promulgated thereunder, the provisions of said chapter one hundred and seventy-six M and any such regulations shall govern the terms, conditions, rates and all other matters concerning any policy form that is within the definition of a guaranteed issue health plan in said chapter one hundred and seventy-six M.

SECTION 2. Section 108 of said chapter 175, as amended by section 2 of chapter 8 of the acts of 1996, is hereby further amended by adding the following paragraph:-

12. To the extent that this section is inconsistent with the provisions of chapter one hundred and seventy-six M and any regulations promulgated thereunder, the provisions of said chapter one hundred and seventy-six M and any such regulations shall govern the terms, conditions, rates and all other matters concerning any policy form that is within the definition of a guaranteed issue health plan in said chapter one hundred and seventy-six M.

SECTION 3. Section 193F of said chapter 175, as appearing in the 1994 Official Edition, 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 M and any regulations promulgated thereunder, the provisions of said chapter one hundred and seventy-six M and any such regulations shall govern the terms, conditions, rates and all other matters concerning any policy form that is within the definition of a guaranteed issue health plan in said chapter one hundred and seventy-six M.

SECTION 4. Section 193G of said chapter 175, 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 M and any regulations promulgated thereunder, the provisions of said chapter one hundred and seventy-six M and any such regulations shall govern the terms, conditions, rates and all other matters concerning any policy form that is within the definition of a guaranteed issue health plan in said chapter one hundred and seventy-six M.

SECTION 5. Section 193H of said chapter 175, 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 M and any regulations promulgated thereunder, the provisions of said chapter one hundred and seventy-six M and any such regulations shall govern the terms, conditions, rates and all other matters concerning any policy form that is within the definition of a guaranteed issue health plan in said chapter one hundred and seventy-six M.

SECTION 6. Section 6 of chapter 176A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Nongroup contracts, except contracts providing supplemental coverage to medicare subject to the provisions of chapter one hundred and seventy-six K, issued and rates charged by nonprofit hospital service corporations to its subscribers for hospital care and reimbursement for other health services shall be subject to the provisions of chapter one hundred and seventy-six M, and any regulations promulgated thereunder.

SECTION 7. The second paragraph of said section 6 of said chapter 176A, as so appearing, is hereby amended by striking out the first sentence.

SECTION 8. Said second paragraph of said section 6 of said chapter 176A, as so appearing, is hereby further amended by striking out the third, fourth, fifth and sixth sentences.

SECTION 9. Said section 6 of said chapter 176A, as so appearing, is hereby further amended by striking out the third to eighth paragraphs, inclusive.

SECTION 10. Said chapter 176A is hereby amended by striking out section 8, as so appearing, and inserting in place thereof the following section:-

Section 8. No contract between the subscriber and the corporation shall be issued or delivered in the commonwealth which provides full room and board benefits in an extended care facility for other than the period of hospitalization coverage provided, or which provides benefits for any service which is not medically necessary. No contract between the subscriber and the corporation shall be issued or delivered in the commonwealth unless it contains in substance the following provisions:

(a) A statement of the hospital services and reimbursement for other health services to be furnished by the corporation or its participating hospitals and the period during which they will be furnished, and, if any hospital services are excluded, a statement of such exception.

(b) A statement of the period of grace which will be allowed for making any payment due from the subscriber under its contract, which in any event shall not be less than

ten days.

(c) A provision that the subscriber or any person claiming under a subscriber's contract shall have a period of at least two years from the time the cause of action arises to bring suit thereon.

(d) A provision that any child who is mentally or physically incapable of earning his own living, who is covered under the membership of his parent as a member of a family group, shall be covered under the membership of his parent as a member of such family group so long as he continues to be mentally or physically incapable of earning his own living, without any limitation as to age, subject however, to such rules and regulations, premiums or additional premiums as the commissioner of insurance may approve.

(e) A statement that within fifteen days after the receipt by the corporation of notice by a subscriber, or someone acting on his behalf, that such subscriber or a covered dependent of such subscriber has received services for which the subscriber is entitled to direct payment of benefits under a contract, the corporation shall furnish the subscriber such forms as are usually furnished by it to establish a subscriber's entitlement to such benefits; and that within forty-five days after the receipt by the corporation of completed forms for such benefits, the corporation will (i) make payments for such benefits, (ii) notify the subscriber in writing of the reason or reasons for nonpayment, or (iii) notify the subscriber in writing of what additional information or documentation is necessary to establish entitlement to such benefits. If the nonprofit hospital service corporation fails to comply with the provisions of this paragraph for any claims relating to dental services, said corporation shall pay, in additional to any benefits which inure to such subscriber or provider, interest on such benefits which shall accrue beginning forty-five days after the corporation's receipt of notice of claim at the rate of one and one-half percent per month, not to exceed eighteen percent per year. The provisions of this paragraph relating to interest payments shall not apply to a claim which a nonprofit hospital service corporation is investigating because of suspected fraud.

(f) 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 and medicare select 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 and any regulations promulgated thereunder.

(g) To the extent that this section is inconsistent with the provisions of chapter one hundred and seventy-six M and any regulations promulgated thereunder, any nongroup plan that is within the definition of a guaranteed issue health plan in said chapter one hundred and seventy-six M shall be subject to the provisions of said chapter one hundred and seventy-six M and any regulations promulgated thereunder.

SECTION 11. Section nine of said chapter one hundred and seventy-six A is hereby repealed.

SECTION 12. The first paragraph of section 10 of said chapter 176A of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The contracts and rates under such plan shall be

subject to subsequent disapproval by the commissioner if he or she finds that the basis fails to preclude individual selection.

SECTION 13. The second paragraph of section 4 of chapter 176B of the Generals Laws, as so appearing, is hereby amended by striking out the second sentence.

SECTION 14. Said second paragraph of said section 4 of said chapter 176B, as so appearing, is hereby further amended by striking out the fourth sentence.

SECTION 15. Said second paragraph of said section 4 of said chapter 176B, as so appearing, is hereby further amended by adding the following sentence:- Nongroup agreements, except contracts providing supplemental coverage to medicare or other governmental programs that are subject to the provisions of chapter one hundred and seventy-six K, shall be subject to the provisions of chapter one hundred and seventy-six M and any regulations promulgated thereunder.

SECTION 16. Said section 4 of said chapter 176B, as so appearing, is hereby further amended by striking out, in line 74, the words "approving or."

SECTION 17. Said section 4 of said chapter 176B 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 M and any regulations promulgated thereunder, any nongroup plan that is within the definition of a guaranteed issue health plan in said chapter one hundred and seventy-six M shall be subject to the provisions of said chapter one hundred and seventy-six M and any regulations promulgated thereunder.

SECTION 18. Said chapter 176B is hereby further amended by striking out section 6, as so appearing, and inserting in place thereof the following section:-

Section 6. No subscription certificate shall be issued unless it contains in substance the following provisions:

(a) A statement of the medical service to be paid for by the corporation, and if any medical service is excepted, a statement of such exception.

(b) A statement of the duration of the agreement and of the terms and conditions upon which it may be extended, renewed, revised, canceled or otherwise terminated.

(c) A statement that any child who is mentally or physically incapable of earning his own living who is eligible for services by membership of his parent under a family contract shall be eligible under the membership of his parent as a member of such family contract so long as he continues to be mentally or physically incapable of earning his own living, without any limitation as to age, subject, however, to such rules and regulations, premiums or additional premiums as the commissioner of insurance may approve.

(d) A statement that within fifteen days after receipt by the corporation of notice by a subscriber, or someone acting on his behalf, that such subscriber or a covered dependent of such subscriber has received services for which the subscriber is entitled to direct payment of benefits under a subscription certificate, the corporation shall furnish the subscriber such forms as are usually furnished by it to establish a subscriber entitlement to such benefits; and that within forty-five days after the receipt by the corporation of completed forms for such benefits, the corporation shall (i) make payment for such benefits, (ii) notify the subscriber

in writing of the reason or reasons for nonpayment, or (iii) notify the subscriber in writing what additional information or documentation is necessary to establish entitlement to such benefits.

(e) A statement, in the case of any subscription certificates providing supplemental coverage to Medicare or other governmental programs, that no participating physician or other participating provider of health services shall charge to, or collect from, a subscriber of a covered dependent any amount in excess of the maximum allowable compensation determined by the governmental agency administering such program as the basis for the government's payment thereunder to such participating physician or other participating provider of health services.

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 and medicare select 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 and any regulations promulgated thereunder.

To the extent that this section is inconsistent with the provisions of chapter one hundred and seventy-six M and any regulations promulgated thereunder, any nongroup plan that is within the definition of a guaranteed issue health plan in said chapter one hundred and seventy-six M shall be subject to the provisions of said chapter one hundred and seventy-six M and any regulations promulgated thereunder.

SECTION 19. 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 section is inconsistent with the provisions of chapter one hundred and seventy-six M and any regulations promulgated thereunder, any nongroup health maintenance contract that is within the definition of a guaranteed issue health plan in said chapter one hundred and seventy-six M shall be governed by the provisions of said chapter one hundred and seventy-six M and any regulations promulgated thereunder.

SECTION 20. Section 9 of chapter 176I of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- To the extent that this section is inconsistent with the provisions of one hundred and seventy-six M and any regulations promulgated thereunder, any nongroup health plan under a preferred provider arrangement that is within the definition of a guaranteed issue health plan in said chapter one hundred and seventy-six M shall be governed by the provisions of said chapter one hundred and seventy-six M and any regulations promulgated thereunder.

SECTION 21. Section 1 of chapter 176J of the General Laws, as so appearing, is hereby amended by striking out the definition of "Association group policy".

SECTION 22. Said section 1 of said chapter 176J, as so appearing, is hereby further amended by striking out, in line 39, the word ", sex".

SECTION 23. Said section 1 of said chapter 176J, as so appearing, is hereby further amended by striking out, in lines 59 and 62, the word "twenty-five" and inserting in place thereof, in each instance, the word:- fifty.

SECTION 24. Said section 1 of said chapter 176J, as so appearing, is hereby further

amended by striking out, in line 91, the word ", gender".

SECTION 25. Section 2 of said chapter 176J, as so appearing, is hereby amended by striking out, in line 1, the word "(a) Except" and inserting in place thereof the word:- Except,- and by striking out paragraphs (b) to (e), inclusive.

SECTION 26. Section 3 of said chapter 176J, as so appearing, is hereby amended by adding the following three paragraphs:-

No carrier shall vary any premium rate on the basis of sex or gender in any health plan issued or renewed on or after August fifteenth, nineteen hundred and ninety-six.

A carrier who, as of August fifteenth, nineteen hundred and ninety-six, pursuant to paragraph (1) of subsection (a) charged group base premium rates to any group from among twenty-six to no more than fifty eligible employees eligible employees as defined in section one of this statute that were more than two times the group base premium rate charged by that carrier to any group from among twenty-six to no more than fifty eligible employees eligible employees with the lowest group base premium rate for that rate basis type within that class of business may establish a phase-out adjustment for all groups that were charged more than two times such group base premium rate. No carrier may vary its rates by more than such phase-out adjustment or the amount by which it varied its rates due to those factors on August fifteenth, nineteen hundred and ninety-six, whichever is less. Between December first, nineteen hundred and ninety-six and November thirtieth, nineteen hundred and ninety-seven, inclusive, the group base premium rate charged by a carrier to any eligible small business from among twenty-six to no more than fifty eligible employees under this section shall not exceed four times the group base premium rate charged by that carrier to an eligible small business from among twenty-six to no more than fifty eligible employees under this section with the lowest group premium rate for that rate basis type within that class of business. Between December first, nineteen hundred and ninety-seven and November thirtieth nineteen hundred and ninety-eight, inclusive, the group base rate charged by a carrier to any eligible small business from among twenty-six to no more than fifty eligible employees under this section shall not exceed three times the group base premium rate charged by that carrier to an eligible small business from among twenty-six to no more than fifty eligible employees under this section with the lowest group premium rate for that rate basis type within that class of business. Between December first, nineteen hundred and ninety-eight and November thirtieth, nineteen hundred and ninety-nine, the group base rate charged by a carrier to any eligible small business from among twenty-six to no more than fifty eligible employees under this section shall not exceed two times the group base premium rate charged by that carrier to an eligible small business from among twenty-six to no more than fifty eligible employees under this section with the lowest group premium rate for that rate basis type within that class of business. If a carrier chooses to establish a phase-out rate adjustment, every group business from among twenty-six to no more than fifty eligible employees that was charged a group base premium rate that was more than two times the group base premium rate charged by that carrier to the group business from among twenty-six to no more than fifty eligible employees with the lowest group base premium rate for that rate basis type within that class of business on August fifteenth, nineteen hundred

and ninety-six shall be subject to a phase-out rate adjustment; provided, however, that no carrier shall apply a phase-out rate adjustment to any other group business from among twenty-six to no more than fifty eligible employees employees. For every health benefit plan issued or renewed on or after December first, nineteen hundred and ninety-nine, the group base premium rates charged by a carrier to each group business from among twenty-six to no more than fifty eligible employees during a rating period shall not exceed one and one-half times the group base premium rate charged to the group business from among twenty-six to no more than fifty eligible employees with the lowest group base premium rate. No phase-out adjustments shall be permitted after November thirtieth, nineteen hundred and ninety-nine.

Effective December first, nineteen hundred and ninety-nine, group base premium rates charged by a carrier to an eligible small business shall not exceed one-and-one-half times the group base premium rate which could be charged by that carrier to an eligible small business under this chapter with the lowest group premium rate for that rate basis type within that class of business.

SECTION 27. Section 7 of said chapter 176J, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "chapter", in line 20, the following words:- and a statement of the number of eligible employees and eligible dependents, as of the close of the preceding calendar year, who purchase a health benefit plan from the carrier.

SECTION 28. Said chapter 176J is hereby further amended by adding the following section:-

Section 9. (a) Subject to the limitations set forth in this section, every carrier shall offer continuation coverage under a health benefit plan issued under this chapter to any qualified beneficiary who would lose coverage under that health benefit plan as the result of a qualifying event and who makes a written election for continued coverage under the health plan within the election period.

(b) For purposes of this section, the words "continuation coverage" shall mean coverage under the health benefit plan which meets the following requirements:

(1) The coverage shall consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the health benefit plan to similarly situated beneficiaries with respect to whom a qualifying event has not occurred. If coverage under the health benefit plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the health benefit plan pursuant to this subsection in connection with such group.

(2) The coverage shall extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

(i) in the case of a qualifying event described in clause (ii) of subsection (f), except as provided in clause (ii), the date which is eighteen months after the date of the qualifying event;

(ii) if a qualifying event, other than a qualifying event described in clause (vi) of said subsection (f) occurs during the eighteen months after the date of a qualifying event de-

scribed in said clause (ii) of said subsection on (f), the date which is thirty-six months after the date of the qualifying event described in said (ii);

(iii) in the case of a qualifying event described in clause (vi) of said subsection (f) relating to bankruptcy proceedings, the date of the death of the former employee or qualified beneficiary described in paragraph (ii) of subsection (k) or in the case of the surviving spouse or dependent children of the former employee, thirty-six months after the date of the death of the covered employee;

(iv) in the case of a qualifying event not described in clause (ii) or (vi) of subsection (f), the date which is thirty-six months after the date of the qualifying event;

(v) in the case of a qualified beneficiary who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in said clause (ii) of said subsection (f) any reference in clause (i) or (ii) of this subsection to eighteen months with respect to such event is deemed a reference to twenty-nine months, but only if the qualified beneficiary has provided notice of such determination pursuant to paragraph (2) of subsection (j) before the end of such eighteen months;

(vi) in the case of an event described in clause (iv) of subsection (f), without regard to whether such event is a qualifying event, the period of coverage for qualified beneficiaries other than the former employee for such event or any subsequent qualifying event shall not terminate before the close of the thirty-six month period beginning on the date the covered employee becomes entitled to benefits under Title XVIII of the Social Security Act;

(vii) the date on which the carrier ceases to provide a health benefit plan to other similarly situated eligible employees of the eligible small business which formerly employed the qualified beneficiary;

(viii) the date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary. Unless otherwise specified in this section, the payment of any premium shall be considered to be timely if made within thirty days after the date due or within such longer period as applies to or under the plan;

(ix) the date on which the qualified beneficiary first becomes, after the date of the election, (A) covered under any other health benefit plan as an employee or otherwise, which does not contain any exclusion or limitation with respect to any preexisting condition of such beneficiary, or (B) in the case of a qualified beneficiary other than a qualified beneficiary described in paragraph (ii) of subsection (k) entitled to benefits under Title XVIII of the Social Security Act; or

(x) in the case of a qualified beneficiary who is disabled at the time of a qualifying event described in clause (ii) of subsection (f), the month that begins more than thirty days after the date of the final determination under Title II or XVI of the Social Security Act that the qualified beneficiary is no longer disabled.

(c) The carrier may require payment of a premium for any period of continuation coverage, except that such premium shall not exceed one hundred and two percent of the applicable premium for such period, and may, at the election of the payor, be made in monthly installments. The carrier may require that such payments and related communica-

tions be made indirectly through the former employer or through an intermediary. In no event may the carrier require the payment of any premium before the day which is forty-five days after the day on which the qualified beneficiary made the initial election for continuation coverage. In the case of an individual described in clause (v) of paragraph (2) of subsection (b) such individual after eighteenth months of the continued coverage described in clause (i) or (ii) of said paragraph (2) of said subsection (b) shall pay one hundred and fifty percent for the allowable coverage thereafter.

(d) The coverage may not be conditioned upon, or discriminated on the basis of lack of, evidence of insurability.

(e) In the case of a qualified beneficiary whose period of continuation coverage expires under said paragraph (2) of said subsection (b), the carrier shall, during the one hundred-eighty day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion nongroup health plan otherwise generally available through the carrier to similarly situated beneficiaries.

(f) For purposes of this section, the words "qualifying event" shall mean, with respect to any eligible employee, any of the following events which, but for the continuation coverage required under this section, would result in the loss of coverage of a qualified beneficiary -

(i) the death of the eligible employee;

(ii) the termination, other than by reason of such employee's gross misconduct, or reduction of hours, of the eligible employee's employment;

(iii) the divorce or legal separation of the eligible employee from the employee's spouse;

(iv) the eligible employee becoming entitled to benefits under title XVIII of the Social Security Act;

(v) a dependent child ceasing to be a dependent child under the generally applicable requirements of the health benefit plan;

(vi) a proceeding in a case under Title 11, United States Code, commencing on or after July first, nineteen hundred and eighty-six, with respect to the employer from whose employment the eligible employee retired at any time.

In the case of an event described in clause (vi), a loss of coverage shall include a substantial elimination of coverage with respect to a qualified beneficiary described in paragraph (ii) of subsection (k) within one year before or after the date of commencement of the proceeding.

(g) For purposes of this section the words "applicable premium" shall mean, with respect to any period of continuation coverage of qualified beneficiaries, the premium for the health benefit plan for such period of coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred, without regard to whether such cost is paid by the employer or employee. The determination of any applicable premium shall be made for a period of twelve months and shall be made before the beginning of such period.

(h) For purposes of this section the words "election period" shall mean the period

which (i) begins not later than the date on which coverage terminates under the health benefit plan by reason of a qualifying event, (ii) is of at least sixty days' duration, and (iii) ends not earlier than sixty days after the later of (A) the date described in clause (i), or (B) in the case of any qualified beneficiary who receives notice under paragraph (3) of subsection (j), the date of such notice.

(i) Except as otherwise specified in an election, any election of continuation coverage by a qualified beneficiary described in paragraph (i) of subsection (k) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the health benefit plan by reason of the qualifying event. If there is a choice among types of coverage under the plan, each qualified beneficiary shall be entitled to make a separate selection among such types of coverage.

(j)(1) The carrier shall provide, at the time of commencement of coverage under the health benefit plan, written notice to each eligible employee and spouse of the employee, if any, of the rights provided under this section.

(2) Each eligible employee or qualified beneficiary is responsible for notifying the carrier of the occurrence of any qualifying event described in clause (iii) or (v) of subsection (f) within sixty days after the date of the qualifying event and each qualified beneficiary who is determined, under Title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in clause (ii) of subsection (f) is responsible for notifying the carrier of such determination within sixty days after the date of the determination and for notifying the carrier within thirty days of the date of any final determination under such title or titles that the qualified beneficiary is no longer disabled.

(3) The carrier shall notify (A) in the case of a qualifying event described in clause (i), (ii), (iv), or (vi) of subsection (f) of which the carrier has actual knowledge, any qualified beneficiary with respect to such event, and (B) in the case of a qualifying event described in clause (iii) or (v) of subsection (f) where the eligible employee notifies the carrier paragraph (2) of this subsection, any qualified beneficiary with respect to such event, of such beneficiary's rights under this subsection.

(4) For purposes of paragraph (3) any notification shall be made within fourteen days of the date on which the carrier obtains actual knowledge of the qualifying event, and any such notification to an individual who is a qualified beneficiary as the spouse of the eligible employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

(5) The carrier may require that all notices required by this subsection be issued to qualified beneficiaries by the eligible small business or by an intermediary.

(k)(i) For purposes of this section, the words "qualified beneficiary" shall mean, with respect to a eligible employee under a health benefit plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan as the spouse of the eligible employee or as the dependent child of the employee; provided, however, that in the case of a qualifying event described in clause (ii) of subsection (f), the words "qualified beneficiary" shall also include the eligible employee.

(ii) In the case of a qualifying event described in subsection (f)(vi), the words

"qualified beneficiary" shall include an eligible employee who had retired on or before the date of substantial elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan as the spouse of the eligible employee, as the dependent child of the eligible employee or as the surviving spouse of the eligible employee.

(iii) The provisions of this section shall not apply to any health benefit plan issued to an eligible small business with only one eligible employee or with greater than nineteen eligible employees.

(l) In any circumstance in which more extensive coverage than that provided by this section is required pursuant to any provision of the General Laws or any law of the United States, the health benefit plan shall satisfy such other provision insofar as it requires more extensive coverage.

SECTION 29. The General Laws are hereby amended by inserting after chapter 176L the following chapter:

CHAPTER 176M.
NONGROUP HEALTH INSURANCE.

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

"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, of the actuarial assumptions and methods utilized by the carrier in establishing premium rates for guaranteed issue health plans.

"Average composite rate", the average of the composite rates filed by the carriers as calculated by the commissioner of insurance pursuant to the provisions of section five.

"Base premium rate", the midpoint rate within a modified community rate band for each rate basis type of each guaranteed issue health plan of a carrier.

"Carrier", an insurer licensed or otherwise authorized to transact accident and health insurance under chapter one hundred and seventy-five; a nonprofit hospital service corporation organized under chapter one hundred and seventy-six A, a nonprofit medical service corporation organized under chapter one hundred and seventy-six B; a health maintenance organization organized under chapter one hundred and seventy-six G; and an insured health plan that includes a preferred provider arrangement organized under chapter one hundred and seventy-six I. For the purposes of this chapter, carriers that are affiliated companies shall be treated as one carrier; provided, however, that a carrier shall offer a guaranteed issue health plan in every geographic area served by one or more of its affiliates. Joint marketing ventures between carriers shall not constitute an affiliation.

"Conversion nongroup health plan", a nongroup health plan issued by a carrier to a former employee or member or the dependents, including a spouse of said former employee or member, pursuant to the terms of a group policy, contract, or agreement with said former employee's former employer, or through a trust; provided, however, that this definition shall not include a group policy, contract, or agreement issued to any natural person eligible for continued group coverage under section four thousand nine hundred and eighty B of the

Internal Revenue Code of 1986, as amended, under sections six hundred and one to six hundred and eight, inclusive, of the Employee Retirement Income Security act of 1974, as amended, under sections two thousand two hundred and one to two thousand two hundred and eight, inclusive, of the Public Health Service Act, as amended, or under section nine of chapter one hundred and seventy-six J.

"Closed plan", a nongroup health plan sold by a carrier to a natural person for said natural person and his dependents, before September first, nineteen hundred and ninety-seven or such postponed effective date as the commissioner may order pursuant to subsection (b) of section three.

"Commissioner", the commissioner of the division of insurance.

"Composite rate", the average per member per month premium rate for each type of guaranteed issue plan.

"Eligible dependent", the spouse or children of an eligible individual, subject to the applicable terms of the health plan covering such individuals.

"Eligible individual", a natural person who is a resident of the commonwealth and who meets all of the following criteria: (1) the individual does not have access to a health plan through such individual's employer, either because the employer does not offer a health plan or because the employee does not meet the eligibility criteria under such benefit plan including the criteria for an eligible employee set forth in chapter one hundred and seventy-six J; (2) the individual does not have access to a self insured or self-funded employer group health plan; (3) no portion of the premium for such individual's health plan, whether issued on a group or nongroup basis, is paid directly or indirectly by such individual's employer; (4) such individual is not eligible for coverage as a dependent through a health plan in which such individual's spouse or parent or guardian is enrolled or eligible to be enrolled; (5) such individual is not or is no longer eligible for continued group coverage under section four thousand nine hundred and eighty B of the Internal Revenue Code of 1986, as amended, under sections six hundred and one to six hundred and eight, inclusive, of the Employee Retirement Income Security act of 1974, as amended, under sections two thousand two hundred and one to two thousand two hundred and eight, inclusive, of the Public Health Service Act, as amended, or under section nine of chapter one hundred and seventy-six J; (6) such individual is not self-employed; and (7) such individual is not enrolled in health benefits funded and administered by any other state or federal government program, including but not limited, medicare and medicaid. For the purpose of subsection (2), the words "self-funded employer group health plan" shall include a fully insured multiple employer welfare arrangement as defined in sections three and five hundred and fourteen of the employee retirement income security act of 1974, 29 USC 1002 and 1144, as amended. For the purposes of clauses (1) and (2), an individual shall not be considered to be enrolled in or eligible for a health plan through his employer if the individual is presently subject to a waiting period under the plan offered by his employer; provided, however, that after said waiting period has expired said individual shall no longer be considered to be an eligible individual and a carrier may refuse to renew a guaranteed issue health plan issued to said individual.

"Financial impairment", a condition in which, as determined by the commissioner, the applicant is, or if subjected to the provisions of this chapter could reasonably be expected to be, insolvent, or otherwise in an unsound financial condition such as to render its further transactions of business hazardous to the public or its policyholders or members, or compelled to compromise or attempt to compromise with its creditors or claimants on the grounds that it is financially unable to pay its claims.

"Guaranteed issue health plans", guaranteed issue managed care plans, guaranteed issue preferred provider plans and guaranteed issue medical plans.

"Guaranteed issue managed care plan", a nongroup health plan plan, including a conversion nongroup health plan issued or renewed by a carrier, pursuant to chapter one hundred and seventy-six G, to any eligible individual for said individual or his or her eligible dependents regardless of health status or claims experience, subject to the exclusions set forth in this chapter, that provides the benefits specified in subsection (c) of section two. A carrier may establish no more than one guaranteed issue managed care plan.

"Guaranteed issue medical plan", a nongroup health plan plan including a conversion nongroup health plan, issued or renewed by a carrier pursuant to either chapter one hundred and seventy-five, one hundred seventy-six A or chapter one hundred and seventy-six B to any eligible individual for said individual or his or her eligible dependents regardless of health status or claims experience, subject to the limitations set forth in this chapter, that provides the benefits specified in subsection (c) of section two. A carrier may establish no more than one guaranteed issue medical plan.

"Guaranteed issue preferred provider plans", a nongroup health plan including a conversion nongroup health plan, issued or renewed by a carrier pursuant to chapter one hundred and seventy-six I to any eligible individual for said individual or his or her eligible dependents regardless of health status or claims experience, subject to the limitations set forth in this chapter, that provides the benefits set forth in subsection (c) of said section two. A carrier may establish no more than one guaranteed issue preferred provider plan.

"Health plan", any individual, general, blanket, or group policy of health, accident or sickness insurance issued by an insurer required to be licensed under chapter one hundred and seventy-five; a hospital service plan issued by a nonprofit hospital service corporation under chapter one hundred and seventy-six A; a medical service plan issued by a nonprofit hospital service corporation under chapter one hundred and seventy-six B; a health maintenance contract issued by a health maintenance organization under chapter one hundred and seventy-six G; and an insured health plan that includes a preferred provider arrangement under chapter one hundred and seventy-six I. The words "health plan" shall not include accident only, credit, dental or disability income insurance, coverage issued as a supplement to liability insurance, insurance arising out of a worker's compensation law or similar law, automobile medical payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in a liability insurance policy or equivalent self insurance, long term care only insurance, or any policy subject to the provisions of chapter one hundred and seventy-six K. The commissioner may by regulation define other health coverage as a health plan for the pur-

poses of this chapter.

"Intermediary", a chamber of commerce, trade association, or other organization formed for purposes other than obtaining insurance, as determined by the commissioner, which offers as a service to its members the option of purchasing a health plan.

"Member", any and all individuals enrolled in a health plan.

"Modified community rate", a rate resulting from a rating methodology in which the premium for all persons within the same rate basis type who are covered under a guaranteed issue health plan is the same without regard to health status; provided, however, that premiums may vary due to age or geographic area for each rate basis type as permitted by this chapter.

"Nongroup health plan", any health plan, issued, renewed or delivered within or without the commonwealth to a natural person who is a resident of the commonwealth, including a certificate issued to an eligible natural person which evidences coverage under a policy or contract issued to a trust or association, for said natural person and his dependents, including said person's spouse; provided, however, that a health plan issued, renewed or delivered within or without the commonwealth to a natural person who is enrolled in a qualifying student health insurance program pursuant to section eighteen of chapter fifteen A shall not be considered a nongroup health plan for the purposes of this chapter and shall be governed by the provisions of said chapter fifteen A and the regulations promulgated thereunder.

"Pre-existing condition provision", a health plan provision which excludes coverage for charges or expenses following the effective date of coverage for a condition, including pregnancy, which existed prior to the effective date of coverage.

"Qualifying health plan", any (i) blanket or general policy of medical, surgical or hospital insurance described in subdivision (A), (C), or (D) of section one hundred and ten of chapter one hundred and seventy-five; (ii) policy of accident or sickness insurance as described in section one hundred and eight of chapter one hundred and seventy-five which provides hospital or surgical expense coverage; (iii) nongroup or group hospital medical service plan issued by a nonprofit hospital or medical service corporation under chapters one hundred and seventy-six A and one hundred and seventy-six B; (iv) nongroup or group health maintenance contract issued by a health maintenance organization under chapter one hundred and seventy-six G; (v) insured group health plan that includes a preferred provider arrangement under chapter one hundred and seventy-six I; (vi) self insured or self-funded employer group health plan; (vii) health coverage provided to persons serving in the armed forces of the United States; or (viii) medical assistance provided under chapter one hundred and eighteen E; or (ix) any plan administered directly or indirectly by the department under chapter one hundred and eighteen F. The commissioner may by regulation define other health coverage as a qualifying health plan for the purposes of this chapter.

"Rating factor", characteristics including, but not limited to age, sex, geography, actual or expected health condition, medical history, claims history, or duration of coverage.

"Rate basis type", each category of individual or family composition for which separate rates are charged for a guaranteed issue health plan as determined by the carrier.

"Rating period", the period for which premium rates established by carrier are in effect, as determined by the carrier.

"Resident", a natural person living in the commonwealth; provided, however, that the confinement of a person in a nursing home, hospital or other institution shall not by itself be sufficient to qualify such person as a resident.

"Standard benefits plans", a set of benefits to be determined pursuant to the provisions of section two which sets a minimum level of benefits to be provided in each guaranteed issue managed care plan, guaranteed issue medical plan and guaranteed issue preferred provider plan on an actuarially equivalent basis.

"Subscriber", an eligible individual who has enrolled alone, or with his or her eligible dependents, in a guaranteed issue health plan.

"Waiting period", a period immediately subsequent to the effective date of a person's coverage under a guaranteed issue health plan during which the plan does not pay for some or all hospital or medical expenses.

Section 2. (a) Any nongroup health plan offered, sold, issued, delivered, made effective, or renewed by any carrier to any resident of the commonwealth on or after the August fifteenth, nineteen hundred and ninety-six of the chapter shall comply with the provisions of this chapter; provided, however, that the issue, renewal or delivery of a conversion nongroup health plan shall not obligate the carrier to otherwise issue, renew or deliver a nongroup health plan to any person to whom it does not have such an obligation pursuant to a group policy, contract or agreement with an employer or through a trust.

(b)(1) As a condition of doing business in the commonwealth, a carrier that offers health benefit plans to qualified small businesses, as defined by chapter one hundred and seventy-six J, shall participate in the nongroup health insurance market. A carrier shall be exempt from this requirement if, as of the close of the preceding calendar year, it has fewer than five thousand eligible employees and eligible dependents, as defined by chapter one hundred and seventy-six J, enrolled in health benefit plans offered to qualified small businesses.

(2) A carrier subject to licensure under chapter one hundred and seventy-six G, that, as of the close of the preceding calendar year, has five thousand or more eligible employees and eligible dependents, as defined by chapter one hundred and seventy-six J, enrolled in health benefit plans offered to qualified small businesses, shall be considered to be participating in the nongroup health insurance market only if it offers for sale to any eligible individual a guaranteed issue managed care plan, subject to the exceptions set forth in this chapter.

(3) A carrier subject to licensure under chapter one hundred and seventy-five, one hundred and seventy-six A or one hundred and seventy-six B, that as of the close of the preceding calendar year, has a total of five thousand or more eligible employees and eligible dependents, as defined in chapter one hundred and seventy-six J, enrolled in health benefit plans offered to qualified small businesses shall be considered to be participating in the nongroup health insurance market only if it offers for sale to any eligible individual a guaranteed issue medical plan, subject to the exceptions set forth in this chapter. For pur-

poses of this section, neither an eligible employee, nor an eligible dependent, shall be considered to be enrolled in a health benefit plan subject to licensure under chapter one hundred and seventy-five if said health benefit plan is issued to said eligible employee or eligible dependent as a supplement to a health benefit plan subject to licensure under chapter one hundred and seventy-six G.

(4) A carrier that is required, pursuant to subsection (3), to offer for sale to any eligible individual a guaranteed issue medical plan may instead offer for sale to any eligible individual a guaranteed issue preferred provider plan, subject to the exceptions set forth in this chapter; provided, however, that nothing in this chapter shall prohibit a carrier from offering both a guaranteed issue medical plan and a guaranteed issue preferred provider plan should it so choose.

(c) Notwithstanding the requirements of section four and section twenty-two of chapter seven and section twenty-seven B and section twenty-nine A of chapter twenty-nine, no later than sixty days after August fifteenth, nineteen hundred and ninety-six, the executive office for administration and finance shall contract with a total of three contractors, including a certified employee health benefits plan specialist, an associate in risk management or licensed life and health insurance advisor. One of the three contractors hired shall be an actuary, who shall be a member of the American Academy of Actuaries. The contractors hired shall be members in good standing of their respective local or national accrediting bodies, shall specialize in health care, and shall not be employees of any licensed carrier or the commonwealth.

(1) Said contractors shall develop recommendations consistent with this section relative to the benefits to be provided by, and the cost-sharing requirements of, the standard guaranteed issue managed care plan, the standard guaranteed issue managed care plan with a point of service option, the standard guaranteed issue medical plan, and the standard guaranteed issue preferred provider plan. Said recommendations shall be based upon the prototype for small group plans under chapter one hundred and seventy-six J, modified to provide for a co-payment for outpatient benefits which is no greater than three-fifths of the co-payment applicable to the small group prototype. The standard plans shall include at least the following medically necessary services: reasonably comprehensive physician services, inpatient and outpatient hospital services, emergency health services, the full range of effective clinical preventive care, and prescription drugs administered on an outpatient basis. For each thirty day supply of generic prescription drugs, a guaranteed issue health plan shall require a twenty dollar co-payment. For each thirty day supply of brand name prescription drugs, a guaranteed issue health plan shall require a twenty-five dollar co-payment. Any insured individual who incurs fifty co-payments for prescription drugs in a calendar year shall not be required to make any additional co-payments for prescription drugs in that calendar year. Each health plan that provides for the purchase of prescription drugs by mail order shall provide a financial incentive to insured individuals who purchase their drugs by mail order. Each of the standard guaranteed issue health plans shall be reasonably actuarially equivalent to each other. The contractors shall report their recommendations, upon which at least two of them shall agree, to the nongroup health insur-

ance advisory board no later than thirty days after their hire.

(2) After due consideration of the recommendations of the contractors, and no later than fourteen days after the submission of said recommendations, said board shall make final recommendations, upon which a majority of the members shall agree and which are consistent with the standards established in paragraph (4), to the commissioner relative to the benefits to be provided by, and the cost sharing requirements of, the standard guarantee issue health plans. The commissioner shall, no later than fourteen days after the submission of the board's recommendations, either approve or disapprove said recommendations. The commissioner shall not modify the recommendations of said board. If the commissioner does not approve the recommendations of said board, said board shall, after consulting with the contractors, submit new recommendations, upon which a majority of the members agree and which are consistent with the standards established in paragraph (4), to the commissioner no later than fourteen days following his decision to disapprove the standard benefit plans.

(3) Said board shall review the benefits to be provided by, and the cost sharing requirements of, the standard guaranteed issue health plans on an annual basis. In making its recommendations, the board shall ensure that actuarial equivalence is maintained between the standard guaranteed issue plans. Said board shall make pertinent recommendations to the commissioner who shall approve or disapprove said recommendations within fourteen days. The commissioner shall then take the appropriate steps to ensure the implementation of the standard benefits plans.

(4) A carrier may establish as its guaranteed issue managed care, guaranteed issue medical, or guaranteed issue preferred provider plan a plan with additional benefits or lower cost-sharing requirements than those contained in the standard plans defined by the commissioner pursuant to subsection (a); provided, however, that any such enhanced plan includes the benefits contained in the comparable type of standard plan, that the carrier establishes only one form, whether standard or enhanced, of each type of managed care, medical, or preferred provider guaranteed issue plan or plans that it offers; and provided, further, that such enhanced plan or plans shall be subject to all of the requirements of this chapter applicable to guaranteed issue health plans. A federally qualified health plan provided by a health maintenance organization which provides, at a minimum, the benefits contained in the comparable type of standard plan, including prescription drugs, and is the only form, whether standard or enhanced, which the health maintenance organization offers shall be deemed to meet the requirements of this section. The commissioner may prohibit a carrier from offering an enhanced plan if he finds that the design of the plan may have the effect of discouraging enrollment by eligible individuals.

(5) As of the first day of the first open enrollment period specified in paragraph (3) of subsection (b), a carrier shall not issue any health plan to an eligible individual other than a guaranteed issue health plan; provided, however, that a carrier may renew a closed plan for a period of no more than three years, and in such case, be subject to the provisions of subsection (a) of section five. Notwithstanding the foregoing, any such closed plan shall not be subject to the provisions of section four, except that no carrier shall, during the three-year

period, add any new factor to the rating methodology applicable to its closed plan on August fifteenth, nineteen hundred and ninety-six. A carrier shall permit a subscriber of a closed plan to enroll in a guaranteed issue health plan at any time during the three year renewal period.

(6) All carriers with closed plans shall continue to enroll individuals in said closed plans until September first, nineteen hundred and ninety-seven or such postponed effective date as the commissioner may order pursuant to subsection (b) of section three.

Section 3. (a) No carrier shall exclude any eligible individual or eligible dependent on the basis of age, occupation, actual or expected health condition, claims experience, or medical condition of such person, nor impose any pre-existing condition provision or waiting period in any guaranteed issue health plan; provided, however that the issue, renewal or delivery of a conversion nongroup health plan shall not obligate the carrier to otherwise issue, renew or deliver a nongroup health plan to any person to whom it does not have such an obligation pursuant to a group policy, contract or agreement with an employer or through a trust.

(b) In the first year following August fifteenth, nineteen hundred and ninety-six, the carrier shall enroll eligible individuals into guaranteed issue health plans during an open enrollment period commencing June first and ending July thirty-first with coverage to become effective September first. The commissioner may postpone said open enrollment period and effective date of coverage should a substantial number of carriers, due to substantial administrative delay, be unable to enroll eligible individuals into a guaranteed issue health plan during the open enrollment period commencing June first and ending July thirty-first; provided, however, that any carrier that is unable to enroll eligible individuals into a guaranteed issue health plan during the open enrollment period beginning June first and ending July thirty-first, for reasons other than substantial administrative delay, may be subject to a fine of one thousand dollars for every day in which it is unable to enroll such eligible individuals in said guaranteed issue health plan and any other penalties available under this chapter. In every year thereafter, a carrier shall enroll eligible individuals into guaranteed issue health plans during an open-enrollment period commencing September first and ending October thirty-first of each year, with coverage to become effective the following December first.

(1) A carrier shall enroll an eligible individual into a guaranteed issue health plan at a time outside the open enrollment period if all of the following conditions are met: (i) such individual did not meet the definition of an eligible individual during the previous open enrollment period and now meets that definition and (ii) such individual requests guaranteed issue coverage within thirty days of the event which caused him to meet the definition of an eligible individual. Coverage shall become effective within thirty days of the date of application, subject to reasonable verification of eligibility pursuant to paragraph (d) of section four.

(2) A carrier may enroll eligible individuals into guaranteed issue health plans outside of the open enrollment period; provided however, that the terms and conditions that apply outside of the open enrollment period are identical to the terms and conditions that

apply during the open enrollment period. Coverage shall become effective within thirty days of the date of application, subject to reasonable verification of eligibility pursuant to said paragraph (d) of said section four.

(c) Carriers may utilize intermediaries, as defined in section one, to offer guaranteed issue health plans to eligible individuals. Fees charged by such intermediaries shall be reasonable and shall not serve as a barrier to the purchase of insurance under this chapter.

Section 4. (a) Premiums charged to eligible individuals for guaranteed issue health plans issued or renewed after August fifteenth, nineteen hundred and ninety-six, shall satisfy the requirements of this section.

(1) Each carrier shall establish a base premium rate for each rate basis type within each class of business it offers. The premium charged to any eligible purchaser shall be limited to the base premium rate multiplied by the factors specified in paragraphs (2), (3), and (4).

(2) A carrier may a establish premium rate adjustment based upon the age of insured individuals. Such an adjustment shall be known as the age rate adjustment. Between December first, nineteen hundred and ninety-six and November thirtieth, nineteen hundred and ninety-nine, a carrier may establish an age rate adjustment, the value of which shall range from sixty-seven one-hundredths to one and thirty-three one-hundredths. If a carrier chooses to establish age rate adjustments, the premium charged to every individual enrolled in a guaranteed issue health plan shall be subject to the applicable age rate adjustment. As of December first nineteen hundred and ninety-nine, the base premium rate multiplied by the age rate adjustment as applied to an eligible individual for a rate basis type with a class of business of a carrier shall range from eighty one hundredths to one-hundred and twenty one-hundredths. If a carrier chooses to establish age rate adjustments, the premium charged to every individual enrolled in a guaranteed issue health plan shall be subject to the applicable age rate adjustment.

(3) The commissioner shall annually establish not fewer than five distinct regions of the state for the purpose of area rate adjustments. A carrier may establish an area rate adjustment for each different region, the value of which shall range from eighty one-hundredths to one hundred and twenty one-hundredths. If a carrier chooses to establish area rate adjustments, the premium charged for a guaranteed issue health plan to each eligible individual who resides within each geographic area shall be subject to the applicable area rate adjustment.

(4) The premium rate charged by a carrier to each individual on the date the individual's nongroup health policy is issued or renewed shall be the base premium rate charged for that rate basis type, multiplied by the age rate adjustment, multiplied by the area rate adjustment, multiplied by the benefits level rate adjustment, as may be applicable pursuant to this section.

(b) No carrier shall knowingly issue a guaranteed issue nongroup health plan to any individual other than an eligible individual. A carrier may renew a health plan previously issued to an individual who is not an eligible individual only if said individual either was insured under said plan as of August fifteenth, nineteen hundred and ninety-six or was

insured as of August fifteenth, nineteen hundred and ninety-six under a health plan issued by said carrier and said plan is no longer offered by the carrier.

(c) A carrier shall not be required to issue or renew a nongroup health plan to any eligible individual if the carrier can demonstrate that: (1) the acceptance of applications would create for the carrier a condition of financial impairment, and the carrier demonstrates the same to the commissioner; (2) the eligible individual does not meet a health maintenance organization's requirements regarding residence or employment within the health maintenance organization's approved service area; or (3) within an area, a health maintenance organization reasonably anticipates and demonstrates to the satisfaction of the commissioner that it will not have the capacity in its network of providers to deliver services adequately to the individual because of its obligation to existing contract holders and enrollees; provided, however, that such a health maintenance organization shall not offer coverage in the applicable area to any new applicants for group or nongroup coverage until the later of ninety days after each such refusal or the date on which the health maintenance organization notifies the commissioner that it has regained capacity to deliver services to eligible individuals.

(d) A carrier shall not be required to issue or renew a health plan to an eligible individual if (1) the individual failed to pay the required premium for any health plan on a timely basis, or (2) the individual committed fraud, or misrepresented whether he qualifies or continues to qualify as an eligible individual, or (3) the individual failed to comply in a material way with the provisions of the health plan, the member contract, or the subscriber agreement, or (4) the individual failed to comply with the carrier's reasonable request for information provided in the application for coverage or renewal under a guaranteed issue health plan; provided, however, that in cases of nonpayment, the carrier shall provide the individual with a period of grace of no less than sixty days from the date that a premium payment is due. At the beginning of such period of grace, the carrier shall provide the individual with notice regarding the period of grace informing him of the last date on which payment may be made to prevent forfeiture.

(e) A carrier that decides to terminate coverage for all eligible individuals enrolled in a specific guaranteed issue health plan shall notify the commissioner and individuals enrolled in the specific guaranteed issue health plan no later than ninety days prior to the beginning of the next open enrollment period that it is terminating coverage under that guaranteed issue health plan. Such carrier shall continue to provide coverage to those eligible individuals covered as of the date of the notice of intent to terminate coverage for ninety days after the conclusion of the open enrollment period, or until all of such carrier's enrollees in that guaranteed issue health plan are transferred to other guaranteed issue health plans, whichever occurs first. A carrier may not terminate a guaranteed issue health plan if such termination would cause the carrier to violate subsection (b) of section two. A carrier who terminates a guaranteed issue health plan pursuant to this subsection shall not issue any guaranteed issue health plan for a period of five years; provided, however, that the commissioner, in his discretion, may allow a carrier to re-enter the nongroup market sooner.

Section 5. (a) No later than seventy-five days after the commissioner has approved

the standard benefits plan, each carrier shall file its initial rates for its newly offered guaranteed issue health plans to be effective as of September first nineteen hundred and ninety-seven or on another date as required under subsection (b) of section three. No later than May first of each year thereafter, every carrier shall file its rates for each of its guaranteed issue health plans to be effective on December first of that year. The rates contained in a carrier's initial filing shall include the composite rate and also the rate for each rate basis type. Said filing shall include a memorandum signed by an actuary certifying that the rates have been developed in accordance with the rate bands and multipliers contained in subsection (a) of section four and are reasonable in relation to the benefits provided. Said filing shall also include a comparison of current and proposed rates listing premium cost components stated as a percentage of premium, including but not limited to the cost of prescription drugs administered on an outpatient basis. Said filing shall also include for each nongroup health plan included in the filing the actual loss ratio for the previous year, the loss ratio for the current year and the projected loss ratio for the year for which the rate is being filed. A loss ratio shall be defined as the ratio of the incurred costs for hospital, medical or other health care services for the relevant period to the premium earned for that same period for each nongroup health plan. Said filing shall also include a copy of the carrier's annual report. In its initial filing after August fifteenth, nineteen hundred and ninety-six the carrier shall also file information regarding its nongroup health plan rates, if it offered any such plan, during the year prior to August fifteenth, nineteen hundred and ninety-six, including the total number of insureds, the total number of policies issued and the number of policies issued within each rate basis type of each policy. A copy of said filing shall also be submitted to the nongroup health insurance advisory board. Said board may include information from carrier filings in its annual consumer's guide.

(b) No later than forty-five days after the date upon which the carriers are required to submit their initial filing of the rates for a newly offered guaranteed issue health plan following August fifteenth, nineteen hundred and ninety-six under subsection (a) and no later than June fifteenth of each year thereafter, the commissioner shall determine the average composite rate for each type of guaranteed issue health plan, adjusted in a consistent manner to be prescribed by the commissioner for geographic differences in health care costs, age and differences in benefit levels as permitted pursuant to subsection (d) of section two. The commissioner shall determine if the composite rate filed by each carrier for each type of guaranteed issue health plan, adjusted in the same consistent manner, exceeds the average adjusted composite rate for that type of guaranteed issue health plan by more than two standard deviations. Carriers shall submit data reasonably necessary to substantiate the adjustments made. For purposes of this chapter, standard deviation shall be defined as the square root of the average of the squares of the differences between each adjusted composite rate and the average adjusted composite rate. The commissioner shall also examine the design of the benefits of each nongroup health plan to determine if it complies with applicable laws and regulations and to determine whether its design may have the effect of minimizing the number of eligible individuals who will enroll in said plan. The commissioner shall also determine for average rate of policies in effect as of August fif-

teenth, nineteen hundred and ninety-six. The commissioner shall report this average rate to the board created under section seven.

(c) If a filing is the carrier's initial filing for a newly offered guaranteed issue health plan and if the adjusted composite rate for said plan exceeds the average adjusted composite rate for such type of plan by more than two standard deviations then the filing shall be subject to further review pursuant to subsection (e). No later than forty-five days after the date upon which the carriers are required to submit their initial filing of the rates for a newly offered guaranteed issue health plan after August fifteenth, nineteen hundred and ninety-six under subsection (a) and no later than June fifteenth of each year thereafter, the commissioner shall notify such carrier in writing that the filing is subject to further review pursuant to said subsection (e). No filing shall be subject to further review pursuant to said subsection (e) unless the commissioner has sent the notice required under this subsection within forty-five days of the date that the carriers are required to submit their rates under subsection (a) in the first year or by said June fifteenth of each year thereafter.

(d) In the case of a filing for an existing guaranteed issue health plan, if the adjusted composite rate for said plan exceeds the average adjusted composite rate for such type of plan by more than two standard deviations and the proposed composite rate also exceeds one hundred and ten percent of the carrier's current composite rate for such plan, then no later than said June fifteenth of each year, the commissioner shall notify such carrier in writing that the filing is subject to further review pursuant to subsection (e). No filing shall be subject to further review pursuant to said subsection (e) unless the commissioner has sent the required notice on or before said June fifteenth.

(e) If a carrier's rate filing for a guaranteed issue health plan is subject to further review pursuant to subsection (c) or (d), then the commissioner shall give the carrier twenty-one days to submit additional evidence that shows either that the rate filed is reasonable in relation to the benefits provided, or that its adjusted composite rate would not have exceeded the average adjusted composite rate for that type of guaranteed issue health plan by more than two standard deviations if its adjusted composite rate had been further adjusted for the case mix of persons insured in that carrier's nongroup health plans in operation as of August fifteenth, nineteen hundred and ninety-six, whom the carrier anticipates will be covered in its guaranteed issue health plan during the period of the proposed rates. The case mix adjustment shall be based upon the diagnosis related group grouper selected by the division of health care finance and policy established under section thirty-two of chapter six A and associated diagnosis related group weights calculated from Massachusetts data, and shall measure the differential case mix compared to the case mix of all privately insured persons discharged from hospitals from the commonwealth, as determined by said division of health care finance and policy. The commissioner shall have the authority to review and make any necessary changes to this methodology to ensure that the methodology used is consistent with the most current knowledge and methodologies used for such purposes. The commissioner shall have the authority to request that the carrier submit additional information reasonably necessary to make his determination. The commissioner shall have the authority to conduct an informational public hearing if he

deems it reasonably necessary to make his determination. No later than ten days after the commissioner has received further information from the carrier, the commissioner shall make a written determination (1) as to whether the adjusted composite rate filed, further adjusted for case mix if the carrier so proposes, would not have exceeded the average adjusted composite rate for that type of guaranteed issue health plan by more than two standard deviations or (2) in the case of an adjusted composited rate that exceeds the average adjusted composite rate by more than two standard deviations either because the rate, although further adjusted for case mix would still have exceeded the two standard deviation test or because the carrier dose not propose an adjustment for case mix, as to whether the rate filed is reasonable in relation to the benefits provided. If the commissioner determines either that the adjusted composite rate, further adjusted for case mix, would not have exceeded the average adjusted composite rate for that type of guaranteed issue health plan by more than two standard deviations under clause (1) of the preceding sentence or that the rate is reasonable under clause (2) of the preceding sentence, he shall notify the carrier that the rate is approved. If the commissioner determines that the adjusted composite rate or that rate further adjusted for case mix, if the carrier so proposes, would have exceeded the average adjusted composite rate for that type of guaranteed issue health plan by more than two standard deviations and that the rate is not reasonable, he shall notify the carrier that the rate is disapproved and that the carrier has the right to request an adjudicatory hearing pursuant to chapter thirty A within twenty-one days of the commissioner's decision. Said hearing shall be conducted within thirty days of the carrier's request. The commissioner shall issue a written decision within thirty days of the conclusion of the hearing. The rate shall be effective not earlier than thirty days subsequent to the commissioner's written decision. A carrier aggrieved by said written decision may, within twenty days of said decision, file a petition in the supreme judicial court for Suffolk county for a review of such decision. Review by the supreme judicial court on the merits shall be limited to the record of the proceedings before the commissioner and shall be based upon the standards set forth in paragraph (7) of section fourteen of chapter thirty A.

(f) A carrier whose rate filing is subject to further review or who has exercised its right to an administrative hearing shall, for purposes of section two, be deemed to be offering guaranteed issue health plans and shall be allowed to continue to offer health benefit plans to eligible small businesses, provided that it is exercising good faith in its participation in said further review or hearing.

(g) A carrier whose initial rate filing is subject to further review or who has exercised its right to a hearing may implement an interim composite rate no greater than the average proposed composite rate, provided that it is exercising good faith in its participation in said further review or hearing.

(h) The commissioner shall promulgate regulations to enforce this section.

(i) Nothing in this section shall be construed to limit the commissioner's authority to disapprove rates pursuant to chapter one hundred and seventy-five, one hundred and seventy-six A, one hundred and seventy-six B, one hundred and seventy-six G, or one hundred and seventy-six I.

Section 6. Subject to an agreement to participate by five or more carriers, there is hereby established a nonprofit entity to be known as the Massachusetts Nongroup Health Reinsurance Plan. All carriers issuing health plans to eligible individuals on or after August fifteenth, nineteen hundred and ninety-six, shall not be required to be members of said reinsurance plan.

Such plan shall be prepared and administered by a governing committee appointed by the governor, consisting of five members representing nongroup health insurers participating in the plan. At least one member of the governing committee shall be a small business domestic health insurer. The governing committee shall be responsible for the hiring of the employees of the plan. The initial appointment of two of the members shall be for a term of three years. The initial appointment of two of the members shall be for a term of two years. The initial appointment of one of the members shall be for a term of one year. All appointments thereafter shall be for a term of three years.

The governing committee shall submit to the commissioner a plan of operation. The commissioner shall, after notice and hearing, approve or disapprove the plan of operation. Subsequent amendments to such plan shall be deemed approved in writing by the commissioner if not expressly disapproved in writing by the commissioner within thirty days from the date of the filing of such amendments. The plan shall not reimburse a carrier with respect to the claims of a reinsured individual or dependent in any calendar year until the carrier has paid five thousand dollars in benefits in a calendar year for benefits otherwise covered by the plan. The governing body may increase said dollar amount upon the approval of the commissioner.

Meetings of the governing committee of the plan shall be conducted in accordance with the provisions of section eleven A of chapter thirty A.

Premium rates charged for coverage reinsured by the plan shall be established as follows or as the commissioner may direct, in consultation with the governing committee: five times the adjusted average base market premium rate established by the program for that classification or group with similar characteristics and coverage, with respect to an eligible individual or his dependents, minus a ceding expense determined by the reinsurance program.

To control the size of the population of the plan, the plan shall annually provide for territorial and classification credits for those companies voluntarily writing nongroup health insurance within those territories or classifications that would otherwise be disproportionately represented in the plan. The size of the credits shall be such as to enhance the prospects that no classification or territory is disproportionately represented in the plan.

Following the close of each fiscal year, the governing committee shall determine the premiums charged for reinsurance coverage, the reinsurance plan expenses for administration, and the incurred losses, if any, for the year, taking into account investment income and other appropriate gains and losses. Any net loss for the year shall be recouped by assessment of the members. Said assessments shall be apportioned in proportion to said members' respective shares of the total premiums earned in the commonwealth from guaranteed issue health plans. Such assessments shall not exceed five percent of such

premiums from such health plans. If the assessments level is inadequate, the governing committee may adjust reinsurance thresholds, retention levels or consider other forms of reinsurance.

SECTION 30. The General Laws are hereby further amended by inserting after chapter 176M the following chapter:-

CHAPTER 176N.
PORTABILITY OF HEALTH INSURANCE.

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

"Commissioner", the commissioner of the division of insurance.

"Emergency services", covered services provided after the sudden onset of a medical condition manifesting itself by acute symptoms, including severe pain, which are severe enough that the lack of immediate medical attention could reasonably be expected to result in: (i) placing the patient's health in serious jeopardy; (ii) serious impairment of bodily functions; or (iii) serious dysfunction of any bodily organ or part.

"Health plan", any general, blanket, group or nongroup policy of health, accident and sickness insurance issued by an insurer licensed under chapter one hundred and seventy-five; a group or nongroup hospital service plan issued by a nonprofit hospital service corporation under chapter one hundred and seventy-six A; a group or nongroup medical service plan issued by a nonprofit hospital service corporation under chapter one hundred and seventy-six B; a group or nongroup health maintenance contract issued by a health maintenance organization under chapter one hundred and seventy-six G; or an insured health plan which includes a preferred provider arrangement organized under one hundred and seventy-six I which is issued for delivery in the commonwealth. The words "health plan" shall not include accident only, credit, dental or disability income insurance, coverage issued as a supplement to liability insurance, insurance arising out of a worker's compensation or similar law, automobile medical payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in a liability insurance policy or equivalent self-insurance, long term care only insurance, or any group blanket or general policy which provides supplemental coverage to medicare or other governmental programs.

"Late enrollee", an eligible employee or dependent who requests enrollment in a group health plan or insurance arrangement after the plan initial enrollment period, their initial eligibility date provided under the terms of the plan or arrangement or the group's annual open enrollment period; provided, however, that an insured shall not be considered a late enrollee if the request for enrollment to the insurer is made within thirty days after termination of coverage provided under another health insurance plan or arrangement where such coverage has ceased to due to the termination of the spouse's employment or death of the spouse.

"Out of state health plan", any general, blanket, group or nongroup policy of health, accident and sickness insurance issued by an insurer meeting the requirements for licensure under chapter one hundred and seventy-five; a group hospital service plan issued by a non-

profit hospital service corporation under chapter one hundred and seventy-six A; a group medical service plan issued by a nonprofit hospital service corporation under chapter one hundred and seventy-six B; a group health maintenance contact issued by a health maintenance organization meeting the requirements for licensure under chapter one hundred and seventy-six G; or a preferred provider arrangement meeting the requirements for licensing under chapter one hundred and seventy-six I which (i) is delivered or issued for delivery outside the commonwealth and (ii) covers any resident of the commonwealth.

"Qualifying health plan", (i) any blanket or general policy of medical, surgical or hospital insurance described in subsection (A), (B) or (D) of section one hundred and ten of chapter one hundred and seventy-five; (ii) any policy of accident or sickness insurance as described in section one hundred and eight of chapter one hundred and seventy-five which provides hospital or surgical expense coverage; (iii) any nongroup medical, surgical or hospital insurance as described in chapter one hundred and seventy-five; (iv) any nongroup or group hospital or medical service plan issued by a nonprofit hospital or medical service corporation under chapters one hundred and seventy-six A and one hundred and seventy-six B; (v) any nongroup health maintenance contract issued by a health maintenance organization under chapter one hundred and seventy-six G; (vi) any self insured or self-funded employer group health plan; (vii) any health coverage provided to persons serving in the armed forces of the United States; or (viii) medicare or medical assistance provided under chapter one hundred and eighteen E. The commissioner may, by regulation, define other health coverage as a qualifying health plan for the purposes of this chapter.

"Waiting period", a specified period immediately subsequent to the effective date of an eligible insured's coverage under the health plan or out of state health plan during which the plan does not pay for some or all medical expenses.

Section 2. No health plan shall:

(a) exclude any eligible insured on the basis of any actual or expected health condition of such person;

(b) contain pre-existing conditions provisions that exclude coverage for a period beyond six months following the individual's effective date of coverage. Pre-existing condition provisions may only relate to (1) conditions which had, during the six months immediately preceding the effective date of coverage, manifested themselves in such a manner as would cause an ordinarily prudent person to seek medical advice, diagnosis, care or treatment or for which medical advice, diagnosis, care or treatment was recommend or received or (2) a pregnancy existing on the effective date of coverage. In determining whether a pre-existing condition provision applies to an eligible insured, all health plans shall credit the time such person was under a previous qualifying health plan if the previous coverage was continuous to a date not more than thirty days prior to the effective date of the new coverage, exclusive of any applicable service waiting period under such new coverage, and if the previous qualifying health plan coverage was reasonably actuarially equivalent to the new coverage;

(c) provide for a waiting period of more than six months beyond the eligible insured's effective date of coverage under the health plan. If a health plan includes a waiting

period, emergency services shall be covered during the waiting period. In applying a waiting period to an eligible insured, all health plans shall credit the time such person was covered under a previous qualifying health plan if such person experiences only a temporary interruption in coverage; or

(d) exclude late enrollees from coverage for more than twelve months from the date of the application for coverage of any late enrollee.

(e) In any circumstance in which more extensive coverage than that provided by clauses (a) to (d) is required by any other provision of the General Laws or any law of the United States, the health benefit plan shall satisfy such other provision insofar as it requires more extensive coverage.

Section 3. All out of state health plans shall apply the provisions of section two to any and all residents of the commonwealth who are eligible insureds under such plan.

Section 4. The commissioner shall promulgate regulations, pursuant to chapter thirty A, to enforce the provisions of this chapter.

SECTION 31. There is hereby established within the executive office of administration and finance a board to be known as the nongroup health insurance advisory board, consisting of: the commissioner of insurance or his designee; the secretary of health and human services or his designee; two members to be appointed by the attorney general, both of whom shall represent consumers but shall not be members of the same consumer organization; and five members to be appointed by the governor, one of whom shall represent a nonprofit hospital service corporation, one of whom shall represent a commercial insurance company, one of whom shall represent health maintenance organizations not affiliated with a hospital service corporation, one of whom shall represent small business organizations, one of whom shall represent small business intermediaries; provided however, that appointments by the governor and the attorney general shall be made on or before October fifteenth, nineteen hundred and ninety-six. The initial appointment of three of the members shall be for a term of three years. The initial appointment of three of the members including the two members appointed by the attorney general shall be for a term of two years. The initial appointment of three of the members shall be for a term of one year. All appointments thereafter shall be for a term of three years.

Said board shall advise the division of insurance on issues relating to nongroup and small group insurance reform including, but not limited to the contents of the standard benefits plan designed pursuant to section two and the following: (a) the development of a consumer guide on nongroup products to be published annually, which shall include at least the name of the product and the carrier, the anticipated premium rate, and the anticipated percent of premium to be expended for medical care; (b) the effect of small group and nongroup reform on the number of uninsured individuals in the commonwealth; (c) the presence, of market practices which impede or promote access to health insurance; (d) the affordability of and any possible need for purchasing assistance for selected groups of buyers, such as part-time workers; (e) the development of a set of no less than five indicators to serve as a measure of premium rates which may include a statement as to whether the average rate has met or exceeded the threshold established in subsection (b) of section five

of chapter one hundred and seventy-six M of the General Laws; and (f) the effectiveness of the rate review process established under said chapter one hundred and seventy-six M. Said board shall make recommendations to the commissioner of insurance and the chairs of the joint committee on insurance at least annually and at such other times as it deems necessary.

SECTION 32. The committee on insurance is hereby authorized to make an investigation and study with all interested parties regarding the effectiveness of a single billing system to be utilized by all health insurers which conduct business in the commonwealth.

The committee shall report to the clerk of the house of representatives and the clerk of the senate any recommendations and legislation, if any on or before June thirtieth, nineteen hundred and ninety-seven.

SECTION 33. Notwithstanding the provisions of section four and section twenty-two of chapter seven and section twenty-seven B and section twenty-nine A of chapter twenty-nine of the General Laws, no later than sixty days after August fifteenth, nineteen hundred and ninety-six, the executive office for administration and finance is hereby authorized to expend, without further appropriation, from the General Fund an amount up to forty-five thousand dollars for the reasonable expenses of contracting an actuary and two additional contractors including an associate in risk management, certified employee health benefits specialist or a life and health insurance advisor for the purpose of designing standard benefits plans in accordance with section two of chapter one hundred and seventy-six M of the General Laws. The contractors hired shall be members in good standing of their respective local or national accrediting bodies, shall specialize in health care, and shall not be employees of any licensed carrier or the commonwealth. The General Fund shall be reimbursed for the amount of said expenditure by making an assessment upon all carriers filing rates for guaranteed issue health plans during the first year this chapter is effective. The secretary shall devise an equitable method of allocating said assessment among said carriers.

SECTION 34. This act shall take effect as of August fifteenth, nineteen hundred and ninety-six.

Approved August 9, 1996.

Chapter 298. AN ACT RELATIVE TO THE CRIME OF STALKING.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 209A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the definition of "Law officer" the following definition:-

"Protection order issued by another jurisdiction", any injunction or other order issued by a court of another state, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, or tribal court that is issued for the purpose of

preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to another person, including temporary and final orders issued by civil and criminal courts filed by or on behalf of a person seeking protection.

SECTION 2. Section 3B of said chapter 209A, as so appearing, is hereby amended by inserting after the word "then", in line 7, the following words:- controls, owns or.

SECTION 3. Section 5 of said chapter 209A, as so appearing, is hereby amended by inserting after the word "business", in line 1, the following words:- or the plaintiff is unable to appear in court because of severe hardship due to the plaintiff's physical condition.

SECTION 4. The first paragraph of said section 5 of said chapter 209A, as so appearing, is hereby further amended by inserting after the third sentence the following sentence:- If the plaintiff in such a case is unable to appear in court without severe hardship due to the plaintiff's physical condition, then a representative may appear in court on the plaintiff's behalf and file the requisite complaint with an affidavit setting forth the circumstances preventing the plaintiff from appearing personally.

SECTION 5. Said chapter 209A is hereby further amended by inserting after section 5 the following section:-

Section 5A. Any protection order issued by another jurisdiction, as defined in section one, shall be given full faith and credit throughout the commonwealth and enforced as if it were issued in the commonwealth for as long as the order is in effect in the issuing jurisdiction.

A person entitled to protection under a protection order issued by another jurisdiction may file such order in the superior court department or the Boston municipal court department or any division of the probate and family or district court departments by filing with the court a certified copy of such order which shall be entered into the statewide domestic violence record keeping system established pursuant to the provisions of section seven of chapter one hundred and eighty-eight of the acts of nineteen hundred and ninety-two and maintained by the office of the commissioner of probation. Such person shall swear under oath in an affidavit, to the best of such person's knowledge, that such order is presently in effect as written. Upon request by a law enforcement agency, the register or clerk of such court shall provide a certified copy of the protection order issued by the other jurisdiction.

A law enforcement officer may presume the validity of, and enforce in accordance with section six, a copy of a protection order issued by another jurisdiction which has been provided to the law enforcement officer by any source; provided, however, that the officer is also provided with a statement by the person protected by the order that such order remains in effect. Law enforcement officers may rely on such statement by the person protected by such order.

SECTION 6. Section 6 of said chapter 209A, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "three", in line 67, the following words:- , three B, three C.

SECTION 7. Said section 6 of said chapter 209A, as so appearing, is hereby further amended by inserting after the word "nine C", in line 69, the following words:- or similar

protection order issued by another jurisdiction.

SECTION 8. Section 7 of said chapter 209A, as so appearing, is hereby amended by inserting after the word "order", in lines 42 and 72, each time it appears, the following words, in each instance:- or a protection order issued by another jurisdiction.

SECTION 9. Section 8 of said chapter 209A, as so appearing, is hereby amended by inserting after the word "inspection", in line 3, the following words:- including any copy of a protection order issued by another jurisdiction.

SECTION 10. Section 20 of chapter 233 of the General Laws, as amended by section 94 of chapter 5 of the acts of 1995, is hereby further amended by striking out the clause First and inserting in place thereof the following clause:-

First, Except in a proceeding arising out of or involving a contract made by a married woman with her husband, a proceeding under chapter two hundred and nine D and in a prosecution begun under sections one to ten, inclusive, of chapter two hundred and seventy-three, any criminal proceeding in which one spouse is a defendant alleged to have committed a crime against the other spouse or to have violated a temporary or permanent vacate, restraining, or no-contact order or judgment issued pursuant to section eighteen, thirty-four B or thirty-four C of chapter two hundred and eight, section thirty-two of chapter two hundred and nine, section three, three B, three C, four, or five of chapter two hundred and nine A, or sections fifteen or twenty of chapter two hundred and nine C, or a similar protection order issued by another jurisdiction, obtained by the other spouse, and except in a proceeding involving abuse of a person under the age of eighteen, including incest, neither husband nor wife shall testify as to private conversations with the other.

SECTION 11. Section 43 of chapter 265 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) Whoever (1) willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) makes a threat with the intent to place the person in imminent fear of death or bodily injury, shall be guilty of the crime of stalking and shall be punished by imprisonment in the state prison for not more than five years or by a fine of not more than one thousand dollars, or imprisonment in the house of correction for not more than two and one-half years or both.

SECTION 12. Said section 43 of said chapter 265, as so appearing, is hereby further amended by inserting after the word "nine C", in line 14, the following words:- or a protection order issued by another jurisdiction.

SECTION 13. Section 28 of chapter 276 of the General Laws, as so appearing, is hereby amended by inserting after the word "restraining", in line 21, the following words:- , suspension and surrender,.

SECTION 14. Said section 28 of said chapter 276, as so appearing, is hereby further amended by inserting after the word "three", in line 24, the following words:- , three B, three C.

SECTION 15. Chapter 277 of the General Laws is hereby amended by inserting after section 62A the following section:-

Section 62B. The crime of stalking, as set forth in section forty-three of chapter two hundred and sixty-five, may be prosecuted and punished in any territorial jurisdiction of the commonwealth wherein an act constituting an element of the crime was committed.

SECTION 16. Section 7 of chapter 188 of the acts of 1992 is hereby amended by inserting after the word "Laws", in line 10, the following words:- and protection orders issued by another jurisdiction, filed pursuant to section five A of chapter two hundred and nine A of the General Laws.

Approved August 9, 1996.

Chapter 299. AN ACT RELATIVE TO THE TAXATION OF BED AND BREAKFAST ESTABLISHMENTS.

Be it enacted, etc., as follows:

Section 2A of chapter 59 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "basis", in line 24, the following words:- , including a bed and breakfast home with no more than three rooms for rent.

Approved August 9, 1996.

Chapter 300. AN ACT AUTHORIZING THE TOWN OF MARSHFIELD TO CONVEY A CERTAIN PARCEL OF LAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Marshfield, acting by and through its board of selectmen, is hereby authorized to convey a certain parcel of land, presently under the care, custody and control of the conservation commission of said town, to Dennis A. and Mary Farrell Savage to be used for residential purposes. Said parcel is shown as Parcel "B" on a plan of land entitled "Plan of Land in Marshfield, MA being a subdivision of parcels H16-06-10 and 11 and parcel H16-06-09 off Ferry Hill Road, Grandview Ave., and Peabody Road" dated 16 January 1996 which is on file in the office of the town clerk.

SECTION 2. In consideration for the conveyance authorized in section one, Dennis A. and Mary Farrell Savage shall convey a certain parcel of land, located in said town, to the town of Marshfield to be used for conservation purposes under the care, custody and control of the conservation commission of said town. Said parcel is shown as Parcel "C" on the plan described in section one.

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

Approved August 9, 1996.

Chapter 301. AN ACT AUTHORIZING THE TOWN OF TEWKSBURY TO ACCEPT CERTAIN STREETS.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section twenty-three of chapter eighty-two of the General Laws or any other general or special law to the contrary, the town of Tewksbury is hereby authorized to accept the streets listed in Article 13 of the annual town meeting of said town held in nineteen hundred and ninety-six, a copy of which is on file in the office of the town clerk.

Approved August 9, 1996.

Chapter 302. AN ACT RELATIVE TO THE MASSACHUSETTS ECONOMIC DEVELOPMENT INCENTIVE PROGRAM.

Be it enacted, etc., as follows:

Section 3F of chapter 23A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following paragraph:-

(4) The EACC may amend the boundaries of an ETA to address unique situations in which a commercial or industrial facility, which is the location for a prospective certified project candidate, is located within the boundaries of two or more municipalities, with at least one of the municipalities in an existing ETA. Under such circumstance, if all of the municipalities involved wish to certify the proposed project, the boundaries of the ETA may deviate from census tract boundaries to include the parcel or parcels occupied by said commercial or industrial facility. The EACC may consider such an application for amending the boundaries of an ETA; provided, however, that:

(a) inclusion of the facility and underlying parcels in the pre-existing contiguous ETA does not alter the eligibility of said ETA as determined pursuant to subclause (ii) of clause (a) of section three D;

(b) evidence that said commercial or industrial facility is physically located in two or more municipalities can be provided;

(c) the amended ETA application is jointly filed by the municipalities in which the facility and parcels are located, and the EACC approves said amended ETA application;

(d) an application for designation of an Economic Opportunity Area for the area including the facility and parcels are located is also submitted and approved by the EACC; and

(e) a certified project application will be submitted to the EACC within a reasonable period of time for the project proposing to occupy said facility and parcels.

Approved August 9, 1996.

Chapter 303. AN ACT AUTHORIZING THE ESTABLISHMENT OF SAFETY AND SCHOOL ZONES IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of transportation in the city of Boston, may without further authority and without regard to any rule, standard or regulation made or enforced by the department of highways, establish safety zones on, at or near any public or private way in said city which is not a state highway, and with approval of the said department if the same is a state highway. Such safety zones shall be posted as having a speed limit of twenty miles per hour and the operation of a motor vehicle in such a zone at a speed exceeding twenty miles per hour shall be deemed a violation of section seventeen of chapter ninety of the General Laws. Said commissioner may adopt rules making safety zone designation apply only at particular times or on or between particular dates.

SECTION 2. The commissioner of transportation in the city of Boston may from time to time establish school zones under the procedures provided in section one, notwithstanding the provisions of section two of chapter eighty-five of the General Laws.

Approved August 9, 1996.

Chapter 304. AN ACT RELATIVE TO THE BOARD OF REGISTRATION IN MEDICINE.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 30 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "registration", in line 5, the following words:- , the board of registration in medicine.

SECTION 2. Chapter 112 of the General Laws is hereby amended by striking out section 7, as so appearing, and inserting in place thereof the following section:-

Section 7. Sections two to six, inclusive, and section eight shall not be held to discriminate against any particular school or system of medicine, to prohibit medical or surgical service in a case of emergency, or to prohibit the domestic administration of family remedies. They shall not apply to a professional nurse with appropriate education in the practice of the profession as defined by section eighty B; to a student of medicine as provided in section nine A, while engaged in the practice of medicine as authorized by said section; to a physician or surgeon resident in another state who is a legal practitioner therein, when in actual consultation with a legal practitioner of the commonwealth; to a physician authorized to practice medicine in another state, when he is called as the family physician to attend a person temporarily abiding in the commonwealth; to a physician authorized to practice medicine in another state or country, when he is providing medical services only to athletes or team personnel attending a sporting event sponsored by the United States Olympic Committee or a World Cup Organizing Committee; nor to registered pharmacists in prescribing gratuitously, clairvoyants or persons practicing hypnotism, magnetic healing,

mind cure, massage, Christian science or cosmopathic method of healing, if they do not violate any provisions of section six. Sections two and eight shall not apply to an intern or medical officer registered as provided in section nine, while engaged in the practice of medicine as authorized by said section.

SECTION 3. Section 61 of said chapter 112, as so appearing, is hereby amended by inserting after the word "law", in line 1, the following words:- the board of registration in medicine and.

Approved August 9, 1996.

Chapter 305. AN ACT AUTHORIZING THE COMMISSIONER OF THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE A CERTAIN PARCEL OF LAND IN THE TOWN OF FRAMINGHAM.

Be it enacted, etc., as follows:

The commissioner of the division of capital planning and operations is hereby authorized, notwithstanding the provisions of sections forty H and section forty I of chapter seven of the General Laws, to acquire by eminent domain under the provisions of chapter seventy-nine of the General Laws, by purchase, gift or otherwise, and the town of Framingham is hereby authorized to convey to the commonwealth acting by and through the division of capital planning and operations, a parcel of land in the town of Framingham; provided, however, that if such acquisition is by purchase the purchase price for said property shall be based on an appraisal of the value of the property for highway use by a professional appraiser using professional appraising practices. Said parcel is owned by said town and is presently used for park land purposes. The parcel is to be diverted from its present use to a highway use. Said parcel is shown as parcel 4-16-T on a plan entitled, "Plan of Framingham, Massachusetts, Middlesex County, Owned by the town of Framingham and required for Highway Purpose, Scale 1" = 20'; January 20, 1995", which shall be kept on file by the chief engineer of the department of highways.

Approved August 9, 1996.

Chapter 306. AN ACT FURTHER REGULATING THE DISABILITY RETIREMENT SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. Chapter 7 of the General Laws is hereby amended by striking out section 49, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 49. (a) There shall be within the executive office of administration and finance, but not subject to its control, a public employee retirement administration commission consisting of seven members, three of whom shall be appointed by the governor, three of whom shall be appointed by the state auditor, and one of whom shall be chosen by the first six members and who shall be chairman. Of the three persons appointed by the governor, one shall be the governor or his designee, one shall be a representative of a public safety union, and one shall be qualified by having training and experience in the investment of funds as a result of having been principally employed in such occupation for a period of at least ten years. Of the three persons appointed by the state auditor, one shall be the state auditor or his designee, the president of the Massachusetts AFL-CIO or his designee, and one shall be a representative of the Massachusetts Municipal Association. Each member of the commission shall serve for a term of five years; provided, however, that in making initial appointments, the governor and the state auditor shall each appoint one member for a term of three years and one member for a term of four years. The members shall serve without compensation but shall receive their necessary expenses incurred in the discharge of their official duties. Upon the expiration of the term of an appointed member, or the chairman, or a vacancy otherwise created in said positions, the successor for said position shall be appointed in the manner aforesaid, or for the remainder of said term, whichever is applicable. The public employee retirement administration commission shall select an executive director, and enter into an employment contract with said director. The provisions of sections nine A, forty-five, forty-six, and forty-six C of chapter thirty, chapter thirty-one, and chapter one hundred and fifty E shall not apply to the executive director or any other employee of the commission.

(b) Four members of the board shall constitute a quorum; provided however, that a majority of members present and voting shall be needed to approve any motions.

(c) the executive director; shall with the approval of the commission:

(i) plan, direct, coordinate and execute administrative functions in conformity with the policies and directives of the commission;

(ii) shall employ an actuary, a general counsel and other employees as necessary, prescribe their duties and fix their compensation; provided that the salaries of said employees shall not exceed the sum annually approved therefore by the commission.

(iii) report to the commission on all operations under his control and supervision.

(d) The commission shall adopt an annual budget and supplemental budgets as deemed necessary by the said commission. Said budgets shall be funded from the investment income account of the state employees and state teachers' system.

SECTION 2. Section 50 of said chapter 7, as so appearing, is hereby amended by striking out, in lines 1 and 73, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission.

SECTION 3. Said section 50 of said chapter 7, as so appearing, is hereby further amended by striking out, in line 4, the word "commissioner" and inserting in place thereof the following words:- public employee retirement administration commission is.

SECTION 3A. Said section 50 of said chapter 7, as so appearing, is hereby further amended by striking out, in lines 46, 53, 89, 92, 96 and 98, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- public employee retirement commission.

SECTION 3B. Said section 50 of said chapter 7, as so appearing, is hereby further amended by striking out, in lines 71 and 72, the words "division of public employee retirement administration", each time they appear, and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission.

SECTION 4. Chapter 10 of the General Laws is hereby amended by striking out section 18, as so appearing, and inserting in place thereof the following section:-

Section 18. There shall be a state board of retirement serving in the department for the purpose of administering the state employees' retirement system established under the provisions of chapter thirty-two. Such board shall consist of five members as follows: the state treasurer who shall be a member ex officio and who shall serve as chairman, a second member who shall be appointed by the treasurer, a third and fourth member who shall be elected by the members in or retired from service of such system from among their numbers in such manner and for such term, not exceeding three years, as the commission shall determine, and a fifth member who shall not be an employee, a retiree, or official of the commonwealth and shall be chosen by the other four for a term of three years. Future elections of the third and fourth member shall be held under the supervision of such retirement board and the term of the third and fourth member shall be so arranged as not to expire in the year of expiration of the term of the third and fourth member. If a fifth member is not chosen by the other four members within thirty days after the expiration of the term of the fifth member, the governor shall appoint a fifth member for a term of three years. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected, chosen or appointed member or in case of a vacancy in any of said offices, his successor shall be elected, chosen or appointed as aforesaid for a three-year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member.

SECTION 5. Chapter 15 of the General Laws is hereby amended by striking out section 18, as so appearing, and inserting in place thereof the following section:-

Section 18. Subject to appropriation, the teachers' retirement board shall appoint and may remove an executive director and shall establish his salary. Subject to appropriation and to the approval of the board, the executive director shall employ other employees, prescribe their duties and fix their compensation; provided, that the salaries of said employees shall not exceed the sum annually approved therefore by the board. The provisions of section nine A, forty-five, forty-six, and forty-six C of chapter thirty, chapter thirty-one, and chapter one hundred and fifty E shall not apply to any employee of the board.

SECTION 6. Section 1 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in line 19, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement

administration commission.

SECTION 6A. Said section 1 of said chapter 32, as so appearing, is hereby further amended by striking out the definition of "Commissioner" and inserting in place thereof the following definition:- "Commission", the public employee retirement administration commission established under section forty-nine of chapter seven.

SECTION 6B. Said section 1 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 349 and 350, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 7. Section 3 of said chapter 32, as so appearing, is hereby amended by striking out, in line 720, the word "commissioner" and inserting in place thereof the following word:- commission.

SECTION 8. Section 4 of said chapter 32 is hereby amended by striking out, in line 284, as so appearing, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- "public employee retirement administration commission",- and by striking out, in lines 294, 407, and 411 the word "commissioner" and inserting in place thereof, in each instance, the following word:- commission.

SECTION 9. Section 5 of said chapter 32, as so appearing, is hereby amended by striking out, in line 275, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 10. Said chapter 32 is hereby further amended by inserting after section 5A the following section:-

Section 5B. (a) Every retirement board established pursuant to the provisions of this chapter shall establish, in consultation with appropriate officials of the governmental unit, and a representative of the unions in the governmental unit, an early intervention plan which shall be subject to the review and approval of the commission. In the case of member's of the teacher's retirement system, the appropriate official of the governmental unit shall be a designee of municipal or regional school committees. Said plan shall be designed to implement programs and procedures that will effectuate the delivery of a coordinated employee assistance program and procedures that will effectuate the delivery of a coordinated employee assistance program for injured members; to provide educational programs designed to encourage workplace safety; and to identify hazards for the employer's attention. The goal of the plan shall be to limit the system's liability for disability benefits by ensuring the continued employment of disabled members through medical and vocational rehabilitation, reasonable accommodation of disabled workers, and a safer workplace.

(b) In order to facilitate the implementation of the system's early intervention plan, every employer, following written notice to the affected member shall notify the retirement board whenever a member has been absent from work for thirty work days or more as the result of a work-related injury, if it is determined by a physician selected by the employee and a physician selected by the employer that the employee's return to work is not imminent; provided, that if the two physicians do not agree whether the return to work is imminent, said

physicians shall select a third physician who shall make said determination. Upon receipt of said notification, the retirement board shall determine whether the member is a candidate for further review pursuant to the system's early intervention plan. If the board determines that further review is warranted, it shall proceed to assemble an early intervention team which shall consist of a representative of the retirement board who shall serve as chair of the team, the employer's personnel or human service director or workers compensation agent, a rehabilitation specialist designated by the commission, a representative of the members union and the members treating physician. Said team shall have access to records pertaining to the member's injury to determine the condition of the member. Any records obtained by the team shall be used for the sole purpose of making the determination required by this section and shall not be used for any other purpose relating to the member's employment. Such records shall be exempt from disclosure pursuant to clause Twenty-sixth of section seven of chapter four and chapter sixty-six. No member of the team shall disclose to any person who is not a member of the team any confidential medical information or other personal information about the member that has been supplied to the team under the provisions of this section. If the board, upon recommendation of the early intervention team, determines that the member is likely to be unable to perform the essential duties of his job, it shall have the authority to require the member to undergo an assessment to determine whether he would benefit from a medical or vocational rehabilitation program. The determination by a retirement board as to whether a member is a candidate for further review pursuant to the early intervention plan, the scope of the review by the early intervention team, and the extent of any recommended vocational or rehabilitation program shall be limited to the member's injury which caused the original notification to the retirement board. The board shall make every reasonable effort to make such determination in a expeditious manner and said determination shall not be arbitrary, capricious or unreasonable. If the member fails to participate in the assessment or required rehabilitation, he shall be deemed to have waived his rights to benefits pursuant to sections six or seven.

(c) For purposes of designing the rehabilitation program, the early intervention team shall utilize resources available from the local retirement board, the employer, the member's collective bargaining representative, the Massachusetts rehabilitation commission, the public employee retirement administration commission, and such other sources as it deems necessary. The early intervention plan shall be reasonable and shall not unduly burden the member with regard to travel and time requirements. The plan shall be submitted to the board for approval; provided, however, that the member shall first be given notice and an opportunity to be heard by the board.

(d) The early intervention team shall monitor the implementation of the rehabilitation plan and shall continue to monitor the member's progress until he is returned to work or is granted a disability retirement pursuant to section six or seven.

(e) The board shall assume responsibility for all costs associated with the assessment and subsequent rehabilitation plan, less any amounts payable under insurance available to the employer or to the member. If the board determines that the member has failed without good cause to complete the rehabilitation plan designed by the early intervention team, the

member shall be deemed to have waived his rights to benefits pursuant to section seven in connection with the injury for which the rehabilitation was designed.

(f) If, following completion of a rehabilitation plan, the early intervention team determines that the member is able to perform the essential duties of the position in which the member was employed prior to his absence from work, the member shall be returned to work in his former position; provided that nothing in this section shall interfere with said member's right to use sick leave or take other leaves of absence subject to the same terms and conditions applicable to employees who have not been subject to the requirements of this section; and provided, further, that no information obtained by the board or the member's employer as a result of the early intervention process shall be admissible in support of any application for involuntary retirement pursuant to sections six or seven.

SECTION 11. Section 6 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 27, 32, 45, 124, 133, 144, 145, 149, 159, 171, 188-189, 196, 206, 209, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following word:- commission.

SECTION 11A. Said section 6 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 115, 116, 130 and 131, the words "commissioner of public employee retirement", each time they appear, and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission.

SECTION 12. Said section 6 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 2, 5 and 6, and 9 and 10, the words "who becomes totally and permanently incapacitated for further duty" and inserting in place thereof, in each instance, the following words:- is unable to perform the essential duties of his job and that such inability is likely to be permanent,- and by striking out, in lines 36 and 37, the words "mentally or physically incapacitated for further duty, that such incapacity is likely to be permanent" and inserting in place thereof the following words:- unable to perform the essential duties of his job and that such inability is likely to be permanent.

SECTION 13. Subdivision (3) of said section 6 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (d).

SECTION 14. Section 7 of said chapter 32 is hereby amended by striking out, in lines 4 and 5, as so appearing, the words "becomes totally and permanently incapacitated for further duty" and inserting in place thereof the following words:- is unable to perform the essential duties of his job and that such inability is likely to be permanent,- by striking out, in lines 30 to 33, inclusive, the words "mentally or physically incapacitated for further duty to the extent and under the circumstances set forth in this section, that such incapacity is likely to be permanent" and inserting in place thereof the following words:- unable to perform the essential duties of his job and that such inability is likely to be permanent.

SECTION 15. Said section 7 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 26, 235 and 238 the word "commissioner" and inserting in place thereof, in each instance, the following word:- commission,- and by striking out, in lines 52, 154 the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 16. Said chapter 32 is hereby further amended by striking out section 8 as so appearing and inserting in place thereof the following section:-

Section 8. (1) Evaluations and Reexamination of Members:-

(a) The commission shall require, after consultation with the local board, any member retired for disability under the provisions of section six and seven to participate in an evaluation to determine whether such member's return to his former or similar job within the same department would likely be expedited by participation in a medical or vocational rehabilitation program. Such evaluation shall occur once per year during the first two year period next succeeding the date of his retirement, once in each three year period thereafter, and at any time upon the written request by any such member; provided, however, that an initial evaluation shall occur as soon as possible after October first, nineteen hundred and ninety-six for any member who has been retired for more than two years and has not participated previously in such an evaluation; and provided, further, that such evaluations shall occur not more frequently than once in any twelve month period. Such evaluations shall include mental or physical medical examinations, vocational testing, meetings, and consultations with medical professionals, including the member's treating physician and vocational rehabilitation counselors, which are necessary to determine whether the disability for which the member was retired continues to render the member unable to perform the essential duties of his job; provided, however, that the commissioner may excuse a member from such examination if the commissioner determines based on written findings that such examination is unwarranted based on the catastrophic nature of the member's illness or injury. If such member shall refuse without good cause to submit to any evaluation, his rights in and to the pension provided for in section six and seven shall promptly be terminated by the board; provided, however, that the member shall first be given written notice and an opportunity to be heard by the board with respect to such termination. Said member may appeal such termination to the contributory retirement appeals board.

If, following the evaluation, the commission determines that such retired member may benefit from such a rehabilitation program and that such a program is cost effective, the board shall provide such rehabilitation program for such member and shall pay the costs of the program less any benefits payable under insurance policies of the member for such programs and less any scholarships or grants otherwise available for such programs. Such rehabilitation program shall include only such services as shall appear on a list of services approved by the commission. Any such member who is unreasonably denied access to such program may appeal such denial to the contributory retirement appeals board. If the retired member fails to complete the program without good cause, said member's rights in and to the pension provided for in section six and seven shall immediately be suspended. Said member may appeal his suspension to the contributory retirement appeals board.

Upon the completion of the rehabilitation program the board shall require the member to submit to a mental or physical examination, pursuant to paragraph (b); provided, however, that if said board believes that an examination is unwarranted, said board shall file a statement of fact with the commission, stating the reasons why the examination is unwarranted. If the commission rejects this statement, the board shall conduct the examina-

tion. The examination required pursuant to this section shall, at a minimum, determine the scope of the member's physical capabilities in light of the completed rehabilitation program and whether the member is able to perform the essential duties of his job or the essential duties of a similar job within the same department given the member's condition. If such member shall fail to appear at any such required examination without good cause, all his rights in and to the retirement allowance provided for in section six or seven shall be terminated by the board; provided, however, that the member shall be given written notice and an opportunity to be heard prior to such termination. Said member shall may appeal such termination to the contributory retirement appeals board.

(b) For the purposes of mental or physical examinations under this section, the commissioner may appoint either a single physician or a three member regional panel to examine the retired member.

(2) Restoration to service in same governmental unit; (a) If, within two years of the date that a member is retired under section six or seven or after the completion of a rehabilitation program required under subdivision (1), and regional medical panel determines that the retired member is able to perform the essential duties of the position from which he retired, the member shall be returned to such position and his disability retirement benefit shall be revoked; provided, however, that if the retired member is able to perform the essential duties of a similar job within the same department for which he is qualified, as determined by the department of personnel administration, and such a position is vacant, said member shall return to such position. If the similar position shall pay less than the position from which such member shall have retired, such member shall be granted an amount from the retirement system equal to the difference between the regular compensation of the position for which such member was restored and the regular compensation such member would have received had he been restored to the position from which he retired.

If, after two years of the date that a member is retired under section six or seven, the regional medical panel determines that the retired member is qualified for and able to perform the essential duties of the position from which he retired or a similar position within the same department, as determined by the personnel administrator, said member shall be returned to said position, provided the position is vacant. If the position has been filled, the member shall be granted a preference for the next available position or similar position for which he is so qualified. If the similar position shall pay less than the position from which such member shall have retired from, such member shall be granted an amount from the retirement system equal to the difference between the regular compensation of the position for which such member was restored and the regular compensation such member would have received had he been restored to the position from which he retired.

When under the provisions of this section, no vacancy exists in the same or similar position he shall continue to receive such retirement allowance until such reinstatement takes place or as a result of the submission of earnings information under section ninety-one A which may require his pension to be reduced or revoked.

(b) Upon return to work, he shall again become a member in service and regular deductions shall again be made from his regular compensation. Any creditable service in

effect for him at the time of his retirement for disability shall thereupon be restored to full force and effect, and upon his subsequent retirement he shall be entitled to a normal yearly amount of retirement allowance computed as though such disability retirement and reinstatement had not taken place. No additional member contributions shall be required as a precondition of receiving such creditable service.

(c) The board shall, upon the written request of such retired member after his pension has been reduced, revoked or suspended as provided for in this section, cause him to again be examined by either a single physician or a three member regional medical panel as determined by the commission; provided, however, that such retired member shall not be re-examined if such member had been examined by such single physician or regional medical panel within the previous twelve months. If such medical report is to the effect that the mental or physical condition of such member has deteriorated, the board may increase or restore his pension as the report may warrant.

(d) Nothing in this section shall excuse an employer or a member returned to work under the provisions of this section from compliance with the provisions of section one hundred and three of chapter ninety-three, paragraph sixteen of section four of chapter one hundred and fifty-one B, of the Americans with Disabilities Act, 42 USC { 12101 et seq., or of any other state or federal law concerning persons with disabilities.

(3) *Modifications of retirement allowance.* If as a result of such medical report by a regional medical panel, as a result of the submission of earnings information under section ninety-one A, or as the result of the completion of a rehabilitation program as provided for under subdivision (1), or under subdivision (5) of section twenty-one, the commission finds that such retired member is engaged or is able to engage in gainful occupation and that the annual rate of his actual or potential earnings is less than his regular compensation as defined in this subdivision, but is more than the difference between such regular compensation plus the sum of five thousand dollars, and the normal yearly amount of his retirement allowance, then the yearly amount of his pension shall be reduced, and if his actual or potential earnings are more than such regular compensation, his pension shall be suspended. Notwithstanding any other provisions of this section, if such member submits earnings information pursuant to section ninety-one A, indicating earnings in excess of regular compensation, as therein described, such member's pension shall be reduced as provided for in this subdivision and shall not be increased for a period of one year unless such medical report finds that the mental or physical condition of such member has deteriorated. If the annual rate of his earnings should later be changed, the yearly amount of his pension shall be further modified by reinstating, increasing, reducing, or suspending it, as the case may be. For purposes of this subdivision, regular compensation means, subject to further definition by regulations of the public employee retirement administration commission, regular compensation which would have been payable during the preceding year had the member continued in service in the grade held by him at the time he was retired. The public employee retirement administration commission shall, subject to the provisions of section fifty of chapter seven, promulgate regulations establishing, and providing a system for annually adjusting for inflation and such other equitable factors as the commission deems relevant, the fair amount

of outside income that may be earned by a member retired pursuant to section six or seven, and shall promulgate regulations for the determination of the potential earnings of any such retired member based upon such member's functional capacity, age, education, and experience. Any such modification may be appealed by the member to the contributory retirement appeals board.

SECTION 17. Subdivision (1) of section 12 of said chapter 32, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Any member who is retired for disability under the provisions of section six, section seven or who is retired under the provisions of subdivision (2) of section twenty-six, may elect to have his allowance paid in accordance with the terms of option (a), option (b), or option (c) of subdivision (2) of this section.

SECTION 18. Subdivision (1) of section 12 of said chapter 32, as so appearing, is hereby amended by adding the following paragraph:-

For any member who is married, an election shall not be valid unless 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. The retirement board shall provide the member and spouse with detailed information regarding the benefit option selected in order for the member and spouse to make an informed decision regarding said option. If any member who is married files an election which is not so accompanied, the board shall within fifteen days notify the member's spouse by registered mail of the option election and of the spouse's right to sign and return an acknowledgment of receipt and understanding of such information within thirty days after receipt of the acknowledgment. The election shall not take effect until it is accompanied by the signature of the member's spouse; provided, however, that no such signature shall be required if the spouse fails to submit such signed acknowledgment on or before the thirtieth day from receipt of the information from the retirement board. Such election made prior to the spousal notification may be changed in accordance with the spouses understanding of the retirement allowance selected, or at any later time otherwise permitted under this chapter. Nothing in this paragraph shall be deemed to affect the effective date of any retirement allowance. The provisions of this section relative to the retirement of the member's election being accompanied by the member's spouse shall not apply in the case of a member who is divorced and who has previously filed with the retirement board a domestic relations order which has been entered by the probate court and provides for the option to be elected by the member.

SECTION 19. Section 16 of said chapter 32 as so appearing is amended by striking out subdivision (2).

SECTION 20. Said section 16 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 67, 71, 79, 86-87, 93-94, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission.

SECTION 21. Said section 16 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 100 and 101, 107 and 108, 115 and 116 and in line 117, the

words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 21A. Said section 16 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 102, 120, 122, 125 and 126 the word "commissioner" and inserting in place thereof, in each instance, the following word:- commission.

SECTION 22. Section 18 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 27, 29, 30, 32, 34 and 36, the word "commissioner" and inserting in place thereof, in each instance, the following word:- commission.

SECTION 23. Section 20 of said chapter 32 is hereby amended by striking out in lines 217 and 218, 690 and 691, 695 and 696, 711, 715, as so appearing, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission,- by striking out, in lines 220, 222, 696 and 697, 698, 699, 702, 704 and 705, the word "commissioner" and inserting in place thereof, in each instance, the word:- commission,- by striking out, in lines 798 and 799 the words "commissioner of the division of public employee retirement administration" and inserting in place thereof, in each instance, the words:- public employee retirement administration commission.

SECTION 24. Paragraph (b) of subdivision (3) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out the first two paragraphs and inserting in place thereof the following two paragraphs:-

Each such county system shall be managed by a retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows:

the county treasurer, who shall be a member ex officio and serve as chairman, a second member appointed by the county commissioners, two members hereinafter referred to as the elected members, and one member of the county retirement board advisory council who shall be elected by a majority of those present and voting at a public meeting of said council, properly posted, called specifically for such election pursuant to paragraph (g). The election of the elected member shall be run in accordance with the provisions of paragraph (h).

SECTION 25. Subdivision (5) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (d) and inserting in place thereof the following:-

(d) Any such board shall designate a neutral medical doctor or doctors with training or experience in the particular field of medicine applicable to the disability to advise the board in the determination of applications for ordinary disability retirement, accidental disability retirement, or in the case of an application for accidental death benefit.

SECTION 26. Subdivision (4) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraphs (b) and (c) and inserting in place thereof the following two paragraphs:-

(b) Each such city or town system shall be managed by a retirement board which

shall have the general powers and duties set forth in subdivision (5). Such board shall consist of five members and shall be chosen in the following manner, except as provided in paragraph (c), the city auditor or town accountant or other officer having similar powers and duties who shall be a member ex officio, a second member appointed by the appointing authority of a city or town, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the mayor in a city or the board of selectmen in a town shall determine, and a fifth member who shall not be an employee, a retiree, or official of the governmental unit and shall be chosen by the other four for a term of three years. If the fifth member is not chosen by the other four members within thirty days after the expiration of the term of the fifth member, said member shall be appointed in a city by the mayor, subject to confirmation by the city council, or in a town by the board of selectmen. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth member shall be so arranged as not to expire in the year of expiration of the term of the fifth member.

(c) In any city or town exercising the local option contained in this subsection shall upon the recommendation of the city manager with the approval of the city council or the board of aldermen in a Plan D or Plan E city, or the mayor with the approval of the city council or the board of aldermen in any other city, or board of selectmen with the approval of town meeting in a town may adopt the following method for selection of the members of the retirement board. Such board shall consist of five members and shall be chosen as follows:

The city manager in a Plan D or Plan E city, the mayor in any other city, the board of selectmen in a town shall appoint two members for a period of three years, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as mayor in a city, or city manager in a Plan D or Plan E city, or town council or board of selectmen in a town shall determine. The fifth member shall be appointed by the public employee retirement administration commission after being nominated by the other four members provided, however, in the event said four members cannot agree on such nominee to submit to the commission within ten days, then each member shall within five days submit a list of three names of individuals ready and willing to serve, and the commission shall then appoint the fifth member from such list who shall be a resident of such community and who shall not be a current or former member of the retirement system under this chapter or an official of the governmental unit. Each member of the city or town retirement board provided for in paragraphs (b) and (c) shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three-year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member. The mayor of a city, the board of selectmen of a town under the manager of a municipality having a town council

form of government shall notify in writing all heads of departments of such city or town of any such vacancy in said board to be filled by election, and a notice of such vacancy and election shall be posted in a conspicuous place in such city or town.

SECTION 27. Subdivision (4 1/4) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Said system shall be managed by an retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: the treasurer of the agency who shall be a member ex officio, a second member appointed by the appointing authority of the agency, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the chairman of the agency shall determine, and a fifth member who shall not be an employee, retiree, or official of the governmental unit and shall be appointed by the other four members for a term of three years. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth members shall be so arranged so as not to expire in the year of expiration of the term of the fifth member. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member.

SECTION 28. Subdivision (4½) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Said system shall be managed by an retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: the secretary-treasurer of the authority who shall be a member ex officio, a second member appointed by the appointing authority of the authority, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the chairman of the authority shall determine, and a fifth member who shall not be an employee, retiree, or official who shall be appointed by the other four members for a term of three years. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth members shall be so arranged so as not to expire in the year of expiration of the term of the fifth member. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the

third and fourth member expire in the same year as the term of the fifth member.

SECTION 29. Subdivision (4¾) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Said system shall be managed by an retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: The treasurer of the authority who shall be a member ex officio, a second member appointed by the appointing authority of the authority, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the chairman of the authority shall determine, and a fifth member who shall not be an employee, retiree, or official of the governmental unit and shall be appointed by the other four members for a term of three years. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth members shall be so arranged so as not to expire in the year of expiration of the term of the fifth member. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member.

SECTION 30. Subdivision (4 7/8) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Said system shall be managed by an retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: The secretary-treasurer of the authority who shall be a member ex officio, a second member appointed by the appointing authority of the authority, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the chairman of the authority shall determine, and a fifth member who shall not be an employee, retiree, or official of the governmental unit who shall be chosen by the other four members for a term of three years. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth members shall be so arranged so as not to expire in the year of expiration of the term of the fifth member. If a fifth member is not chosen by the other four members within thirty days after the expiration of the term of the fifth member, the authority board shall appoint a fifth member for a term of three years. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three year term or for the unexpired portion thereof, as the case may be,

except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member.

SECTION 31. Subdivision (4 7/8A) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Said system shall be managed by an retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: The treasurer of the district who shall be a member ex officio, a second member appointed by the appointing authority of the districts, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the director of the district shall determine, and a fifth member who shall not be an employee, retiree, or official of the governmental unit who shall be chosen by the other four for a term of three years. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth members shall be so arranged so as not to expire in the year of expiration of the term of the fifth member. If a fifth member is not chosen by the other four members within thirty days after the expiration of the term of the fifth member, the district commission shall appoint a fifth member for a term of three years. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member.

SECTION 32. Subdivision (4 7/8B) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Said system shall be managed by an retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: The treasurer of the school system who shall be a member ex officio, a second member appointed by the appointing authority of the system, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the superintendent-director of the school system shall determine, and a fifth member who shall not be an employee, retiree, or official of the governmental unit who shall be chosen by the other four for a term of three years. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth members shall be so arranged so as not to expire in the year of expiration of the term of the fifth member. If a fifth member is not chosen by the other four members within thirty days after the expiration of the term of the fifth member, the school system board shall appoint a fifth member for a term of three years. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his

successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member.

SECTION 33. Subdivision (4 7/8C) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Said system shall be managed by an retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: The treasurer of the district who shall be a member ex officio, a second member appointed by the appointing authority of the district, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the superintendent-director of the district shall determine, and a fifth member who shall not be an employee, retiree, or official of the governmental unit who shall be chosen by the other four for a term of three years. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth members shall be so arranged so as not to expire in the year of expiration of the term of the fifth member. If a fifth member is not chosen by the other four members within thirty days after the expiration of the term of the fifth member, the district school committee shall appoint a fifth member for a term of three years. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member.

SECTION 34. Section 21 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "*commissioner of public employee retirement*",- and by striking out, in lines 2, 17, 42 and 43, 53, 59-60, 66, 82, 109, 120, 184, 231, 237, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the words:- public employee retirement administration commission,- by striking out, in lines 6, 11, 18, 27, 29, 31, 32, 36, 71, 74, 84, 88, 91, 93, 93, 105, 114, 115, 118, 123, 124, 127, 128, 132, 133, 136, 137, 141, 142, 143, 156, 158, 160, 168, 243, 258, 260, 261, 262, 264, 265, 271-272, 274, 275, 277, 279, 289, 290, 295, 297, 299, 299, 302, 328, 329, 331 and 334, the word "commissioner" and inserting in place thereof, in each instance, the following word:- commission,- and by striking out, in line 306 the words "commissioner of public employee retirement administration" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 35. Section 22 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 59, 77, 87, 687 and 688, 689, 692, 1110, the word "commissioner"

and inserting in place thereof, in each instance, the following word:- commission,- and by striking out, in lines 350, 354 and 355, 363, 367, 376, 1139 and 1140, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission.

SECTION 36. Said section 22 of said chapter 32 is hereby further amended by inserting after the word "paid", in line 591, as so appearing, the following words:- ; provided, however, that each retirement board shall adopt an annual budget and supplemental budgets as deemed necessary by said board. Said budgets shall be funded solely from the investment income account of each system and without any further appropriation from the municipality, county or other governmental unit the current or former employees of which are served by said board. Notwithstanding the foregoing, at least thirty days prior to the adoption of said budgets, the boards shall file said budgets with the appropriate legislative body of the governmental unit the current or former employees of which are served by said board. Said governmental unit at its option may, but shall not be required to, appropriate additional monies for use by the retirement board in carrying out the purposes of section five B.

SECTION 37. Section 22D of said chapter 32 as so appearing is hereby amended by striking out, in lines 33, 49, 67, 69, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following word:- commission.

SECTION 38. Section 23 of said chapter 32 as so appearing is hereby amended by striking out, in lines 41, 46, 248, 264 and 265, 269 and 468 and 469 the words "commissioner of public employee retirement", each time it appears, and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission.

SECTION 38A. Said section 23 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 43, 49, 229, 272 and 273, 280, 307, 328, 334, 363, 365, 487 and 492 the word "commissioner" and inserting in place thereof, in each instance, the following word:- commission.

SECTION 38B. Said section 23 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 334 and 335, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- a designee of the public employee retirement administration commission.

SECTION 39. Section 24 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 1 and 2 and in lines 17 and 18, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission.

SECTION 40. Section 25 of said chapter 32, as so appearing, is hereby amended by striking out, in line 125, the words "division of public employee retirement administration" and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission,- and by striking out, in line 130, the word "division" and inserting in place thereof the following word:- commission.

SECTION 40A. Section 26 of said chapter 32, as so appearing, is hereby amended

by striking out subdivision (4) and inserting in place thereof the following subdivision:- (4) Sections five, six, and subdivisions (1) to (3), inclusive, of section ten shall not apply to any member so classified in Group 3. Section seven shall not apply to any member so classified to whom the provisions of subdivision (2) of this section are applicable. Notwithstanding any provisions to the contrary, sections five B, eight, and fifteen shall apply to any member so classified.

SECTION 41. Section 28 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 40, 89 and 90, 94 and 95, 146, 201, 202, 237, 238, 264 and 265, 265 and 266, 291, and in lines 292 and 293, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission,- and by striking out, in lines 42, 101, 102, 145, 152, and 213, the word "commissioner" and inserting in place thereof, in each instance, the following word:- commission.

SECTION 42. Section 40 of said chapter 32, as so appearing, is hereby amended by striking out in lines 2 and 9, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission,- and by striking out, in lines 10, 12 and 13, and in line 14 the word "commissioner" and inserting in place thereof, in each instance, the following word:- commission.

SECTION 43. Section 44B of said chapter 32, as so appearing, is hereby amended by striking out, in line 33, the word "commissioner" and inserting in place thereof the following word:- commission.

SECTION 44. Section 58B of said chapter 32, as so appearing, is hereby amended by striking out, in lines 39 and 40, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 45. Section 65C of said chapter 32, as so appearing, is hereby amended by striking out, in line 34, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 46. Section 77A of said chapter 32, as so appearing, is hereby amended by striking out, in lines 32 and 33, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 47. Section 85J of said chapter 32, as so appearing, is hereby amended by striking out, in line 37, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 48. Section 90G½ of said chapter 32, as so appearing, is hereby amended by striking out, in line 17, the word "commissioner" and inserting in place thereof the following word:- commission.

SECTION 49. Section 90G¾ of said chapter 32, as so appearing, is hereby amended

by striking out, in line 21, the word "commissioner" and inserting in place thereof the following word:- commission.

SECTION 50. Said chapter 32 is hereby further amended by striking out section 91A, as so appearing, and inserting in place thereof the following section:-

Section 91A. Every person pensioned or retired under any general or special law for disability, including accidental disability, shall in each year on or before April fifteenth subscribe, under the penalties of perjury, and file with the commission a statement, in such form as the commission shall prescribe, certifying the full amount of his earnings from earned income during the preceding year. Such pensioned or retired person shall annually submit to the commission all pertinent W-2 forms, 1099 forms, other requested tax forms and proof of income, and any other documentation requested by the commission. Said forms and information shall be submitted on or before April fifteenth of each year. If such pensioned or retired person fails to submit such statement or such forms, and unless such person shall show good cause for such failure to submit such statements to the commission, the member's rights in and to the retirement allowance provided for in section six and seven shall cease and shall in no event be reinstated until the member has complied with his reporting requirements under this section. If such earnings exceed an amount which when added to the member's retirement allowance is greater than the amount of regular compensation which would have been payable to such member if such member had continued in service in the grade held by him at the time he was retired plus the sum of five thousand dollars, said member shall refund the portion of his retirement allowance for such preceding year equal to such excess and until such refund is made, his pension or retirement allowance shall be held as security therefor. Prior to any termination or reduction of benefits pursuant to this section, the member shall be given a written notice and an opportunity to be heard by the retirement board and, upon such termination or reduction of benefits, shall have the right to appeal such action to the contributory retirement appeal board.

SECTION 51. Said chapter 32 is hereby further amended by striking out section 91B, as so appearing, and inserting in place thereof the following section:-

Section 91B. To facilitate the enforcement of the provisions of section ninety-one A by the public employee retirement administration commission, there shall be a wage reporting system and computer match file, which shall be operated in accordance with the provisions of this section.

(A) On an annual basis, the public employee retirement administration commission shall provide to the department of revenue such information as may be agreed upon pursuant to the terms of an interagency agreement between the department of revenue and the public employee retirement administration commission.

(B) The department of revenue shall compare such lists with data furnished to it in accordance with section ninety-one A, so as to determine if persons retired or pensioned and subject to the provisions of said section ninety-one A have complied with said section. Upon receipt of such information, the commission shall notify the respective retirement board which shall take the appropriate formal action provided for under this chapter.

SECTION 52. Said chapter 32 is hereby further amended by inserting after sec-

tion 91B the following section:-

Section 91C. The public employee retirement administration commission is hereby deemed to be an agency required to have access to criminal record offender information pursuant to clause (b) of section one hundred and seventy-two of chapter six. On at least an annual basis, the commission shall compare lists of all those receiving retirement allowances pursuant to sections six and seven with the information obtained pursuant to clause (b) of said section one hundred and seventy-two of chapter six. In the event said comparison gives the commission reason to believe that action should be taken in accordance with sections six or seven of this chapter, the commission shall notify the appropriate retirement board.

SECTION 53. Section 102 of said chapter 32, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 1 and 2, the words "division of public employee retirement administration" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 54. Chapter 338 of the acts of 1990 is hereby amended by striking out sections 1 and 2, as amended by section 99 of chapter 398 of the acts of 1991, and inserting in place thereof the following section:-

Section 1. (*a*) Notwithstanding the provisions of any general or special law to the contrary, the Automobile Insurance Bureau of Massachusetts, or its successor licensed under the provisions of section eight of chapter one hundred and seventy-five A of the General Laws, the Workers' Compensation Rating and Inspection Bureau of Massachusetts or its successor licensed under the provisions of section fifty-two of chapter one hundred and fifty-two, and the public employee retirement administration commission established in section forty-nine of chapter seven of the General Laws are hereby authorized to create an insurance and pension fraud bureau with the powers and duties specified in this section for the prevention and investigation of fraudulent insurance transactions and disability pension payments.

(*b*) Said insurance and pension fraud bureau shall be governed by a board consisting of eighteen members, one of whom shall be the secretary of the executive office of public safety, one of whom shall be the secretary of the executive office of labor, one of whom shall be the registrar of motor vehicles, one of whom shall be the commissioner of insurance, one of whom shall be the commissioner of the department of industrial accidents, one of whom shall be the commissioner of the public employee retirement administration commission, four of whom shall be members of the governing committee of the Automobile Insurers Bureau of Massachusetts, or its successor, four of whom shall be members of the governing committee of the Workers' Compensation Rating and Inspection Bureau of Massachusetts or its successor, and four of whom shall be members of the various boards of retirement established by section twenty of chapter thirty-two of the General Laws, as determined by the state board of retirement.

(*c*) The governing board of said insurance and pension fraud bureau shall employ an executive director and a general counsel. The executive directors shall be responsible for the administrative operation of said insurance and pension fraud bureau and shall perform such other tasks as said board may direct. The executive director shall ensure that appropri-

ate resources of the insurance and pension fraud bureau are dedicated to the investigation of fraudulent workers' compensation insurance transactions and disability pension claims, as well as other fraudulent insurance transactions. The general counsel shall be the chief legal officer of said insurance and pension fraud bureau.

(*d*) The executive director shall appoint other employees of said insurance and pension fraud bureau as necessary. The executive director may expend for legal, investigative, clerical and any other such expenses in such sums as may be necessary. The executive director shall also disseminate provisions of this section by the publishing of informational brochures and other such materials which encourage the public to report workers' compensation fraud and shall maintain a toll free number to receive such reports. All costs of administration and operation of said insurance and pension fraud bureau shall be equally borne by the Automobile Insurers Bureau of Massachusetts, or its successor, by the Workers Compensation Rating and Inspection Bureau of Massachusetts or its successor, and by the public employee retirement commission or its successor. The executive director shall determine the estimated costs for the operation of said insurance fraud bureau and, upon approval by said board, shall assess the Automobile Insurers Bureau of Massachusetts, the Workers' Compensation Rating and Inspection Bureau of Massachusetts and the public employee retirement commission for such estimated costs. The estimated costs shall be paid to the executive director and he shall subsequently make adjustments to future assessments for any variation between estimated and actual costs on a fair and reasonable basis.

(*e*) The executive director shall designate such authorized personnel employed by said insurance and pension fraud bureau to have access to the following information and records when the same are relevant to any said insurance and pension fraud bureau investigation: records kept within the registry of motor vehicles; records kept within the department of industrial accidents; records kept within the department of revenue, records kept within the department of welfare, records kept within the Workers' Compensation Rating and Inspection Bureau, records kept within the department of employment and training; records kept by insurance companies; records kept by any retirement board of a city or town, as provided in section twenty of chapter thirty-two of the General Laws; and criminal offender record information pursuant to clause (*b*) of section one hundred and seventy-two of chapter six of the General Laws; provided, however, that access to such information and records shall be solely for the use by such authorized personnel in the performance of their official duties and responsibilities within said insurance fraud bureau.

(*f*) Any insurer licensed pursuant to the provisions of chapter one hundred and seventy-five of the General Laws, any person engaged in the business of insurance in the commonwealth exempted from compliance with the licensing requirements of said chapter one hundred and seventy-five, or other similar entity, having reason to believe that an insurance transaction or disability pension claim may be fraudulent, or having knowledge that a fraudulent insurance transaction or disability pension claim payment is about to take place, or has taken, place, shall within thirty days after determination that the transaction may be fraudulent, send to said insurance fraud bureau, on a form prescribed by the executive director, the information requested by the form and such additional information

relative to the transaction and the parties involved as the executive director may require. Fraudulent insurance and pension transactions shall include, but not be limited to, fraud and abuse of the system by attorneys, insurers, employers, medical providers, vocational rehabilitation providers, agents for attorneys or other service providers, claimants, state employees who are members of the state pension system under the provisions of chapter thirty-two of the General Laws, or any other individuals or companies alleged to have engaged in unlawful acts under the provisions of section fourteen of chapter one hundred and fifty-two, sections one hundred and eleven A or one hundred and eleven B of chapter two hundred and sixty-six or other laws of the commonwealth concerning insurance and pension fraud.

(*g*) Said insurance and pension fraud bureau shall review each such report and undertake such further investigation as it deems necessary and proper to determine the validity of the transaction. Upon receipt of such report pursuant to subsection (*f*), or other information which provides reason to believe that any person has violated any law of the commonwealth concerning insurance or pension fraud, said insurance and pension fraud bureau may conduct an investigation within or without the commonwealth. A person having material which is located outside the commonwealth and is requested by the executive director may make it available by the executive director may make it available to the executive director or his representative to be examined at the place where it is located. The executive director may designated representatives, including officials of the state in which the material is located, in inspect the material on his behalf, and may respond to similar requests from officials of other states.

(*h*) The executive director, or his designee, may request the attendance and testimony of witnesses and the production of books and records relevant to an investigation. If a person neglects or refuses to comply with any request to provide testimony or produce books and records relevant to the investigation, the executive director may refer the matter to the attorney general, the district attorney, or the United States attorney.

(*i*) Whenever the executive director is satisfied that a material fraud, deceit, or intentional misrepresentation has been committed in an insurance transaction or disability pension claim or purported insurance transaction or disability pension claim, or that a violation of subsection three of section fourteen of chapter one hundred and fifty-two or sections one hundred and eleven A and one hundred and eleven B of chapter two hundred and sixty-six of the General Laws, or other laws of the commonwealth concerning insurance fraud has occurred, the executive director shall refer the matter to the attorney general, the district attorney or the United States attorney. The executive director shall also report any suspected violation of law to the appropriate licensing agencies of the state and federal governments.

(*j*) In the absence of malice or bad faith, no insurer, member of said insurance fraud bureau, member of said governing board, or an employee or agent of said insurance and pension fraud bureau or other person subject to the provisions of this section, or an employee or agent of such insurer or person, shall be subject to civil liability for damages by reason of any statement, report or investigation made pursuant to the provisions of this section.

(*k*) Beginning August first, nineteen hundred and ninety-two and every six months thereafter said insurance and pension fraud bureau shall file a report with the clerk of the house of representatives who shall forward the same to the joint legislative committee on commerce and labor and a similar report shall be filed with the attorney general which shall include appropriate information, unless otherwise prohibited by law, on the disposition of matter referred to said insurance and pension fraud bureau. Beginning August first, nineteen hundred and ninety-two and every six months thereafter the attorney general shall file a report with the clerk of the house of representatives who shall forward the same to the joint legislative committee on insurance and to the joint legislative committee on commerce and labor and a similar report shall be filed with said insurance and pension fraud bureau which shall include appropriate information, unless prohibited by law, on the disposition of matters referred to the attorney general by said insurance fraud bureau. Said insurance and pension fraud bureau shall periodically report to insurers regarding the status of matters reported to said insurance fraud bureau by insurers, the outcome of all investigations and prosecutions conducted by said insurance and pension fraud bureau, and patterns and practices of fraudulent insurance transactions and disability pension claims identified in the course of performing its duties. Said insurance and pension fraud bureau shall perform such research functions and data collection efforts as directed by the governing board to assist in the prevention, detection and prosecution of fraudulent insurance transactions and disability pension claims.

(*l*) A person convicted for the violation of any law concerning insurance and pension fraud, following the investigation and referral for prosecution by said insurance and pension fraud bureau, shall be ordered to make restitution to the insurer or the state pension system for any financial loss sustained as a result of such violation.

SECTION 55. The public employee retirement administration commission shall succeed to and perform the duties and responsibilities of the division of public employee retirement administration. All duties, responsibilities, obligations, rule and regulation making authority, and all other activities formerly mandated to, granted to or performed by the division of public employee retirement administration and all books, papers, records, property, documents, equipment, and other property, both personal and real, which immediately prior to the effective date of this act are in the custody of the division of public employee retirement administration are hereby transferred to the public employee retirement administration commission and all existing contracts, memoranda, of understanding, and other obligations of the division of public employee retirement administration which are in force on the effective date of this act shall become the obligations and shall thereafter be performed by said public employee retirement administration commission, and all orders, rules, regulations, other determinations, approvals, and permissions granted by the division of public employee retirement administration shall continue in effect as if established or granted by the public employee retirement administration commission unless or until amended, modified, suspended, or revoked. All monies heretofore appropriated for the division of public employee retirement administration remaining unexpended on the effective date of this act are hereby transferred to the public employee retirement administra-

tion commission and shall be available for expenditure by said commission for the purposes for which such funds were originally appropriated.

Pursuant to the provisions of this act, the division of public employee retirement administration has been renamed the public employee retirement administration commission, all employees of said division may be transferred to the commission established by the operation of this act; and any such employees shall continue to be an employee and without loss of accrued rights to holidays, sick leave, vacation and benefits, and shall thereafter perform his duties at the direction of the public employee retirement administration commission. Nothing in this act shall prevent the commission from appointing the commissioner of the public employee retirement administration as the executive director of the public employee retirement administration commission.

SECTION 56. Nothing in section five B of chapter thirty-two of the General Laws, inserted by section ten of this act, shall supersede any rights expressly provided for under any collective bargaining agreement in effect on the effective date of this act unless and until such rights expressly provided for in such collective bargaining agreement are renegotiated to agreement.

SECTION 57. Notwithstanding the provisions of any general or special law to the contrary the current elected member of the retirement board shall continue to serve office until the expiration of his term and until the qualification of his successor. The public employee retirement administration commission shall determine the manner in which the new elected member of the board shall first be elected. Said elected or appointed members shall be so elected or appointed within sixty days of the effective date of this act.

SECTION 58. Subdivision (7) of said section 22 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) Expense Funds of the State Employees' Retirement System and the Teachers' Retirement System - The state board of retirement and the teachers' retirement board shall each adopt annual budgets and supplemental budgets as deemed necessary by the boards. Said budgets shall be funded from the investment income account of each system without further appropriation. At least thirty days prior to the adoption of said budgets the boards shall file said budgets with the house and senate committees on ways and means and the joint committee on public service.

Approved August 9, 1996.

Chapter 307. AN ACT PROVIDING FOR INCREASED PUBLIC ACCESS TO DATA CONCERNING PHYSICIANS.

Be it enacted, etc., as follows:

SECTION 1. Section 6 of chapter 118G of the General Laws, as appearing in section 275 of chapter 151 of the acts of 1996, is hereby amended by adding the following

paragraph:-

When collecting information or compiling reports intended to compare individual health care providers, the commission shall require that:-

(a) provider organizations which are representative of the target group for profiling shall be meaningfully involved in the development of all aspects of the profile methodology, including collection methods, formatting and methods and means for release and dissemination;

(b) the entire methodology for collecting and analyzing the data shall be disclosed to all relevant provider organizations and to all providers under review;

(c) data collection and analytical methodologies shall be used that meet accepted standards of validity and reliability;

(d) the limitations of the data sources and analytic methodologies used to develop provider profiles shall be clearly identified and acknowledged, including, but not limited to, the appropriate and inappropriate uses of the data;

(e) to the greatest extent possible, provider profiling initiatives shall use standard-based norms derived from widely accepted, provider-developed practice guidelines;

(f) provider profiles and other information that have been compiled regarding provider performance shall be shared with providers under review prior to dissemination; provided, however, that opportunity for corrections and additions of helpful explanatory comments shall be provided prior to publication; and, provided, further, that such profiles shall only include data which reflect care under the control of the provider for whom such profile is prepared;

(g) comparisons among provider profiles shall adjust for patient case-mix and other relevant risk factors and control for provider peer groups, when appropriate;

(h) effective safeguards to protect against the unauthorized use or disclosure of provider profiles shall be developed and implemented;

(i) effective safeguards to protect against the dissemination of inconsistent, incomplete, invalid, inaccurate or subjective profile data shall be developed and implemented;

(j) the quality and accuracy of provider profiles, data sources and methodologies shall be evaluated regularly;

(k) providers shall be reimbursed for the reasonable costs that are required for assembling, formatting and transmitting data and information to organizations that develop or disseminate provider profiles; and

(l) the benefits of provider profiling shall outweigh the costs of developing and disseminating the profiles.

SECTION 2. Section 53B of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the word "All" and inserting in place thereof the following words:- Except as provided in section five of chapter one hundred and twelve, all.

SECTION 3. Said section 53B of said chapter 111, as so appearing, is hereby further amended by striking out, in line 32, the word "one" and inserting in place thereof the following word:- ten.

SECTION 4. Section 5 of said chapter 112 of the General Laws, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:-

The board is hereby authorized and directed to develop and implement, without cost to the commonwealth, a plan for a remediation program designed to improve physicians' clinical and communication skills. The board shall promulgate rules and regulations for such remediation programs which shall include, but not be limited to, the following provisions:

(a) the board shall offer a remediation program to physicians, on a voluntary basis, as an alternative to disciplinary action in appropriate cases as determined by the board;

(b) the board shall select providers of remediation and assessment services for physicians;

(c) the board shall make referrals of physicians to remediation and assessment providers, shall have the authority to approve individual remediation programs recommended by such providers and shall monitor the progress of each physician undertaking a remediation program;

(d) the board shall have the authority to determine successful completion of physician remediation programs and may make any further orders for probationary monitoring, disciplinary proceedings or other action as it deems appropriate;

(e) the board shall negotiate with insurance carriers, hospitals, health care providers, physicians and other affected parties to establish mechanisms for the funding of the remediation programs set forth in this paragraph; provided, however, that said board shall establish terms and conditions under which the primary financial obligation for an individual remediation program shall be borne by the affected physician.

SECTION 5. Said section 5 of said chapter 112, as so appearing, is hereby further amended by inserting after the fourth paragraph the following two paragraphs:-

The board shall collect the following information to create individual profiles on licensees, in a format created by the board that shall be available for dissemination to the public:

(a) a description of any criminal convictions for felonies and serious misdemeanors as determined by the board, within the most recent ten years. For the purposes of this subsection, a person shall be deemed to be convicted of a crime if he pleaded guilty or if he was found or adjudged guilty by a court of competent jurisdiction;

(b) a description of any charges to which a physician pleads nolo contendere or where sufficient facts of guilt were found and the matter was continued without a finding by a court of competent jurisdiction;

(c) a description of any final board disciplinary actions within the most recent ten years;

(d) a description of any final disciplinary actions by licensing boards in other states within the most recent ten years;

(e) a description of revocation or involuntary restriction of hospital privileges for reasons related to competence or character that have been taken by the hospital's governing body or any other official of the hospital after procedural due process has been afforded, or the resignation from or nonrenewal of medical staff membership or the restriction of privi-

leges at a hospital taken in lieu of or in settlement of a pending disciplinary case related to competence or character in that hospital. Only cases which have occurred within the most recent ten years shall be disclosed by the board to the public;

(f) all medical malpractice court judgments and all medical malpractice arbitration awards in which a payment is awarded to a complaining party during the most recent ten years and all settlements of medical malpractice claims in which a payment is made to a complaining party within the most recent ten years. Dispositions of paid claims shall be reported in a minimum of three graduated categories indicating the level of significance of the award or settlement. Information concerning paid medical malpractice claims shall be put in context by comparing an individual licensee's medical malpractice judgment awards and settlements to the experience of other physicians within the same specialty. Information concerning all settlements shall be accompanied by the following statement: "Settlement of a claim may occur for a variety of reasons which do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred." Nothing herein shall be construed to limit or prevent the board from providing further explanatory information regarding the significance of categories in which settlements are reported.

Pending malpractice claims shall not be disclosed by the board to the public. Nothing herein shall be construed to prevent the board from investigating and disciplining a licensee on the basis of medical malpractice claims that are pending.

(g) names of medical schools and dates of graduation;

(h) graduate medical education;

(i) specialty board certification;

(j) number of years in practice;

(k) names of the hospitals where the licensee has privileges;

(l) appointments to medical school faculties and indication as to whether a licensee has a responsibility for graduate medical education within the most recent ten years;

(m) information regarding publications in peer-reviewed medical literature within the most recent ten years;

(n) information regarding professional or community service activities and awards;

(o) the location of the licensee's primary practice setting;

(p) the identification of any translating services that may be available at the licensee's primary practice location;

(q) an indication of whether the licensee participates in the medicaid program.

The board shall provide individual licensees with a copy of their profiles prior to release to the public. A licensee shall be provided a reasonable time to correct factual inaccuracies that appear in such profile.

A physician may elect to have his profile omit certain information provided pursuant to clauses (l) to (n), inclusive, concerning academic appointments and teaching responsibilities, publication in peer-reviewed journals and professional and community service awards. In collecting information for such profiles and in disseminating the same,

the board shall inform physicians that they may choose not to provide such information required pursuant to said clause (l) to (n), inclusive.

SECTION 6. Chapter 221 of the General Laws is hereby amended by striking out section 26 and inserting in place thereof the following section:-

Section 26. The clerk of any court in which a physician registered in the commonwealth is convicted of any crime or in which an unregistered practitioner is convicted of holding himself out as a practitioner of medicine or of practicing medicine shall, within one week thereafter, report the same to the board of registration in medicine together with a copy of the court proceedings in the case. For the purposes of this section, a person shall be deemed to be convicted of a crime if he pleaded guilty or was found or adjudged guilty by a court of competent jurisdiction.

In the instance where a physician pleads nolo contendere to charges or where sufficient facts of guilt were found and the matter was continued without a finding by a court of competent jurisdiction, such clerk shall, within one week thereafter, report the same to the board of registration in medicine together with a copy of the court proceedings in the case.

SECTION 7. The division of health care finance and policy shall conduct a study of reports which provide comparative performance and other information concerning health plans, hospitals, physicians and other providers and shall provide any recommendations it may have for legislation to facilitate the production of such reports and the reasons therefor to the joint committee on health care of the general court on or before March first, nineteen hundred and ninety-seven.

In evaluating such reports and the methodologies used in producing such reports and in developing its recommendations, said division shall consider the following issues:

(*a*) the appropriate role of the commonwealth in developing such reports, and whether purchasers and providers can reasonably be anticipated to continue to develop such reports in response to market forces;

(*b*) the necessity or advisability of state mandates concerning the collection and evaluation of information for such reports;

(*c*) the means and methods for defining and protecting the reliability and validity of data and information including, but not limited to, variations in the relative severity presented by individual patients;

(*d*) the extent to which existing data sources and indicators are valid; and

(*e*) the costs of establishing and maintaining systems producing such reports and possible sources of revenue to defray the same.

SECTION 8. On or before December fifteenth, nineteen hundred and ninety-six, the board of registration in medicine shall file a report with the house and senate committees on ways and means concerning the establishment of a funding mechanism for the remediation programs set forth in section four of this act.

SECTION 9. The board of registration in medicine, in implementing the provisions of section five, shall not disseminate a physician profile by electronic media, including the World Wide Web of the Internet, so-called, or on CD-Rom, so-called before May first, nineteen hundred and ninety-seven. The board shall conduct a study of the impact of

publication of physician profiles by electronic media on the personal safety of physicians and their families, and shall report its findings to the joint committee on health care on or before January first, nineteen hundred and ninety-seven. The board shall include in such report a sample profile designed with safeguards recommended by the board pursuant to the aforementioned study. Not later than March first, nineteen hundred and ninety-seven and after public hearing, the board shall promulgate regulations to eliminate, to the extent practicable, the possibility that certain information contained in such profiles may jeopardize that personal safety of physicians and their families.

Approved August 9, 1996.

Chapter 308. AN ACT RELATIVE TO CONTRACTS OF MINORS.

Be it enacted, etc., as follows:

SECTION 1. Section 85P½ of chapter 231 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "player", in line 39, the second time it appears, the following words:- , weekly player.

SECTION 2. Said section 85P½ of said chapter 231, as so appearing, is hereby further amended by striking out, in line 42, the words "four months" and inserting in place thereof the following words:- one hundred and twenty days.

SECTION 3. Said section 85P½ of said chapter 231, as so appearing, is hereby further amended by inserting after the word "increments", in line 54, the following words:- ; a weekly player means a performer who is seen and who may speak lines of dialogue and who is compensated in weekly increments.

SECTION 4. Subsection (d) of said section 85P½ of said chapter 231, as so appearing, is hereby amended by inserting after the first sentence the following four sentences:- The court shall have the power to appoint a guardian of the property to oversee the child's funds. A bond shall be required for an appointment of guardianship under the provisions of this section. The guardian of the minor child shall file a bond pursuant to which the court may, in its discretion, require surety. Such guardian shall render accountings as set forth in section one of chapter two hundred and six.

SECTION 5. Said section 85P½ of said chapter 231, as so appearing, is hereby further amended by inserting after the word "consent", in line 75, the following words:- and requests.

SECTION 6. Said section 85P½ of said chapter 231, as so appearing, is hereby further amended by inserting after the word "funds", in line 77, the following words:- or, if the court finds the petitioner not suitable, the court may appoint a limited guardian. For the purposes of this section, the terms, guardian of the property and limited guardian, shall refer to the same appointed party.

SECTION 7. Said section 85P½ of said chapter 231, as so appearing, is hereby further amended by striking out, in line 88, the word "including" and inserting in place

thereof the following words:- and that the petition shall include a plan for the.

SECTION 8. Said section 85P½ of said chapter 231, as so appearing, is hereby further amended by striking out, in line 90, the word "may" and inserting in place thereof the following word:- shall.

SECTION 9. Said section 85P½ of said chapter 231, as so appearing, is hereby further amended by adding the following subsection:-

(g) For the purposes of subsection (f), intellectual property rights shall be defined as those rights of copyright and trademark explicitly assigned, licensed or otherwise conveyed in the contract by the child to the contracting entity. Any and all rights of privacy and rights of publicity assigned, licensed or otherwise conveyed by the child to the contracting entity shall transfer back to the child upon such revocation of approval.

Approved August 9, 1996.

Chapter 309. AN ACT RELATIVE TO CERTAIN STATE LAND IN THE COMMUNITIES OF BELMONT, LEXINGTON AND WALTHAM.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the reuse and redevelopment 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:

SECTION 1. The purpose of this act is to provide for the reuse and redevelopment of the site known as the metropolitan state hospital campus, to create open space and recreational facilities, to preserve valuable natural and historical resources, and to develop various housing types and institutional uses, in accordance with the metropolitan state hospital reuse plan prepared by the division of capital planning and operations in cooperation with the towns of Belmont, Lexington, the city of Waltham, the metropolitan district commission, and the department of mental health. The commissioner of the division of capital planning and operations is hereby authorized, subject to appropriation, to undertake such additional planning and study as he deems necessary to enhance, refine, and amend said reuse plan as it relates to the site, subject to consultation with and by agreement of the boards of selectmen of said towns of Belmont and Lexington and the city council of said city of Waltham, and the commissioners of the department of mental health and the metropolitan district commission.

SECTION 2. As used in the act, the following words shall, unless the context clearly indicates a different meaning, or intent, have the following meanings:-

"Administration building site", that portion of the metropolitan state hospital site in the city of Waltham containing approximately one acre, together with the building located thereon known as the administration building, and shown as Lot 2 on the survey.

"Advisory committee", a three person committee consisting of one member from each of the conservation commissions of the communities of Belmont, Lexington and Waltham.

"Commissioner", the commissioner of the division of capital planning and operations.

"DCPO", the division of capital planning and operations.

"Developer", a person or entity other than the commonwealth or the city of Waltham who acquires an ownership or leasehold interest in the site or a portion or portions thereof.

"DMH", the department of mental health.

"Gaebler center site", that portion of the metropolitan state hospital site, containing approximately six acres, together with the buildings and improvements thereon, located in the city of Waltham and shown as Lot 6 on the survey.

"Golf course site", that portion of the metropolitan state hospital site, containing approximately fifty acres, in the city of Waltham, together with the building located thereon known as the McLaughlin House, and shown as Lots 4 and 5 on the survey.

"Main campus site", that portion of the metropolitan state hospital site, containing approximately thirty-two acres, together with the buildings and improvements thereon, located in the communities of Lexington and Waltham and shown as Lot 3 on the survey.

"McLaughlin House", the building located within the golf course site, located in the city of Waltham and shown on the survey.

"MDC", the metropolitan district commission.

"MDC reservation site", that portion of the metropolitan state hospital site, containing approximately two hundred and fifty acres, located in the communities of Belmont, Lexington and Waltham and shown as Lot 1 on the survey.

"Mental health clients", clients, patients and residents of the DMH as determined by the commissioner of the DMH.

"Metropolitan state hospital site" or "site", the property containing approximately three hundred and forty acres of state-owned land designated as surplus property by DCPO, comprised of the administration building site, Gaebler center site, golf course site, main campus site and the MDC reservation site, together with the buildings and improvements thereon, located in the communities of Belmont, Lexington and Waltham, as the same is further defined, depicted and described in the reuse plan and shown as Lots one, two, three, four, five, and six on the survey.

"Reuse plan", the plan entitled "Metropolitan State Hospital Reuse Plan" dated June thirtieth, nineteen hundred and ninety-four, and prepared by DCPO and approved by the communities of Belmont, Lexington and Waltham, the MDC and the DMH, as amended by amendment dated September fifth, nineteen hundred and ninety-five, as the same may be amended from time to time in accordance with the provisions of this act, a copy of which is on file with DCPO.

"Survey", a survey plan of the site delineating the boundaries of the several parcels within the site to be conveyed, leased, transferred or otherwise disposed of in accordance with the provisions of this act, consisting of five sheets, entitled "Plan of Land - Metropolitan State Hospital Waltham, Lexington, and Belmont, Massachusetts",

dated July fifth, nineteen hundred and ninety-five, prepared for the commonwealth by William MacKenzie, P.L.S., Alpha Land Surveying and Engineering Associates, as the same may be amended from time to time in accordance with the provisions of this act regarding amendment of the reuse plan, a copy of which is on file with DCPO.

SECTION 3. Notwithstanding the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws or any general or special law to the contrary, the commissioner is hereby authorized and directed to transfer the MDC reservation site to the care and control of the MDC for use as an MDC reservation, and for other such purposes consistent with the reuse plan.

SECTION 4. Notwithstanding the provisions of sections forty E to forty H, inclusive, of chapter seven of the General Laws or any general or special law to the contrary, but subject to sections forty I and forty J of said chapter seven for a period of eighteen months from the effective date of this act, the commissioner is hereby authorized to sell to the city of Waltham, the golf course site for the development and construction of a golf course open to the public or for conservation land, park, or playground uses, all as further described in and subject to the reuse plan, including without limitation, those parts of the reuse plan specifying provisions concerning "Design Standards", "Environmental Standards", "Operating Standards", "Golf Course Contribution to the metropolitan district commission Reservation" and "Deed Restriction and Reversionary Clause". The consideration for such conveyance shall be six hundred thousand dollars. The administration building site shall be included in the disposition of the golf course site to the city of Waltham, without payment of additional consideration, and subject to the terms and conditions of this section, to be used for golf course operations including, but not limited to, administrative offices and proshop and clubhouse facilities. The MDC may, subject to appropriation, enter into a lease with the city of Waltham for use of the second and third floors of the administration building for use by the MDC as a visitor's center. The city of Waltham shall, as a condition of the conveyance of the golf course site, enter into said lease for a term of up to ninety-nine years at a rental rate subject to negotiation. The city of Waltham shall be responsible for all capital improvements and repairs to the administration building. The city of Waltham and the MDC shall, if any portion of the said building is used by the MDC, each pay their pro rata share, on a square foot basis, of all costs associated with the use and operation of the administration building. The lease shall authorize the MDC to perform tenant buildout work at the MDC's sole cost and may contain any other terms and conditions as the commissioner requires. If the administration building site is not transferred to the city of Waltham as provided in this section, at the request of the commissioner of the MDC, the commissioner is hereby authorized to transfer the administration building site to the care and control of the MDC for use, subject to appropriation, as a visitor's center and for other such purposes consistent with the reuse plan and such transfer shall be in accordance with the provisions of section three of this act. If the administration building site is not transferred to the MDC as provided in this section, the administration building site may be included in the disposition of the golf course site to a developer as provided in the second paragraph of this section or in the disposition of the main campus site in accordance

with section six of this act. The commissioner is hereby authorized to take all such action as appropriate to effect such conveyance.

If on or before the expiration of the eighteen month period from the effective date of this act, the city of Waltham does not enter into a written agreement to purchase the golf course site or if at any time during the eighteen month period the city of Waltham notifies the DCPO in writing that it does not intend to acquire the golf course site, the disposition of the golf course site shall be in accordance with the following terms.

(1) For a period of six years and six months following the effective date of this act, the commissioner is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, this act, and such other terms and conditions as the commissioner may from.time to time prescribe, to sell, lease for a term or terms of up to ninety-nine years or otherwise convey the golf course site to a developer for the development and construction of a golf course open to the public, all as further described in and subject to the reuse plan, including, without limitation, those parts of the reuse plan specifying provisions concerning "Design Standards", "Environmental Standards", "Operating Standards", "Golf Course Contribution to the MDC Reservation" and "Deed Restriction and Reversionary Clause". Such conveyance or lease shall be for full and fair market value pursuant to the appraisal process established by section fourteen of this act. The commissioner is hereby authorized to take all such action as appropriate to effect such conveyance.

Notwithstanding the foregoing, the commissioner may, in consultation with the MDC, extend the six year and six month time period for disposition of the golf course site for an additional period of time of up to two years.

In the event that the commissioner is authorized to transfer the golf course site to a developer pursuant to this section, the city of Waltham may convey to the commonwealth, acting by and through the division of capital planning and operations, for consideration subject to negotiation and agreement by the city of Waltham and the division of capital planning and operations, the parcel of land currently used by the city of Waltham as the Elsie Turner Park for incorporation into the golf course for use as a golf course. If the developer fails to use or ceases to use the Elsie Turner park in accordance with the terms of this act and the reuse plan, other than for temporary periods due to causes beyond the reasonable control of the developer, upon notice from the city of Waltham, Elsie Turner park shall revert to the city of Waltham for uses consistent with current restrictions of record. In the event that the golf course site is transferred to the city of Waltham, the city of Waltham may use Elsie Turner park as a golf course.

The advisory committee is hereby established for the purpose of monitoring compliance of the golf course site with the "Design Standards", "Environmental Standards", and "Operating Standards" included in the reuse plan. It shall have legal standing as a party with an interest or as an aggrieved person to enforce such compliance pursuant to 310 Code of Massachusetts Regulations 10.05(7)(a) to seek such compliance.

In the event that the golf course site is not acquired either by the city of Waltham or by a developer, then, notwithstanding the provisions of sections forty E to forty J, inclusive,

of chapter seven of the General Laws or any general or special law to the contrary, after notice from the MDC to the commissioner, the commissioner is authorized and directed to transfer care and control of the golf course site to the MDC for the same purposes as the MDC reservation site. A deed to the city of Waltham or any deed or lease to a developer of the golf course site shall provide that if the golf course site is not developed as a golf course, or, only in the case of conveyance to the city of Waltham, is not otherwise used as conservation land, park or playground uses, in accordance with the terms of this act and the reuse plan within eight years following the effective date of this act, or if after it has been conveyed or leased, as the case may be, it ceases to be used as a golf course, or, only in the case of a conveyance to the city of Waltham, ceases to otherwise be used for conservation land, park or playground uses, other than for temporary periods due to causes beyond the reasonable control of the city or a developer, upon notice from the commissioner, the entire real estate interest in the golf course site shall revert to the commonwealth and the commissioner is authorized and directed to transfer care and control of the golf course site to the MDC to become part of the MDC reservation site. The commissioner may, in consultation with the MDC commissioner, provide for an extension of the eight year period in the deed or lease as set forth above for a period of up to two years.

SECTION 5. If environmental contamination of the golf course site is identified pursuant to section eleven that is required to be remediated under state or federal law or regulation, any such contamination shall, subject to appropriation, be remediated by the commonwealth to the extent necessary to permit the golf course site to be used for golf course purposes. Within one hundred and eighty days of the effective date of this act, the commissioner shall submit a report to the senate and house committees on ways and means detailing the method and means, the amount of available funds, and the timetable for remediating any such environmental contamination.

SECTION 6. The commissioner is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, this act, such other terms and conditions as the commissioner may from time to time prescribe, and consistent with the reuse plan, to solicit, evaluate, and select development proposals for the main campus site and the Gaebler center site, to enter into land disposition agreements, to lease for a term or terms not to exceed ninety-nine years, to transfer to a public agency or a public purpose, to sell and convey by deed or to take any other action to otherwise grant, convey, lease, demise or transfer the main campus site and the Gaebler center site, either separately or together. Any such grant, conveyance, lease, demise or transfer shall be for full and fair market consideration pursuant to the appraisal process established by section fourteen of this act.

Any lease or disposition agreement relative to the main campus site or the Gaebler site shall be subject to and in accordance with such terms and conditions as the commissioner deems necessary and appropriate to implementing the requirements of the reuse plan, including, but not limited to, the housing initiatives set forth therein. The developer, lessee, transferer or purchaser of the main campus site shall, in conforming to the requirements of said Reuse Plan, devote not less than ten percent of any housing units

developed on the site to housing for clients of the department of mental health in the manner required by the commissioner of the department of mental health or for the purpose of meeting said ten percent requirement, dedicate an equivalent amount of housing of size and quality in a manner required by the said commissioner consistent with said reuse plan and located within the communities comprising said department's metrowest region; provided, that said commissioner shall establish that sufficient operating funds are available for the purpose of supporting any such housing made available to clients of said department pursuant to this paragraph.

The commissioner is hereby authorized to take any and all such action as appropriate to effect the disposition described in this section.

SECTION 7. DMH is hereby authorized and directed to relocate DMH clients and staff currently residing in the McLaughlin house to alternative facilities within twelve months of the effective date of this act. DCPO is hereby authorized and directed to remove the McLaughlin house located on the golf course site prior to development of the golf course site by the city of Waltham; provided, however, that there is available funding and the DMH has completed its relocation obligation hereunder. The time periods provided for acquisition of the golf course site in section four shall be extended by any period of delay in the performance by the DMH of its relocation obligation or by DCPO of its removal obligation hereunder.

SECTION 8. Any recreational facilities open to the public on the site shall be made available, as reasonably appropriate, to mental health clients pursuant to agreements to be entered into between the developer or any other persons controlling, leasing or managing said facilities and the commissioner of the DMH.

SECTION 9. The cemetery located within the MDC reservation shall be properly memorialized, preserved and protected in the manner determined by the commissioner of the MDC in consultation with the commissioner of the DMH.

SECTION 10. The commissioner is hereby authorized, notwithstanding the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws or any general or special law to the contrary, to convey to any person or persons, to transfer the care and control to any instrumentality of the commonwealth, or to grant, by deed, transfer, lease or otherwise, any rights of way, or easements for access, egress, drainage, utilities and other purposes as the commissioner may determine necessary and appropriate in, over and beneath portions of the site and over other property of the commonwealth contiguous to the site. Such rights of way and easements may be conveyed over the golf course site; provided, however, that such rights of way and easements do not materially interfere with or derogate from the activities or uses being conducted on the golf course site, as determined by the commissioner and, only in the event the golf course site is acquired by the city of Waltham. Such rights of way and easements may be conveyed over the MDC reservation site; provided, however, that such rights of way and easements do not materially interfere with or derogate from the activities or uses being conducted on the MDC reservation site, as determined by the commissioner and the commissioner of the MDC. The commissioner is hereby authorized, notwithstanding the provisions of sections forty E to forty J, inclusive,

of chapter seven of the General Laws, to retain, accept, or acquire by purchase, transfer, lease, eminent domain or otherwise, any rights of way or easements for access, egress, drainage, utilities, and other purposes as the commissioner may determine necessary and appropriate, which rights of way or easements are in the judgment of the commissioner, necessary to effectuate the purposes of this act.

SECTION 11. The commissioner is hereby authorized to expend not more than three million dollars, of which not more than one million dollars shall be for the preparation of environmental assessments and related investigations of the site, the preparation of environmental plans and specifications, and, not more than five hundred thousand dollars for costs incurred by DMH in relocating clients and employees residing in the McLaughlin House in accordance with section seven, and, subject to the availability of the unspent balance of one million, five hundred thousand dollars, the design, construction, reconstruction, alteration, improvement, demolition and repair of facilities located on the site as may be required by this act, subject to the provisions of law regarding the disbursement of public funds; provided that any environmental remediation efforts identified by said assessments and investigation shall be subject to the availability of funding therefore.

SECTION 12. To meet the expenditures necessary to carry out the provisions of this act, the treasurer of the commonwealth shall, upon request of the governor, issue and sell bonds of the commonwealth, in amounts specified by the governor from time to time, not exceeding in the aggregate the sum of three million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Metropolitan State Hospital Redevelopment Loan, Act of 1996, 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 of Massachusetts; provided, however, that all such bonds shall be payable no later than June thirtieth, two thousand and eighteen. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 13. The treasurer of the commonwealth may borrow from time to time on the credit of the commonwealth such sums of money in an amount not to exceed three million dollars as may be necessary for the purpose of making payments authorized by this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the treasurer of the commonwealth. 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 of Massachusetts, but the final maturity date of such notes whether original or renewal, shall not be later than June thirtieth, two thousand and three. Notwithstanding any other provisions of this act, notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

SECTION 14. The sale price paid for conveyance of the golf course site to a developer pursuant to section four and of the main campus site and the Gaebler center site

to a developer pursuant to section six shall be for the full and fair market value of the property determined by independent appraisal, for the uses described in said sections, including, but not limited to, the restrictions and requirements imposed by the reuse plan. The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology utilized for said appraisal. Said 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 chairmen of the joint committee on state administration.

The recipients of said properties described in this section shall assume the costs in full of preparing a recordable survey describing said land, and shall also assume the costs of recording said plan with said registry of deeds.

The sale price paid pursuant to this act shall be deposited in the General Fund of the commonwealth.

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 said inspector general for his review and comment. Said inspector 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 chairmen of the joint committee on state administration at least fifteen days prior to execution.

SECTION 15. This act shall take effect upon its passage.

Approved August 9, 1996.

Chapter 310. AN ACT RELATIVE TO A CERTAIN ECONOMIC DEVELOPMENT PROJECT IN THE CITY OF HAVERHILL.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section ten of chapter one hundred and twenty-one A of the General Laws or any other general or special law to the contrary, the city of Haverhill is hereby authorized to enter into an agreement under the provisions of said chapter one hundred and twenty-one A with GHF Realty Limited Partnership which shall provide that said city shall receive as the statutory payment required by said section ten on the land and buildings located at 145 Ward Hill avenue in said city an amount to consist of five percent of the annual gross income of the project from all sources added to ten dollars for each one thousand dollars of the fair cash value of said property not to exceed two million five hundred thousand dollars as determined by the assessors of said city in accordance with paragraph 3(a) of the 6A contract between the city of Haverhill and said GHF Realty Limited Partnership dated March 10, 1994. This authorization shall be retroactive to the initial assessment date of the subject property.

Approved August 9, 1996.

Chapter 311. AN ACT PROVIDING FOR AN EARLY RETIREMENT INCENTIVE PROGRAM FOR CERTAIN EMPLOYEES OF THE CITY OF BOSTON.

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, on or after the effective date of this act, the city of Boston, acting by its collector-treasurer with the approval of the mayor, shall provide for an early retirement incentive program as set forth for any employee of the city of Boston, excluding employees of the police and fire departments except for civilian employees, the school department, except for those individuals employed as nurses, the Boston Housing Authority, the Boston Redevelopment Authority, the Boston water and sewer commission and employees of Suffolk county, who (*i*) shall be an employee and an active member-in-service on the effective date of this act of the State-Boston retirement system established under said chapter thirty-two or any predecessor system, (*ii*) 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 effective retirement date specified in his written application to the Boston retirement board, and (*iii*) shall have filed a written application after October fifteenth, nineteen hundred and ninety-six, but not later than November twenty-seventh, nineteen hundred and ninety-six to retire for superannuation as of the date which shall be specified in such application; provided, however, that such date for retirement shall be not earlier than December first, nineteen hundred and ninety-six and not later than December thirty-first, nineteen hundred and ninety-six.

The early retirement incentive program shall be administered by the Boston retirement board, which shall be authorized to promulgate regulations necessary to implement the provisions of said program. Notwithstanding any provisions of chapter thirty-two of the General Laws to the contrary, the normal yearly amount of the retirement allowance for an eligible employee who is employed by the city 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 collector-treasurer, with the approval of the mayor, 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 a retirement calculated under the provisions of this act shall be approved; provided further, that if participation is so limited, the retirement of employees with greater creditable service shall be approved before approval shall be given to employees with lesser creditable service. For the purpose of this act, words shall have the same meaning as in said 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 act shall be deemed to be retired for superannuation under the provisions of said chapter thirty-two and shall be subject to any and all provisions of said chapter 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 the General Laws, of any employee who retires and receives an additional benefit under the retirement incentive program in accordance with the provisions of this act shall not exceed such percentage 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 as may be established by the collector-treasurer, with the approval of the mayor, 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.

The Boston 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 act and such schedule shall be designed to reduce the additional pension liability attributable to such costs and liabilities to zero on or before June thirtieth, two thousand and seventeen; provided however, that said board shall triennially update such schedule until said June thirtieth, two thousand and seventeen. 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 city to fund such liability and there shall be appropriated in each such fiscal year the amount required by the funding schedule and the updates thereto.

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

Approved August 9, 1996.

Chapter 312. AN ACT PROVIDING FOR THE DISPOSITION OF CERTAIN PROPERTY AT FOXBOROUGH STATE HOSPITAL.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the disposition of certain property at the Foxborough 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:

SECTION 1. As used in this act, the following words shall, unless the context clearly indicates otherwise, have the following meanings:

"Auditorium", the Assembly Hall on Payson road.

"Commissioner", the commissioner of the division of capital planning and operations.

"Committee", the Foxborough State Land Planning Committee or its successor organization.

"Developer", a person, entity or governmental body that acquires an ownership or leasehold interest in the site, as hereinafter defined, or a portion thereof pursuant to this act.

"Division", the division of capital planning and operations.

"Excluded property", certain land, buildings and improvements located within the boundaries of the site, as hereinafter defined, and identified on the plan, as hereinafter defined, as (i) two cemeteries (ii) cottage B with an address of 66 Baker street; (iii) the cottage with an address of 55 North street and (iv) the cottage with an address of 32 Payson road, which land, buildings and improvements shall be shown on the survey, as hereinafter defined, but which are excluded from the disposition of the site, as hereinafter defined.

"Plan", the plan entitled "Reuse Consensus Plan for Foxborough State Hospital Property" dated April twentieth, nineteen hundred and ninety-four, prepared by the division and approved by the committee on said April twentieth, and endorsed by vote of the Foxborough board of selectmen on August eighth, nineteen hundred and ninety-five, on file with the division, which plan may be enhanced, refined or amended from time to time as provided herein.

"Practice field", a portion of the site containing the existing practice field area and the buildings and improvements associated therewith and all rights, easements and other interests appurtenant thereto.

"Site", the approximately one hundred and sixty acres of state-owned land in the town of Foxborough known as the former Foxborough State Hospital and the buildings and improvements thereon and the rights, easements and other interests appurtenant thereto, including (i) parcels A, B, C, D, E, F, G, H and I, except that the practice field shall not be included in parcel E and all references to parcel E in this act shall be deemed to exclude the practice field, as described on a drawing prepared by the Bay Colony Group entitled "Drawing Prepared for Foxborough State Land Planning Committee" and dated April fifteenth, nineteen hundred and ninety-four; (ii) the excluded property; and (iii) the practice field, all of which shall be more precisely defined in the survey, as hereinafter defined.

"Survey", a survey of the site to be undertaken by the commissioner in accordance with the plan and pursuant to section three.

SECTION 2. The commissioner shall appoint a representative from the division to be a non-voting member of the committee who shall attend each of the meetings of said committee.

The committee shall be responsible for representing the interests of the town of Foxborough in all deliberations with the division concerning the implementation of the plan for the Foxborough State Hospital as expressed in the Memorandum of Agreement dated July thirty-first, nineteen hundred and ninety-five between the division, the Massachusetts historical commission and the town of Foxborough. Its responsibilities shall include, but not be limited to, reviewing, commenting and making recommendations on proposals to develop the state hospital property. It shall provide guidance and assistance to the division in de-

veloping criteria for determining the suitability of developers. The committee shall meet in open session at least six times each year, but may meet more frequently as necessary.

SECTION 3. The commissioner is hereby authorized and directed to undertake the survey and such additional planning and studies and the preparation of plans and specifications, and to enhance, refine and amend, with the approval of the committee, the plan as the commissioner deems necessary; provided, however, that no such amendment shall have the effect of making the uses, permitted densities and development guidelines outlined in the section of the plan entitled "Parcel by Parcel Plan" less restrictive than those described in the version of the plan dated April twentieth, nineteen hundred and ninety-four. The survey shall define the boundaries of the site, parcels A, B, C, D, E, F, G, H, and I, the excluded property, the auditorium and the practice field, all as the commissioner and the committee deem appropriate.

SECTION 4. The excluded property shall continue to be owned by the commonwealth and used and maintained by the department of mental retardation.

SECTION 5. The commissioner is hereby authorized and directed, notwithstanding the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, and except as otherwise provided herein, to convey by deed or deeds to the town of Foxborough, for consideration negotiated between said town and the commissioner, all or part of the commonwealth's interest in all or portions of the land and buildings located at Foxborough State Hospital, except for the excluded land, that comprise parcel E for open space, recreation and ancillary uses on conditions as agreed upon by the division and the town and the auditorium, on such terms and conditions as the commissioner deems appropriate to maintain its use in the same general manner as its current capacity. If the town of Foxborough does not take possession of said parcel E in accordance with the provisions of this section within three years from the effective date of this act, the commissioner is authorized to dispose of parcel E in accordance with the terms and conditions set forth in section seven. If parcel E is not used by the town of Foxborough for the purposes described herein, then, upon notice from the commissioner, the entire real estate interest in parcel E shall revert to the commonwealth, and the commissioner is authorized to dispose of parcel E in accordance with the provisions of section seven.

SECTION 6. The commissioner is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to sell or lease the practice field to a developer subject to the restriction that it be used as a practice field and related uses and for no other purpose. If the practice field is not used as a practice field and for such related uses, the ownership of the practice field shall revert to the commonwealth. Upon notice from the commissioner, the entire real estate interest in said field shall be offered at full and fair market value to the town of Foxborough pursuant to the provisions of section ten. If the town declines said offer, the commissioner is authorized to dispose of said field in accordance with the provisions of sections seven, eight and ten.

SECTION 7. The commissioner is hereby authorized and directed, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, and after consultation with the committee or except as otherwise provided herein, to convey by

deed or deeds, or to lease for a period not to exceed ninety-nine years, including all renewals and extensions, all or part of the commonwealth's interest in all or portions of the land and buildings located at Foxborough State Hospital except for the excluded land, parcel E, and the auditorium, to a developer or developers, selected in accordance with the provisions of this act. Said land is shown on the plan, the precise configuration and area of which are to be described in a survey as provided for in section three of this act.

SECTION 8. The commissioner is hereby authorized, after consultation with the committee and subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, and in accordance with this act and the plan and subject to such terms and conditions as the commissioner may from time to time prescribe, to solicit, evaluate and select development proposals, to enter into land disposition agreements, to sell, lease for a term or terms of up to ninety-nine years, including all renewals and extensions, or otherwise grant, convey, or transfer to a developer or transfer the care and control of to any instrumentality of the commonwealth, any interest in parcels A, B, C, D, E, F, G, H and I or portions thereof and any facilities thereon, except the excluded property, including without limitation, any associated improvements or appurtenances constructed thereon existing or subsequently acquired or procured pursuant to this act, on such terms and conditions and for such consideration as the commissioner deems appropriate, or as otherwise agreed upon herein; provided, however, that any such proposal, plan or agreement shall exclude the use of any portion of the site for an incinerator, landfill, or other means of permanent disposal of solid or hazardous waste, house of correction, jail or prison. Upon the expiration of any lease entered into under the provisions of this act, the commissioner shall have the authority to dispose of the site or portions thereof so leased subject to this act and sections forty E to forty J, inclusive, of chapter seven of the General Laws.

SECTION 9. The commissioner is hereby authorized to retain or grant rights of way or easements for access, egress, utilities and drainage across the site and across other commonwealth property contiguous to said property, and the commonwealth may accept from any developer or developers rights of way or easements in roadways or across the property to be conveyed by deed or leased pursuant to this act for the purposes of access, egress, drainage and utilities as the commissioner deems necessary and appropriate to carry out the purposes of the plan, and this act; provided, however, that any such rights of way or easements for parcel E shall be reviewed and approved by the committee prior to the authorization thereof by the commissioner.

SECTION 10. The price paid for any sale, lease, conveyance or disposition for any parcel or site pursuant to sections seven and eight shall be for the full and fair market value of the property determined by independent appraisal, for the uses described in the plan including, but not limited to, any restrictions and requirements imposed by said plan. The inspector general shall review and approve said appraisal and said review shall include an examination 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 joint committee on state administration in accordance with this section.

The town of Foxborough shall assume the costs in full of preparing a recordable survey describing said land, and shall also assume the costs of recording said plan with said registry of deeds.

The sale price paid for sale, lease, conveyance or disposition for any parcel or site pursuant to this act shall be deposited in the General Fund of the commonwealth.

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 joint committee on state administration at least fifteen days prior to execution.

SECTION 11. Section 2 of chapter 132 of the acts of 1993 is hereby amended by striking out item 5800-9000 and inserting in place thereof the following item:-

5800-9000 For selected demolition, asbestos and hazardous waste removal and other environmental remediation work and abatement, for planning, marketing, surveying, site evaluation, site preparation and improvements, decommissioning and demolishing the sewage treatment plant on the Foxborough State Hospital site; provided, that the commissioner of the division of capital planning and operations is hereby authorized to spend not more than twenty thousand dollars for repair and improvement, but not for ongoing maintenance, of the two cemeteries located on the grounds of the Foxborough State Hospital; provided, further, that not less than four hundred and fifty thousand dollars shall be utilized for the installation of a sewer line to serve the needs of the Foxborough campus $6,450,000

SECTION 12. Section 3 of said chapter 132 is hereby amended by striking out, in line 4, the words "one hundred sixty-six million two hundred ninety thousand seven hundred fifty-five" and inserting in place thereof the following words:- one hundred seventy-two million two hundred ninety thousand seven hundred and fifty-five.

Approved August 9, 1996.

Chapter 313. AN ACT RELATIVE TO FAIR COMPETITION REQUIREMENTS IN THE BUSINESS OF INSURANCE.

Be it enacted, etc., as follows:

Section 1 of chapter 176D of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out paragraph (a) and inserting in place thereof the

following paragraph:-

(a) "Person", any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society, operators of any medical service plan and hospital service plan as defined in chapters one hundred and seventy-six B, one hundred and seventy-six C, one hundred and seventy-six E, and one hundred and seventy-six F, insurers and sponsors of a legal services plan as defined in chapter one hundred and seventy-six H, any other legal entity or self insurer which is engaged in the business of insurance, including agents, brokers, and adjusters, the Massachusetts Insurers Insolvency Fund and any joint underwriting association established pursuant to law. For purposes of this chapter, operators of any medical and hospital service plans shall be deemed to be engaged in the business of insurance.

Approved August 9, 1996.

Chapter 314. AN ACT RELATIVE TO THE INVESTMENT OF PUBLIC FUNDS.

Be it enacted, etc., as follows:

Section 55 of chapter 44 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- A treasurer of a city, town, district or regional school district may invest such portion of revenue cash as he shall deem not required to pay expenses until such cash is available and all or any part of the proceeds from the issue of bonds or notes, prior to their application to the payment of liabilities incurred for the purposes for which the bonds or notes were authorized, in term deposits or certificates of deposit, in trust companies, national banks, savings banks, banking companies or cooperative banks, or in obligations issued or unconditionally guaranteed by the United States government or any agency thereof and having a maturity from date of purchase of one year or less, or in United States government securities or securities of United States government agencies purchased under an agreement with a trust company, national bank or banking company to repurchase at not less than the original purchase price of said securities on a fixed date, not to exceed ninety days or in shares of beneficial interest issued by money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as amended, operated in accordance with Section 270.2a-7 of Title 17 of the Code of Federal Regulations, that have received the highest possible rating from at least one nationally recognized statistical rating organization and the purchase price of shares of beneficial interest purchased pursuant to this section shall not include any commission that these companies may charge, or in participation units in a combined investment fund under section thirty-eight A of chapter twenty-nine; provided, however, that no temporary notes in anticipation of revenue shall be issued under section four as long as any revenue cash, exclusive of revenue sharing or other revenue cash the use of which is restricted to purposes other than current maintenance expenses, remain so invested.

Approved August 9, 1996.

Chapter 315. AN ACT CONSOLIDATING PENSION INVESTMENTS.

Be it enacted, etc., as follows:

SECTION 1. Section 5C of chapter 10 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The state treasurer shall establish with the advice of the council an investment division, under the direction of a deputy state treasurer, for investments, who shall be responsible for the investment of all state funds under the custody of the state treasurer, including without limitation temporary cash investment.

SECTION 2. Chapter 15 of the General Laws is hereby amended by striking out section 18, as so appearing, and inserting in place thereof the following section:-

Section 18. Subject to appropriation, the teachers' retirement board shall appoint and may remove an executive director and shall establish his salary. Subject to appropriation and to the approval of said board, the executive director shall employ other employees, prescribe their duties and fix their compensation; provided, however, that the salaries of said employees shall not exceed the sum annually approved therefore by said board. The provisions of sections nine A, forty-five, forty-six and forty-six C of chapter thirty, chapter thirty-one, and chapter one hundred and fifty E shall not apply to any employee of the board.

SECTION 3. Section 1 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out the definitions of "PRIM board" and "PRIT Fund" and inserting in place thereof the following two definitions:-

"PRIM board", the pension reserves investment management board established under the provisions of section twenty-three for the purpose of investing the assets of the state employees' and teachers' retirement systems and of other participating and purchasing systems.

"PRIT Fund", the Pension Reserves Investment Trust Fund established under the provisions of subdivision (8) of section twenty-two.

SECTION 4. The first paragraph of section 22 of said chapter 32, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- As provided in subdivision (8), all of the assets of the state employees' and teachers' retirement systems and of any other participating system shall be held in the PRIT Fund, as well as such assets of purchasing systems as shall be transferred to the PRIT Fund upon the purchase of shares therein.

SECTION 5. Clause (iii) of paragraph (a) of subdivision (6) of said section 22 of said chapter 32, as so appearing, is hereby amended by striking out the second sentence.

SECTION 6. Subdivision (8) of said section 22 of said chapter 32, as so appearing, is hereby amended by striking out paragraphs (a) and (b) and inserting in place thereof the following two paragraphs:-

(a) There shall be a Pension Reserves Investment Trust Fund administered by the PRIM board established in section twenty-three for the purpose of depositing, investing and disbursing amounts set aside to meet further liabilities of the various systems. The assets of the state employees' and teachers' retirement systems shall be held in the PRIT Fund.

(b) All amounts which the state may appropriate each year subsequent to January first, nineteen hundred and eighty-four pursuant to section twenty-two B to meet unfunded pension liabilities shall be deposited in the PRIT Fund and credited to the account of the state employees' retirement system, the teachers' retirement system and other participating systems as follows: the amount determined for each system shall be proportionate to the amount of assets of each system participating in the PRIT Fund as of July first for each fiscal year beginning on such date; provided, however, that for the purposes of this paragraph the amount of the combined assets of the state employees' and teachers' retirement systems shall be deemed not to exceed eighty percent of the total amount of the assets in the PRIT Fund as of June thirtieth, nineteen hundred and eighty-seven; and provided further, that a system electing to participate in the PRIT Fund after January first, nineteen hundred and eighty-eight shall receive the greater of either the system's share of the state appropriation pursuant to section twenty-two B or the amount the system would receive in an annual pension funding grant pursuant to section twenty-two D. Systems which elected to participate in the PRIT Fund on or before January first, nineteen hundred and eighty-eight and which are eligible to receive an annual pension funding grant from the commonwealth pursuant to section twenty-two D shall receive an amount equal to such system's share of the state appropriation pursuant to section twenty-two B in addition to the amount such system would receive in an annual pension funding grant pursuant to section twenty-two D. The amounts so determined for each participating system and an amount equal to the regular interest on assets in the PRIT Fund shall be credited to the several retirement systems.

SECTION 7. The fourth subparagraph of paragraph (c) of said subdivision (8) of said section 22 of said chapter 32, as so appearing, is hereby amended by striking out, in line 1127, the words "clause (vii) of".

SECTION 8. Said subdivision (8) of said section 22 of said chapter 32, as so appearing, is hereby further amended by striking out paragraph (e) and inserting in place thereof the following paragraph:-

(e) There shall be a Commonwealth's Pension Liability Fund which shall be within the PRIT Fund and to which shall be credited all assets of the state employees' and teachers' retirement systems, other than assets credited to the systems' Annuity Savings Funds, Annuity Reserve Funds and expense funds. Except for transfers to and from the Annuity Savings Funds, Annuity Reserve Funds and expense funds of such systems in accordance with the provisions of sections one to twenty-eight, inclusive, all transfers of funds to or from such systems shall be made to or from the Commonwealth's Pension Liability Fund as provided herein. All amounts required by the pension funds, and special funds for military service credit of such systems shall be provided by distribution of such amounts from the Commonwealth's Pension Liability Fund; provided, however, that any such distribution shall be detailed in a written report by the commissioner of administration and filed in advance with the house and senate committees on ways and means. Except as otherwise provided in this subdivision, and subject to the provisions of the operating trust agreement adopted by the PRIM board pursuant to subdivision (2A) of section twenty-three, any such distribution shall be made pursuant to the provisions of sections one to twenty-eight, inclu-

sive.

Amounts in the Commonwealth's Pension Liability Fund shall include, but not be limited to, the following:

(i) all amounts appropriated by the commonwealth to meet its pension liabilities, including amounts appropriated pursuant to clause (a) of the third paragraph of section twenty-one of chapter one hundred and thirty-eight, the state share of amounts appropriated pursuant to section twenty-two B and amounts appropriated pursuant to section twenty-two C; provided, however, that the state treasurer may act as agent of the PRIM board to disburse benefit payments pursuant to any such appropriation;

(ii) all monies recovered for the cost of pension fringe benefits from federal grant funds pursuant to section six B of chapter twenty-nine;

(iii) all monies recovered from federal grant funds pursuant to section five D of chapter forty for the cost of teachers' pension benefits;

(iv) all monies transferred from the Annuity Reserve Funds of the state employees' and teachers' retirement systems pursuant to paragraph (d) of subdivision (2) or from the investment accounts of such systems pursuant to clause (iii) of paragraph (a) of subdivision (6);

(v) all undistributed accumulated total deductions for the state employees' and teachers' retirement systems transferred pursuant to subdivision (3) of section eleven; and

(vi) all assets of the state employees' and teachers' retirement systems except assets credited to such systems' expense funds, Annuity Savings Funds and Annuity Reserve Funds.

SECTION 9. Section 23 of said chapter 32, as so appearing, is hereby amended by striking out subdivision (1) and inserting in place thereof the following subdivision:-

(1) The funds of the state employees' and teachers' retirement systems shall be held in the PRIT Fund. The board of each such system shall annually, on or before May first, file in the office of the commissioner, on a form prescribed by the commissioner, a sworn statement of the financial condition of such system as of December thirty-first of the previous year and of all the financial transactions thereof during the previous year. The commissioner may, for cause shown, extend the time for filing any such statement.

SECTION 10. Paragraph (b) of subdivision (2) of said section 23 of said chapter 32, as appearing in chapter 84 of the acts of 1996, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:-

The board of each such system shall invest and reinvest the funds of such system, to the extent not required for current disbursements, in the PRIT Fund pursuant to subdivision (8) of section twenty-two, in the PRIT Fund by purchasing shares of said fund, as provided for in the trust agreement adopted by the PRIM board pursuant to subdivision (2A) or as follows:.

SECTION 11. Paragraph (a) of subdivision (2A) of said section 23 of said chapter 32, as appearing in the 1994 Official Edition, is hereby amended by striking out the second subparagraph and inserting in place thereof the following subparagraph:-

Such board shall consist of nine members as follows: the governor, ex officio, or his

designee, the state treasurer, ex officio, or his designee, who shall serve as chairman of the board, a private citizen experienced in the field of investment or financial management appointed by the state treasurer, an employee or retiree who is a member of the state teachers retirement system who shall be elected by the members in or retired from such a system for a term of three years in such a manner as the commissioner shall determine, an employee or retiree who is a member of the state employees' retirement system who shall be elected by the members in or retired from such system for a term of three years in such a manner as the commissioner shall determine, the elected member of the state retirement board, one of the elected members of the teachers' retirement board, who shall be chosen by the members of the teachers' retirement board, a person who is not an employee or official of the commonwealth who shall be appointed by the governor, and a representative of a public safety union who shall be appointed by the governor. The appointed members shall serve for four years. Any vacancy among the appointed members that may occur before the expiration of a term shall be filled by an appointment by the treasurer, or the governor, whoever had the right of making the initial appointment. Any appointed member of the board, including members appointed to fill a vacancy shall be eligible for reappointment. Any appointed member may be removed from his appointment for cause by the treasurer or the governor, whoever had the right of making the original appointment.

SECTION 12. Said subdivision (2A) of said section 23 of said chapter 32, as so appearing, is hereby further amended by inserting after paragraph (b) the following paragraph:-

(c) The PRIM board may commingle moneys on deposit in the PRIT Fund for purposes of investment; provided, however, that the board shall maintain appropriate records to account for amounts credited to particular accounts or funds. The PRIM board may offer to purchasing systems, and may allocate to the state employees' and teachers' retirement systems, shares in the PRIT Fund which represent undivided interests in specified portions of the assets of the fund rather than undivided interests in the whole.

SECTION 13. Section twenty-three A of said chapter thirty-two is hereby repealed.

SECTION 14. Notwithstanding the provisions of any general or special law to the contrary, including, without limitation, the provisions of paragraph (*e*) of subdivision (8) of section twenty-two of chapter thirty-two of the General Laws, until such time as the provisions of section ten of this act shall take effect, the state treasurer shall be authorized, with the approval of the investment committee established under paragraph (*a*) of subdivision (1) of section twenty-three of said chapter thirty-two, to purchase shares in the Pension Reserves Investment Trust Fund established under said subdivision (8) for the account of the Annuity Savings Funds and Annuity Reserve Funds of the state employees' and teachers' retirement systems. Assets transferred to the Pension Reserves Investment Trust Fund pursuant to this section shall be accounted for separately from the Commonwealth's Pension Liability Fund established under said paragraph (*e*). At such time as all assets of said annuity funds shall have been transferred to the Pension Reserves Investment Trust Fund pursuant to the provisions of this section, the state treasurer, as treasurer-custodian of said systems, and said investment committee shall be relieved of any

further responsibility for the investment of such assets pursuant to said subdivision (1), and such responsibility shall be assumed by the pension reserves investment management board established under subdivision (2A) of section twenty-three of said chapter thirty-two; provided, however, that the state treasurer, as treasurer-custodian as hereinbefore provided and on behalf of said investment committee, with the approval of said committee, shall have filed with said pension reserves investment management board an irrevocable statement of intention not to redeem any shares purchased pursuant to this section.

SECTION 15. On December thirty-first, nineteen hundred and ninety-six, title to all assets, revenues and funds, including contract and other rights to receive the same, which are then held in the name of the Annuity Savings Funds or, Annuity Reserve Funds of the state employees' or teachers' retirement systems or in the name of the state treasurer as treasurer-custodian of such systems, or in the name of the Massachusetts State Teachers' and Employees' Retirement Systems Trust shall be transferred to, and shall thereafter be deemed to be held in the name of, the Pension Reserves Investment Trust Fund established under subdivision (8) of section twenty-two of chapter thirty-two of the General Laws, or the pension reserves investment management board established under subdivision (2A) of section twenty-three of said chapter thirty-two, as trustees of such fund; provided, however, that at least thirty days prior to the effective date of said transfer, the state treasurer shall hold at least two public hearings, which shall be held only after at least thirty days advance written notice to all members of the affected retirement systems; provided further, that such notice shall include the date, place and time of said hearings and an explanation of all of the potential implications of consolidation; and provided further, that at least one of said hearings shall be held in Western Massachusetts and one of said hearings shall be held in Eastern Massachusetts. On such date, all books, papers, records, documents, equipment and computer software which are then in the custody of the state treasurer and which relate to the foregoing transferred assets or are maintained for the purpose of the exercise of powers or the performance of duties no longer required or authorized relative to such assets shall be transferred to said pension reserves investment management board. Upon such date, all then existing agreements, contracts and other obligations of the state treasurer, the aforesaid annuity funds or the aforesaid Massachusetts State Teachers' and Employees' Retirement Systems Trust, or to which the state treasurer or said systems, funds or trust is a party, and which are related to the foregoing transferred assets, shall be performed and may be enforced by said pension reserves investment management board. The state treasurer and such other officials of the commonwealth and of the boards of such systems as shall be appropriate shall execute, acknowledge and deliver such confirmatory instruments as may be required by said pension reserves investment management board, but such execution, acknowledgement and delivery thereof shall not be a condition of the transfer, which is made by this act.

Approved August 9, 1996.

Chapter 316. AN ACT RELATIVE TO A CERTAIN CONSERVATION RESTRICTION IN THE TOWN OF WAYLAND.

Be it enacted, etc., as follows:

SECTION 1. The conservation commission of the town of Wayland is hereby authorized to transfer to the board of selectmen of said town the care, custody and control of the conservation restriction on 128.492 acres of land, more or less, granted to said town by deed from Devens H. Hamlen, Mortimer B. Zuckerman and Edward H. Linde, Trustees of Mainstone Associates Trust, and Devens H. Hamlen and James M. Hamlen as individuals, recorded with the Middlesex south registry of deeds in Book 15681 Page 60, for the purpose of releasing said conservation restriction in consideration of a substantially similar conservation restriction described in section two.

SECTION 2. The substantially similar conservation restriction referred to in section one to be conveyed to the town of Wayland is on file in the office of the town clerk of said town as part of the documentation for Article 41 of the warrant for the nineteen hundred and ninety-six annual town meeting of said town.

SECTION 3. The board of selectmen of the town of Wayland is hereby authorized to release the conservation restriction on the property to be transferred from the conservation commission of said town described in section one.

SECTION 4. The conservation commission of the town of Wayland is hereby authorized to change the use of all or part of the land within the conservation restriction described in section one.

Approved August 9, 1996.

Chapter 317. AN ACT AUTHORIZING THE TOWN OF NAHANT TO BORROW MONEY TO FUND CERTAIN PAYMENTS.

Be it enacted, etc., as follows:

SECTION 1. The town of Nahant is hereby authorized to borrow from time to time such funds of money as may be necessary to fund payments the town is required or agrees to make under its contract with the Lynn Water and Sewer Commission as a result of capital improvements to the Wastewater Treatment Facility of said Commission and related facilities; and may issue bonds or notes therefor. Such bonds or notes shall bear on their face, the words Town of Nahant Wastewater Treatment Facility Loan, Act of 1996. Each authorized issue shall constitute a separate loan and each such loan shall be payable within twenty years from its date. The town may also issue temporary loans in anticipation of such borrowing pursuant to section seventeen of chapter forty-four of the General Laws. Bonds and notes may be issued hereunder by the town treasurer with the approval of the board of selectmen and the proceeds thereof may be expended without further authorization or appropriation by the town. Indebtedness incurred under this act shall not be included in determining the limit of indebtedness of the town under section ten of said chapter forty-

four; but except as provided herein, shall otherwise be subject to the provisions of said chapter forty-four.

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

Approved August 9, 1996.

Chapter 318. AN ACT RELATIVE TO A CERTAIN CONSERVATION RESTRICTION AND EASEMENT IN THE TOWN OF WAYLAND.

Be it enacted, etc., as follows:

SECTION 1. The conservation commission of the town of Wayland is hereby authorized to transfer to the board of selectmen of said town the care, custody and control of the trail easement and conservation restriction on Parcel 3 as described in a deed recorded with the Middlesex south registry of deeds in Book 14189, Page 80, for the purpose of releasing said trail easement and conservation restriction in consideration of a substantially similar trail easement and conservation restriction, described in section two.

SECTION 2. The substantially similar trail easement and conservation restriction referred to in section one to be conveyed to the town of Wayland is on file in the office of the town clerk of said town together with an associated plan entitled "Plan of Trail Easement in Wayland, MA." prepared for: Swiedler Bldg, Co. Inc., Donald M. Schuler and Joan Blair, Scale: 1 inch = 30 feet, November 17, 1993, Everett M. Brooks Company, 49 Lexington Street, West Newton, Massachusetts 02165.

SECTION 3. The board of selectmen of the town of Wayland is hereby authorized to release the trail easement and conservation restriction on the property to be transferred from the conservation commission of said town described in section one.

SECTION 4. The conservation commission of the town of Wayland is hereby authorized to change the use of all or part of the land within the trail easement and conservation restriction described in section one.

Approved August 9, 1996.

Chapter 319. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT EASEMENTS OVER CERTAIN PARCELS OF LAND LOCATED IN THE CITY OF LOWELL.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section forty H of chapter seven of the General Laws, the commissioner of capital planning and operation, in consultation with the department of environmental management, as to Tract Numbers 110-05, 110-15, 107-36 and 107-37 hereinafter described, is hereby authorized to grant easements by deed without

consideration over certain parcels of land, including park and environmental land, located in the city of Lowell, to the United States of America for canal walkway development, for the maintenance and operation of the Mack building, so-called, and its facilities including, but not limited to, public exhibits, and for the activities related to all of the foregoing purposes pursuant to the Lowell National Historical Park act, consistent with the preservation plan developed pursuant to said act and such additional terms as said commissioner may prescribe in consultation with the department of environmental management. Said parcels are described as follows:

Tract 110-05 shall be the parcel conveyed by the city of Lowell to the commonwealth by deed, recorded with the Middlesex Northern District registry of deeds at Book 2285, Page 658. See also the plan recorded with said registry of deeds at Plan Book 125, Page 143.

Tract 110-15 shall be the parcel taken by the commonwealth by Order of Taking recorded with the Middlesex Northern District registry of deeds at Book 2343, Page 568.

Tract 107-36 shall consist of five parcels of land containing 15,766 square feet of land, more or less, conveyed to the Commonwealth by the Greater Lowell Family Y.M.C.A. by deed dated July 15, 1976 and recorded with the Middlesex Northern District registry of deeds at Book 2221, Page 2.

Tract 107-37 shall consist of two parcels of land situated along Shattuck street and described as follows:

Parcel I: The land situated on the Northwesterly side of Shattuck Street and the Northeasterly side of Market Street and described as follows:

Beginning at the Southerly corner of the granted premises at the intersections of Shattuck and Market Streets;

Thence, Northeasterly along Shattuck Street 103.55 feet more or less, to land conveyed by Herbert C. Merrill et ux to B&M Railroad by deed recorded with the Middlesex North District Registry of Deeds, Book 687, Page 549;

Thence, N 57° 12' 37" W by said railroad land 64.35 feet, more or less;

Thence, Southwesterly by a line parallel with and distant Northwesterly 64.35 feet from the Northwesterly line of Shattuck Street (measured at right angles) 128.73 feet, more or less, to the Northeasterly line of Market Street;

Thence, Southeasterly along Market Street 14.4 feet more or less to a spike in the ground at the angle in Market Street;

Thence, Easterly still along Market Street 56.07 feet, more or less, to the point of beginning.

Excepting therefrom rights as were reserved to the proprietors of locks and canals by instrument dated May 11, 1906 and recorded with said registry of deeds in Book 390, Page 86, to the extent that said rights are still in full force and effect.

Parcel II: The land, together with the buildings and structures thereon, situated on the Northwesterly side of Shattuck Street, being Number 25 thereon, and bounded as follows:

Beginning on said Shattuck Street at the Easterly corner of the within premises;

Thence, Southwesterly along Shattuck Street a distance of 25.6 feet, more or less, to

the location, now or formerly, of the Boston and Lowell Railroad;

Thence, Northwesterly along said land a distance of 58.46 feet, more or less;

Thence, Northerly along said land a distance of 5 feet, more or less;

Thence, Northeasterly along said land a distance of 23.16 feet, more or less;

Thence, Southeasterly along said land formerly of the Locks and Canals a distance of 63.46 feet, more or less, to the point of beginning.

Containing 1620 square feet of land, more or less.

Excepting therefrom are rights reserved to the proprietors of locks and canals by instrument dated May 11, 1906 and recorded with said Registry of Deeds in Book 390, Page 86, to the extent that said rights are still in full force and effect.

Both parcels being a portion of the premises taken by the Commonwealth of Massachusetts by Order of Taking dated November 2, 1977 and recorded with said registry of deeds at Book 2276, Page 589.

Said commissioner 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 2. The easements granted pursuant to section one shall not be inconsistent with the commonwealth's use and operation of the canal system as a state 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. In the event that the parcels of land referred to in section one to be used for purposes described herein or are used for any other purposes, all interest in said parcels shall revert to the commonwealth upon notice by the commissioner of capital planning and operations.

SECTION 4. The United States of America shall be responsible for any and all costs for appraisals, surveys and other expenses relating to the transfer of the easements herein and for all costs, liabilities and expenses of any nature and kind relating to the construction, maintenance, replacement and operation of the easement areas.

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

Approved August 9, 1996.

Chapter 320. AN ACT RELATIVE TO THE TRANSFER OF CERTAIN CONSERVATION LAND IN THE TOWN OF HARVARD.

Be it enacted, etc., as follows:

SECTION 1. The conservation commission of the town of Harvard is hereby authorized to transfer to the board of selectmen of said town the care, custody, control and management of its rights to harvest timber, build and maintain structures and use motor vehicles on a certain portion of the town forest shown as Parcel 13 on Harvard Assessor's

Map 13 and lying within a one hundred foot radius of The Village Nursery School's well, the location of which is shown on a plan entitled "Site Plan of Land in Harvard, Mass. prepared for Village Nursery School" Scale 1" = 20' dated February 1995, revised February 28, 1995, which plan is on file in the office of the town clerk of said town of Harvard.

SECTION 2. Notwithstanding the provisions of chapter thirty B of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Harvard is hereby authorized to grant, sell or convey the rights described in section one, in the form of a well protection restriction, to The Village Nursery School, Inc., in consideration of a trail easement of approximately twenty feet in width in a location to be determined along the northerly portion of the lot to be acquired by said Village Nursery School, Inc., adjacent to the town forest and shown as Lot 62 on Harvard Assessor's Map 13, and linking the portion of the town forest described in section one to the 2.2 acre portion of the town forest on Poor Farm road lying to the west of said Village Nursery School site shown on the site plan referred to in section one.

SECTION 3. The conservation commission is hereby authorized to change the use of all or part of the land within that portion of the town forest described in section one.

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

Approved August 9, 1996.

Chapter 321. AN ACT AUTHORIZING THE TOWN OF NORTH READING TO CONVEY A CERTAIN PARCEL OF LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of North Reading, acting by and through its board of selectmen, is hereby authorized to convey a portion of a certain parcel of open space and recreational land to an individual or entity abutting said parcel and to convey the remainder of said parcel to the conservation commission of said town for conservation purposes. Said conveyance shall be subject to the provisions of section sixteen of chapter thirty B of the General Laws. Said parcel is shown on a plan of land entitled, "Plan of Land in North Reading, MA" dated March twenty-sixth, nineteen hundred and ninety-six prepared by JJR Engineering, which is on file in the office of the town clerk.

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

Approved August 9, 1996.

Chapter 322. AN ACT AUTHORIZING THE CITY KNOWN AS THE TOWN OF METHUEN TO CONVEY CERTAIN LAND TO MALDEN MILLS INDUSTRIES, INC.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter thirty B and chapter forty of the General Laws or any other general or special laws to the contrary, the city known as the town of Methuen, acting by and through its mayor, with the approval of its city council and the department of environmental affairs, is hereby authorized to sell and convey the following two parcels of land to Malden Mills Industries, Inc. upon such terms and conditions as said town deems appropriate.

Parcel No. 1 is that parcel of land conveyed to said town by the Federal Home Loan Mortgage Corporation by deed recorded at the north Essex registry of deeds, Book 4411, Page 226.

Parcel No. 2 is playground land.

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

Approved August 9, 1996.

Chapter 323. AN ACT ESTABLISHING A DEMONSTRATION PROJECT FOR CERTAIN PARENT OUTREACH PROGRAMS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately establish a demonstration project for certain parent outreach 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. The first paragraph of section 84 of chapter 71 of the acts of 1993 is hereby amended by inserting after the first sentence the following sentence:- Said department is further authorized and directed to establish a demonstration project to assess various models of parent outreach programs in working with families of school age children.

SECTION 2. Said first paragraph of said section 84 of said chapter 71 is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- Said projects 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.

SECTION 3. The second paragraph of said section 84 of said chapter 71 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Participation by parents during the demonstration projects and thereafter shall be voluntary.

Approved August 9, 1996.

Chapter 324. AN ACT FURTHER REGULATING STATE POLICE PROMOTIONAL EXAMS.

Be it enacted, etc., as follows:

SECTION 1. Section 26 of chapter 22C of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:-

(1) a competitive promotional examination open to all members who have completed not less than one year of service in the next lower rank, or title, or, in the alternative, to have spent at least some time in the next lower rank and to have completed at least ten years of service as a uniformed member prior to the final date for filing applications for such examination;.

SECTION 2. Said section 26 of said chapter 22C, as so appearing, is hereby further amended by striking out the second and third paragraphs and inserting in place thereof the following two paragraphs:-

In ranking members for the purpose of promotion to a title below that of lieutenant, such factors for promotion shall be weighted as follows: written examination, fifteen; and longevity, five.

In ranking members for the purposes of promotion to the title of lieutenant or captain, such factors shall be weighted as follows: written examination, fourteen; longevity, four; oral interview, two.

Approved August 9, 1996.

Chapter 325. AN ACT FURTHER REGULATING CERTAIN PREMIUM INCREASES IN MEDICARE SUPPLEMENTAL GROUP COVERAGE.

Be it enacted, etc., as follows:

SECTION 1. Chapter 176A of the General Laws is hereby amended by inserting after section 1B the following section:-

Section 1C. For purposes of this section, retroactive premium rate increase shall mean any premium rate increase based upon an actual approved rate which is assessed to a subscriber after any payment has been made by said subscriber based upon an estimated premium rate for such period of coverage.

A nonprofit hospital service corporation governed by this chapter which offers medicare supplemental individual or group coverage shall, in the event of a retroactive premium rate increase for such coverage, allocate such increase among the remaining outstanding premium payments due; provided, however, that no finance charge or additional cost may be charged as a result of such allocation.

SECTION 2. Chapter 176B of the General Laws is hereby amended by inserting after section 7B the following section:-

Section 7C. For purposes of this section, retroactive premium rate increase shall mean any premium rate increase based upon an actual approved rate which is assessed to a subscriber after any payment has been made by said subscriber based upon an estimated premium rate for such period of coverage.

A medical service corporation governed by this chapter which offers medicare supplemental individual or group coverage shall, in the event of a retroactive premium rate increase for such coverage, allocate such increase among the remaining outstanding premium payments due; provided, however, that no finance charge or additional cost may be charged as a result of such allocation.

Approved August 9, 1996.

Chapter 326. AN ACT RELATIVE TO PREMIUM FINANCE AGENCIES.

Be it enacted, etc., as follows:

Section 21 of chapter 255C of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following two sentences:- A premium finance agency shall give notice of cancellation to the policyholder by delivering such notice in hand to the named policyholder, or by leaving at his last business, residence or other address known to the agency, or by forwarding such notice to said address by first class mail, postage prepaid, and a notice delivered, so left or forwarded, shall be deemed a sufficient notice. No written notice of cancellation shall be deemed effective when mailed by the agency unless the agency obtains a certificate of mailing receipt from the United States Postal Service showing the name and address of the policyholder stated in the policy, but any notice of the intent to cancel as required by section thirty-four K of chapter ninety may be given by first class mail.

Approved August 9, 1996.

Chapter 327. AN ACT AUTHORIZING THE USE OF CERTAIN LAND FOR EXPANSION OF THE LIBRARY AND OTHER MUNICIPAL USES IN THE TOWN OF ACTON.

Be it enacted, etc., as follows:

SECTION 1. Chapter 603 of the acts of 1985 is hereby amended by striking out, in line 3, the words "town hall parking and septic system" and inserting in place thereof the following words:- use for expansion of the town library or any other municipal.

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

Approved August 9, 1996.

Chapter 328. AN ACT RELATIVE TO THE FILLING OF A VACANCY IN THE OFFICE OF MAYOR OF THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. Section 13 of chapter 452 of the acts of 1948, as appearing in section 1 of chapter 376 of the acts of 1951, is hereby amended by striking out, in line 16, the word "fourth" and inserting in place thereof the following word:- fifth.

SECTION 2. This act shall take effect as of January fourth, nineteen hundred and ninety-three.

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

Approved August 9, 1996.

Chapter 329. AN ACT AUTHORIZING NANTUCKET COUNTY TO CONVEY CERTAIN LAND TO THE TOWN OF NANTUCKET.

Be it enacted, etc., as follows:

SECTION 1. Nantucket county is hereby authorized to convey the following parcels of land to the town of Nantucket, exclusive of public ways and bike paths, which includes parcels of land which were acquired for conservation purposes, and are owned by said county:

(1) Smooth Hummocks, parcels shown on Nantucket Assessor's Map 82, Parcel 17.6 located in Smooth Hummocks, Share 8 described in a deed recorded at the Nantucket registry of deeds in Book 423, Page 171;

(2) 9 Dionis Beach Road, Nantucket Assessor's Map 32, Parcel 19, having a street address of 9 Dionis Beach Road, described in a deed recorded at the Nantucket registry of deeds in Book 434, Page 124;

(3) A street parcel shown as Parcel C, shown on a subdivision of land shown on Plan 3092 P, filed with Certificate of Title No. 1377, Nantucket registry district county;

(4) Shown on 23 Sesachacha Road, Nantucket Assessor's Map 0021, Parcel 0016, having a street address of 23 Sesachacha Road, described in a deed recorded at the Nantucket registry district for the land court as Document No. 069486 and filed with Certificate of Title No. 16,992;

(5) Shown as 18 Maine Avenue, Nantucket Assessor's Map 6031, Parcel 0427, having a street address of 18 Maine Avenue, described in a deed recorded at the Nantucket registry district for the land court as Document No. 070116, and filed with Certificate of Title No. 17,086; and

(6) Shown as 139 Eel Point Road, Nantucket Assessor's Map 33, Parcel 10, having a street address of 139 Eel Point Road, described in a deed recorded at the Nantucket registry district for the land court as Document No. 070478, and filed with Certificate of Title No. 17,131.

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 conveyance taking effect.

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

Approved August 9, 1996.

Chapter 330. AN ACT RELATIVE TO THE CHARTER OF BOWDOIN COLLEGE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately change the charter of Bowdoin College to consolidate the governance of the college into one board and to make certain other changes, therefore it is hereby declared to be an emergency law, necessary for the preservation of the public convenience.

Be it enacted, etc., as follows:

Chapter 12 of the acts of 1794, as most recently amended by chapter 516 of the acts of 1978, is hereby further amended by striking all after the enacting clause and inserting in place thereof the following seven sections:-

Section 1. There is established in the town of Brunswick, Maine, a college for the purpose of education under the name of Bowdoin College, to be under the governance of a board of trustees, as hereafter provided.

Section 2. The college shall be governed by a board of trustees with a minimum number of thirty-five and a maximum number of fifty-six, including the president as a trustee, until the year two thousand five and thereafter with a minimum number of thirty-five and a maximum number of forty-five, including the president as a trustee.

Section 3. For the more orderly conducting the business of the college, the board of trustees shall have full power and authority, from time to time, to elect a chair and a vice-chair from among their number and a president, a treasurer and a secretary and such other officers as the board deems necessary; to declare the tenures and duties of their respective offices; and to elect trustees for such terms and upon such conditions as they may from time to time determine, and also to remove any trustee when, in their judgment, such trustee becomes incapable or neglects or refuses to perform the duties of the office.

Section 4. The college may have one common seal; and that all deeds signed and delivered by the treasurer, or by such other officer as the trustee may from time to time appoint, and sealed with its seal, by order of the trustees, shall, when made in the corporate name, be considered in law as the deeds of the college; and that the college may sue and be sued in all actions, real, personal or mixed and may prosecute and defend the same to final judgment and execution; and that the college shall be capable of having, holding and taking,

in fee simple or any less estate, by gift, grant, devise or otherwise any lands, tenements or other estate, real or personal.

Section 5. The college shall have full power and authority to determine at what times and places its meetings shall be held and on the manner of notifying the trustees to convene at such meetings, and also, from time to time, to elect such professors and other officers as it shall judge most for the interest thereof, and to determine the duties, salaries, emoluments and tenures of their several offices aforesaid; and also to purchase, or erect and keep in repair, such houses and other buildings as it shall judge necessary for the college; and also to make and ordain, as occasion may require, reasonable rules, orders and by-laws, not repugnant to the laws of the commonwealth, with reasonable penalties, for the good government of the college; and also to determine and prescribe the mode of ascertaining the qualifications of the students requisite to their admission; and also to confer such degrees as are usually conferred by universities established for such education; and a majority of the Trustees present at any legal meeting shall decide all questions that may properly come before them.

Section 6. The clear rents, issues and profits of all the estate, real and personal, of which the college shall be seized or possessed shall be appropriated to the endowment of the college in such manner as shall most effectually promote virtue and piety, and the knowledge of such of the languages, and of the useful and liberal arts and sciences.

Section 7. The treasurer of the college shall give bond to the college, in such amount and with such sureties as the Trustees shall approve of, conditioned for the faithful discharge of the duties of the said office and for rendering a just and true account of the doings therein, when required, and that all the monies, securities and other property of the college, together with all the books in which the accounts and proceedings, as treasurer, were entered and kept, that appertain to the office of treasurer, as aforesaid, shall, upon demand, be paid and delivered over to the successor in that office; and all monies to be recovered by virtue of any suits at law, upon such bond, shall be paid over to the college.

Approved August 9, 1996.

Chapter 331. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY CERTAIN PROPERTY IN THE TOWN OF HADLEY TO WILLIAM PELISSIER AND GARY PELISSIER.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section forty E to forty J, inclusive, of chapter seven of the General Laws, the commissioner of capital planning and operations, with the approval of the commissioner of the department of fisheries, wildlife and environmental law enforcement, is hereby authorized to convey by deed, which deed shall require the signature of the commissioner of the department of fisheries, wildlife and envi-

ronmental law enforcement approving such conveyance, for the consideration stated in section two and subject to the terms stated in section three, to William Pelissier and Gary Pelissier, grantees, of the town of Hadley, a certain parcel of commonwealth land in said town of Hadley containing one and one-half acres more or less and more particularly described in a deed dated September 25, 1969 from William E. Pelissier to the commonwealth and recorded in the Hampshire county registry of deeds, Book 1564, Page 108.

SECTION 2. In consideration of and simultaneously with such conveyance authorized in section one, the grantees shall acquire and convey to the commonwealth by deed or consensual taking through the department of fisheries, wildlife and environmental law enforcement, the fee simple interest in a parcel of land to be designated by the commissioner of the department of fisheries, wildlife and environmental law enforcement, of not less than equal value to the land conveyed in section one, as determined by independent appraisals of value. The grantees shall assume all costs for appraisals, surveys and title examinations and certifications as may be required by the commissioner of the department of fisheries, wildlife and environmental law enforcement on the subject parcel and the exchange parcel. All such work is to be carried out in full cooperation with, and by vendors approved by, said department of fisheries, wildlife and environmental law enforcement and in compliance with performance standards established by the executive office of environmental affairs. The inspector general shall review and approve any such appraisal and such review shall include a review of the methodology utilized for such appraisal. The inspector general shall prepare a report of his review and file such report with the commissioner for submission to the house and senate committees on ways and means and the chairmen of the joint committee on state administration in accordance with this section.

SECTION 3. The parcel of land authorized to be conveyed pursuant to section one shall be surveyed and the resulting recordable plan of land shall designate three zones as follows: Zone 1 shall be all of said parcel within one hundred and fifty feet of the mean high water line of the Connecticut river; Zone 2 shall be an approximately rectangular area of said parcel immediately adjacent to Zone 1 being the full northwesterly-southeasterly width of said parcel and extending northeasterly to an existing monument along the southeasterly line of said parcel; and Zone 3 shall be all remaining area of said parcel. The parcel of land authorized to be conveyed in section one shall be conveyed by the commonwealth subject to restrictions on use as stated herein, said restrictions to remain in effect in perpetuity. The land in Zone 1 shall remain in its open, natural and unimproved condition. All activities shall be prohibited in Zone 1 except for pedestrian use and the installation of underground utility lines in accordance with all other laws and regulations. Said restriction shall include, but not be limited to, the prohibition of the following: construction of any permanent or temporary structures, creation of paved, graveled or otherwise improved parking areas, driveways, walking paths or other areas, long-term or seasonal storage of any items or materials and any other activity or improvement which may reduce the natural character of said Zone 1. The land in Zone 2 shall be subject to all the restrictions which shall apply to Zone 1; provided, however, that portions of Zone 2 may be improved with water pervious

surfacing for vehicle parking. No impervious road or parking surfaces and no bituminous concrete or similar surfaces may be used in Zone 2. Zone 3 is hereby conveyed to the grantees free of any restrictions on use.

Approved August 9, 1996.

Chapter 332. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN EASEMENT IN LAND IN THE TOWN OF NORFOLK.

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 I, inclusive, of chapter seven of the General Laws, to convey for consideration described in section two by deed approved to form by the attorney general a permanent easement over land located in the town of Norfolk, presently under the care and control of the department of public health, to the Southwood Community Hospital subject to the requirements of sections two, three and four and to such terms and conditions as said commissioner in consultation with the department of public health, may prescribe. Said easement is shown on a plan entitled "Easement Plan of Land in Norfolk, Mass." dated August 1, 1989 and prepared by Norwood Engineering Co., Inc. which is on file with said division of capital planning and operations.

SECTION 2. The consideration paid by the Southwood Community Hospital for said easement shall be the full and fair market value of the easement determined by an independent appraisal, for its use as described herein. The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology utilized for said appraisal. Said inspector general shall prepare a report of his review and file said report with the commissioner of the division of capital planning and operations for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration in accordance with section seven of this act.

SECTION 3. No deed conveying by or on behalf of the commonwealth the easement described in section one shall be valid unless such deed provides that said easement shall be used for the purpose of laying, maintaining, repairing, replacing and using one or more water lines.

SECTION 4. If the aforementioned purpose described in section three ceases at any time, said easement shall revert to the commonwealth under such terms and conditions as the commissioner of the division of capital planning and operations shall prescribe.

SECTION 5. The recipient of said easement will assume the costs of any appraisals, surveys, and other expenses as deemed necessary by the commissioner of the division of capital planning and operations for the granting of this easement.

SECTION 6. Nothing in the foregoing shall impair the authority of the town of Norfolk to enact zoning by-laws relative to the use of this property nor impair the taxability

of such property in accordance with chapter forty A or chapter fifty-nine of the General Laws.

SECTION 7. The commissioner of the division of capital planning and operations shall, thirty days before the execution of any agreement authorized by this act, or any subsequent amendment thereof, submit the agreement, instrument or amendments thereto and a report thereon to the inspector general for his review and comment. Said inspector general shall issue his review and comment within fifteen days of receipt of any agreement or amendment. The commissioner of the division of capital planning and operations shall submit the agreement, instrument and any subsequent amendments thereof, the reports, and the comments of said inspector general, if any, to the house and senate committees on ways and means and the chairmen of the joint committee on state administration at least fifteen days prior to execution.

SECTION 8. The consideration paid pursuant to section two shall be deposited in the General Fund of the commonwealth.

SECTION 9. This act shall take effect upon its passage.

Approved August 9, 1996.

Chapter 333. AN ACT RELATIVE TO THE RECYCLING OF FLUORESCENT LAMPS.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the superintendent of state buildings and the commissioner of the division of capital planning and operations shall comply with the Green Light Program, so-called of the federal Department of Environmental Protection. Such compliance shall include, but not be limited to, the proper disposal of mercury containing lamps; provided, however, that recycling shall be used, whenever possible, as the preferred method of such disposal.

Approved August 9, 1996.

Chapter 334. AN ACT TRANSFERRING THE STATE BIOLOGICS LABORATORIES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is immediately to provide for the orderly transition of the biologic laboratories of the state laboratory institute, so-called, from the department of public health to the University of Massachusetts so as to enable said laboratories to maintain their public purpose, preserve their ability to compete in an increasingly competitive marketplace and maximize their value to the commonwealth, it is hereby declared to be an emergency law, necessary for immediate preservation of the public health and convenience.

Be it enacted, etc., as follows:

SECTION 1. Chapter 75 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following new section:-

Section 43. (a) There is hereby established the University of Massachusetts biologic laboratories. The purpose of said laboratories shall be the research, development and production of childhood vaccines and biologic products designed to reduce or prevent morbidity and mortality in the commonwealth, including but not limited to those products which may be of little or no interest to commercial manufacturers and are therefore otherwise substantially unavailable to the citizens of the commonwealth. The biologic laboratories shall operate pursuant to this chapter and in accordance with regulations promulgated thereunder.

(b) There shall be an advisory board to advise the president and the board of trustees of the university with respect to the operation of the biologic laboratories. The advisory board shall meet at least twice per year, and at such other times as are necessary to effectuate its purpose. The advisory board shall consist of the following members: the commissioner of public health or his designee, the director of the childhood immunization program of the department of public health, the deans of the medical school and the school of public health of the university or their designees, and at least three but not more than five additional members appointed by the president of the university, including a consumer and a practicing pediatrician or other physician specializing in family medicine. Each advisory board member appointed by the president of the university shall serve for a term of five years, provided, however, that in making initial appointments, the president shall appoint one or two members for a term of three years and one or two members for a term of four years. Appointed members of the advisory board shall be eligible for reappointment and may be removed by the president of the university during their terms for cause.

(c) The university shall obtain liability insurance sufficient to indemnify the commonwealth, the university and the biologic laboratories, and their officers and employees, for any liability arising from the out-of-state sale, distribution and use of laboratory products, and to indemnify the commonwealth for any liability arising under chapter two hundred and fifty-eight as a result of any activities of the laboratories.

(d) The board of trustees may authorize the biologic laboratories to enter into agreements with private parties with respect to the research, development and production of vaccines and other biologic products; provided, however, that the board, in consultation with the advisory board, shall develop and follow written criteria for affording a preference to private companies that agree to conduct such research, development or production, or a substantial portion thereof, in the commonwealth.

(e) Any trade secret or other proprietary information of the biologic laboratories shall be exempt from the definition of public records in clause twenty-sixth of section seven of chapter four.

(f) The director of the biologic laboratories shall submit to the clerks of the senate and the house of representatives a detailed report of the activities of the laboratories within

ninety days after the end of each fiscal year. Said report shall include for the prior fiscal year a description of the patents and licenses received, agreements entered into, the status of existing agreements, royalties and other benefits received as a result of the work of the biologic laboratories, expenditures, current assets and liabilities of the laboratories, one-year and five-year financial plans and identification of current and projected revenues and expenses, anticipated capital expenditures and start-up expenses.

Said report shall include an accounting statement detailing the receipts and expenditures, including obligations whether paid or unpaid, of appropriated funds for the prior fiscal year and shall include projections of the amount of appropriated funds required for the next three years.

Pursuant to section twelve of chapter eleven, the department of the state auditor shall conduct an audit of the biologic laboratories no less than once every two years.

(g) The university shall maintain on its books a separate account for the biologic laboratories. All revenues generated by the activities of the biologic laboratories shall be deposited in a separate special trust established pursuant to section eleven; provided, however, that expenditures made from said trust fund shall be exclusively for the purposes of the biologic laboratories established in subsection (a).

(h) The advisory board shall be consulted prior to the appointment of a chief executive officer of the biologic laboratories. The chief executive officer shall present budgets, staffing plans, operating plans and production plans to the advisory board for its review and comment.

SECTION 2. On and after January first, nineteen hundred and ninety-seven, or such earlier date as may be agreed pursuant to section three, for the purpose of section forty-three of chapter seventy-five of the General Laws, the University of Massachusetts biologic laboratories shall include those laboratories within the state laboratory institute, so-called, formerly within the department of public health which, prior to the effective date of this act, researched, developed and produced vaccines and other biologic products.

SECTION 3. (a) On or before January first, nineteen hundred and ninety-seven, the university and the department of public health shall enter into a written agreement for the permanent transfer of control to or use by the university of such facilities, space, equipment and other property, including intellectual property rights, as may be necessary or appropriate to fulfill the purposes of this act. Said transfer or change of use shall occur on January first, nineteen hundred and ninety-seven, or such earlier date as may be agreed by the department of public health and the university. Intellectual property as used in this section shall include, but not be limited to, the federal Food and Drug Administration (FDA) Establishment License # 64 to manufacture drugs, any supplements to such license that the FDA has awarded or may award in conjunction with product licenses, all FDA product licenses and all patents, copyrights, and records, notes and other documents related to the development of vaccines and immune globulins. Said agreement shall include provision for fair reimbursement to the department by the university for out-of-pocket costs associated with the university's on-going access or use of facilities under the control of the department. Said agreement shall also provide for full and fair reimbursement to the commonwealth for any

access or use of said property that may granted to any private parties, and shall be consistent with the requirements of law. Said agreement shall be provided on a timely basis prior to its execution or effective date, whichever is earlier, to the inspector general, for his prompt review and written comments. The university and the department of public health shall not execute said agreement until they have reviewed any written comments from the inspector general.

Said agreement shall be subject to the prior review and approval of the secretary of administration and finance.

(b) Employees of the commonwealth employed at the biologic laboratories within the state laboratory institute of the department of public health as of January first, nineteen hundred and ninety-seven, or such earlier date as may be agreed pursuant to subsection (a), shall become employees of the university, with no impairment of status, wages, seniority, retirement or other rights or benefits, subject to the requirements of chapter one hundred and fifty E; provided, however, that the employees to be so transferred or their collective bargaining representatives shall be given at least thirty days advance written notice of such transfer; provided, further, that on or after the effective date of such transfer, said employees shall be subject to such policies of the university as have been duly adopted pursuant to section fourteen A of chapter seventy-five; provided, further, that such policies shall not be applied to said employees unless and until such policies have been reviewed and commented on by the inspector general, and the university has thereafter provided adequate notice and an opportunity to bargain with the collective bargaining representatives of the affected employees, pursuant to chapter one hundred and fifty-one E, with respect to the impact of applying said policies to said employees. Said employees shall retain the rights and obligations of any collective bargaining agreements applicable to them at the time of transfer, and shall continue to be represented by the employee organizations which are parties to such agreements until such time as said employees may elect to be otherwise represented or until such time as another employee representative is otherwise certified in accordance with the provisions of chapter one hundred and fifty E.

(c) On January first, nineteen hundred and ninety-seven, or such earlier date as may be agreed pursuant to subsection (a), the university shall assume all rights, obligations and duties under existing contracts, agreements, memoranda of understanding, leases or other legal requirements to which the biologic laboratories of the department of public health are parties. All royalties, revenues and other payments due to the commonwealth under said agreements and memoranda shall continue to be paid to the commonwealth. No existing right, claim to royalties, revenues or other payments, or remedy, whether contested or uncontested, shall be lost, impaired or in any way affected by this act, and nothing in this act shall diminish or otherwise adversely affect the proprietary interest, if any, of the commonwealth in any patent issued prior to the effective date of this act by the United States Patent and Trademark Office to any person currently or formerly employed on either a full or part-time basis at the state biologic laboratories.

(d) Effective January first, nineteen hundred and ninety-seven, or such earlier date as may be agreed pursuant to subsection (a), the comptroller shall transfer to the account

established for the biological laboratories within the university the balance of all state funds for the fiscal year ending June thirty-first, nineteen hundred and ninety-seven previously appropriated to the department of public health for research, development or production of childhood vaccines and other biologics products by the biologics laboratories, and said funds shall be available for expenditure by the university for the purposes for which the funds were originally appropriated and for the purposes of this act.

SECTION 4. The university and the commissioner of public health shall submit to the clerks of the senate and house of representatives on or before November fifteenth, nineteen hundred and ninety-six proposals for any amendments to the provisions of this act which are necessary and appropriate to fulfill the purposes of this act in a manner most consistent with the public interest, including any necessary or appropriate amendments to the requirements contained in sections two and three.

SECTION 5. Notwithstanding any general or special law to the contrary, at any such time as a new facility is needed by the University of Massachusetts biologic laboratories for the research, development or production of biologic products, such facility shall be located on at the Boston State Hospital campus in the Dorchester-Mattapan section of Boston, unless the president and the board of trustees of the university make a written determination, supported by specific factual findings, that such location is substantially less cost efficient or substantially less appropriate for operational reasons than an alternative site in the commonwealth.

Approved August 9, 1996.

Chapter 335. AN ACT FURTHER REGULATING JUNIOR MOTOR VEHICLE OPERATORS LICENSES.

Be it enacted, etc., as follows:

Section 8 of chapter 90 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the second paragraph the following paragraph:-

The registrar may exempt a person licensed under the provisions of the preceding paragraph regarding time of operation if such person is a fire fighter as defined in section seven of chapter four while such person is in the act of responding to or returning from a request for initial or mutual aid assistance from a fire department or any related matter or if the person is an emergency medical technician certified under the provisions of section six of chapter one hundred and eleven C while such person is in the act of responding to or returning from a request for medical assistance or any related matter. No such exemption shall be given until application has been made to the registrar accompanied by the approval of the chief of the fire department or head of the emergency medical services agency, the approval of the chief of police of the city or town wherein such services are to be performed and the approval of the parents or legal guardian of such person. Upon receipt of such application and approvals, the registrar shall issue a written exemption to said licensee which

shall contain no additional terms or conditions and which shall be valid upon receipt. Upon termination of such licensee's services, the fire chief or agency head shall notify the registrar who shall forthwith revoke said exemption. Said exemption may be unilaterally revoked by any person whose approval was required. Said revocation shall be reported forthwith to the other approving parties and to the registrar with a written reason. Said revocation shall not be appealed. Said exemption may be reissued upon submission of a new application with required approvals.

Approved August 9, 1996.

Chapter 336. AN ACT RELATIVE TO PRIMARY OFFICERS IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. Section 31 of chapter 53 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 2 and 3, the words "except in Boston".

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

Approved August 9, 1996.

Chapter 337. AN ACT FURTHER REGULATING WORKERS' COMPENSATION.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of subsection (5) of section 1 of chapter 152 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following sentence:- The word "employer" shall not include nonprofit entities, as defined by the Internal Revenue Code, that are exclusively staffed by volunteers.

SECTION 2. The first paragraph of section 5 of said chapter 152, as so appearing, is hereby amended by adding the following sentence:- Such rules and regulations shall include, but not be limited to, a provision authorizing a party, on or after the filing of any claim or complaint pursuant to this chapter, to serve on any party, employer or medical provider rendering medical treatment to the claimant, a request to produce, and permit the party making such request to inspect and copy, any medical notes, treatment reports and employment records.

Approved August 9, 1996.

Chapter 338. AN ACT RELATIVE TO SPECIALIZED HEALTH CARE FACILITIES FOR HOMELESS PERSONS.

Be it enacted, etc., as follows:

Notwithstanding the provision of any general or special law to the contrary, the department of public health shall, after public hearing, promulgate regulations for the licensing and conduct of specialized health care facilities for homeless persons. For the purpose of this section, "specialized health care facility for homeless persons" shall mean any entity providing necessary inpatient medical and nursing care, recuperative and rehabilitative care together with social and other multi-disciplinary services to homeless persons who, by virtue of their condition and status as homeless persons, are unable to receive this care in their homes or in other settings.

The services provided by specialized health care facilities for homeless persons shall include, but need not be limited to, physician services and nursing care provided by or under the supervision of a registered professional nurse. The department shall issue for a term of two years and renew for a like term a license to maintain a specialized health care facility for homeless persons to any organization or entity which it deems suitable to establish and maintain such facility. Said license shall be subject to suspension, revocation, or refusal to renew for cause. Specialized health care facilities for homeless persons shall not be subject to the provisions of sections twenty-five B to twenty-five G, inclusive, of chapter one hundred and eleven of the General Laws.

Approved August 9, 1996.

Chapter 339. AN ACT RELATIVE TO CREDIT FOR HARBOR MAINTENANCE TAXES PAID.

Be it enacted, etc., as follows:

SECTION 1. Chapter 63 of the General Laws, as appearing in the 1994 Official Edition is hereby amended by inserting after section 38 O the following section:-

Section 38P. (a) As used in this section, the following terms shall have the following meanings:

"Break-bulk cargo", shall mean general goods, commodities or wares which are customarily shipped in boxed, bagged, crated or unitized form, held in the vessel's general holding areas, and handled by the piece, unit or in separate lots; without limiting the generality of the foregoing definition of break-bulk cargo, that term shall include road motor vehicles and other odd-size cargo, but shall not include containerized cargo or bulk cargo.

"Bulk cargo", shall mean unsegregated mass commodities including, without limitation, items such as petroleum products, coal and bulk salt which are carried loose and which are customarily loaded and unloaded by pumping, shoveling, scooping or other similar means.

"Containerized cargo", shall mean general goods, commodities or wares that are

shipped in non-disposable, reusable, commercial sized shipping containers that are customarily used on sea and ocean going vessels for the convenient shipment of such goods, commodities or wares.

(b) A corporation subject to the excise imposed under sections thirty-two or thirty-nine shall be allowed a non-refundable credit for the qualifying harbor maintenance tax paid during the taxable year. Qualifying harbor maintenance tax shall be the tax paid to the federal government by a corporation as a shipper, importer or exporter pursuant to section forty-four hundred and sixty-one of the federal Internal Revenue Code subject to the following conditions and limitations: (1) the tax must be paid with respect to the shipment of break-bulk cargo or containerized cargo; (2) the tax must be paid with respect to shipment by sea and ocean-going vessels through ports located in this commonwealth; and (3) tax paid with respect to passengers, the shipment of bulk cargo or the shipment of any other cargo or item or commerce not included within the meaning of clause (1) hereof is not qualifying harbor maintenance tax.

(c) The credit allowed under this section for qualifying harbor maintenance tax shall not be subject to the limitations of section thirty-two C; provided, however, that the credit allowed by this section shall not reduce the excise due under this chapter below the minimum excise provided by sections thirty-two (b) and thirty-nine (b).

(d) Any unused credit may be carried forward from the year earned, and applied against the excise due from the taxpayer under this chapter in any of the succeeding five taxable years.

SECTION 2. This act shall apply to qualified harbor maintenance tax paid on or after July first, nineteen hundred and ninety-six.

Approved August 9, 1996.

Chapter 340. AN ACT RELATIVE TO INVESTMENT REPORTING FOR RETIREMENT BOARDS.

Be it enacted, etc., as follows:

Paragraph (c) of subdivision (3) of section 22 of chapter 32 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following:-

Any profit realized on the sale or maturity of any investment of any system, due to the amount received therefor being in excess of its book value on the date of its sale or maturity, shall be credited to the Pension Reserve Fund of the system or recognized over a period of years as prescribed by the commissioner of public employee retirement. Any loss sustained on the sale or maturity of any investment, due to the amount received therefor being less than its book value on the date of its sale or maturity, shall be charged to said Pension Reserve Fund or amortized over a period of years as prescribed by said commissioner. Any investment which is required to be valued at its market value under the

provisions of paragraph (b) of subdivision (1) of section twenty-one, shall be included in the assets of the system on the date of any valuation thereof at its market value on such date as determined in accordance with said provisions. Any excess of such market value over the value at which such investment was included in the assets of the system on the date of the last previous valuation thereof, shall be credited forthwith to said Pension Reserve Fund or recognized over a period of years as prescribed by said commissioner, and any amount by which such market value is less than the value at which such investment was included in such assets, shall be charged forthwith to such fund or amortized over a period of years as prescribed by said commissioner.

Approved August 9, 1996.

Chapter 341. AN ACT RELATIVE TO LATE CHARGES ON BI-WEEKLY MORTGAGES.

Be it enacted, etc., as follows:

Section 59 of chapter 183 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "days", in line 6, the following words:- or in the case of a bi-weekly mortgage payment, more than ten days,.

Approved August 9, 1996.

Chapter 342. AN ACT AUTHORIZING THE TOWN OF AUBURN TO ESTABLISH A CAPITAL IMPROVEMENT TRUST FUND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Auburn is hereby authorized to establish and maintain a special account to be known as the Capital Improvement Trust Fund, and to raise and appropriate money therefor.

SECTION 2. Such fund shall be maintained by the town of Auburn as a separate account. The treasurer of said town may invest the funds in such separate account in the manner authorized by sections fifty-five and fifty-five A of chapter forty-four of the General Laws. Any interest earned thereon shall be credited to and become part of such separate account.

SECTION 3. The town of Auburn may appropriate by majority vote at any special or annual town meeting interest earned by said fund for any capital purchase or debt payment for any capital purchase. Said town may appropriate by a two-thirds vote at any special or annual town meeting any principal within said fund for any capital purchase or debt payment for any capital purchase. Capital purchase shall mean any item with a life expectancy of

more than five years and valued at five thousand dollars, or more.

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

Approved August 9, 1996.

Chapter 343. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT AN EASEMENT AT THE HINGHAM SHIPYARD.

Be it enacted, etc., as follows:

The commissioner of the division of capital planning and operations is hereby authorized, notwithstanding the provisions of section forty H of chapter seven of the General Laws, to grant a permanent easement on a portion of land consisting of approximately three hundred square feet in the Hingham shipyard in the town of Hingham, now under the care and control of the department of environmental management to the Massachusetts Chapter of the United States LST Association for the purpose of erecting, maintaining, repairing and replacing a monument honoring those who served on landing ship tanks, in a location within said land to be shown on a plan prepared by said commissioner in consultation with said department. The consideration for said easement shall be the expenses of any nature and kind of the maintenance, management, repair, replacement and operation of said easement.

Said commissioner of the division of capital planning and operations, in consultation with the commissioner of the department of environmental management, shall reserve the right to move said monument to another location in said shipyard which is substantially as open and visible as the original location.

The Massachusetts Chapter of the United States LST Association shall be responsible for the erection, maintenance, repair and replacement of said monument and may have access thereto at reasonable times. Said chapter shall be responsible for all costs, liabilities and expenses of any nature and kind for the construction, development, maintenance, repair, replacement and operations in the easement area.

Approved August 9, 1996.

Chapter 344. AN ACT RELATIVE TO CERTAIN 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 Two, Precinct Two, 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 elections; provided, how-

ever, that one said polling place shall be located at the Garfield magnet school to serve voters residing south of Centennial avenue and shall be known as Precinct Two A and the other said polling place shall be located at the Carl Hyman Towers to serve voters residing north of Centennial avenue and shall be known as Precinct Two.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, Ward Five, Precinct Two, 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 elections; provided, however, that one said polling place shall be located at 420 Revere Beach boulevard to serve voters residing north of Jackson street and shall be known as Precinct Two and the other said polling place shall be located at the Freeman street fire station to serve voters residing south of Jackson street and shall be known as Precinct Two A.

SECTION 3. The election commission of the city of Revere is hereby authorized 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 set forth in this act. Said election commission shall divide each of the precincts set forth in sections one and two into two subprecincts, in each of which is located one of the polling places set forth in said sections, and only the names of voters who reside in each such subprecinct shall appear on the voting list for said subprecinct.

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

Approved August 9, 1996.

Chapter 345. AN ACT RELATIVE TO THE ZONING OF ADULT ENTERTAINMENT CLUBS.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 6 of chapter 40A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 23, the word "adult" and inserting in place thereof the following words:- establishments which display live nudity for their patrons, as defined in section nine A, adult.

SECTION 2. Section 9A of said chapter 40A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "or adult motion picture theaters" and inserting in place thereof the following words:- , adult motion picture theaters, adult paraphernalia stores, adult video stores or establishments which display live nudity for their patrons.

SECTION 3. Said section 9A of said chapter 40A, as so appearing, is hereby further amended by inserting after the definition of "Adult video store" the following definition:-

"Establishment which displays live nudity for its patrons", any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in section thirty-one of chapter two hundred and seventy-two.

SECTION 4. Said section 9A of said chapter 40A, as so appearing, is hereby further

amended by inserting after the word "store", in line 71, the following words:- or establishment which displays live nudity for its patrons.

SECTION 5. Said section 9A of said chapter 40A, as so appearing, is hereby further amended by adding the following paragraph:-

Nothing contained herein shall be construed as limiting the power and authority of cities and towns to regulate the use of land, structures or buildings through by-law or zoning ordinance.

Approved August 9, 1996.

Chapter 346. AN ACT AUTHORIZING THE TOWN OF DEDHAM TO CONVEY CERTAIN PARK LAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter thirty B of the General Laws, the town of Dedham, acting by and through its board of selectmen, is hereby authorized to convey a certain parcel of park land located in said town to R.K. Associates - Marlboro, Inc. Said parcel is shown on a plan drawn by Mistry Associates, Inc., dated March 27, 1996 which is on file in the office of the town clerk.

SECTION 2. The consideration for the conveyance authorized in section one shall be either the fair market value of said parcel or the conveyance by R.K. Associates - Marlboro, Inc. to the town of two parcels of land located in said town and shown on the plan described in section one.

Approved August 9, 1996.

Chapter 347. AN ACT DESIGNATING A CERTAIN INTERSECTION IN THE JAMAICA PLAIN SECTION OF THE CITY OF BOSTON AS THE MAX WARBURG MEMORIAL SQUARE.

Be it enacted, etc., as follows:

SECTION 1. The intersection of Perkins Street and the Jamaicaway in the Jamaica Plain section of the city of Boston shall be designated and known as the Max Warburg Memorial Square in honor of the late Max Warburg. A suitable marker bearing such designation shall be erected thereon by the metropolitan district commission.

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

Approved August 9, 1996.

Chapter 348. AN ACT RELATIVE TO MEDICAL STAFF CREDENTIALS.

Be it enacted, etc., as follows:

SECTION 1. Section 203 of chapter 111 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out paragraph (c) and inserting in place thereof the following paragraph:-

(c) An individual or institution, including a licensed hospital, physician credentialing verification service operated by a society or organization of medical professionals for the purpose of providing credentialing information to health care entities, or licensed nursing home reporting, providing information, opinion, counsel or services to a medical peer review committee, or participation in the procedures required by this section, shall not be liable in a suit for damages by reason of having furnished such information, opinion, counsel or services or by reason of such participation, provided, that such individual or institution acted in good faith and with a reasonable belief that said actions were warranted in connection with or in furtherance of the function of said committee or the procedures required by this section.

SECTION 2. Section 205 of said chapter 111, as so appearing, is hereby amended by striking out, in line 19, the word ", shall" and inserting in place thereof the following words:- or any information collected or compiled by a physician credentialing verification service operated by a society or organization of medical professionals for the purpose of providing credentialing information to health care entities shall.

Approved August 9, 1996.

Chapter 349. AN ACT RELATIVE TO CAMPAIGN CONTRIBUTIONS BY PERSONS IN THE PUBLIC SERVICE OF THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for campaign contributions by persons in the public service, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Section 15 of chapter 55 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Nothing in this section shall be construed to prevent any officer, clerk or other person in the public service of the commonwealth, or of any county, city, or town from making a contribution to a candidate or to an elected or nonelected political committee.

Approved August 9, 1996.

Chapter 350. AN ACT ESTABLISHING A MULTI-JURISDICTIONAL LOTTERY GAME.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the participation of the commonwealth in a multi-jurisdictional lottery game, 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 striking out section 22, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 22. The provisions of this section and sections twenty-three to thirty-five, inclusive, sections thirty-seven to forty, inclusive, and sections fifty-six to fifty-eight, inclusive, shall be known and may be cited as the "state lottery law."

SECTION 2. Said chapter 10 is hereby further amended by inserting after section 24 the following section:-

Section 24A. (a) For the purposes of this section, "group agreement" shall mean any lottery activity in which the commission participates pursuant to a written agreement between the commission, on behalf of the commonwealth, and any state, territory, country or other sovereignty. The commission is hereby authorized to enter into agreements with one or more states or other jurisdictions, hereinafter referred to as the group, for the purpose of creating and maintaining a multi-jurisdictional lottery game; provided, however, that the commission shall operate, participate in and maintain only one such multi-jurisdictional lottery game at any time; provided, further, that such group agreement shall not include the state lottery games created pursuant to section twenty-four; provided, further, that nothing in this section and nothing in such group agreement shall authorize the commission to make expenditures that are not consistent with restrictions on expenditures by the commission provided in any other general or special law. The group shall determine the types of lotteries to be conducted, the prices of tickets or shares, the manner of selecting the winning tickets or shares, the manner of payment of prizes to the holders of winning tickets or shares and the frequency of the drawings or selection of winning tickets or shares. The commission may establish, and from time to time revise, such rules and regulations as it deems necessary or desirable to carry out the group agreement and shall file the same with the office of the state secretary.

(b) The share of the revenues derived from the sale of multi-jurisdictional tickets or shares accruing to the commonwealth shall be apportioned in accordance with the provisions of section fifty-seven in an amount equal to the difference between the amount of revenue received in the fiscal year beginning on July first, nineteen hundred and ninety-five and the amount of revenue received or to be received from arts lottery tickets or shares in each succeeding fiscal year; provided, however, that in no event shall the State Arts Lottery Fund, established pursuant to said section fifty-seven, receive any revenues from the sale of multi-jurisdictional tickets or shares if revenues derived from arts lottery tickets or shares

exceed the amount of revenue generated in the fiscal year beginning on July first, nineteen hundred and ninety-five. The balance of the revenues derived from the sale of multi-jurisdictional tickets or shares shall be apportioned in accordance with the provisions of section twenty-five.

(c) The commission is hereby authorized to pool and share all or a portion of revenues designated as prize money with the members of the group in accordance with the terms of the group agreement for the purpose of distributing such revenue to holders of winning tickets or shares; provided, however, that the commission may, pursuant to the terms of such group agreement, withhold up to two percent of the prize pool revenue as a reserve fund to be used for the purposes set forth in the group agreement.

(d) The commission is hereby authorized to expend appropriated funds on behalf of the commonwealth to the group, a designee of the group and contracted vendors of the group for its share of the costs associated with the start-up and ongoing administrative costs in accordance with the terms of the group agreement.

(e) In the fiscal year beginning on July first, nineteen hundred and ninety-seven and in every fiscal year thereafter, one-half of one percent of all net revenue resulting from the establishment of a multi-jurisdictional lottery game shall be allocated by the commission to the department of public health for the operation of a compulsive gambling treatment program.

(f) The commission shall print, in a prominent location on each betting slip for the multi-jurisdictional lottery, the overall odds of winning a prize and the following statement: "IF YOU HAVE A PROBLEM WITH GAMBLING, HELP IS AVAILABLE.....CALL 1-800-426-1234." The commission shall further require all sales agents for said multi-jurisdictional lottery to post said statement at the point of sale in a manner prescribed and supplied by the commission.

(g) All of the provisions of the state lottery law and rules and regulations promulgated thereunder shall apply to this section except such provisions that may be directly contrary to the provisions of this section.

SECTION 3. Subsection (c) of section 27A of said chapter 10, as appearing in section 3 of chapter 94 of the acts of 1996, is hereby amended by adding the following paragraph:-

A municipality which would otherwise be ineligible to receive Keno growth revenues pursuant to this subsection may apply to the chairman of the commission to receive an exemption from the exclusion of receipt of such Keno growth revenues. Said chairman, upon application of a municipality and a majority vote of the commission, shall grant or deny the application for said exemption only after a public hearing. In the consideration of approving or denying said exemption for a municipality, the chairman and the commission shall consider all mitigating circumstances by which a community is ineligible to receive Keno growth revenues pursuant to this subsection including, but not limited to, the absence of petitioners seeking Keno licenses and the reasons therefor, the closure of a business which is a municipality's sole Keno licensee, the voluntary termination and surrender of a Keno license by a licensee, the suspension or revocation and subsequent surrender, for just cause,

of a license of a municipality's sole Keno licensee, the denial of an application for a Keno license by said chairman or his designee when such applicant is the sole potential licensee in a municipality, the population of a municipality or other reasons which said chairman and said commission may deem appropriate pursuant to rules and regulations. The chairman of said commission shall, by November first, nineteen hundred and ninety-six, promulgate rules and regulations to implement the provisions of the exemption application process.

Approved August 9, 1996.

Chapter 351. AN ACT AUTHORIZING AND DIRECTING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE CITY OF REVERE TO THE CITY OF REVERE FOR PUBLIC SAFETY PURPOSES OR RECREATIONAL PURPOSES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the conveyance of a certain parcel of land in the city of Revere, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations is hereby authorized and directed, notwithstanding the provisions of section forty E to forty J, inclusive, of chapter seven of the General Laws, to convey by deed to the city of Revere, a certain parcel of land located in said city, for the purpose of constructing a public safety facility or recreational facility.

Said parcel of land is shown as lot A, Revere Beach Parkway, on a plan of land entitled "Subdivision Plan of Land in Revere, Mass.", dated January 17, 1996, and drawn by Albert Romano.

SECTION 2. The sale price paid by said city of Revere for said parcel shall be the full and fair market value of the property determined by independent appraisal, for its use as described herein. The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology utilized for said appraisal. Said 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 chairmen of the joint committee on state administration.

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 land shall be used solely for the purpose of constructing a public safety facility or recreational facility. In the event that said property is not used for such a public safety facility or recreational facility, said property shall revert to the commonwealth.

SECTION 4. The recipients of said property shall assume the costs in full of preparing a recordable survey describing said land, and shall also assume the costs of recording said plan with the registry of deeds of Suffolk county.

SECTION 5. The sale price paid pursuant to section two shall be deposited in the General Fund of the commonwealth.

SECTION 6. The commissioner of the division of the capital planning and operations 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. Said inspector shall issue his review and comment within fifteen days of receipt of any agreement or amendment. Said commissioner shall submit the agreement and any subsequent amendments thereof, the reports, and the comments of said inspector general, if any, to the house and senate committees on ways and means and the chairmen of the joint committee on state administration at least fifteen days prior to execution.

Approved August 9, 1996.

Chapter 352. AN ACT AUTHORIZING THE TOWN OF STOUGHTON TO CONVEY A CERTAIN PARCEL OF RECREATION LAND.

Be it enacted, etc., as follows:

The town of Stoughton is hereby authorized to transfer the care, custody and control of a certain parcel of recreation land to the board of selectmen who are hereby authorized to convey said parcel to Helen Guffey on such terms and conditions as said board may deem appropriate. Said parcel is shown on a plan prepared by the town engineer dated October 10, 1995 and more particularly bounded and described as follows:

Beginning at a point in the westerly sideline of Park St., said point being the southeasterly parcel of land owned by Helen Guffey, said point also being the northeasterly corner of the herein described parcel;

Thence with the westerly sideline of Park St., S-19 -18'26"E a distance of 51.00 feet to a point;

Thence S-60 -58'-48"W, a distance of 100.00 feet to a point;

Thence N-85 -46'-01"W a distance of 60.35 feet to a point in the southerly line of land owned by Helen Guffey;

Thence with the southerly line of Guffey N-54 -49'-02"E a distance of 160.00 feet to the point of beginning, containing 5,579 square feet of land, more or less.

Approved August 9, 1996.

Chapter 353. AN ACT RELATIVE TO CERTAIN STATE LAND IN THE TOWN OF BELCHERTOWN.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the conveyance of certain state 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:

SECTION 1. As used in this act, the following words and terms shall have the following meanings, unless the context shall clearly indicate a different meaning or intent:

"Cemetery site", a portion of the site, as hereinafter defined, containing approximately 8.769 acres of land and including the cemetery grounds and all rights, easements and other interests appurtenant thereto, as shown on the survey, as hereinafter defined.

"Commissioner", the commissioner of the division of capital planning and operations.

"Corporation", the Belchertown Economic Development Industrial Corporation or its successor organization.

"Department", the department of mental retardation.

"Disposition", a sale, conveyance or grant by deed or a lease for a term or terms not to exceed ninety-nine years including extensions or other grant, conveyance or transfer of property.

"Division", the division of capital planning and operations.

"Facilities", improvements, appurtenances and other facilities constructed on real property, currently existing or subsequently acquired or procured pursuant to this act.

"Parcel A", a portion of the site containing approximately 20 acres of land and including the buildings known as the Tadgell Building, Nursery I, Nursery II, Building E and Building F and all rights, easements and other interests appurtenant thereto, as shown on the survey, as hereinafter defined.

"Parcel B", a portion of the site containing approximately 173.112 acres of land and all rights, easements and other interests appurtenant thereto, as shown on the survey, as hereinafter defined.

"Parcel C", a portion of the site containing approximately 7.687 acres of land and all rights, easements and other interests appurtenant thereto, as shown on the survey, as hereinafter defined.

"Parcel D", a portion of the site containing approximately 52.695 acres of land and all rights, easements and other interests appurtenant thereto, as shown on the survey, as hereinafter defined.

"Parcel E", a portion of the site containing approximately 43.659 acres of land and all rights, easements and other interests appurtenant thereto, as shown on the survey as hereinafter defined.

"Plan", the Belchertown Economic Development Industrial Corporation Economic Development Plan dated September twenty-second, nineteen hundred and ninety-three, and

approved by the town of Belchertown on December sixth, nineteen hundred and ninety-three, on file with the division, as such plan may be revised from time to time by the corporation subject to the approval of the commissioner.

"Site", the approximately 314 acres of state-owned land being a portion of the property known as the former Belchertown State School with the buildings and improvements thereon, comprised of parcel A, parcel B, parcel C, parcel D, parcel E, the cemetery site and the superintendent's house site and all rights, easements and other interests appurtenant thereto, as shown on the survey, as hereinafter defined.

"Superintendent's house site", a portion of the site containing approximately 7.585 acres of land and including the superintendent's house and grounds and all rights, easements and other interests appurtenant thereto, as shown on the survey, as hereinafter defined.

"Survey", a survey delineating the boundaries of the site, the several parcels within the site, and the wellfield site, as hereinafter defined, to be disposed of or transferred in accordance with the provisions of this act, consisting of seven sheets, entitled "Plan of Land in Belchertown, Massachusetts prepared for the Commonwealth of Massachusetts Division of Capital Planning and Operations", dated May second, nineteen hundred and ninety-six and prepared for the commonwealth by E. B. Holmberg & Associates, as the same may be amended from time to time in accordance with the provisions of this act.

"Town", the town of Belchertown.

"Wellfield site", land located on the northeasterly side of Jensen Road in the town and formerly used by the commonwealth as a wellfield and pump house.

SECTION 2. 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 is hereby authorized and directed to sell, lease for a term or terms of up to ninety-nine years or otherwise convey to the town any interest in parcel A and parcel C, or portions thereof, and any facilities thereon, on such terms and conditions as the commissioner deems appropriate. Such sale, lease or conveyance shall be for full and fair market value pursuant to the appraisal process established by section nine.

SECTION 3. Notwithstanding the provisions of sections forty E to forty I, inclusive, of chapter seven of the General Laws or any general or special law to the contrary, the commissioner is hereby authorized to sell, lease, for a term or terms of up to ninety-nine years or otherwise convey to the corporation any interest in parcel B, parcel D and parcel E or portions thereof and any facilities thereon on such terms and conditions as the commissioner deems appropriate and in accordance with the provisions of section forty J of said chapter seven. Such sale, lease or conveyance shall be for full and fair market value pursuant to the appraisal process established by section nine.

If, within one year of the effective date of this act, the corporation does not enter into a written agreement to acquire or lease parcel B, parcel D or parcel E or portions thereof in accordance with the preceding paragraph, the commissioner 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 sell, lease for a term or terms of up to ninety-nine years or otherwise convey to the town, parcel B, parcel D and

parcel E or portions thereof and any facilities thereon on such terms and conditions as the commissioner deems appropriate. Such sale, lease or conveyance shall be for full and fair market value pursuant to the appraisal process established by said section nine.

If, within ninety days of the corporation's decision not to enter into a written agreement to acquire or lease parcel B, parcel D or parcel E or portions thereof, the town does not enter into a written agreement to acquire or lease parcel B, parcel D or parcel E or portions thereof in accordance with the preceding paragraph, the commissioner is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws and said section nine, to sell, lease for a term or terms of up to ninety-nine years or otherwise convey parcel B, parcel D and parcel E or portions thereof and any facilities thereon on such terms and conditions as the commissioner deems appropriate. Such sale, lease or conveyance shall be for full and fair market value pursuant to the appraisal process established by said section nine.

Upon the expiration of any lease entered into under this section, the commissioner shall have the authority to make a disposition of parcel B, parcel D and parcel E or portions thereof and any facilities thereon, subject to sections forty E to forty J, inclusive, of chapter seven of the General Laws and said section nine, but excluding and without application of the fourteenth paragraph of section forty F of said chapter seven, and subject to the provisions of this act.

SECTION 4. Any lease or disposition agreement relating to parcel B, parcel D or parcel E or any portion thereof or interest therein shall include a requirement that any development and use thereof shall (*a*) be consistent with the town zoning by-laws in effect from time to time including any variances or special permits issued thereunder and (*b*) in the opinion of the commissioner be consistent with the plan and the purpose of this act.

SECTION 5. The cemetery site and the superintendent's house site are under the care and control of the department, and the department shall preserve and protect the cemetery site and superintendent's house site.

SECTION 6. The commissioner is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws to make a disposition of its interest in the wellfield site on such terms and conditions as the commissioner may prescribe. Such disposition shall be for full and fair market value pursuant to the appraisal process established by section nine.

SECTION 7. Notwithstanding any other provisions of this act to the contrary, the commissioner is hereby authorized to change the configuration of any parcel within the site, as the commissioner deems necessary and appropriate to further the purposes of this act. Any such change to the configuration of any parcel within the site shall be reflected in a revision to the survey.

SECTION 8. The commissioner is hereby authorized, notwithstanding and without application of 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 retain, accept or acquire by purchase, eminent domain pursuant to chapter seventy-nine of the General Laws or otherwise and to convey, transfer the care and control of the wellfield site or other property

of the commonwealth contiguous thereto to any instrumentality of the commonwealth or to grant by deed, transfer, lease or otherwise any rights-of-way or easements in, over and beneath the site or portions thereof, said property for drainage, access, egress, utilities and any other purposes as the commissioner deems necessary and appropriate to carry out the purposes of this act.

SECTION 9. The sale price paid for any sale, lease, conveyance or disposition for any parcel or site pursuant to this act shall be for the full and fair market value of the property determined by independent appraisal, for the uses described in the plan including, but not limited to, any restrictions and requirements imposed by said plan. The inspector general shall review and approve said appraisal and said review shall include an examination 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 chairmen of the joint committee on state administration.

The recipients of said properties described in this section shall assume the costs in full of preparing a recordable survey describing said land, and shall also assume the costs of recording said plan with the registry of deeds for Hampden county.

The sale price paid pursuant to this act shall be deposited in the General Fund of the commonwealth.

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 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 chairmen of the joint committee on state administration at least fifteen days prior to execution of any such agreement.

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

Approved August 9, 1996.

Chapter 354. AN ACT AUTHORIZING THE COMMISSIONER OF THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE CERTAIN PARCELS OF LAND IN THE CITY OF LOWELL.

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 from the city of Lowell, certain parcels of land owned by said city and described in section 2. Said parcels are to be diverted from park land use to highway use.

SECTION 2. The descriptions of the parcels referred to in section one are as follows:

Parcel No. 20-1 Beginning in the northeast corner of Shedd Park at the point defined by the intersection of Rogers Street and Boylston Street right of ways, continue southerly along said Boylston Street right of way for a distance of two thousand six hundred ninety-three and 96/100 feet (2,693.96') to a point on the B&M Railroad right of way defined as the parcel point of beginning. Double back along said Boylston Street right of way for a distance of thirteen feet plus or minus (13'+-) this point also being a corner point of parcel 20-4-C. Look back and turn an angle to the right of hundred thirteen degrees thirty-three minutes (113°-33') and continue a distance of twenty-four feet plus or minus (24'+-). Look back and turn an angle to the right of sixty-six degrees twenty-five minutes (66°-25') and continue a distance of ten feet plus or minus (10'+-) to said B&M railroad right of way. Follow along said B&M Railroad right of way easterly twenty-five feet plus or minus (25+-) to the parcel point of beginning. The enclosed area is about two hundred eighty-five square (285) square feet.

Parcel 20-4-C. Beginning in the northeast corner of Shedd Park at the point defined by the intersection of Rogers Street and Boylston Street right of ways, continue southerly along said Boylston Street right of way for a distance of two-thousand three hundred sixteen and 96/100 feet (2,316.96') to a point defined as the parcel point of beginning. Continue southerly along said Boylston Street right of way for a distance of three hundred sixty-four feet (364'). Look back and turn an angle to the left of sixty-six degrees twenty-seven minutes (66°-27') and continue a distance of five feet plus or minus (5+-). Look back and turn an angle to the left of one hundred thirteen degrees fifty-seven minutes (113°-57') continue a distance of two hundred thirty seven feet plus or minus (237+-). Look back and turn an angle to the left of one hundred seventy seven degrees thirty-one minutes (177°-31'). Continue a distance of one hundred twenty-six feet plus or minus (126+-) to the parcel point of beginning. The enclosed area is about one thousand five hundred sixty (1,560) square feet.

The parcels of land, hereinbefore described, are shown on a plan entitled "PLAN OF LAND IN THE CITY OF LOWELL, MASSACHUSETTS MIDDLESEX COUNTY OWNED BY THE CITY OF LOWELL AND REQUIRED FOR HIGHWAY PURPOSES", dated June twentieth, nineteen hundred and ninety-four. This plan shall be kept on file with the chief engineer of the department of highways.

Approved August 9, 1996.

Chapter 355. AN ACT RELATIVE TO TRAFFIC ON ROUTE 3.

Be it enacted, etc., as follows:

SECTION 1. The secretary of the executive office of transportation and the secretary of the executive office of public safety shall jointly study the feasibility of allowing

travel in the breakdown lane, so-called, during commuting hours, on the portion of state highway route 3 which extends between the exits in the towns of Hanover and Marshfield and in the northbound portion of state highway route 3 between the junction of state highway route 3 and state highway route 128 and the border of the state of New Hampshire. Said secretaries shall report the findings of said study, along with recommendations for any legislation, to the joint committee on transportation by June thirtieth, nineteen hundred and ninety-seven.

SECTION 2. The secretary of the executive office of transportation and construction, in the course of such study authorized in section one, is hereby further authorized to accept proposals for consideration from the towns of Bedford, Billerica, Burlington, Chelmsford, Tyngsborough and Westford and the city of Lowell, each located in the route 3 North corridor, so-called. Such proposals shall be relative to undertaking the improvement and assuming the operations and maintenance of state highway route 3 from the junction of said state highway route 3 and state highway 128 to the border of the state of New Hampshire under contract with private parties. Said proposals shall be submitted to the clerks of the house of representatives and the senate, and the secretary of transportation and construction on or before February first, nineteen hundred and ninety-seven.

Approved August 9, 1996.

Chapter 356. AN ACT AUTHORIZING THE COMMISSIONER OF THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY CERTAIN LAND IN THE TOWN OF WEST BOYLSTON.

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 section forty J of chapter seven of the General Laws, to convey to Alfred H. Carl and Winifred M. Carl, by deed approved as to form by the attorney general, a certain parcel of land located in the town of West Boylston, in consideration of and subject to the requirements of sections two, three, four, five and six and subject to such terms and conditions as the commissioner may prescribe in consultation with the commissioner of the metropolitan district commission.

Said land is now held by the commonwealth and is presently under the care and control of the metropolitan district commission and is shown as Parcel A on a plan entitled "Compiled Plan of Land in West Boylston, MA, (Prepared for) Alfred H. Carl and Winifred M. Carl 104 Temple Street West Boylston MA 01583," prepared by DeFalco Engineering, Incorporated, and dated July third, nineteen hundred and ninety-five.

SECTION 2. The sale price to be paid by Alfred H. Carl and Winifred M. Carl for said parcel shall be the full and fair market value of the property determined by independent appraisal, for its use as described herein. The inspector general shall review and approve

said appraisal and said review shall include an examination of the methodology utilized for said appraisal. Said 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 chairmen of the joint committee on state administration in accordance with section five.

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 land shall be used solely for driveway and landscaping purposes with no buildings or parts of buildings to be erected thereon, and in a manner which shall not adversely impact the watershed property retained by the commonwealth and managed by the division of watershed management of the metropolitan district commission.

SECTION 4. The recipients of said property shall assume the costs in full of preparation of a recordable survey describing said land and shall also assume the costs of recording said plan with the Worcester district of the registry of deeds.

SECTION 5. The sale price paid pursuant to section two shall be deposited in the General Fund of the commonwealth.

SECTION 6. 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. Said inspector shall issue his review and comment within fifteen days of receipt of any agreement or amendment. Said 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 chairmen of the joint committee on state administration at least fifteen days prior to execution of any such agreement.

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

Approved August 9, 1996.

Chapter 357. AN ACT AUTHORIZING THE COMMISSIONER OF THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE CERTAIN PARCELS OF LAND IN THE CITY OF FITCHBURG.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section forty H of chapter seven of the General Laws, the commissioner of the division of capital planning and operations is hereby authorized to acquire by purchase, or by eminent domain under the provisions of chapter seventy-nine of the General Laws, for use by the executive office of environmental affairs in the protection of the water resources of the commonwealth, and the Fitchburg redevelopment authority is hereby authorized to convey to the commonwealth acting by and through the division of capital planning and operations for such purpose, the land described

in section two. The consideration for such acquisition shall be two million four hundred thousand dollars as authorized in item 2000-8963 of section two of chapter fifteen of the acts of nineteen hundred and ninety-five.

SECTION 2. The land to be acquired under the provisions of section one is described as follows:

Parcel 1. The parcel of land, excluding Parcel B-1 shown as Parcels, 1, 2, 10 and 11 on the plan titled "Plan of Property Prepared for City of Fitchburg Redevelopment Authority, Fitchburg, Massachusetts" dated September 7, 1994, recorded in the registry of deeds in the northern district of Worcester in Plan Book 375, Page 3, (the Title Plan) less.

Parcel 2. The parcel of land shown as Parcel B-1 on the plan titled "Plan of Land in Fitchburg, Mass., Prepared for Fitchburg Redevelopment Authority" dated August 10, 1994, recorded in said registry of deeds in Plan Book 375, Page 4, the B-1 Plan.

Parcel 3. The Second, Third, and Fourth parcels in Fitchburg Gas and Electric Light Company's deed to the grantor dated May 11, 1995, recorded in said registry of deeds in Book 2760, Page 16.

Parcel 1 conveyed hereunder shall be subject to the following conditions:-

(1) the power line, telephone and gas line easements Fitchburg Redevelopment Authority granted to Fitchburg Gas and Electric Light Company by the grant of easement dated May 11, 1995, recorded in said registry of deeds in Book 2720, Page 25;

(2) the access and utility easements Fitchburg Redevelopment Authority granted to Fitchburg Gas and Electric Light Company in the above mentioned deed for Parcel B-1 dated May 11, 1995, recorded in said registry of deeds in Book 2720, Page 31;

(3) the easement taken by the city of Fitchburg for the brick mill sewer line by the Order of Taking dated November 23, 1973, recorded in said registry of deeds in Book 1121, Page 469; and

(4) the power line easement granted by Carrie R. Winters to the Connecticut River Transmission Company by instrument dated March 8, 1909, recorded in said registry of deeds in Book 236, Page 592. With regard to said easement, see the note to title examiners in the grant of easement dated May 11, 1995, recorded in said registry of deeds in Book 2702, at Page 25.

Approved August 9, 1996.

Chapter 358. AN ACT ESTABLISHING A ONE TRIAL SYSTEM FOR CIVIL CASES IN NORFOLK AND MIDDLESEX COUNTIES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section five of chapter two hundred and twelve of the General Laws, the superior court in Norfolk and Middlesex counties shall have jurisdiction in civil actions otherwise subject to transfer, retransfer, removal and appeal, pursuant to sections ninety-seven to one hundred and seven, inclusive, of chapter two hun-

dred and thirty-one of the General Laws, as provided in section four of this act.

SECTION 2. Notwithstanding the provisions of sections twelve and thirteen of chapter two hundred and twelve of the General Laws, the superior court in Norfolk and Middlesex counties shall not hear appeals in district court civil actions otherwise subject to transfer, retransfer, removal and appeal, pursuant to sections ninety-seven to one hundred and seven, inclusive, of chapter two hundred and thirty-one of the General Laws.

SECTION 3. Notwithstanding the provisions of section nineteen C of chapter two hundred and eighteen of the General Laws, for civil actions otherwise subject to transfer, retransfer, removal and appeal, pursuant to sections ninety-seven to one hundred and seven, inclusive, of chapter two hundred and thirty-one of the General Laws, district courts in Norfolk and Middlesex counties shall have the same equitable powers and jurisdiction as is provided for the superior court pursuant to chapter two hundred and fourteen of the General Laws for the purpose of the hearing and disposition of such cases.

SECTION 4. Notwithstanding the provisions of any general or special law to the contrary, including section four of chapter two hundred and twelve of the General Laws and section nineteen of chapter two hundred and eighteen of the General Laws, district courts in Norfolk and Middlesex counties shall have exclusive original jurisdiction of civil actions, otherwise subject to transfer, retransfer, removal and appeal, pursuant to sections ninety-seven to one hundred and seven, inclusive, of chapter two hundred and thirty-one of the General Laws, in which there is no reasonable likelihood that recovery by the plaintiff will exceed twenty-five thousand dollars or such other amount as is ordered from time to time by the supreme judicial court.

In Norfolk and Middlesex counties, civil actions, otherwise subject to transfer, retransfer, removal and appeal, pursuant to sections ninety-seven to one hundred and seven, inclusive, of chapter two hundred and thirty-one of the General Laws, in which there is no reasonable likelihood that recovery by the plaintiff will be less than or equal to twenty-five thousand dollars or such other amount as is ordered from time to time by the supreme judicial court shall be heard exclusively in the superior court.

SECTION 5. In Norfolk and Middlesex counties, no clerk-magistrate in the superior court or in a district court shall accept for filing any complaint or other pleading which commences civil action unless it is accompanied by a statement signed by the attorney or *pro se* party. The statement must specify in full and in itemized detail the facts on which the plaintiff then relies to determine money damages. The defendant may file with his answer a statement specifying in detail the potential damages which may result if the plaintiff prevails.

If it appears to the court, in Norfolk and Middlesex counties, from the statement of damages by the plaintiff that there is no reasonable likelihood that the estimated damages will be consistent with the jurisdictional limits of the court, as set forth in section four of this act, the judge, after receiving written responses from the parties and after a hearing, if requested by one of the parties, may dismiss the case without prejudice for want of jurisdiction. The judge shall make written findings of fact in support of such dismissal of the action. The filing fee in such dismissed actions shall be retained by the court; provided,

however, that the recommencement of the same action in another department of the trial court shall not require the payment of a filing fee in the new court if that court is a district court. If the action is recommenced in the superior court, the filing fee shall be reduced by the amount of the filing fee previously paid to attempt to commence the same action in the district court.

SECTION 6. In any case in Norfolk and Middlesex counties where the superior court or a district court dismisses the case for want of jurisdiction as provided in section five, the plaintiff may take an appeal as hereinafter provided. The appeal shall be to a single justice of the appeals court at the next sitting thereof. Upon being notified of the dismissal, the plaintiff shall have seven days thereafter to file a notice of appeal with the clerk of the dismissing court. Upon receipt of notice of appeal timely filed, the clerk shall forthwith notify the judge who approved the dismissal for want of jurisdiction within three days of receipt of such notice, the judge who approved the dismissal shall set forth written findings and reasons justifying such dismissal, which document shall be part of the record on appeal.

The clerk shall forward the pleading which commenced the civil action, all statements by the parties, specifying in detail the potential damages if the plaintiff prevails, the judge's written findings and reasons justifying the dismissal and any other documents on file relevant to the appeal to the clerk of the appeals court. Upon receipt thereof, the clerk of the appeals court shall set the matter down for a speedy hearing and send notice to the parties.

The court dismissing the case for want of jurisdiction may, with or without motion, issue an order or process to preserve the rights of the parties pending the appeal. The single justice of the appeals court may enter or revoke any such order or process. The decision of the single justice of the appeals court as to dismissal for want of jurisdiction shall be final.

SECTION 7. Notwithstanding the provisions of chapter two hundred and sixty of the General Laws or any other applicable statutes of limitation, in a civil action in Norfolk and Middlesex counties otherwise subject to transfer, retransfer, removal and appeal, pursuant to sections ninety-seven to one hundred and seven, inclusive, of chapter two hundred and thirty-one of the General Laws, in which a plaintiff's case has been dismissed for want of jurisdiction as provided in section five of this act, the plaintiff shall be given thirty days after the date of the notice of dismissal or, in the case of an appeal from the dismissal, thirty days after the date of notice of the decision of the single justice of the appeals court to file the case in the appropriate court; provided, however, that the commencement of the dismissed case was within the applicable statute of limitations. The thirty-day time limit in this section for recommencement of an action following dismissal of the action shall apply only when the time permitted under the applicable statute of limitations would have expired at any time from the original commencement of the action to the end of such thirty-day period.

SECTION 8. Notwithstanding the provisions of any general or special law to the contrary, including sections ninety-seven, ninety-eight, ninety-nine, one hundred and one, one hundred and two, one hundred and two C, one hundred and three, one hundred and four, on e hundred and four A, one hundred and six and one hundred and seven of chapter two

hundred and thirty-one of the General Laws, all civil actions filed in the district courts of Norfolk and Middlesex counties, which actions were formerly subject to transfer, retransfer, removal and appeal, pursuant to sections ninety-seven to one hundred and seven, inclusive, of chapter two hundred and thirty-one of the General Laws, shall be subject to one trial, with or without a jury of six, in the district court department.

Any party may demand a trial by jury of six of any issue triable of right by a jury by serving upon the other parties a demand therefor in writing after the commencement of the action. Such a demand may be endorsed upon a pleading of the demanding party. The failure of a party to serve and file a demand for jury trial, as required by Rule thirty-eight of the Massachusetts Rules of Civil Procedure or, in a summary process case, by Rule eight of the Uniform Summary Process Rules, shall constitute a waiver by that party of trial by jury.

In any case in which a party has filed a timely demand for a jury trial, the action shall not be designated upon the docket as a jury action until after the completion of a pretrial conference, a hearing on the results of such conference and until the disposition of any pretrial discovery motion and compliance with any order of the court pursuant to such motions.

In Norfolk and Middlesex counties, district courts are authorized to hold jury of six sessions for the purpose of conducting jury trials of civil cases commenced in said courts over which said court have original jurisdiction pursuant to the provisions of section four. The chief justice for the district court department shall designate at least one district court in each of said counties for the purpose of conducting jury trials; provided, however, that with the approval of the chief justice for the superior court department, facilities of said superior court may be designated by the chief justice for administration and management of the trial court for the conduct of jury trials in cases commenced in such district courts. If necessary, facilities of any department of the trial court may be designated by the chief justice for administration and management for trial by jury of civil cases from the district courts of Norfolk and Middlesex counties.

The chief justice for the district court department may also designate one or more district courts in Norfolk and Middlesex counties for the purpose of conducting jury waived trials of cases commenced in any district court of said counties consistent with the requirements of the proper administration of justice.

Persons in such district courts who waive their right to jury trial shall be provided a jury waived trial in the same district court if such jury waived trial session has been established in such court. If such jury waved trials have not been so established, the parties shall be provided a jury waived trial in a court as hereinbefore designated.

Parties in such district courts who claim a jury trial shall be provided a jury trial in a jury of six session in the same court if a jury of six has been established in such court. If such session has not been so established, the parties shall be provided jury trials in a jury of six session as hereinbefore designated. In cases where the parties claim a jury trial, the clerk shall forthwith transfer the case for trial in the appropriate jury session. Such transfer shall be governed by procedures to be established by the chief justice for the district court department.

The justice presiding over a jury of six session shall have and exercise all powers and duties which a justice sitting in the superior court department has and may exercise in the trial and disposition of civil cases including the power to report questions of law to the appeals court.

Trials by juries of six shall proceed in accordance with the provisions of law applicable to trials by jury in the superior court; provided, however, that the number of peremptory challenges shall be limited to two to each party.

Jurors shall be provided for the jury of six session by the office of the jury commissioner in accordance with provisions of chapter two hundred and thirty-four A of the General Laws. If necessary, the superior court shall make available jurors from the pool of jurors for the jury sessions in either civil or criminal sessions in the superior court.

The chief justice for the district court department shall arrange for the sittings of the jury sessions and shall assign justices thereto, so that speedy trials may be provided. Review may be had by the appropriate appellate division pursuant to section one hundred and nine of chapter two hundred and thirty-one of the General Laws, and thereafter by the appeals court.

The justice presiding at such jury of six session may, upon the request of a party, appoint a stenographer; provided, however, that where the party claims indigency, such appointment is determined to be reasonably necessary in accordance with the provisions of chapter two hundred and sixty-one of the General Laws; and, provided further, that the court electronic recording system is not available or not properly functioning. Such stenographer shall be sworn, shall take stenographic notes of all the testimony given at the trial and shall provide the parties thereto with a transcript of the notes or any part thereof taken at the trial or hearing for which the stenographer shall be paid by the party requesting it at the rate fixed by the chief justice for the district court department; provided, however, that such rate shall not exceed the rate provided by section eighty-eight of chapter two hundred and twenty-one of the General Laws. Said chief justice may make regulations consistent with law relative to the assignments, duties and services of stenographers appointed for sessions in his department and any other matter relative to stenographers. The compensation and expenses of such appointed stenographers shall be paid by the commonwealth.

The request for the appointment of a stenographer to preserve the testimony at a trial shall be given to the clerk of the court by a party, in writing, no later than forty-eight hours prior to the proceeding for which the stenographer has been requested. The party may file with such request an affidavit of indigency and request for payment by the commonwealth of the cost of the transcript and the court shall hold a hearing on such request prior to appointing a stenographer in those cases where the party will be unable to pay such cost. Such hearing shall be governed by the provisions of chapter two hundred and sixty-one of the General Laws and the cost of such transcript shall be considered an extra cost as provided therein. If the court is unable, for any reason, to provide a stenographer, the proceedings may be recorded by electronic means. The original recording of proceedings in a district court made with a recording device under the exclusive control of the court shall be the official record of such proceedings. Said record or a copy of all or a part thereof,

certified by the chief justice for the district court department, or his designee, to be an accurate electronic reproduction of said record or part thereof, or a typewritten transcript of all or a part of said record or copy thereof, certified to be accurate by the court or by the preparer of said transcript, or stipulated to by the parties, shall be admissible in any court as evidence of testimony given whenever proof of such testimony is otherwise competent. A party may request payment by the commonwealth of the cost of said transcript subject to the same provisions regarding a transcript of a stenographer as hereinbefore provided.

Any party who files in the district courts of Norfolk and Middlesex counties an appeal to the appellate division, in an action otherwise subject to transfer, retransfer, removal and appeal, pursuant to sections ninety-seven to one hundred and seven, inclusive, of chapter two hundred and thirty-one of the General Laws, within ten days of the entry of judgment or within such further time as the justice orders for cause shown allows, shall also file a bond executed by the party or attorney of record on such party's behalf, payable to the appellee in such reasonable sum and with such surety or sureties as may be approved by the appellee or by the justice or clerk or assistant clerk of such district court, conditioned to satisfy any judgment for costs which may be entered against the appellant upon said appeal.

Any party, in lieu of filing the bond required for an appeal to the appellate division, may deposit with the clerk, within the time required for filing a bond, a reasonable amount to be fixed by the clerk or justice, as security for the prosecution of the appeal and the payment of costs. A certificate of such deposit shall be issued to the depositor by the clerk of the district court who shall hold such deposit until the final disposition of the case when the clerk shall apply such deposit to the satisfaction of any costs awarded against such depositor and pay the balance, if any, to such depositor or such depositor's legal representative.

No bond or deposit shall be required of the commonwealth or any officer or employee thereof represented by the attorney general, or of a county, city, town or other municipal corporation, or of a board, officer or employee thereof represented by the city solicitor, town counsel or other officer having similar duties, or of a political subdivision, or of a party who has given bond according to law to dissolve an attachment or of a defendant in an action of tort arising out of the ownership, operation, maintenance, control or use of a motor vehicle or trailer as defined in section one of chapter ninety of the General Laws if the payment of any judgment for costs which may be entered against him is secured, in whole or in part, by a motor vehicle liability bond or policy or a deposit as provided in section thirty-four D of chapter ninety of the General Laws and the court may, in any case, for cause shown, after notice to adverse parties, order that no bond be given.

SECTION 9. The provisions of sections ninety-seven, ninety-eight, ninety-nine, one hundred and one, one hundred and two, one hundred and two C, one hundred and three, one hundred and four, one hundred and four A, one hundred and six and one hundred and seven of chapter two hundred and thirty-one of the General Laws shall not apply in Norfolk and Middlesex counties.

SECTION 10. Notwithstanding the provisions of sections three and five of chapter two hundred and thirty-nine of the General Laws, summary process actions in the district

courts of Norfolk and Middlesex counties shall be subject to one trial in the district court department as provided in section eight.

SECTION 11. Notwithstanding the provisions of section twenty-seven D of chapter two hundred and sixty-one of the General Laws, in Norfolk and Middlesex counties, in civil actions otherwise subject to transfer, retransfer, removal and appeal, pursuant to sections ninety-seven to one hundred and seven, inclusive, of chapter two hundred and thirty-one of the General Laws, appeals of denials of a request for waiver, substitution or payment by the commonwealth of fees and costs shall be to the appellate division.

SECTION 12. The fourth paragraph of section two of chapter two hundred and sixty-two of the General Laws shall not apply in Norfolk and Middlesex counties.

SECTION 13. The provisions of this act shall be implemented by the chief justice for administration and management of the trial court and shall be effective in Norfolk and Middlesex counties for a period of two years commencing on July first, nineteen hundred and ninety-six and shall apply only to civil actions commenced on or after July first, nineteen hundred and ninety-six, said commencement to be defined by Rule three of the Massachusetts Rules of Civil Procedure and Rule two of the Uniform Summary Process Rules.

SECTION 14. After July first, nineteen hundred and ninety-eight, civil cases pending or initiated in district courts in Norfolk and Middlesex counties in which the parties have not elected, as of the date of such expiration, either a trial by a jury of six or a trial by a court without a jury, shall be conducted pursuant to all applicable provisions of the General Laws and shall not be subject to the provisions of this act; provided, however, that civil cases pending in said counties as of the date of such expiration in which the parties have elected either a trial by a jury of six or a trial by a court without a jury, shall continue to be conducted in accordance with the provisions of this act.

SECTION 15. The chief justice for administration and management of the trial court, in consultation with the chief justices for the superior court and the district court departments, shall prepare and file with the supreme judicial court and with the clerks of the senate and house of representatives and the house and senate committees on ways and means, an interim report on the implementation of this act, on or before December thirty-first, nineteen hundred and ninety-seven and a final report on said implementation on or before December thirty-first nineteen hundred and ninety-eight. Said reports shall provide detailed information concerning the status and effect of implementation of this act, including, but not limited to, any costs incurred as a result of such implementation as well as a statistical analysis of the disposition of civil cases conducted pursuant to the provisions of this act which indicate, for each district court and superior court in Norfolk and Middlesex counties, the total number of cases entered, the number of cases disposed before trial, the number of cases tried by a jury of six, the number of cases tried by a court without a jury and the average time between entry and disposition of cases in each such category.

Approved August 9, 1996.

Chapter 359. AN ACT RELATIVE TO THE STRUCTURE, MANAGEMENT AND OPERATION OF STATE-CHARTERED BANKS.

Be it enacted, etc., as follows:

SECTION 1. Section 114A of chapter 140 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "associations", in line 3, the following words:- or federal credit unions.

SECTION 2. Section 114C of said chapter 140, as so appearing, is hereby amended by striking out the word "quarterly", in line 11, and inserting in place thereof the following word:- semi-annually.

SECTION 3. Section 13 of chapter 167 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following two paragraphs:-

All annual reports submitted to the commissioner by banks and credit unions shall be on a form which he shall prescribe. Each such report shall contain a declaration signed by the president, or by any other such officer designated by the board of directors or trustees of such bank or credit union to make such declaration, that the report is true and correct to the best of his knowledge and belief. The correctness of the report shall be attested by the signatures of at least three directors or trustees of the bank or credit union, other than the officer making such declaration, with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.

Annually, on or before the third Wednesday in March, the commissioner shall communicate to the general court an abstract of his report and such suggestions as he considers expedient relative to the general conduct and condition of banks under his supervision. Thereafter, on or before the first day of April in each year, the commissioner shall make an annual report to the general court containing a statement of the condition, as of the last day of December next preceding, of each trust company, corporation subject to chapter one hundred and seventy-two A and private or foreign bank under his supervision, including any such banks as are in the hands of the commissioner, together with such other information relative to the affairs of said banks and of such persons subject to chapters one hundred and sixty-nine and one hundred and seventy-four as, in his opinion, the public interest may require; provided, however, that such report shall include a list of banks where the call provided for in section thirty-eight of this chapter and section four of chapter one hundred and sixty-seven A exceeds the amount loaned to the Massachusetts Housing Partnership Fund pursuant thereto. Annually, on or before the first day of August, the commissioner shall make a similar report containing a statement of the condition, as of the regular meeting day for the receipt of moneys in the preceding April of each co-operative bank and savings and loan association, and, on or before the first day of June, a similar report upon the condition, as of the last day of December next preceding, of each credit union, and, on or before the first day of May, a statement of the condition, as of the last business day of December next preceding of each savings bank and institution for savings under his supervision, with such other information relative to the affairs of such banks, associations and credit unions as he may deem to be in the public interest.

SECTION 4. Section fourteen B of said chapter one hundred and sixty-seven of the General Laws is hereby repealed.

SECTION 5. Section seventeen of said chapter one hundred and sixty-seven is hereby repealed.

SECTION 6. Paragraph 5 of section 10 of chapter 168 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

The office of any trustee or director who seeks, or against whom, an order of relief is entered in a personal capacity, pursuant to Title 11 of the United States Code, or who, on examination in a supplementary process proceeding, has been found unable to pay a judgment, shall thereby be vacated. A record of any such vacancy shall be entered upon the books of the corporation. Any trustee or director whose office is so vacated shall again be eligible to serve as a trustee or director upon the receipt of a discharge in bankruptcy under Chapter 7 of said Title 11; the completion of all payments required pursuant to a plan of reorganization under Chapter 11 thereof; the completion of all payments under a plan of debt adjustment under Chapter 13 thereof; or the payment of said judgment.

SECTION 7. Said chapter 168 is hereby further amended by striking out section 26, as so appearing, and inserting in place thereof the following section:-

Section 26. Every such corporation shall, annually, within thirty days after the last business day of December, make a report to the commissioner in such form as he may prescribe, showing accurately its condition at the close of business on that day and containing such other information as the commissioner may require.

Every such corporation shall post in a prominent place and in a conspicuous manner in the lobby of each of its banking offices, a balance sheet which presents fairly, in accordance with generally accepted accounting principles, including required footnote disclosure, its conditions as of the last business day of its fiscal year, with comparative figures as of the end of the previous fiscal year. Said balance sheet shall be posted not later than thirty days after the end of the corporation's fiscal year and shall remain posted until replaced by the following year's posting. Said balance sheet shall be printed at the expense of the corporation and copies shall be made available to its depositors upon request. Each such corporation which fails to post or print any such balance sheet in accordance with this section shall pay to the state treasurer ten dollars for each day that it fails to so post or print such balance sheet, unless excused by the commissioner for cause.

SECTION 8. Section 27 of said chapter 168, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 9. Section 34 of said chapter 168, as so appearing, is hereby amended by striking out the introductory paragraph, contained in lines 1 to 47, inclusive, and inserting in place thereof the following four paragraphs:-

Any two or more such corporations may merge or consolidate into a single corporation on such terms as shall have been approved in writing by the commissioner. A request for such approval by the commissioner shall be accompanied by an investigation fee, the amount of which shall be determined annually by the commissioner of administration.

If the commissioner is satisfied that a merger or consolidation of a savings bank proposing liquidation, as provided in section thirty-three, can be effected, upon terms approved by him, with another savings bank and if he finds that such merger or consolidation is in the interests of the depositors of the savings banks concerned, such merger or consolidation may be effected on such terms and subject to the direction of the commissioner. In making a finding that such merger or consolidation is in the interests of the depositors, the commissioner shall also determine whether or not competition among banking institutions will be unreasonably affected and whether or not public convenience and advantage will be promoted. In making such determination, the commissioner shall consider, but not be limited to, a showing of net new benefits. For the purpose of this section, the term "net new benefits" shall mean initial capital investments, job creation plans, consumer and business services, commitments to maintain and open branch offices within a bank's delineated community, as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine. If the consolidating corporations have main offices in different counties, the main office of the continuing corporation shall be the main office of that consolidating corporation which has the greater total assets on the date on which the merger or consolidation is approved by the board of the last consolidating corporation so to approve; provided, however, that upon a determination by the commissioner that such consolidation is not for the purpose of circumventing any geographic restrictions on the establishment of branch offices, he may allow the main office of the consolidating corporation which has the lesser total assets on such date to be the main office of the continuing corporation. Before becoming effective, any such merger or consolidation, hereinafter sometimes referred to as a "consolidation", shall have been approved by a vote of at least two-thirds of the corporators of each of the consolidating corporations at special meetings called to consider the subject. Notice of each such meeting shall be given by the clerk in accordance with the provisions of section nine A. A certificate under the hands of the presidents and clerks or other duly authorized officers of the consolidating corporation, respectively, stating that all requirements of this section have been complied with shall be submitted to the commissioner who, if he shall approve such consolidation, shall endorse his approval upon such certificate.

Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or merger determined pursuant to the agreement of consolidation or merger; and, (iii) any amendment to the articles of organization of the surviving corporation to be effected pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by the president or a vice president and the clerk or an assistant clerk of each corporation, who shall state under the penalties of perjury that the agreement of consolidation or merger has been duly executed on behalf of such corporation and has been approved as required.

The form on which articles of consolidation or merger are filed shall also contain the following information which shall not for any purpose be treated as a permanent part of the

articles of organization of the resulting or surviving corporation:

(1) the post office address of the initial principal office of the resulting or surviving corporation in the commonwealth;

(2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;

(3) the fiscal year of the resulting or surviving corporation initially adopted;

(4) the date initially fixed in the by-laws for the annual meeting of the shareholders or members of the resulting or surviving corporation.

The consolidation or merger shall become effective when the articles of consolidation or merger are filed in accordance with section six of chapter one hundred and fifty-six B, unless said articles specify a later effective date not more than thirty days after such filing, in which event the consolidation or merger shall become effective on such later date. Upon consolidation of any such corporations, as herein provided:.

SECTION 10. Section 34A of said chapter 168, as so appearing, is hereby amended by striking out the introductory paragraph, contained in lines 1 to 52, inclusive, and inserting in place thereof the following four paragraphs:-

Any one or more such corporations and any one or more cooperative banks, as defined in section one of chapter one hundred and seventy, may merge or consolidate into a single savings bank or into a single cooperative bank, upon such terms as shall have been approved by a vote of at least two-thirds of the boards of trustees of each corporation and of the board of directors of each cooperative bank, and as shall have been approved in writing by the commissioner. The terms of any such merger or consolidation shall be approved by the corporators of each corporation and shareholders of each cooperative bank in the manner prescribed herein. A request for such approval by the commissioner shall be accompanied by an investigation fee, the amount of which shall be determined annually by the commissioner of administration, a copy of the terms of any agreement reached by the respective boards of trustees and directors, and certified copies of the vote of such boards. If the commissioner, after such notice and hearing as he may require, is satisfied that a merger or consolidation can be effected on terms approved by him and he finds that such a merger or consolidation is in the interests of the depositors and shareholders of the institutions concerned, such merger or consolidation may be approved by him subject to his direction. In making a finding that such merger or consolidation is in the interests of the depositors and shareholders, the commissioner shall also determine whether or not competition among banking institutions will be unreasonably affected and whether or not public convenience and advantage will be promoted. In making such determination, the commissioner shall consider, but not be limited to, a showing of net new benefits. For the purpose of this section, the term "net new benefits" shall mean initial capital investments, job creation plans, consumer and business services, commitments to maintain and open branch offices within a bank's delineated community, as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine. Before becoming effective, any merger or consolidation authorized by this section, hereinafter sometimes referred to as a "consolidation", shall have been approved by

a vote of at least two-thirds of the corporators of each corporation at meetings specially called to consider the subject, and approved by a vote of at least two-thirds of the shareholders of each cooperative bank present, qualified to vote, and voting at meetings of each cooperative bank specially called for that purpose. Notice for such meetings shall be given in accordance with the provisions of section nine A and section twenty-four of chapter one hundred and seventy. A certificate under the hands of the presidents and clerks or other duly authorized officers of all merging or consolidating corporations and cooperative banks setting forth that each institution, respectively, has complied with the requirements of this section shall be submitted to the commissioner who, if he shall approve such consolidation, shall endorse his approval upon such certificate. No such transaction shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or merger determined pursuant to the agreement of consolidation or merger; and, (iii) any amendment to the articles of organization of the surviving corporation to be effected pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by the president or a vice president and the clerk or an assistant clerk of each corporation, who shall state under the penalties of perjury that the agreement of consolidation or merger has been duly executed on behalf of such corporation and has been approved as required.

The form on which articles of consolidation or merger are filed shall also contain the following information which shall not for any purpose be treated as a permanent part of the articles of organization of the resulting or surviving corporation:

(1) the post office address of the initial principal office of the resulting or surviving corporation in the commonwealth;

(2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;

(3) the fiscal year of the resulting or surviving corporation initially adopted;

(4) the date initially fixed in the by-laws for the annual meeting of the shareholders or members of the resulting or surviving corporation.

The consolidation or merger shall become effective when the articles of consolidation or merger are filed in accordance with section six of chapter one hundred and fifty-six B, unless said articles specify a later effective date not more than thirty days after such filing, in which event the consolidation or merger shall become effective on such later date. Upon consolidation of any such institutions, as herein provided:.

SECTION 11. Section 34B of said chapter 168, as so appearing, is hereby amended by striking out the introductory paragraph of the second paragraph, contained in lines 26 to 39, inclusive, and inserting in place thereof the following four paragraphs:-

Notice for such meetings shall be given in accordance with the relevant provisions of section nine A and any applicable provision governing a thrift institution. A certificate

under the hands of the presidents and clerks or other duly authorized officers of all merging or consolidating corporations and thrift institutions setting forth that each institution, respectively, has complied with the requirements of this section shall be submitted to the commissioner who, if he shall approve such consolidation, shall endorse his approval upon such certificate. No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or merger determined pursuant to the agreement of consolidation or merger; and, (iii) any amendment to the articles of organization of the surviving corporation to be effected pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by the president or a vice president and the clerk or an assistant clerk of each corporation, who shall state under the penalties of perjury that the agreement of consolidation or merger has been duly executed on behalf of such corporation and has been approved as required.

The form on which articles of consolidation or merger are filed shall also contain the following information which shall not for any purpose be treated as a permanent part of the articles of organization of the resulting or surviving corporation:

(1) the post office address of the initial principal office of the resulting or surviving corporation in the commonwealth;

(2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;

(3) the fiscal year of the resulting or surviving corporation initially adopted;

(4) the date initially fixed in the by-laws for the annual meeting of the shareholders or members of the resulting or surviving corporation.

The consolidation or merger shall become effective when the articles of consolidation or merger are filed in accordance with section six of chapter one hundred and fifty-six B, unless said articles specify a later effective date not more than thirty days after such filing, in which event the consolidation or merger shall become effective on such later date. Upon consolidation of any such institutions, as herein provided:.

SECTION 12. The first paragraph of section 34D of said chapter 168, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each bank have been made and notice thereof has been received by the commissioner.

SECTION 13. Section 34F of said chapter 168, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following four paragraphs:-

Before becoming effective, any merger or consolidation authorized by this section, hereinafter sometimes referred to as a "consolidation", shall have been approved by a vote

of at least two-thirds of the corporators of each corporation present, qualified to vote and voting at a meeting specially called to consider the subject and approved by a vote of at least two-thirds of the shareholders of each credit union present, qualified to vote, and voting at a meeting specially called for that purpose. Notice for such meetings shall be given in accordance with the relevant provisions of section nine A of this chapter and section eleven of chapter one hundred and seventy-one. A certificate under the hands of the presidents and clerks or other duly authorized officers of all merging or consolidating corporations and credit unions setting forth that each institution, respectively, has complied with the requirements of this section shall be submitted to the commissioner who, if he shall approve such consolidation, shall endorse his approval upon such certificate. No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or merger determined pursuant to the agreement of consolidation or merger; and, (iii) any amendment to the articles of organization of the surviving corporation to be effected pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by the president or a vice president and the clerk or an assistant clerk of each corporation, who shall state under the penalties of perjury that the agreement of consolidation or merger has been duly executed on behalf of such corporation and has been approved as required.

The form on which articles of consolidation or merger are filed shall also contain the following information which shall not for any purpose be treated as a permanent part of the articles of organization of the resulting or surviving corporation:

(1) the post office address of the initial principal office of the resulting or surviving corporation in the commonwealth;

(2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;

(3) the fiscal year of the resulting or surviving corporation initially adopted;

(4) the date initially fixed in the by-laws for the annual meeting of the shareholders or members of the resulting or surviving corporation.

The consolidation or merger shall become effective when the articles of consolidation or merger are filed in accordance with section six of chapter one hundred and fifty-six B, unless said articles specify a later effective date not more than thirty days after such filing, in which event the consolidation or merger shall become effective on such later date. Upon the merger or consolidation of any such institutions, the provisions of subparagraphs 1 to 6, inclusive, of section thirty-four A shall apply.

SECTION 14. Section 35 of said chapter 168, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

No such transaction under this section shall be consummated until arrangements

satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

SECTION 15. Section 5 of chapter 169A of the General Laws, as so appearing, is hereby amended by striking out, in line 9, the word "April" and inserting in place thereof the following word:- June.

SECTION 16. Said chapter 169A is hereby further amended by striking out section 13, as so appearing, and inserting in place thereof the following section:-

Section 13. Whoever violates any provision of section two or any rule or regulation made thereunder by the commissioner shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both. Each day a violation continues shall be deemed a separate offense.

SECTION 17. Section 9 of chapter 170 of the General Laws, as so appearing, is hereby amended by inserting after the fourth paragraph the following paragraph:-

The office of any trustee or director who seeks, or against whom, an order of relief is entered in a personal capacity, pursuant to Title 11 of the United States Code, or who, on examination in a supplementary process proceeding, has been found unable to pay a judgment, shall thereby be vacated. A record of any such vacancy shall be entered upon the books of the corporation. Any trustee or director whose office is so vacated shall again be eligible to serve as a trustee or director upon the receipt of a discharge in bankruptcy under Chapter 7 of said Title 11; the completion of all payments required pursuant to a plan of reorganization under Chapter 11 thereof; the completion of all payments under a plan of debt adjustment under Chapter 13 thereof; or the payment of said judgment.

SECTION 18. The first paragraph of section 18 of said chapter 170, as so appearing, is hereby amended by striking out the second sentence.

SECTION 19. Section 21 of said chapter 170, as so appearing, is hereby amended by striking out paragraph (2).

SECTION 20. The first paragraph of section 24 of said chapter 170, as so appearing, is hereby amended by striking out the fifth sentence and inserting in place thereof the following sentence:- No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

SECTION 21. Section 25 of said chapter 170, as so appearing, is hereby amended by striking out the introductory paragraph, contained in lines 1 to 41, inclusive, and inserting in place thereof the following five paragraphs:-

Any two or more such corporations may merge or consolidate into a single corporation on such terms as shall have been agreed upon by vote of two-thirds of the board of directors of each corporation and as shall have been approved in writing by the commissioner; provided, however, that such action shall have been approved by the shareholders of each corporation at a special meeting thereof called for that purpose by a vote of at least two-thirds of those shareholders present, qualified to vote and voting at each such meeting. If the consolidating corporations have main offices in different counties, the main office of the continuing corporation shall be the main office of that consolidating cor-

poration which has the greater total assets on the date on which the merger or consolidation is approved by the board of the last consolidating corporation so to approve; provided, however, that upon a determination by the commissioner that such consolidation is not for the purpose of circumventing any geographic restrictions on the establishment of branch offices, he may allow the main office of the consolidating corporation which has the lesser total assets on such date to be the main office of the continuing corporation. The request for approval of the commissioner shall be accompanied by an investigation fee, the amount of which shall be determined annually by the commissioner of administration. Notice of such special meeting setting forth the terms tentatively agreed upon shall be posted and published in the manner and to the extent provided for the notices referred to in section twenty-four. A certificate under the hands of the presidents and clerks or other duly authorized officers of all such corporations, setting forth that each said corporation, respectively, has complied with all the requirements of this section shall be submitted to the commissioner who, if he shall approve such consolidation, shall endorse his approval upon such certificate.

In deciding whether or not to approve any such consolidation, the commissioner shall determine whether or not competition among banking institutions will be unreasonably affected and whether or not public convenience and advantage will be promoted. In making such determination, the commissioner shall consider but not be limited to a showing of net new benefits. For the purpose of this section, the term "net new benefits" shall mean initial capital investments, job creation plans, consumer and business services, commitments to maintain and open branch offices within a bank's delineated community, as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine.

Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or merger determined pursuant to the agreement of consolidation or merger; and (iii) any amendment to the articles of organization of the surviving corporation to be effected pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by the president or a vice president and the clerk or an assistant clerk of each corporation who shall state under the penalties of perjury that the agreement of consolidation or merger has been duly executed on behalf of such corporation and has been approved as required.

The form on which articles of consolidation or merger are filed shall also contain the following information which shall not for any purpose be treated as a permanent part of the articles of organization of the resulting or surviving corporation:

(1) the post office address of the initial principle office of the resulting or surviving corporation in the commonwealth;

(2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;

(3) the fiscal year of the resulting or surviving corporation initially adopted;

(4) the date initially fixed in the by-laws for the annual meeting of the corporators,

shareholders or members of the resulting or surviving corporation.

The consolidation or merger shall become effective when the articles of consolidation or merger are filed in accordance with section six, unless said articles specify a later effective date not more than thirty days after such filing, in which event the consolidation or merger shall become effective on such later date. Upon consolidation of any such corporations as herein provided:.

SECTION 22. Section 26A of said chapter 170, as so appearing, is hereby amended by striking out the introductory paragraph of the second paragraph, contained in lines 1 to 51, inclusive, and inserting in place thereof the following four paragraphs:-

A certificate under the hands of the presidents and clerks or other duly authorized officers of the consolidating corporation, respectively, stating that all requirements of this section have been complied with shall be submitted to the commissioner who, if he shall approve such consolidation, shall endorse his approval upon such certificate. No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or merger determined pursuant to the agreement of consolidation or merger; and, (iii) any amendment to the articles of organization of the surviving corporation to be effected pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by the president or a vice president and the clerk or an assistant clerk of each corporation, who shall state under the penalties of perjury that the agreement of consolidation or merger has been duly executed on behalf of such corporation and has been approved as required.

The form on which articles of consolidation or merger are filed shall also contain the following information which shall not for any purpose be treated as a permanent part of the articles of organization of the resulting or surviving corporation:

(1) the post office address of the initial principal office of the resulting or surviving corporation in the commonwealth;

(2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;

(3) the fiscal year of the resulting or surviving corporation initially adopted;

(4) the date initially fixed in the by-laws for the annual meeting of the shareholders or members of the resulting or surviving corporation.

The consolidation or merger shall become effective when the articles of consolidation or merger are filed in accordance with section six of chapter one hundred and fifty-six B, unless said articles specify a later effective date not more than thirty days after such filing, in which event the consolidation or merger shall become effective on such later date. Upon consolidation of any such corporation with another, as herein provided:.

SECTION 23. Section 26B of said chapter 170, as so appearing, is hereby amended

by striking out the introductory paragraph of the second paragraph, contained in lines 27 to 40, inclusive, and inserting in place thereof the following four paragraphs:-

Notice for such meetings shall be given in accordance with the relevant provisions of section forty-seven and any applicable provision governing a thrift institution. A certificate under the hands of the presidents and clerks or other duly authorized officers of all merging or consolidating corporations and thrift institutions, respectively, stating that all requirements of this section have been complied with shall be submitted to the commissioner who, if he shall approve such consolidation, shall endorse his approval upon such certificate. No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or merger determined pursuant to the agreement of consolidation or merger; and, (iii) any amendment to the articles of organization of the surviving corporation to be effected pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by the president or a vice president and the clerk or an assistant clerk of each corporation, who shall state under the penalties of perjury that the agreement of consolidation or merger has been duly executed on behalf of such corporation and has been approved as required.

The form on which articles of consolidation or merger are filed shall also contain the following information which shall not for any purpose be treated as a permanent part of the articles of organization of the resulting or surviving corporation:

(1) the post office address of the initial principal office of the resulting or surviving corporation in the commonwealth;

(2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;

(3) the fiscal year of the resulting or surviving corporation initially adopted;

(4) the date initially fixed in the by-laws for the annual meeting of the shareholders or members of the resulting or surviving corporation.

The consolidation or merger shall become effective when the articles of consolidation or merger are filed in accordance with section six of chapter one hundred and fifty-six B, unless said articles specify a later effective date not more than thirty days after such filing, in which event the consolidation or merger shall become effective on such later date. Upon consolidation of any such corporation with another, as herein provided:.

SECTION 24. The first paragraph of section 26D of said chapter 170, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

SECTION 25. Section 26F of said chapter 170, as so appearing, is hereby amended

by striking out the second paragraph and inserting in place thereof the following four paragraphs:-

Before becoming effective, any merger or consolidation authorized by this section, hereinafter sometimes referred to as a "consolidation", shall have been approved by a vote of at least two-thirds of the shareholders of each corporation present, qualified to vote, and voting at a meeting specially called to consider the subject and by vote of at least two-thirds of the shareholders of each credit union present, qualified to vote and voting at a meeting specially called for that purpose. Notice for such meetings shall be given in accordance with the relevant provisions of section seven of this chapter and section eleven of chapter one hundred and seventy-one. A certificate under the hands of the presidents and clerks, or other duly authorized officers of all merging or consolidating corporations and credit unions setting forth that each institution, respectively, has complied with the requirements of this section, shall be submitted to the commissioner who, if he shall approve such merger or consolidation, shall endorse his approval upon such certificate. No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

Articles of consolidation or merger shall be filed with the state secretary which shall set forth the adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or merger determined pursuant to the agreement of consolidation or merger; and (iii), any amendment to the articles of organization of the surviving corporation to be effected pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by the president or a vice president and the clerk or an assistant clerk of each corporation, who shall state under the pains and penalties of perjury that the agreement of consolidation or merger has been duly executed on behalf of such corporation and has been approved as required.

The form on which articles of consolidation or merger are filed shall also contain the following information which shall not for any purpose be treated as a permanent part of the articles of organization of the resulting or surviving corporation:

(1) the post office address of the initial principal office of the resulting or surviving corporation in the commonwealth;

(2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;

(3) the fiscal year of the resulting or surviving corporation initially adopted;

(4) the date initially fixed in the by-laws for the annual meeting of the corporators, shareholders, or members of the resulting or surviving corporation.

The consolidation or merger shall become effective when the articles of consolidation or merger are filed in accordance with section six, unless said articles specify a later effective date not more than thirty days after such filing, in which event the consolidation or merger shall become effective on such later date. Upon the merger or consolidation of any such institutions, the provisions of subparagraphs 1 to 6, inclusive, of section twenty-

six A shall apply.

SECTION 26. Section 13 of chapter 172 of the General Laws, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:-

The office of any trustee or director who seeks, or against whom, an order of relief is entered in a personal capacity, pursuant to Title 11 of the United States Code, or who, on examination in a supplementary process proceeding, has been found unable to pay a judgment, shall thereby be vacated. A record of any such vacancy shall be entered upon the books of the corporation. Any trustee or director whose office is so vacated shall again be eligible to serve as a trustee or director upon the receipt of a discharge in bankruptcy under Chapter 7 of said Title 11; the completion of all payments required pursuant to a plan of reorganization under Chapter 11 thereof; the completion of all payments under a plan of debt adjustment under Chapter 13 thereof; or the payment of said judgment.

SECTION 27. The first paragraph of section 22 of said chapter 172, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Each trust company shall, annually, within thirty days after the last business day of December make a report to the commissioner in such form as he may prescribe showing accurately its condition at the close of business on that day, and containing such other information as the commissioner may require.

SECTION 28. Said section 22 of said chapter 172, as so appearing, is hereby further amended by striking out, in line 13, the word "fifteen" and inserting in place thereof the following word:- thirty.

SECTION 29. Said chapter 172 is hereby further amended by striking out section 22A, as so appearing, and inserting in place thereof the following section:-

Section 22A. Every trust company shall at such times as the commissioner orders, but not exceeding five times in any calendar year and within thirty days after the day designated in the order, make a return in the form of a trial balance to the commissioner. It shall be made on a form furnished by the commissioner and shall specify the different kinds of assets and liabilities.

SECTION 30. Section 26A of said chapter 172, as so appearing, is hereby amended by striking out the last paragraph.

SECTION 31. Clause (4) of subsection A of section 36 of said chapter 172, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

SECTION 32. Section 38 of said chapter 172, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

SECTION 33. Section 5 of chapter 255E of the General Laws, as so appearing, is hereby amended by striking out the word "April", in line 13, and inserting in place thereof

the following word:- June.

SECTION 33A. Sections two and three of chapter two hundred and forty-five of the acts of nineteen hundred and ninety-four are hereby repealed.

SECTION 34. Any licenses issued annually pursuant to chapter one hundred and sixty-nine A and chapter two hundred and fifty-five E of the General Laws in effect on the effective date of this act and scheduled to expire on April first shall be deemed to be in effect until June first.

Approved August 9, 1996.

Chapter 360. AN ACT RELATIVE TO THE CARVER, MARION, WAREHAM REGIONAL REFUSE DISPOSAL DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section forty-four F of chapter forty of the General Laws or any other general or special law to the contrary, the Carver, Marion, Wareham Regional Refuse Disposal District is hereby authorized to purchase land in the town of Rochester for the purposes of the district and to construct thereon and equip a refuse disposal facility and to enter into contracts necessary therefor.

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

Approved August 9, 1996.

Chapter 361. AN ACT RELATIVE TO CERTAIN LAND IN THE TOWN OF FRAMINGHAM.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the development of certain land in the town of Framingham, therefore it is declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 36 of chapter 85 of the acts of 1994 is hereby amended by adding the following sentence:- Any fee, easement, lease or any other interest in land conveyed pursuant to this section shall be granted to the town of Medfield for nominal consideration only.

SECTION 2. The first sentence of section 2 of chapter 678 of the acts of 1987, as amended by section 2 of chapter 121 of the acts of 1994, is hereby further amended by striking out, in line 5, the word "eighty" and inserting in place thereof the following words:- two hundred.

Approved August 9, 1996.

Chapter 362. AN ACT AUTHORIZING THE CITY OF TAUNTON TO ENTER INTO CONTRACTS FOR THE OPERATION AND MAINTENANCE, LEASE OR SALE AND MODIFICATION OF THE WASTEWATER TREATMENT PLANT, SEWERS AND PUMP STATIONS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the city of Taunton may enter into a contract for the lease or sale, operation and maintenance, financing, design and construction of modifications, and installation of new equipment and systems necessary at the wastewater treatment plant, sewers and pump stations to ensure adequate services and to ensure the ability of said city's wastewater treatment plant, sewers and pump stations to operate in full compliance with all applicable requirements of federal, state and local law; provided, however, that such contract or contracts shall not be subject to the competitive bid requirements set forth in sections thirty-eight A½ to thirty-eight O, inclusive, of chapter seven of the General Laws, section thirty-nine M of chapter thirty of the General Laws, or sections forty-four A to forty-four M, inclusive, of chapter one hundred and forty-nine of the General Laws; provided, further, that said contract shall be awarded pursuant to the provisions of chapter thirty B of the General Laws except for paragraph (3) of subsection (b), paragraph (3) of subsection (*e*), subsection (g) of section six and sections thirteen and sixteen.

The request for proposals for such contract shall specify the method for comparing proposals to determine the proposal offering the lowest overall cost to the city, including, but not limited to, all capital financing, operating and maintenance costs. If the city awards the contract to an offeror who did not submit the proposal offering the lowest overall cost, the city shall explain the reason for the award in writing.

SECTION 2. (*a*) Notwithstanding the provisions of any general or special law to the contrary, a contact or contracts awarded pursuant to section one may provide for a term not exceeding twenty years, and an option for renewal or extension of operations and maintenance services for one additional term not exceeding five years. The renewal or extension shall be at the sole discretion of the city in accordance with the original contract terms and conditions or contract terms and conditions more favorable to and acceptable to the city. A contract entered into pursuant to this act may provide that, subject to a majority vote of the municipal council, the city shall not be exempt from liability for payment of the costs to finance, permit, design and construct modifications or install new equipment and systems at the wastewater treatment plant, sewers and pump stations necessary to ensure the ability of said wastewater treatment plant, sewers and pump stations to operate in full compliance with all applicable requirements of federal, state and local law, provided that such costs shall be amortized over a period that is no longer than the useful life of said modifications, equipment and systems. The city's payment obligations for all operations and maintenance services shall be conditioned on the contractor's performance of said services in accordance with all contractual terms.

(*b*) Any contract entered into pursuant to this act may provide for such activities deemed necessary to carry out the purposes authorized herein, including, but not limited to,

equipment, facility or land sale or lease, equipment installation and replacement, performance testing and operation, studies, design and engineering work, construction work, ordinary repairs and maintenance, and the furnishing of all related material, supplies and services required for the wastewater treatment plant, sewers, and pump stations and the management, operation, maintenance and repair of said city's wastewater treatment plant, sewers and related pump stations.

SECTION 3. The chief procurement officer shall solicit proposals through a request for proposals which shall include those items in paragraphs (1) and (2) of subsection (*b*) of section six of chapter thirty B of the General Laws and proposed key contractual terms and conditions to be incorporated into the contract, some of which may be deemed mandatory or non-negotiable; provided, however, that the request for proposals may request proposals or offer options for fulfillment of other contractual terms, and such other matters as may be determined by the city.

SECTION 4. The chief procurement officer shall make a preliminary determination of the most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs and the other evaluation criteria set forth in the request for proposal. The chief procurement officer may negotiate all terms of the contract not deemed mandatory or nonnegotiable with such offeror. If after negotiation with such offeror, the chief procurement officer determines that it is in the city's best interests, the chief procurement officer may determine the next most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs and the other evaluation criteria set forth in the request for proposals, and may negotiate all terms of the contract not deemed mandatory or nonnegotiable with such offeror. The chief procurement officer shall award the contract to the most advantageous proposal from a responsible and responsive offeror taking into consideration price, estimated life-cycle costs, the evaluated criteria set forth in the request for proposals, and the terms of the negotiated contract. Subject to the approval of the mayor and the municipal council, the chief procurement officer shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. Such award shall be subject to sections five and six. The parties may extend the time for acceptance by mutual agreement.

SECTION 5. Notwithstanding any other provisions of this act, it shall be a mandatory term of any request for proposal issued by the city of Taunton and of any contract entered into by said city with any party regarding the subject matter of this act, that any party that has entered into a contract pursuant to the terms of this act with said city, shall require, in order to maintain stable and productive labor relations and to avoid interruption of the operation of the plant and to preserve the health, safety and environmental conditions of residents of said city and surrounding communities, that any and all employees working on the operation and maintenance of the wastewater treatment plant, sewers and pumping stations be offered employment by any party entering into a contract with said city for the operation and maintenance of said facilities, and furthermore, said party entering into a contract with said city, shall adopt all terms and conditions of employment provided by the

last applicable labor agreement negotiated between the labor organization representing said employees and the applicable employer who has most recently employed said employees prior to entering into any contract pursuant to this act, and provided that any party entering into said contract with said city pursuant to this act will pay all said employees no less than the sum of the applicable wages paid to said employees by their previous employer and by said city, if applicable. Moreover, said parties shall furthermore agree to meet its legal obligations with regard to any labor organization representing employees engaged in the operation and maintenance of the wastewater treatment plant, sewers and pumping stations described herein. Notwithstanding any other provisions of this act, any proposal or contract for this purpose and not complying with the above terms, shall be disqualified from consideration.

SECTION 6. Subject to the provisions of this act, any contract awarded pursuant to this act shall be subject to such terms and conditions as the mayor and the municipal council shall determine to be in the best interests of the city of Taunton and shall be subject to a majority vote of the municipal council. Any such contract shall provide that prior to the construction of modifications or installation of equipment and systems the city shall cause a qualified wastewater engineer to independently review and approve plans and specifications for said modifications, equipment and systems. Such contract shall further provide that prior to the city's acceptance of any modifications, equipment or systems, including work undertaken pursuant to section eight of this act and estimated to cost more than one hundred thousand dollars, the city shall cause a qualified wastewater engineer to inspect said modifications, equipment and systems and certify that the construction or installation has been completed in accordance with the approved plans and specifications.

SECTION 7. Notwithstanding the provisions of any general or special law or regulation to the contrary, the department of environmental protection may issue project approval certificates with respect to the contract procured by said city for wastewater treatment facility improvements, and any design and construction services included in such contract shall be eligible for assistance under the Water Pollution Abatement Trust established by section two of chapter twenty-nine C of the General Laws.

SECTION 8. The provisions of any general or special law or regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the construction and design of improvements, shall not be applicable to any selected offeror which is awarded a contract pursuant to this act, except as provided in this section. The construction of any new capital improvement or any renovation, modernization, installation, or replacement work estimated to cost more than one hundred thousand dollars, not specifically included in the initial contract for the lease or sale, operation and maintenance, design and construction of the wastewater plant, sewers and pump stations, shall be procured on the basis of advertised sealed bids; provided, however, that bids need not be solicited if the contractor causes such construction, renovation, modernization, installation or replacement work to be completed without direct or indirect reimbursement from the city or other adjustment to the fees or costs paid by the city, including, but not limited to, any adjustment to water or sewer rates paid by the city's residents or businesses. Bids shall be

based on detailed plans and specifications and the contract shall be awarded to the lowest responsible and eligible bidder. The contractor may act as an agent of the city in the solicitation of bids for the construction of any new capital improvement or for any renovation modernization, installation or replacement work pursuant to this section, provided that the city shall cause a qualified wastewater engineer to independently assess the need for such capital improvement, renovation, modernization, installation or replacement work and to review and approve the contractor's proposed plans and specifications prior to advertising for bids. Based on the recommendation of the qualified wastewater engineer, the city may approve, modify, or reject the contractor's proposed plans and specifications. Any contract or contracts awarded pursuant to this act shall provide that in the event that the city does not approve the contractor's proposed plans and specifications pursuant to this section, the city or the contractor may terminate said contract or contracts under the terms and conditions of said contract or contracts.

All contracts for such work shall be subject to the requirements of Chapter 2, Article 11, of the city ordinances relating to the employment of residents of the city in municipal construction projects.

SECTION 9. All contracts or subcontracts for new construction, renovation, modernization, improvement or capital improvements to the Taunton wastewater treatment plant, including, but not limited to, all treatment facilities and pump stations shall be awarded only to persons or entities whose bids or proposals are subject to said persons or entities being signatory to a project labor agreement with the appropriate labor organizations which includes an obligation for said labor organizations and its constituent members not to strike with respect to the work on said construction project and which also establishes uniform work rules and schedules for the project. Said project agreement shall be entered into in order to facilitate the timely and efficient completion of the construction of said improvements and make available a ready and adequate supply of highly trained skilled craft workers which shall provide a negotiated commitment which is a legally enforceable means of assuring labor stability and labor peace over the life of this project. The applicable entity responsible for any construction, renovation, modernization, improvement, or capital improvement to the Taunton wastewater plant and pumping stations shall designate a general contractor, project manager, or similar construction firm which is familiar in the negotiation and administration of project labor agreements to manage and oversee the construction of the project, including the development and implementation of labor relation policies for the project, and to instruct such general contractor, project manager, or other construction firm to negotiate a mutually agreeable project labor agreement covering the above described work. All contracts for such work shall be subject to the requirements of Chapter 2, Article 11, of the city ordinances relating to the employment of residents of the city in municipal construction projects.

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

Approved August 9, 1996.

Chapter 363. AN ACT RELATIVE TO CERTAIN BETTERMENT CHARGES IN THE TOWN OF HINGHAM.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section thirteen B of chapter eighty of the General Laws or any other general or special law to the contrary, the town of Hingham, acting by and through its board of selectmen, is hereby authorized, upon the petition of a property owner subject to a sewer betterment charge imposed pursuant to the vote of said town to install sewerage facilities in the Weir river watershed area, to exempt such property owner from the current payment of such charge notwithstanding the age, income or domicile of such owner; provided, however, that such owner enters into a deferral and recovery agreement with said town containing terms and provisions similar to those set forth in the second paragraph of said section thirteen B and bearing interest at the rate chargeable to said town for the project to which the betterment charge relates.

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

Approved August 9, 1996.

Chapter 364. AN ACT RELATIVE TO MECHANICS LIENS FOR LABOR AND MATERIALS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 254 of the General Laws is hereby amended by striking out section 1, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 1. A person to whom a debt is due for personal labor performed in the erection, alteration, repair or removal of a building or structure upon land or improvement or alteration to real property, by virtue of an agreement with, or by consent of, the owner of such building or structure, or of a person having authority from or rightfully acting for such owner in procuring or furnishing such labor, shall, under the provisions of this chapter, other than section four, have a lien upon such building or structure and upon such interest in such real property, land, building, structure, or improvement owned by the party authorizing or consenting to said work, for not more than thirty days' work actually performed for the ninety days next prior to his filing a statement as provided in section eight.

A person or his assignee, agent, authorized representative or third party beneficiary, to whom amounts are due or for whose benefit amounts are computed and due for, or on the basis of, the personal labor of such person, may file a lien to secure the payment of such unpaid amounts including interest and agreed penalties for failure to pay the same.

SECTION 2. Said chapter 254 is hereby further amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. A person entering into a written contract with the owner of any interest in real property, or with any person acting for, on behalf of, or with the consent of such own-

er for the whole or part of the erection, alteration, repair or removal of a building, structure, or other improvement to real property, or for furnishing material or rental equipment, appliances, or tools therefor, shall have a lien upon such real property, land, building, structure or improvement owned by the party with whom or on behalf of whom the contract was entered into, as appears of record on the date when notice of said contract is filed or recorded in the registry of deeds for the county or district where such land lies, to secure the payment of all labor, including construction management and general contractor services, and material or rental equipment, appliances, or tools which shall be furnished by virtue of said contract. Said notice may be filed or recorded in the registry of deeds in the county or registry district where the land lies by any person entitled under this section to enforce a lien, and shall be in substantially the following form:

Notice is hereby given that by virtue of a written contract dated , between , owner, and , contractor, said contractor is to furnish or has furnished labor and material or rental equipment, appliances or tools for the erection, alteration, repair or removal of a building, structure, or other improvement on a lot of land or other interest in real property described as follows:

(INSERT DESCRIPTION)

Such person may file or record the notice of contract at any time after execution of the written contract whether or not the date for performance stated in such written contract has passed and whether or not the work under such written contract has been performed, but not later than the earliest of: (i) sixty days after filing or recording of the notice of substantial completion under section two A; or (ii) ninety days after filing or recording of the notice of termination under section two B; or (iii) ninety days after such person or any person by, through or under him last performed or furnished labor or materials or both labor and materials.

SECTION 3. Said chapter 254 is hereby further amended by inserting after section 2, as so appearing, the following two sections:-

Section 2A. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meaning:-

"Substantial completion", that work under the written contract is sufficiently complete so that it can be occupied or utilized for its intended use.

"Written contract", any written contract enforceable under the laws of the commonwealth.

Upon or after substantial completion of any contract subject to the provisions of section two, the owner and contractor shall execute and file or record in the appropriate registry of deeds a notice of substantial completion in substantially the following form:

Notice of Substantial Completion

Notice is hereby given that the work performed by virtue of a written contract dated between as owner, and as contractor, for the erection, alteration, repair or removal of a building, structure, or other improvement of real property described below, has been substantially completed as of the date of filing or recording of this notice. The lot of land or other interest in real property which is the sub-

ject of such contract is described as follows:

(Insert description)

The undersigned owner hereby states that he has served written notice of the recording or filing of this notice of substantial completion upon every person who has filed or recorded prior to the date this notice is filed or recorded notice of contract under section four of chapter two hundred and fifty-four of the General Laws.

The undersigned contractor hereby states that he has served written notice of the recording or filing of this notice of substantial completion upon every person who has entered into a written contract directly with the contractor or who has given written notice of identification to the contractor prior to the date this notice is filed or recorded as provided in said section four of said chapter two hundred and fifty-four of the General Laws.

A copy of such notice, indicating the date of filing or recording, shall be mailed by certified mail return receipt requested by the owner to every person who has filed a notice of contract under section four and by the contractor to every person who has entered into a written contract directly with the contractor and every person who has given written notice of identification to the contractor claiming by, through, or under him as provided in section four.

The failure of the owner or contractor to give notice of the filing or recording of the notice of substantial completion to those persons so entitled shall not prejudice the rights of third parties who rely upon said notice of substantial completion in good faith and without actual knowledge of such failure of notice.

Section 2B. If, prior to the filing or recording in the registry of deeds and delivery of the copies of the notice of substantial completion described in section two A, any contract subject to the provisions of section two shall have been terminated, the owner shall execute and file or record in the appropriate registry of deeds a notice of termination in substantially the following form:

Notice of Termination

Notice is hereby given that a written contract dated between as Owner and as Contractor for the erection, alteration, repair or removal of a building, structure or other improvement of real property described below, has been terminated. The lot of land or other interest in real property which is the subject of such contract is described as follows:

(Insert description)

The undersigned owner hereby states that he has served written notice of the recording or filing of this notice of termination upon the contractor and every person who has filed or recorded prior to this date a notice of contract under section four of chapter two hundred and fifty-four of the General Laws.

A copy of such notice, indicating the date of filing or recording, shall be mailed by certified mail return receipt requested by the owner to every person who has filed or recorded a notice of contract under section four and to the contractor. Upon receipt of such notice from the owner, the contractor shall deliver a copy of such notice to every person who has entered into a written contract directly with the contractor or who has given to the con-

tractor written notice of identification in accordance with said section four.

The failure of the owner or contractor to give notice of the filing or recording of the notice of termination to those persons so entitled shall not prejudice the rights of third parties who rely upon said notice of termination in good faith and without actual knowledge of such failure of notice.

SECTION 4. Section three of said chapter two hundred and fifty-four is hereby repealed.

SECTION 5. Said chapter 254 is hereby further amended by striking out section 4, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 4. Whoever furnishes labor, including subcontractor construction management services, or who furnishes material, or both labor and material, or furnishes rental equipment, appliances or tools, under a written contract with a contractor, or with a subcontractor of such contractor, may file or record in the registry of deeds for the county or district where such land lies a notice of his contract substantially in the following form:

Notice is hereby given that by virtue of a written contract dated , between contractor (or subcontractor) and said is to furnish or has furnished labor or material, or both labor and material, or is to furnish or has furnished rental equipment, appliances or tools, in the erection, alteration, repair or removal of a building, structure or other improvement of real property by , contractor, for , owner, on a lot of land or other interest in real property described as follows:

(Insert description)

As of the date of this notice, an account of said contract is as follows:

1. contract price $
2. agreed change orders $
   (indicate whether addition or subtraction)
3. pending change orders $
   (indicate whether addition or subtraction)
4. disputed claims $
   (indicate whether addition or subtraction)
5. payments received $

The regular mailing address of the party recording or filing this notice is as follows:

Such person may file or record the notice of contract at any time after execution of the written contract whether or not the date for performance stated in such written contract has passed and whether or not the work under such contract has been performed, but not later than the earliest of: (i) sixty days after filing or recording the notice of substantial completion under section two A; or (ii) ninety days after filing or recording of the notice of termination under section two B; or (iii) ninety days after the last day a person entitled to enforce a lien under section two or anyone claiming by, through or under him performed or furnished labor or materials or both labor and materials to the project or furnished rental

equipment, appliances or tools.

Such notice may also be filed by a person or his assignee, agent, authorized representative or third party beneficiary to whom amounts are due or for whose benefit amounts are computed and due for or on the basis of the labor of that person performing labor under a written contract with a contractor, or with a subcontractor of such contractor and the person filing such notice shall not be required to itemize the amount of the contract, the amount of pending changes in the contract, the amount of outstanding claims or the amount paid in such notice.

Upon filing or recording a notice, as hereinbefore provided, and giving actual notice to the owner of such filing, the subcontractor shall have a lien upon such real property, land, building, structure or improvement owned by the party who entered into the original contract as appears of record at the time of such filing, to secure the payment of all labor and material and rental equipment, appliances or tools which he is to furnish or has furnished for the building or structure or other improvement, regardless of the amount stated in the notice of contract. Such lien shall not exceed the amount due or to become due under the original contract as of the date notice of the filing of the subcontract is given by the subcontractor to the owner.

If the person claiming a lien under this section has no direct contractual relationship with the original contractor, except for liens for labor by persons defined in section one of this chapter, the amount of such lien shall not exceed the amount due or to become due under the subcontract between the original contractor and the subcontractor whose work includes the work of the person claiming the lien as of the date such person files his notice of contract, unless the person claiming such lien has, within thirty days of commencement of his performance, given written notice of identification by certified mail return receipt requested to the original contractor in substantially the following form:

Notice of Identification

Notice is hereby given to , as contractor, that , as subcontractor/vendor, has entered into a written contract with to furnish labor or materials, or labor and materials, or rental equipment, appliances or tools to a certain construction project located at (Street Address), (Town or City), Massachusetts. The amount or estimated amount of said contract is $. (No amount need be stated for contracts for the rental of equipment, appliances or tools).

The amount stated in any such notice of identification shall not limit the amount of the lien. Any inaccuracy in the naming of the contractor or other information in such notice shall not affect its validity provided there shall be actual notice.

SECTION 6. Section 5 of said chapter 254, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A lien upon land for the erection, alteration, repair or removal of a building or other structure or other improvement of real property or a lien established under section seventy-six of chapter sixty-three, section six of chapter one hundred and eighty-three A, or subsection (a) of section twenty-nine of chapter one hundred and eighty-three B shall be enforced by a civil

action brought in the superior court for the county where such land lies or in the district court in the judicial district where such land lies.

SECTION 7. Said section 5 of said chapter 254, as so appearing, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- An attested copy of the complaint, which shall contain a brief description of the property sufficient to identify it, and a statement of the amount due, shall be filed in the registry of deeds and recorded as provided in section nine within thirty days of the commencement of the action, or such lien shall be dissolved.

SECTION 8. Said chapter 254 is hereby further amended by striking out section 7, as so appearing, and inserting in place thereof the following section:-

Section 7. (a) No lien under section one shall avail against a mortgage duly registered or recorded unless the work or labor performed is in the erection, alteration, repair or removal of a building, structure, or other improvement to real property which erection, alteration, repair, removal, or improvement was actually begun prior to the recording of the mortgage.

(b) No lien under section two shall avail as against a mortgage duly registered or recorded to the extent of amounts actually advanced or unconditionally committed (i) prior to the filing or recording of the notice of contract, and (ii) after the filing or recording of the notice of contract but within twenty-five days after the last day of the period stated in an accurate duly executed partial waiver and subordination of lien in the form required by section thirty-two, except for the amount of retainage accurately stated in such partial waiver and subordination of lien.

(c) No lien under section four shall avail against a mortgage actually existing and duly registered or recorded to the extent of the amount actually advanced or unconditionally committed prior to the filing or recording in the registry of deeds of the notice required by section four.

(d) No lien under section two or four of this chapter shall avail as against a purchaser, other than the owner or person acting for or on behalf of, or with the consent of such owner who entered into the written contract on which the lien is based, whose deed or other instrument of title was duly registered or recorded prior to the filing or recording of such notices under said section two or four.

SECTION 9. Said chapter 254 is hereby further amended by striking out section 8, as so appearing, and inserting in place thereof the following section:-

Section 8. Liens under sections two and four shall be dissolved unless the contractor, subcontractor, or some person claiming by, through or under them, shall, not later than the earliest of: (i) ninety days after the filing or recording of the notice of substantial completion under section two A; (ii) one hundred and twenty days after the filing or recording of the notice of termination under section two B; or (iii) one hundred and twenty days after the last day a person, entitled to enforce a lien under section two or anyone claiming by, through or under him, performed or furnished labor or material or both labor and materials or furnished rental equipment, appliances or tools, file or record in the registry of deeds in the county or district where the land lies a statement, giving a just and true account of the amount due or

to become due him, with all just credits, a brief description of the property, and the names of the owners set forth in the notice of contract. A lien under section one shall be dissolved unless a like statement, giving the names of the owner of record at the time the work was performed or at the time of filing the statement, is filed or recorded in the appropriate registry of deeds within the ninety days provided in said section. Nothing in this section shall prohibit the filing or recording of a statement under this section prior to the filing or recording of the notices under section two A or two B.

SECTION 10. Section 9 of said chapter 254, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any notice or any statement provided for in this chapter shall remain in the custody of the register and be open to public inspection.

SECTION 11. Section 11 of said chapter 254, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The lien shall be dissolved unless a civil action to enforce it is commenced within ninety days after the filing of the statement required by section eight.

SECTION 12. Section 12 of said chapter 254, as so appearing, is hereby amended by striking out, in line 1, the word "in" and inserting in place thereof the following words:- , including the owner, in.

SECTION 13. Said section 12 of said chapter 254, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The register of deeds shall refuse to record the said bond if it be defective in form or substance, but no party to any such bond shall be discharged by any defect therein as against any party who has in good faith allowed his lien to be dissolved by lapse of time in reliance on the bond. The bond may be enforced by a civil action in the superior court or district court brought by any party in interest. An attested copy of the complaint shall be filed and recorded in the registry of deeds. No suit or action on the bond shall be commenced after the expiration of ninety days after the claimant last performed or furnished labor or labor and materials. Such bond shall not create any rights which the claimant would not have had, or impair any defense which the obligors would have had, in an action to enforce a lien.

SECTION 14. Section 14 of said chapter 254, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following:- The claimant may enforce the bond by a civil action commenced within ninety days after receipt of notice of recording of the bond, but such bond shall not create any rights which the claimant would not have had, or impair any defense which the obligors would have had, in an action to enforce a lien.

The bond shall be in the following form:

Know All Men By These Presents:

That we, _____ as principal and _____ duly organized to transact business as a surety within the Commonwealth of Massachusetts, as surety, are holden and stand firmly bound and obliged unto _____ in the penal sum of _____ Dollars ($_____), to the payment of which we bind ourselves, our heirs, successors and

assigns, jointly and severally by these presents.

Whereas, under date of _____, the said obligee recorded a notice of contract in the registry of deeds, as Instrument #_____, in Book _____ at Page _____ upon premises more fully described in said notice, and

Whereas, the principal desires to dissolve said lien in accordance with the provisions of section fourteen of chapter two hundred and fifty-four of the General Laws.

Now, therefore, the condition of this obligation is such that if the said principal shall pay to the said obligee all sums which shall be adjudged in favor of the said obligee in an action brought under the provisions of said section fourteen, this obligation shall be void, otherwise to remain in full force and effect.

In witness whereof, the aforesaid principal and surety have executed this instrument under seal this _____ day of _____ 19

Principal

_____

by _____

Surety

by _____

_____.

SECTION 15. Said chapter 254 is hereby further amended by inserting after section 15, as so appearing, the following section:-

Section 15A. If any person in interest, including but not limited to an owner, contractor, or mortgage holder, claims (a) that any person who has provided labor or materials or has agreed to provide funding, financing or payment for labor or materials, refuses to continue to provide such funding, financing or payments of labor or materials solely because of the filing or recording of a notice of contract pursuant to section two or a statement of claim referencing a lien under section one, or (b) it appears from the notice of contract or a statement of account that the claimant has no valid lien by reason of the character of, or the contract for, the labor or materials or rental equipment, appliances or tools furnished and for which a lien is claimed, or (c) that a notice or other instrument has not been filed or recorded in accordance with the applicable provisions of this chapter, or (d) that for any other reason a claimed lien is invalid by reason of failure to comply with any provision of this chapter, or (e) that any party's rights are foreclosed by a judgment or release, or (f) that any party wrongfully refuses to execute a notice of completion as required by section two A or improperly files or records a notice of termination under section two B, such person may apply to the superior court for the county where such land lies or in the district court in the judicial district where such land lies, for an order (i) ruling on the matter involved or (ii) summarily discharging of record the alleged lien or notice as the case may be. The holder of any recorded mortgage upon the affected property shall receive notice of and be entitled to appear and be heard in any proceeding brought under this section. An order of notice to appear and show cause why the relief demanded in the complaint should not be granted shall be served upon the necessary parties no later than seven days prior to the date of the scheduled hearing. If the necessary parties cannot be found, such service may

be made as the court shall direct. The application shall be made upon a verified complaint accompanied by other written proof of the facts upon which the application is made. Upon granting or denying the application, the court shall enter a final judgment on the matter involved or expeditiously order such further proceedings as are just.

SECTION 16. Section 21 of said chapter 254, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- If all the claims against the property covered by the lien were ascertained at the time of ordering the sale and if the proceeds of the sale are sufficient therefor, the court may order the officer to distribute them, after deducting all lawful charges and expenses of such officer, to and among the several creditors to the amount of their respective debts, with interest, or, if insufficient, to distribute the same among the lien creditors pursuant to this chapter in proportion to the amount due to each, regardless of the date upon which each such lien creditor filed a notice of contract.

SECTION 17. Said section 21 of said chapter 254, as so appearing, is hereby further amended by adding the following sentence:- Notwithstanding the foregoing, proceeds of the sale shall be distributed to mortgagees entitled to priority pursuant to this chapter in the amounts given priority thereunder, before proceeds are distributed to creditors whose liens arise under this chapter.

SECTION 18. Section 27 of said chapter 254, as so appearing, is hereby amended by striking out, in line 16, the words "Said contract is to be completed on or before .".

SECTION 19. Section 28 of said chapter 254, as so appearing, is hereby amended by striking out, in line 12, the words "Said contract is to be completed on or before .".

SECTION 20. Said section 28 of said chapter 254, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Such notice may also be filed by a person, or his assignee, agent, authorized representative or third party beneficiary to whom amounts are due or for whose benefit amounts are computed and due for or on the basis of that person performing labor under a written contract with a contractor, or with a subcontractor of such contractor.

SECTION 21. Section 30 of said chapter 254, as so appearing, is hereby amended by adding the following three paragraphs:-

Any notice or other instrument required or permitted to be filed or recorded by this chapter in the registry of deeds or in the land registration district of the land court that is in the form required by this chapter and executed before a notary public, justice of the peace or other officer entitled by law to take acknowledgements with respect to instruments, whether executed within or without the commonwealth, by a person purporting to hold the position of president, vice president, treasurer, clerk, secretary, or any assistant to the foregoing, principal, partner, proprietor, trustee, attorney or other similar position, of the entity entitled to record or file such instruments on behalf of such entity acting in its own capacity or as a general partner or co-venturer, or as assignee, agent or authorized representative, shall be binding upon such entity and shall be entitled to be recorded or filed, and no vote of the entity affirming such authority shall be required to permit recording or

filing. A certificate of the acknowledgement or other proof of due execution shall be endorsed upon or annexed to such instrument, and filed or recorded with it.

Such notices, and all other instruments required or permitted by this chapter to be filed or recorded in the registry of deeds, affecting registered land shall be filed and registered in the manner prescribed by section seventy-eight of chapter one hundred and eighty-five. Such notices, and all other instruments required or permitted by this chapter to be filed or recorded in the registry of deeds, affecting unregistered land shall be indexed in a separate book to be kept for that purpose.

If registered land is included with unregistered land in any such notice or other instrument, an attested copy thereof shall be filed with the assistant recorder and registered.

SECTION 22. Said chapter 254 is hereby further amended by striking out section 32, as so appearing, and inserting in place thereof the following section:-

Section 32. A covenant, promise, agreement of understanding in, or in connection with or collateral to, a contract or agreement relative to the construction, alteration, repair or maintenance of a building, structure, appurtenance and appliance or other improvement to real property, including moving, demolition and excavating connected therewith, purporting to bar the filing of a notice of contract or the taking of any steps to enforce a lien as set forth in this chapter or purporting to subordinate such rights to the rights of other persons is against public policy and is void and unenforceable, but this section shall not apply to:

(1) waivers of liens given by any person named as a principal on a lien bond provided under section twelve in connection with an interim or final payment received by such persons;

(2) statements by persons entitled to file documents under this chapter of amounts due or paid to them;

(3) dissolutions of liens under section ten;

(4) partial waivers and subordinations of liens given by persons who have filed or recorded notices of contract under section two substantially in the following form with no material deviation therefrom:

Partial Waiver and Subordination of Lien

COMMONWEALTH OF MASSACHUSETTS: Date: _____

_____ COUNTY Application for Payment No: _____

OWNER: _____

CONTRACTOR: _____

LENDER/MORTGAGEE: _____

1. Original Contract Amount: $_____
2. Approved Change Orders: $_____
3. Adjusted Contract Amount: $_____
   (line 1 plus 2)
4. Completed to Date: $_____
5. Less Retainage: $_____

6. Total Payable to Date: $_____
(line 4 less line 5)
7. Less Previous Payments: $_____
8. Current Amount Due: $_____
(line 6 less line 7)
9. Pending Change Orders: $_____
10. Disputed Claims: $_____

The undersigned who has a contract with _____ for furnishing labor or materials or both labor and materials or rental equipment, appliances or tools for the erection, alteration, repair or removal of a building or structure or other improvement of real property known and identified as _____ located in _____(city or town), _____ County, Commonwealth of Massachusetts and owned by _____, upon receipt of _____ ($_____) in payment of an invoice/requisition/application for payment dated_____ does hereby:

(a) waive any and all liens and right of lien on such real property for labor or materials, or both labor and materials, or rental equipment, appliances or tools, performed or furnished through the following date: _____ (payment period), except for retainage, unpaid agreed or pending change orders, and disputed claims as stated above; and

(b) subordinate any and all liens and right of lien to secure payment for such unpaid, agreed or pending change orders and disputed claims, and such further labor or materials, or both labor and materials, or rental equipment, appliances or tools, except for retainage, performed or furnished at any time through the twenty-fifth day after the end of the above payment period, to the extent of the amount actually advanced by the above lender/mortgagee through such twenty-fifth day.

Signed under the penalties of perjury this _____ day of _____, _____.

The giving of a partial waiver and subordination of lien by any contractor under this section shall not affect the lien rights of any other person claiming a lien under any section of this chapter.

SECTION 23. Said chapter 254 is hereby further amended by adding the following section:-

Section 33. Except with respect to any construction project containing or designed to contain at least one but not more than four dwelling units, the filing or recording of documents claiming a lien under section two, or the filing or recording of a statement pursuant to section eight in furtherance of a lien arising pursuant to section one, shall not itself be grounds for a mortgagee to withhold sums for the funding, financing or payment for the labor or labor and materials for which any such notice or statement is filed or recorded or to require dissolution of such notice or statement before providing further funding, financing or payments, and any covenant, promise, agreement or understanding relative to the improvement or alteration to real property to withhold such funding, financing or payment or to require dissolution of such notice or statement before providing further funding, financing or payments solely on that ground is against public policy and void and

unenforceable; provided, however, that nothing contained in this chapter shall obligate a mortgagee to disburse sums for the funding, financing or payment for the labor or labor and materials for which any such notice or statement is filed or recorded unless such mortgagee has received an accurately completed and valid partial waiver and subordination of lien in the form set forth in clause (3) of section thirty-two from the person who filed or recorded such notice or statement; provided, further that nothing in this chapter shall in any manner limit or restrict the right of any mortgagee to withhold any and all sums for the funding, financing, or payment for labor or labor and materials based upon: (a) the failure of the owner to comply with any other terms, conditions or requirements in any agreement providing for the funding of the loan, the repayment of the loan or of any mortgage securing any such agreement or (b) the filing or recording of documents claiming a lien under section four, if the right to withhold is contained in any agreement providing for the funding of the loan, the repayment of the loan, or any mortgage securing such agreement, except that such right to withhold shall not be effective to bar the filing of a notice of contract or the taking of any steps to enforce a lien.

SECTION 24. This act shall apply to labor performed or materials furnished in the erection, alteration, repair or removal of a building or structure or other improvement to real property for which any person has filed or recorded the first mortgage or notice of contract on an interest in real property at least three months after the effective date of this act; provided, however, that this act shall not apply to any mortgage executed and recorded at the appropriate registry of deeds prior to the effective date of this act.

Approved August 9, 1996.

Chapter 365. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR NINETEEN HUNDRED AND NINETY-SIX TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately make or supplement appropriations for the fiscal year ending June thirtieth, nineteen hundred and ninety-six, and to make certain changes in the law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The fifth sentence of paragraph (a) of section 4A of chapter 7 of the General Laws, as appearing in section 35 of chapter 151 of the acts of 1996, is hereby amended by striking out the words "equipment, services and real property leases, excepting the acquisition of such goods, supplies, equipment, services and real property leases" and

inserting in place thereof the following words:- equipment and services, excepting the acquisition of such goods, supplies, equipment and services.

SECTION 2. Section 9A of chapter 8 of the General Laws is hereby amended by striking out the word "thirty-five O", inserted by section 11 of chapter 15 of the acts of 1996, and inserting in place thereof the following word:- thirty-five P.

SECTION 3. Section thirteen of said chapter eight of the General Laws is hereby repealed.

SECTION 4. Section 1 of chapter 15A of the General Laws is hereby amended by striking out the words "through participation in the coordinating council established by section three of chapter fourteen A", as appearing in section 45 of said chapter 151.

SECTION 5. Subsection (a) of section 1 of chapter 23 of the General Laws, as appearing in section 111 of said chapter 151, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Within the executive branch, but not within the executive department, there shall be a department of labor and workforce development, in this chapter called the department.

SECTION 6. Subsection (a) of section 1 of chapter 23A of the General Laws, as appearing in section 122 of said chapter 151, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be in the executive branch, but not within the executive department a department of economic development, hereinafter referred to as the department, which shall be under the supervision and control of a director of economic development, hereinafter referred to as the director.

SECTION 7. Chapter 23B of the General Laws is hereby amended by striking out sections 1 and 2, as amended by section 125 of said chapter 151, and inserting in place thereof the following two sections:-

Section 1. There shall be in the executive branch, but not within the executive department, a department of housing and community development, hereinafter referred to as the department, which shall be under the supervision and control of a director of housing and community development, hereinafter referred to as the director. The director shall be appointed by the governor for a term coterminous with that of the governor and shall not be subject to the provisions of chapter thirty-one or section nine A of chapter thirty. Upon expiration of the term of office of the director or in the event of a vacancy, a successor shall be appointed by the governor for a term coterminous with that of the governor. The director shall devote his full time during business hours to the duties of his office. The director shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the provisions of law relative to the department and to each administrative unit thereof, except as provided in the second paragraph of section two; provided, however, that the director may authorize any officer of the department to exercise in his name any power or to discharge any duty assigned to him by law, and may at any time revoke such authority. The director shall receive such salary as the governor shall determine, provided that such salary is equivalent to the salary received by the director of labor and workforce development, the director of economic development, and the director of consumer affairs and business regulation.

Section 2. There shall be within the department such divisions as the director may establish for its efficient operation. Each such division shall be under the charge of an associate director who shall be appointed by the director and who shall be subject to the direction, control and supervision of the director. Each associate director shall be a person of skill and experience in the field of his appointment and shall be appointed and may be removed by the director. The position of associate director shall not be subject to the provisions of chapter thirty-one or section nine A of chapter thirty. Each associate director shall devote his full time during business hours to the duties of his office.

There shall also be within the department the Massachusetts Housing Finance Agency, the Massachusetts Home Mortgage Finance Agency, the Massachusetts Housing Partnership, the Community Economic Development Assistance Corporation, the Massachusetts Community Development Finance Corporation, the manufactured homes commission, the commission on Indian affairs, and the American and Canadian French Cultural Exchange Commission. The department shall provide general policy guidance for these public instrumentalities, but shall not exercise any supervision or control with respect to such instrumentalities, except to the extent otherwise provided by law.

SECTION 8. Subsection (a) of section 1 of chapter 24A of the General Laws, as appearing in section 148 of said chapter 151, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be in the executive branch, but not within the executive department an office of consumer affairs and business regulation, hereinafter referred to as the office.

SECTION 9. Section 49B of chapter 29 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The state treasurer may enter into agreements with brokers for the placement of any such commonwealth notes issued as commercial paper; provided, however, that the total principal amount of all such notes placed by brokers shall not exceed four hundred million dollars at any given time on those notes issued in anticipation of bonds.

SECTION 10. The first sentence of section 51 of chapter 30 of the General Laws, as appearing in section 168 of chapter 151 of the acts of 1996, is hereby further amended by striking out the words "equipment, services and real property leases" and inserting in place thereof the following words:- equipment and services.

SECTION 11. Section 52 of said chapter 30 is hereby amended by striking out the words "goods, supplies, equipment, services or real property leases", inserted by section 169 of said chapter 151, and inserting in place thereof the following words:- goods, supplies, equipment or services.

SECTION 12. The second sentence of the first paragraph of section 13A of chapter 118E of the General Laws, as appearing in section 272 of said chapter 151, is hereby amended by striking out the words "Prior to said October first" and inserting in place thereof the following words:- Prior to its first fiscal year beginning on or after October first, nineteen hundred and ninety-seven.

SECTION 13. The first sentence of section 14 of chapter 131 of the General Laws,

as most recently amended by section 289 of chapter 151 of the acts of 1996, is hereby further amended by striking out the words "July first, nineteen hundred and ninety-six" and inserting in place thereof the following words:- January first, nineteen hundred and ninety-seven.

SECTION 14. Section 4A of chapter 175 of the General Laws, as inserted by section 3 of chapter 93 of the acts of 1996, is hereby amended by striking out the words "to the owners" and inserting in place thereof the following words:- for the owners.

SECTION 15. Said section 4A of said chapter 175 of the General Laws, as inserted by section 3 of chapter 93 of the acts of 1996, is hereby amended by striking out, in line 1, the word "every" and inserting in place thereof the following words:- As of July first, nineteen hundred and ninety-six, and annually thereafter, each.

SECTION 16. The last paragraph of section 47C of chapter 175 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party, with a maximum benefit of three thousand two hundred dollars per year per child and an aggregate benefit of nine thousand six hundred dollars over the total enrollment period.

SECTION 17. Subsection (e) of section 4 of chapter 175C of the General Laws, as appearing in section 9 of chapter 93 of the acts of 1996, is hereby amended by striking out paragraph (1) and inserting in place thereof the following paragraph:-

(1) All members of the association shall participate in its writing, expenses, profits and losses in the proportion that the premiums written by each such member for basic property insurance, as defined in section one, except premiums for insurance on automobile and manufacturing risks excluded from the plan and that portion of the premiums attributable to the operation of the association during the preceding calendar year, bear to the aggregate premiums for such insurance written in the commonwealth by all members of the association. Such participation by each insurer in the association shall be determined annually on the basis of such premiums written during the preceding calendar years as disclosed in the annual statements and other reports filed by the insurer with the commissioner.

SECTION 18. Section one hundred and thirty-four of chapter one hundred and thirty-three of the acts of nineteen hundred and ninety-two is hereby repealed.

SECTION 19. Section 2 of chapter 38 of the acts of 1995 is hereby amended by striking out item 4000-0105 and inserting in place thereof the following item:-

4000-0105 The executive office of health and human services is hereby authorized to expend federal reimbursements generated pursuant to an initiative to restructure the financing and delivery of children's and family services in an amount not to exceed three million dollars; provided, that the expenditure of said reimbursements shall be contingent upon receipt of an Annie E. Casey foundation program implementation grant; provided further, that federal reimbursements so generated shall not be expended unless certified by the secretary of administration and finance to exceed

either federal reimbursement estimates as appearing in sections one A and one B of this act, or said estimates as adjusted for revenue reductions directly attributable to expenditure reductions in federally reimbursed accounts of the department of transitional assistance; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of any such adjustments of said federal reimbursement estimates; 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 estimates or credited to this item; provided further, that the secretary of administration and finance 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 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 of administration and finance; and provided further, that thirty-one thousand seventy dollars shall be expended for the planning of a family service center in the cities of Lawrence and Northampton pursuant to section one hundred and thirty-seven of chapter five of the acts of nineteen hundred and ninety-five $3,000,000

SECTION 20. Item 1599-3100 of section 2B of said chapter 38 is hereby amended by striking out the figure "13,632,684" and inserting in place thereof the following figure:- 13,857,684.

SECTION 21. Chapter 102 of the acts of 1995 is hereby amended by adding after section 14 the following section:-

Section 14A. The Massachusetts Turnpike Authority is hereby authorized and directed to allow private passenger vehicles registered to owners residing in the South Boston, East Boston, and North End sections of the city of Boston, as the Boston transportation department has determined the geographical boundaries of said sections, to use the Ted Williams tunnel without restriction. Toll charged to said owners shall be consistent with the provisions of section fourteen.

SECTION 22. Item 4000-0821 in section 2A of chapter 120 of the acts of 1995 is hereby amended by striking out the words "shall revert to the General Fund" and inserting in place thereof the following words:- shall be used by the division for payments defined in item 4000-0823 below.

SECTION 23. Item 4000-0822 of said section 2A of said chapter 120 is hereby amended by striking out the words "shall revert to the General Fund" and inserting in place

thereof the following words:- shall be used by the division for payments defined in item 4000-0823.

SECTION 24. Section 17 of chapter 93 of the acts of 1996 is hereby amended by striking out in the fifth line the number "(1)" and inserting in place thereof the following number:- (2).

SECTION 25. Item 1410-0400 of section 2 of chapter 151 of the acts of 1996 is hereby amended by inserting after the words "General Laws" the following words:- ; and, provided further, that any city or town which failed to file a timely reimbursement report for veterans' benefits paid during fiscal years nineteen hundred and eighty-nine through nineteen hundred and ninety-five, inclusive, may file with the commissioner for owed reimbursement within ninety days of the effective date of this act.

SECTION 26. Said section 2 of said chapter 151 is hereby further amended by inserting after item 1599-0013 the following item:-

1599-0033 For a reserve to promote departmental revenue optimization projects authorized by and subject to the provisions of section six hundred and eighty-three A of this act $7,500,000
Revenue Maximization Fund 100.0%

SECTION 27. Said section 2 of said chapter 151, as amended by section 74 of the final deficiency appropriations act of fiscal year nineteen hundred and ninety-six, so-called, is hereby further amended by striking out item 1599-0093 and inserting in place thereof the following item:-

1599-0093 For contract assistance to the water pollution abatement trust for debt service obligations of the trust, in accordance with the provisions of sections six and 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 $24,600,000
Local Aid Fund 91.87%
Commonwealth Cost Relief Fund 8.13%

SECTION 28. Item 1775-0100 of said section 2 of said chapter 151 is hereby amended by adding the following words:- ; and provided further that notwithstanding the provisions of any general or special law or regulation to the contrary, the annual tuition price set in fiscal year nineteen hundred and ninety-seven to the Carroll School in the town of Lincoln shall be eighteen thousand dollars.

SECTION 29. Said section 2 of said chapter 151 is hereby further amended by inserting after item 1775-0100 the following new item:-

1775-0105 For the payment of lump sum settlements in department of industrial accident cases I.A.B. No. 023601-91 and I.A.B. No. 77116-91 . $175,000

SECTION 30. Said section 2 of said chapter 151 is hereby further amended by striking out item 4000-0105 and inserting in place thereof the following item:-

4000-0105 The executive office of health and human services is hereby authorized to expend federal reimbursements generated pursuant to an

initiative to restructure the financing and delivery of children's and family services in an amount not to exceed three million dollars; provided, that the expenditure of said reimbursements shall be contingent upon receipt of an Annie E. Casey foundation program implementation grant; provided further, that federal reimbursements so generated shall not be expended unless certified by the secretary of administration and finance to exceed either federal reimbursement estimates as appearing in sections one A and one B of this act, or said estimates as adjusted for revenue reductions directly attributable to expenditure reductions in federally reimbursed accounts of the department of transitional assistance; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of any such adjustments of said federal reimbursement estimates; 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 estimates or credited to this item; provided further, that the secretary of administration and finance 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 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 of administration and finance; and provided further, that thirty-one thousand seventy dollars shall be expended for the planning of a family service center in the cities of Lawrence and Northampton pursuant to section one hundred and thirty-seven of chapter five of the acts of nineteen hundred and ninety-five, prior appropriation continued $3,000,000

SECTION 31. Item 4000-0800 of said section 2 of said chapter 151 is hereby amended by adding the following words:- ; provided further, that notwithstanding the provisions of this item or any general or special law to the contrary, not more than nine hundred and sixty-eight thousand dollars as certified by the rate setting commission in appeal documents RS-91-353, RS-93-1177, RS-93-536, RS-94-128 and RS-95-311 and by the division of medical assistance, shall be expended from this item for rate adjustment owed to the geriatric authority of Holyoke for allowable pension costs; and provided further, that said rate adjustments shall be paid not later than September first, nineteen hundred and ninety-six.

SECTION 32. Said section 2 of said chapter 151 is hereby further amended by in-

serting after item 7003-0601 the following new item:-

7003-0602 For the "Summer Nights" program in the city of Haverhill $25,000

SECTION 33. Said section 2 of said chapter 151 is hereby amended by striking out item number "7004-0300", the first time it appears, and inserting in place thereof the following item number "7004-0310".

SECTION 34. Item 7007-0900 of said section 2 of said chapter 151 is hereby amended by inserting after the words "for any marketing and advertising program undertaken with funds appropriated herein" the following words:- ; provided further, that not less than two million dollars shall be expended for a program of international tourism promotion and marketing.

SECTION 35. Item 7061-0011 of said section 2 of said chapter 151 is hereby amended by inserting after the words "for the town of Holbrook" the following words:- ; provided further, that one hundred and fifty thousand dollars shall be expended for the high enrollment growth community of Norton.

SECTION 36. Item 7061-9611 of said section 2 of said chapter 151 is hereby amended by striking out the words ", provided further, that one million dollars shall be expended for service corps and community-based service-learning programs administered by the Massachusetts national and community service commission" and inserting in place thereof the following words:- ; provided further, that five hundred thousand dollars shall be expended for service corps and community-based service-learning programs administered by the Massachusetts national and community service commission.

SECTION 37. Said section 2 of said chapter 151 is hereby further amended by inserting after item 8000-0110 the following new item:-

8000-0120 For the purpose of implementing a sex offender registry program, including, but not limited to, the costs of establishing a computerized registry system and the classification of persons subject to said registry; provided, that the sex offender registry board shall appoint an executive director to administer said program who shall not be considered to be a state employee; provided further, that staff and any board members compensated from this item shall not be considered state employees; provided further, that said board shall complete the classification of persons not later than June thirtieth, nineteen hundred and ninety-eight; and, provided further, that said board shall file with the joint committee on criminal justice and the house and senate committees on ways and means an implementation plan for said program not later than October first, nineteen hundred and ninety-six $300,000

Highway Fund 50.0%

Local Aid Fund 50.0%

SECTION 38. Said section 2 of said chapter 151 is hereby further amended by striking out item number "8314-1000" and inserting in place thereof the following item

number:- 8324-1000.

SECTION 39. Said section 2 of said chapter 151 is hereby further amended by striking out item number "8314-1100" and inserting in place thereof the following item number:- 8324-1100.

SECTION 40. Said section 2 of said chapter 151 is hereby further amended by striking out item number "8314-1200" and inserting in place thereof the following item number:- 8324-1200.

SECTION 41. Said section 2 of said chapter 151 is hereby further amended by striking out item number "8314-1300" and inserting in place thereof the following item number:- 8324-1300.

SECTION 42. Said section 2 of said chapter 151 is hereby further amended by striking out item number "8314-1400" and inserting in place thereof the following item number:- 8324-1400.

SECTION 43. Said section 2 of said chapter 151 is hereby further amended by striking out item number "8350-0100" and inserting in place thereof the following item number:- 8324-1500.

SECTION 44. Said chapter 151 is hereby amended by striking out section 587 and inserting in place thereof the following section:-

Section 587. Notwithstanding the provisions of any general or special law to the contrary, the division of workforce development, in cooperation with the board of education and the Massjobs council, is hereby authorized to establish and support a public-private partnership to link high school students with economic and learning opportunities on the job as part of the school-to-work transition program. Said program may include, subject to appropriation, the award of matching grants to regional employment boards or other local recognized public-private partnerships involving local community job commitments and work site learning opportunities for students; provided, however, that such grants shall require at least two hundred percent match in wages for such students from private sector participants. The program shall include, but not be limited to, a provision that business leaders commit resources to pay salaries, to provide mentoring and instruction on the job and to work closely with teachers, and a provision that, subject to appropriation, public funds shall assume the cost of connecting schools and businesses to work to ensure that such students serve productively on the job.

SECTION 45. Section 671 of said chapter 151 is hereby amended by inserting after the word "Association,", in line 10, the following words:- one county commissioner to be appointed by the Massachusetts Association of County Commissioners and one person to be appointed by the Governor.

SECTION 46. Section 672 of said chapter 151 is hereby amended by inserting after the word "Deeds,", in line 10, the following words:- one county commissioner to be appointed by the Massachusetts Association of County Commissioners and one person to be appointed by the Governor.

SECTION 47. Said chapter 151 is hereby amended by inserting after section 683 the following section:-

Section 683A. Notwithstanding the provisions of any general or special law to the contrary, except for sections fifty-two to fifty-five, inclusive, of chapter seven of the General Laws, the secretary of administration and finance is hereby authorized and directed in fiscal year nineteen hundred and ninety-seven to identify and pursue projects to optimize non-tax revenue management and collections by the commonwealth. The secretary or his designee is further authorized to enter into contracts with private vendors and to enter into interagency service agreements with departments to identify and pursue said projects. Private vendors shall be compensated from non-tax revenues collected by such projects in excess of the non-tax revenues established by said contracts as the minimum to be collected by each such project. For the purposes of this section, such payments to vendors for services performed shall be known as "vendor participation payments" and non-tax revenue collected pursuant to this section, after deduction of vendor participation payments, shall be known as "net additional revenue". For the purpose of this section the terms "departments" or "participating departments" shall mean any department, agency, board, commission, office or institution under the executive control of the governor or other constitutional officers and determined by the secretary to be participating in the revenue optimization projects authorized by this section.

In no case shall a vendor be compensated if the revenues collected for a revenue source do not exceed the highest amount collected for said revenue source for a fiscal year during the base period; provided, however, that in the event of revenue sources which are caseload driven federal reimbursements, so called, the vendor shall not be compensated unless the ratio of said revenue source to the reimbursable expenditure has exceeded the highest said ratio during the base period. For the purpose of this section the term "base period" shall refer to the fiscal years beginning on July first, nineteen hundred ninety and ending on June thirtieth, nineteen hundred ninety-six; provided, however, that revenues which are attributable to a new fee or a newly reimbursable service or clientele shall be considered to have a base period revenue level of zero.

In no case shall a department receive an allocation or reallocation for collection of a fee or any other non-tax revenue from which the commonwealth collected revenues in any fiscal year between nineteen hundred and ninety-one through nineteen hundred and ninety-six, inclusive, if the net additional revenue attributable to the collection of said fee or other non-tax revenue is less than the highest amount of revenue collected from said fee or other non-tax revenue in any of the aforementioned fiscal years; provided, however, that said net additional revenues shall only be those amounts collected which are in excess of the amounts projected in section one B for each department, office, commission and agency or successor. The commonwealth shall retain all rights in software programs developed pursuant to any contract executed under this section.

The comptroller shall deposit in the revenue maximization fund, established by section two R of chapter twenty-nine of the General Laws, all monies collected pursuant to the provisions of this section. The comptroller is hereby authorized to allocate from said fund, upon direction of the secretary of administration and finance, up to the amount of the appropriation contained in line 1599-0033 of section two to participating departments; pro-

vided, however, that any amount so allocated shall be in excess of the first fifty-seven million, five hundred thousand dollars in net additional revenues credited to said fund consistent with this section; provided further, that the secretary may allocate the first two million five hundred thousand dollars from said item when the net additional revenues credited to said fund in the fiscal year are at least thirty-two million, five hundred thousand dollars; provided further, that the secretary may allocate the second two million five hundred thousand from said item when the net additional revenues credited to said fund in the fiscal year are at least fifty million dollars; and provided further, that the final two million, five hundred thousand dollars may be allocated when the amount credited to said fund in the fiscal year is at least sixty-five million dollars. Eighty-five percent of said appropriation shall be distributed to participating departments in proportion to the amount of revenues collected by said department as a percent of the total amount of revenues collected under the provisions of this section. The remaining fifteen percent shall be evenly distributed to all participating departments regardless of the amount of revenues collected by each individual department. The comptroller shall transfer to the General Fund, at the close of the fiscal year, after providing for vendor participation payments, the first fifty-seven million, five hundred thousand dollars in net additional revenues and any balance remaining in said fund after providing for said allocations. No expenditure shall be made from said revenue maximization fund which would cause said fund to be in deficit at the close of the fiscal year.

Departments receiving allocations pursuant to said item 1599-0033, subject to the provisions of this section, may expend such funds without appropriation after obtaining the written approval of said secretary or his designee of a plan detailing said proposed expenditures, allocations and reallocations and filing said approved plan with the house and senate committees on ways and means which shall be filed with said committees ten days in advance of any allocation or reallocation. All expenditures made pursuant to the provisions of this section and item 1599-0033 shall be for one-time expenses which shall not recur in fiscal year nineteen hundred and ninety-eight or a subsequent fiscal year. No expenditures authorized by the provisions of this section and said item 1599-0033 shall supplant funds appropriated in any item of appropriation in sections two or two B or in sections two or two A of any supplemental appropriations act enacted in fiscal year nineteen hundred and ninety-seven or a subsequent fiscal year. For the purposes of this section, the term "supplant" shall be defined as expenditures made for any purpose which receive an appropriation in this act or a subsequent appropriation act. Any unexpended balance from said allocations at the end of each fiscal year shall revert to the General Fund unless said spending plan has been approved by the secretary as a multi-year expenditure.

The comptroller shall report, on or before the last day of January, to the house and senate committees on ways and means on the results and operations of the revenue optimization projects authorized by this section, for the six month period ending the preceding month. Such information shall detail, by each vendor, project and department: the amount of vendor participation payments paid to each such vendor, the net additional revenues retained by the commonwealth, the amounts allocated or reallocated to each such

participating department, pursuant to said item 1599-0033 and this section, and the estimated annual receipts, payments and allocations for the fiscal year.

The comptroller shall report to the house and senate committees on ways and means, on or before July thirty-first of each year, the preceding information for the prior fiscal year and the total of all vendor participation payments made to each vendor and the net commonwealth receipts collected by each project over the duration of the project.

On or before July thirty-first of each fiscal year, the comptroller, after approval of said secretary, shall submit to the house and senate committees on ways and means a plan detailing, by executive office and department, the net additional revenues estimated to be collected under the provisions of this section in the fiscal year.

SECTION 48. Said chapter 151 is hereby further amended by inserting after section 689 the following section:-

Section 689A. Section two hundred and seventy-two shall take effect on July first, nineteen hundred and ninety-seven.

SECTION 49. Item 1599-3801 of said section 2A of said chapter 154 is hereby amended by inserting after the words, "supreme judicial court" the following words:- including the board of bar examiners, commission on judicial conduct, and the mental health legal advisors committee,.

SECTION 49A. Said item 1599-3801 of said section 2A of said chapter 154 is hereby further amended by striking out the figure "3,474,814" and inserting in place thereof the following figure:- 3,518,323.

SECTION 50. Item 1599-3802 of section 2A of chapter 154 of the acts of 1996 is hereby amended by inserting after the words, "supreme judicial court" the following words:- including the board of bar examiners, commission on judicial conduct, and the mental health legal advisors committee,.

SECTION 50A. Said item 1599-3802 of said section 2A of said chapter 154 is hereby further amended by striking out the figure "18,223,026" and inserting in place thereof the following figure:- 18,251,639.

SECTION 51. Item 1599-3802 of section 2C of said chapter 154 is hereby amended by striking out the figure "18,223,026" and inserting in place thereof the following figure:- 18,251,639.

SECTION 52. Item 2200-0001 of section 2A of the final deficiency appropriations act of fiscal year 1996, so-called, is hereby amended by inserting after the word "authorities" the following words:- ; and, provided further, that two hundred thousand dollars shall be provided in grant monies to the town of Holliston for data collection and studies necessary to determine the wasteload allocation in the Charles River for the Charles River Lakes District, including treatment and monitoring.

SECTION 53. Item 1599-3803 of section 2C.I of of the final deficiency appropriations act of fiscal year 1996, so-called, is hereby amended by striking out the figure "3,474,814" and inserting in place thereof the following figure:- 3,518,323.

SECTION 54. The final deficiency appropriations act of fiscal year 1996, so-called, is hereby amended by striking out section 72 and inserting in place thereof the following

section:-

Section 72. Said section 2 of said chapter 151 is hereby amended by inserting, after item 1231-1000, the following two items:

1231-1010 For an additional contribution to the sewer rate relief fund established by section two Z of chapter twenty-nine of the General Laws, notwithstanding the provisions of section six hundred and ten; provided, that not less than one hundred and fifty thousand dollars shall be expended from this item for a study of water and sewer needs in the towns of Wilbraham and South Hadley and in the city of Chicopee; and, provided further, that not less than three hundred and ten thousand dollars shall be expended for the debt service costs associated with the metro-west water supply tunnel, so-called $8,000,000

Commonwealth Cost Relief Fund 100.0%

1231-1020 For a program of loan guarantees and interest subsidies to assist homeowners in complying with the revised state environmental code for subsurface disposal of sanitary waste, Title V, so called; provided, that said program shall be in addition to the loan established pursuant to item 2200-9959 in section two of chapter eighty-five of the acts of nineteen hundred and ninety-four; provided further, that the department may contract with third parties including, but not limited to, commonwealth-based financial institutions to manage said program; provided further, that the department and said third parties shall take all steps necessary to minimize said program's administrative costs; provided further that said loan guarantees shall be available on the basis of a sliding scale that relates a homeowner's income and assets to the cost of Title V compliance; provided further, that interest subsidies shall be means-tested and may be for zero interest loans pursuant to income standards developed by the department; provided further, that, the department of revenue shall consult with the department of environmental protection in developing rules, regulations and guidelines for said programs; provided further, that said rules, regulations and guidelines shall be developed not later than October first, nineteen hundred and ninety-six and shall be submitted for review to the joint committee on natural resources and agriculture and the house and senate committees on ways and means not less than thirty days prior to their promulgation; and provided further, that not more than seventy-five thousand dollars of the amount appropriated herein shall be made available for expenditure by the town of Acton for the development and initial implementation of geo-

graphical information system or other data management for local administration of a Title V administration program $13,175,000
Commonwealth Cost Relief Fund 100.0%

SECTION 55. The final deficiency appropriations act of fiscal year 1996, so-called, is hereby amended by striking section 60 and inserting in place thereof the following new section:-

Section 60. The fourth paragraph of section 347 of said chapter 38 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- On or before June thirtieth, nineteen hundred and ninety-seven, the commission shall issue a final report containing findings and recommendations regarding regionalization, joint or cooperative agreements, and improved coordination of local government services in the Greater Boston area.

SECTION 56. Section 76 of the final deficiency appropriations act of fiscal year 1996, so-called, is hereby repealed.

SECTION 57. The final deficiency appropriations act of fiscal year 1996, so-called, is hereby amended by striking out section 103 and inserting in place thereof the following section:-

Section 103. Said section 2 of said chapter 151 is hereby amended by striking out items 7003-6628, 7003-6629 and 7003-6630.

SECTION 58. The final deficiency appropriations act of fiscal year 1996, so-called, is hereby amended by striking out section 104 and inserting in place thereof the following section:-

Section 104. Said section 2 of said chapter 151 is hereby amended by inserting after item 7002-6626 the following three items:-

7002-6628 For the purposes of a federally funded grant entitled, Disabled Veterans Outreach Program $2,050,000

7002-6629 For the purposes of a federally funded grant entitled, Local Veterans Employment Representative Program $1,434,285

7002-6630 For the purposes of a federally funded grant entitled, Massachusetts Occupational Information Coordinating Committee Administration $140,100

SECTION 59. There is hereby established a special commission for the purpose of developing recommendations relative to the commonwealth's reimbursement and regulatory policies toward chronic disease and rehabilitation hospitals in the context of deregulating non-acute hospital charge and rate controls. Said special commission shall consist of three members of the house of representatives, three members of the senate and five members to be appointed by the governor, one of whom shall represent the division of medical assistance, one of whom shall represent the department of public health, one of whom shall be nominated by the Massachusetts hospital association, one of whom shall represent chronic disease hospitals and one of whom shall represent rehabilitation hospitals. Said special commission shall examine the effects of deregulation, including the transition to medicaid selective contracting and negotiated rates of payment, on the finances and costs of said

hospitals and on the medical assistance program established pursuant to chapter one hundred and eighteen E of the General Laws. Said special commission shall evaluate the implications of establishing administratively necessary day rates on the cost structure and cashflow of said hospitals, including the effects of said rates on cost reductions that would affect payments under Title XVIII of the Social Security Act. Said special commission shall evaluate the cost and policy implications of establishing medicaid payment adjustments for public payor-dependent non-acute hospitals as defined by section one of said chapter one hundred and eighteen G of the General Laws and shall develop reasonable criteria and standards for defining such hospitals, if, in the opinion of said special commission, it is established that such payment adjustments are necessary in the context of deregulating non-acute hospital charges and rate controls. Said special commission shall further evaluate the role of such hospitals in the continuum of health care provider settings, including, acute hospitals, subacute hospitals, transitional care settings, nursing facilities and community-based home health care. Said special commission shall finally evaluate the possibilities of implementing payments systems that reflect patient diagnoses and acuity. Said special commission shall file a report of its recommendations, including any proposals for legislation and regulation necessary to effectuate said recommendations, with the joint committee on health care and the house and senate committees on ways and means no later than April first, nineteen hundred and ninety-seven. The division of health care finance and policy is hereby authorized and directed to prepare analyses of said hospitals' finances and rates of payment that are determined necessary to assist the task force in its deliberations.

SECTION 60. Notwithstanding the provisions of section thirteen A of chapter one hundred and eighteen E and chapter one hundred and eighteen G of the General Laws or any other general or special law to the contrary, in hospital fiscal year nineteen hundred and ninety-seven, a public payor-dependent non-acute hospital as defined herein shall be eligible for rates including any administratively necessary day rates and terms of payment from the division of medical assistance that shall, at a minimum, be no less than the rate and terms of payment promulgated for each such hospital pursuant to former section thirty-two of chapter six A of the General Laws as effective on June thirtieth, nineteen hundred and ninety-six, expressed as a per-diem to reflect the costs incurred in treating the beneficiaries of the medical care and assistance program, and which shall be adjusted from a base year of nineteen hundred and ninety-four to said hospital fiscal year to account for (1) the rate of inflation in the economy generally, as measured by a composite price index to be specified in regulations promulgated by the division of health care finance and policy; (2) any increase beyond that allowed by virtue of application of such index resulting from increases in volume not otherwise off-set by decreases in volume, such volume increases or decreases to be measured in a manner specified in said regulations; (3) changes in service intensity; and (4) such increases, not otherwise justified by clauses (1) and (2), which result from cost increases beyond the reasonable control of the individual hospital; provided, that cost increases resulting from expenditures not considered to be a substantial capital expenditure as defined in section twenty-five B of chapter one hundred and eleven of the General Laws shall not be deemed costs beyond the reasonable control of the individual hospital.

For purposes of this section the term "public payor-dependent non-acute hospital", includes any non-acute hospital described in clauses (ii) or (iv) of 42 U.S.C. §1395ww(d)(1)(B) on January first, nineteen hundred and ninety-five and which exhibited a payor mix whereby a minimum of sixty-three percent of the non-acute hospital's gross inpatient service revenue is attributable to Title XVIII of the Social Security Act, chapter one hundred and eighteen E of the General Laws, other government payors and free care or such hospital which began operations during the hospital fiscal year ending on September thirtieth, nineteen hundred and ninety-six; provided, however, that such term does not include a hospital that was reimbursed for services provided to individuals entitled to medical assistance under said chapter one hundred and eighteen E pursuant to a contract between the hospital and the division of medical assistance on January first, nineteen hundred and ninety-six.

Such rates of payment so established shall meet all statutory and regulatory provisions of Title XIX of the Social Security Act, as such act existed on September first, nineteen hundred and ninety-five. The division of health care finance and policy established by said chapter one hundred and eighteen G shall, for the hospital years during which this section is effective, establish the per diem rates required by this section prior to the commencement of each public payor-dependent non-acute hospital's fiscal year and prior to the offer of a contract or offer to negotiate a contract by the division of medical assistance pursuant to section thirteen A of said chapter one hundred and eighteen E.

Any public payor-dependent non-acute hospital aggrieved by any action or failure to act by the division of medical assistance or the division of health care finance and policy pursuant to this section may, unless another appeal is provided for by law, file an appeal with the division of administrative law appeals established pursuant to section four H of chapter seven of the General Laws. Said appeal shall be filed within thirty days of a hospital's receipt of notice of any action by the division or at any time in the event of inaction by the division. On any such appeal the division of administrative law appeals shall conduct an adjudicatory proceeding which shall be governed by the provisions of chapter thirty A of the General Laws. The division of administrative law appeals shall determine whether either division's application of its regulations to an individual hospital or any other action or failure to act by either division is in conformity with law and, notwithstanding that said regulations may have been correctly applied, that all charges, allowed costs, reasonable financial requirements, costs, rates, and prices meet the provisions of this section, are fair, reasonable and adequate in such specific circumstances as may be presented by the hospital, are not confiscatory and are otherwise in accordance with law. Judicial review of the division's decision and order shall be governed by section fourteen of said chapter thirty A. Any hospital may seek interim relief from the superior court while any such appeal is pending.

SECTION 61. Any petitions, lawsuits, appeals, and other proceedings filed prior to July first, nineteen hundred and ninety-six by a non-acute hospital, including but not limited to, those filed under former section thirty-six or section forty-two of chapter six A of the General Laws, shall continue unabated and remain in force notwithstanding the passage of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six

or this act, and shall thereafter be adjudicated or adjudged under the provisions of said laws.

SECTION 62. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the University of Massachusetts Lowell Wannalancit Complex Building Management Fund. There shall be credited to such fund all revenues received by the commonwealth from the leasing, operation, granting of concessions or other use of the Wannalancit Complex, including, without limitation, fees paid by state agencies for use and occupancy of space within said facility, rental payments from private tenants, license fees, parking fees, and revenues of any other kind. Amounts credited to such fund shall be available for expenditure by the University of Massachusetts Lowell to meet the university's current and foreseeable obligation related to the commonwealth's ownership and the university's operation of the Wannalancit Complex, subject to appropriation.

SECTION 63. Notwithstanding any law or regulation to the contrary, the requirement in 310 CMR 15.301 (6) that Title V systems with a design flow of ten thousand gallons per day or more shall be inspected by July first, nineteen hundred and ninety-seven shall be extended to conform with the assessment schedule established by the executive office of environmental affairs for the twenty-seven river basins in Massachusetts, to be published in the next issue of the Environmental Monitor, in order to conduct outreach and provide information about remediation alternatives.

SECTION 64. There is hereby established within the department of labor and workplace development the workplace modernization corporation to be known as the Bay State Skills Corporation/Industrial Services Program. Said corporation shall be constituted a quasi-public instrumentality of the commonwealth and shall be vested with all of the legal powers, authority, responsibilities, duties, rights, obligations, assets and liability of the industrial services program, economic stabilization trust, and of the former Bay State Skills Corporation, to the extent not already transferred to the industrial services program pursuant to section six hundred thirty-one of chapter one hundred fifty-one of the acts of nineteen hundred and ninety-six. Without limitation, said corporation shall be vested with all legal powers, authority, responsibilities, duties, rights and obligations vested in the former Bay State Skills Corporation by its enabling statute, as said statute existed immediately prior to its repeal pursuant to section one hundred ninety-six of said chapter one hundred fifty-one. Any decision, order, rule or regulation duly made, or any license, permit, certificate or approval duly granted by the industrial services program, economic stabilization trust, or said former Bay State Skills Corporation prior to the effective date of said chapter shall continue in full force and effect unless superseded, revised, rescinded or cancelled by action of the corporation under the authority of this section. Any duly existing contract, lease, or obligation of the industrial services program or economic stabilization trust which is in force immediately prior to the effective date of this section shall be deemed to be an obligation of said corporation. Any duly existing contract, lease, or obligation of the former Bay State Skills Corporation not already transferred to the industrial services program by section six hundred thirty-four of said chapter one hundred fifty-one shall be deemed to be an obligation of said corporation. No existing right or remedy under any such contract, lease, or obligation shall be lost, impaired or affected by the provisions of this act.

Said corporation shall be governed by a board of directors consisting of the director of the department of labor and workplace development, the director of the department of economic development, the commissioner of the department of transitional assistance, the commissioner of the department of education, the chancellor of the board of higher education, or their respective designees, and fourteen persons appointed by the governor for terms of four years, including persons having knowledge and experience in business and industry, skills training, education, labor organizations, and minority employment. The appointed trustees of the economic stabilization trust and the appointed directors of the former Bay State Skills Corporation sitting as of June thirtieth, nineteen hundred and ninety-six shall constitute appointed members of the board of directors of said corporation for the balance of their terms. Said corporation shall not be subject to the supervision or control of the department of labor and workplace development or of any board, department, or other agency of the commonwealth except as specifically provided by this act.

The board of directors shall appoint the president of said corporation. The president shall be the executive and administrative head of said corporation and shall be responsible for administering and enforcing the provisions of law relative to said corporation. The executive director of the industrial services program shall act as the president of said corporation until such time as confirmed by the board of directors. The other employees of the industrial services program, including employees of the former Bay State Skills Corporation transferred to the industrial services program pursuant to said section six hundred thirty-four of said chapter one hundred and fifty-one, shall be deemed to be employees of said corporation, and any accrued vacation, personal or sick leave, health insurance, creditable service for retirement purposes, and other benefits shall continue uninterrupted and be credited to said employees.

On or before January first, nineteen hundred and ninety-seven, the president of the board of directors of said corporation shall provide to the house and senate committees on ways and means a detailed report of the administrative and legislative actions required to complete this merger in an orderly, fair, and efficient manner.

SECTION 65. Notwithstanding the provisions of any general or special law to the contrary, any interest and penalties owed to the Medical Security Trust Fund established in section twenty of chapter one hundred and eighteen G of the General Laws and owing as of the effective date of this act from any regional school district or educational collaborative pursuant to section fourteen G of chapter one hundred and fifty-one A of the General Laws are hereby extinguished in the payment thereof excused. Nothing in this section shall be construed to provide the basis for the refund of payments made by any regional school district or educational collaborative to said fund prior to the effective date of this section.

SECTION 66. No asphalt batching facility shall be sited in the city of Revere, the city of Malden or the East Boston section of the city of Boston which is less than one half mile in linear distance from any hospital, area of residential housing, or hotel. Said linear distance shall be measured from the outer most perimeter of such facility to the outermost point of any adjacent hospital zone, area of residential housing, or hotel; provided, however, that any such facility in operation or under construction prior to the effective date of this act

shall not be subject to the provisions of this section.

SECTION 67. Notwithstanding the provisions of any general or special law to the contrary, the sum appropriated in item 1599-3788 of the final deficiency appropriations act of fiscal year nineteen hundred and ninety-six, so-called, for the purpose of meeting the fiscal year nineteen hundred and ninety-five and nineteen hundred and ninety-six costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Massachusetts Correctional Officers Federated Union (unit four) is hereby made available, in addition to the existing purpose therefor, for the purpose of meeting the cost of salary adjustments and benefits necessary to provide equal salary adjustments and benefits to employees employed in "confidential" positions which otherwise would 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 benefits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which otherwise would cover said positions.

SECTION 68. Notwithstanding the provisions of any general or special law to the contrary, the sum appropriated in item 1599-3789 of the final deficiency appropriations act of fiscal year nineteen hundred and ninety-six, so-called, for the purpose of meeting the fiscal year nineteen hundred and ninety-seven costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Massachusetts Correctional Officers Federated Union (unit four) is hereby made available, in addition to the existing purpose therefor, for the purpose of meeting the cost of salary adjustments and benefits necessary to provide equal salary adjustments and benefits to employees employed in "confidential" positions which otherwise would 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 benefits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which otherwise would cover said positions.

SECTION 69. Notwithstanding the provisions of any general or special law to the contrary, the sum appropriated in item 1599-3790 of the final deficiency appropriations act of fiscal year nineteen hundred and ninety-six, so-called, for the purpose of meeting the fiscal year nineteen hundred and ninety-seven costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the National Association of Government Employees (units one and six) is hereby made available, in addition to the existing purpose therefor, for the purpose of meeting the cost of salary adjustments and benefits necessary to provide equal salary adjustments and benefits to employees employed in "confidential" positions which otherwise would 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 benefits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which

otherwise would cover said positions.

SECTION 70. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of item 9000-1803 in section two A of the final deficiency appropriations act of fiscal year nineteen hundred and ninety-six, so-called, shall be carried forward in fiscal year nineteen hundred and ninety-seven and transferred to a new item of appropriation, 7007-0325, which the comptroller is hereby authorized and directed to establish on the Massachusetts management and reporting system.

SECTION 71. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of item 9222-7800 of section two of chapter thirty-eight of the acts of nineteen hundred and ninety-five shall be carried forward in fiscal year nineteen hundred and ninety-seven and transferred in said fiscal year to item 7006-0030 in section two of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six for the purposes of said item.

SECTION 72. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of item 9081-0351 of section two A of the final deficiency appropriations act of fiscal year nineteen hundred and ninety-six, so-called, shall be carried forward in fiscal year nineteen hundred and ninety-seven and transferred in said fiscal year to item 7003-0901 in section two of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six for the purposes of said item.

SECTION 73. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balance of item 9081-7012 of section two of chapter thirty-eight of the acts of nineteen hundred and ninety-five shall be carried forward in fiscal year nineteen hundred and ninety-seven and transferred in said fiscal year to item 7003-0800 in section two of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six for the purposes of said item.

SECTION 74. Sections nineteen and twenty shall take effect as of July first, nineteen hundred and ninety-five. Sections twenty-five to forty-eight, inclusive, shall take effect as of July first, nineteen hundred and ninety-six.

SECTION 75. Section forty-seven shall remain in effect until June thirtieth, nineteen hundred and ninety-nine.

SECTION 76. Section sixty-two shall remain in effect until June thirtieth, nineteen hundred and ninety-eight.

Sections disapproved: Sections 12, 36, 45, 48, 59, 60 and 66.

Returned for amendment: Sections 5, 6, 7 and 8.

The remainder of the bill was approved by the Governor August 10, 1996.

Chapter 366. AN ACT PROVIDING EQUAL ACCESS TO MEDICAL CARE FOR EMPLOYEES OF THE COMMONWEALTH AND ITS SUB-DIVISIONS.

Be it enacted, etc., as follows:

SECTION 1. Section twenty B of chapter twenty-nine of the General Laws is hereby repealed.

SECTION 2. The first paragraph of section 4 of chapter 32A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the second and third sentences.

SECTION 3. The first paragraph of section 10B of said chapter 32A, as so appearing, is hereby amended by striking out the second and third sentences.

SECTION 4. The first paragraph of section 10C of said chapter 32A, as so appearing, is hereby amended by striking out the second and third sentences.

SECTION 5. The first paragraph of section 12 of said chapter 32A, as so appearing, is hereby amended by striking out the second and third sentences.

SECTION 6. The fourth paragraph of section 14 of said chapter 32A, as so appearing, is hereby amended by striking out the second and third sentences.

SECTION 7. The first paragraph of section 3 of chapter 32B of the General Laws, as so appearing, is hereby amended by striking out the second and third sentences.

SECTION 8. The first paragraph of section 3A of said chapter 32B, as so appearing, is hereby amended by striking out the third and fourth sentences.

SECTION 9. The first paragraph of section 11C of said chapter 32B, as so appearing, is hereby amended by striking out the second and third sentences.

SECTION 10. The first paragraph of section 16 of said chapter 32B, as so appearing, is hereby amended by striking out clause (3).

SECTION 11. Item 1108-5200 of section 2 of chapter 151 of the acts of 1996 is hereby amended by striking out the words "; 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".

SECTION 12. Item 1108-5230 of said section 2 of said chapter 151 is hereby amended by striking out the words "; 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".

SECTION 13. Item 1108-5350 of said section 2 of said chapter 151 is hereby amended by striking out the words "; provided, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother".

SECTION 14. Item 1108-5400 of said section 2 of said chapter 151 is hereby amended by striking out the words "; provided, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother".

SECTION 15. Notwithstanding any general or special law to the contrary, no state

funds used to purchase and provide health insurance coverage for employees of the commonwealth shall, except when necessary to save the life of a mother or if a continuation of her pregnancy will impose on her a substantial risk of grave impairment of her physical or mental health, provide coverage for partial-birth abortions after viability, defined as an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

Approved August 10, 1996.

Chapter 367. AN ACT RELATIVE TO THE REMOVAL OF AN ANATOMICAL GIFT.

Be it enacted, etc., as follows:

Chapter 113 of the General Laws is hereby amended by inserting after section 5 the following section:-

Section 5A. A health care professional authorized to remove an anatomical gift from a donor whose death is under investigation shall remove the donated part from the donor's body for the acceptance by a person authorized to become a donee, after giving notice to the chief medical examiner or district attorney, or his designees subject to the requirements of this section. The chief medical examiner and district attorney, or their respective designees, shall approve or deny removal of the anatomical gift within the time provided by law to ensure the preservation of the anatomical gift for transplantation; provided, however, that a health care professional authorized to remove an anatomical gift shall be present at such approval or denial. The chief medical examiner or district attorney, or his designee, shall be present during the removal of the anatomical gift if in his judgment such attendance would, in the opinion of the chief medical examiner or district attorney, or his designee, facilitate a donation that would otherwise be denied. In that case, the chief medical examiner or district attorney or his designee, may request a biopsy or deny removal of the anatomical gift and will explain in writing his reasons for determining that those tissues or organs may be involved in the cause of death.

The foregoing was laid before the Governor on the thirty-first of July 1996 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.

Chapter 368. AN ACT PROVIDING FOR THE DESIGN AND CONSTRUCTION OF CERTAIN COURT FACILITIES.

Be it enacted, etc., as follows:

Item 0332-5962 of section 2A of chapter 277 of the acts of 1995 is hereby amended

by striking out the wording and inserting in place thereof the following wording:-

For acquisition of land, buildings and interests therein by purchase, lease or eminent domain to be exercised by the commissioner of the division of capital planning and operations under chapter seventy-nine of the General Laws, and for the planning and studies, the preparation of plans and specifications, construction, renovation, reconstruction, alteration, improvement, demolition, expansion, and repair of and for a new or existing courthouse and related parking facilities in the city of Taunton by said division, for the trial court, including furnishings and equipment, relocation, compliance with life safety codes and remediation of environmental hazards; provided, that such design, construction and other work may be procured and undertaken by the said commissioner of the division of capital planning and operations, notwithstanding any general or special law to the contrary, in accordance with the alternative method recommended in the report prepared under section forty-two B of chapter seven of the General Laws and entitled "Procedures for the Procurement of Design and Construction Services Under the Design Build Method" dated September first, nineteen hundred and ninety-two and filed with the general court; provided, further, that all contracts and subcontracts for the construction, renovation, reconstruction, alteration, improvement, demolition, expansion, and repair of said courthouse and related parking facilities pursuant hereto shall be awarded only to persons or entities whose bids are subject to said persons or entities being a signatory to a project labor agreement negotiated with the appropriate labor organization or organizations, which includes (a) a uniform grievance and arbitration procedure for the resolution of work-related disputes on the job site, (b) an obligation for said labor organizations and their constituent members not to strike with respect to work on said construction project and (c) mutually agreeable uniform work rules and schedules for the project; provided further, that said commissioner shall not exercise the powers of eminent domain on this project outside a one-quarter mile radius of the existing courthouse in the city of Taunton; provided further, that said commissioner is authorized to enter into agreements with the Taunton redevelopment authority or any other municipal entity designated by the city for the purpose of expediting the acquisition of property necessary for this project.

This bill was returned by the Governor to the House, the branch in which it originated, with his objections thereto, was passed by the House on July 30, 1996, and in concurrence by the Senate on July 31, 1996, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 369. AN ACT RELATIVE TO THE RENEWAL OF LICENSES OF REAL ESTATE BROKERS AND SALESMEN.

Be it enacted, etc., as follows:

SECTION 1. Section 87TT of chapter 112 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 30, the word "one" and

inserting in place thereof the following word:- five.

SECTION 2. Said chapter 112 is hereby further amended by inserting after section 87XX, as so appearing, the following section:-

Section 87XX½. Any person holding a license as a real estate broker or salesman, which is subject to renewal on or after January first, nineteen hundred and ninety-nine, shall, within twenty-four months prior to each renewal, satisfactorily complete courses or programs of instruction approved by the board; provided, that for licenses renewed on or before December thirty-first, two thousand, the attendance at such courses or programs of instruction shall be equal to a total of twelve hours; and provided, further, that for licenses renewed on or after January first, two thousand and one, such number shall be no less than six hours but no more than twelve hours as determined by the board. The curriculum contained in such courses or programs shall contain at least six hours of instruction concerning or related to compliance with laws and regulations selected from any of the following subjects: fair housing; equal employment opportunity; accessibility for the disabled; agency law; environmental issues in real estate; zoning and building codes; real estate appraisal and financing; property tax assessments and valuation; and real estate board regulations. The board shall certify in advance the curriculum forming the basis of such courses or programs which satisfy the provisions of this section.

Every person who is subject to the requirements of this section shall furnish, in a form satisfactory to the board, written certification that the required courses or programs were successfully completed. Upon successful completion of approved courses or programs, the licensee shall be deemed to have met the continuing education requirements of this section for license renewal. Every person who fails to furnish, in a form satisfactory to the board, written certification that the required courses or programs were completed shall be granted inactive status by the board upon renewal of his license in accordance with section eighty-seven XX.

Any person failing to meet requirements imposed upon him by this section or who has submitted to the board a false or fraudulent certificate of compliance therewith, shall, after a hearing thereon, which hearing may be waived by such person, be subject to the suspension of his license until such time as such person shall have demonstrated to the satisfaction of the board that he has complied with all the requirements of this section as well as with all other laws, rules and regulations applicable to such licensing.

The provisions of this section shall not apply to any person licensed by the board under the provisions of section eighty-seven SS who is not required to take an examination to be licensed; provided, however, that any out-of-state licensee who receives reciprocity from the board to practice in the commonwealth shall demonstrate to the board compliance with a continuing education program in such licensee's home state.

The provisions of this section shall not apply to any person licensed by the board who has been granted inactive status by the board. A person licensed by the board and whose license is inactive may not engage in the business of, or act as, a real estate broker or salesman, as defined in section eighty-seven PP, except that he may assist with or direct the procuring of prospects and may receive referral fees for such procurement activities. A

person licensed by the board whose license is inactive shall be considered unlicensed for purposes of section eighty-seven RR. Engaging in the business of, or acting as, a real estate broker or salesman while a license is inactive, except as otherwise provided for in this section, may be grounds for revocation of such license. A person licensed by the board and whose license is inactive shall renew such license in accordance with section eighty-seven XX while such license is inactive. A person licensed by the board and whose license is inactive may apply to the board to reactivate such license, upon demonstration of the completion of the continuing education requirements for the renewal period immediately preceding the application for reactivation of such license and compliance with all then applicable requirements for licensure.

The board shall perform such duties and functions necessary to carry out the provisions of this section and shall promulgate rules and regulations pertaining to the development and administration of an inactive license designation. Such rules and regulations shall include, but not be limited to, developing procedures for the granting of inactive status, the reactivation of licenses, renewal fees and the notification of licensees of continuing education requirements prior to license reactivation.

SECTION 3. The board of registration of real estate brokers and salesmen, created pursuant to sections eighty-seven PP through eighty-seven DDD, inclusive, of chapter one hundred and twelve of the General Laws, shall promulgate rules and regulations to implement the provisions of this act within one hundred and eighty days after its effective date.

Approved August 15, 1996.

Chapter 370. AN ACT AUTHORIZING THE CITY OF LOWELL TO PAY CERTAIN UNPAID BILLS.

Be it enacted, etc., as follows:

SECTION 1. The city of Lowell is hereby authorized to appropriate for the payment of, and after such appropriation, the treasurer of said city is hereby authorized to pay, to Eastern Contractors, Inc. the sum of two hundred sixteen thousand seven hundred and twenty-one dollars, to Sciaba Construction Corporation the sum of two hundred five thousand eight hundred and thirty-two dollars, and to Wolf Construction Corp. the sum of one hundred and sixty-nine thousand seven hundred and sixty-nine dollars, unpaid bills incurred by said city totalling five hundred ninety-two thousand three hundred and twenty-two dollars and bills being legally unenforceable against said city and as certified for payment by the office of the city manager wherein the bill was contracted; provided, however, that the money so appropriated to pay such bills shall be paid by the office of the city manager or the respective departments which benefitted from the services or made available from the unappropriated surplus funds of the city.

SECTION 2. No bill shall be approved by the auditor of the city of Lowell for pay-

ment or paid by the treasurer thereof under the authority of this act unless and until certificates have been signed and filed with said auditor, stating under the penalties of perjury that the services and supplies for which said bill has been submitted were ordered by an official or an employee or agent of said city and that such services and supplies were rendered to said city or official or agent.

SECTION 3. Any person who knowingly files a certificate required by section two which is false, and who thereby receives payment for services which were not rendered to the city of Lowell, shall be punished by imprisonment for not more than one year or by a fine of not more than three hundred dollars, or both.

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

Approved August 15, 1996.

Chapter 371. AN ACT AUTHORIZING THE CITY OF LOWELL TO APPROPRIATE MONEY FOR THE PAYMENT OF AN UNPAID BILL.

Be it enacted, etc., as follows:

SECTION 1. The city of Lowell is hereby authorized to appropriate for the payment of, and after such appropriation, the treasurer of said city is hereby authorized to pay to Franklin Quest Co., an unpaid bill for services incurred by said city and totalling three thousand three hundred and seventy dollars, said bill being unenforceable against said city and as certified for payment by the office of the city manager wherein the bill was contracted; provided, however, that the money so appropriated to pay such bill shall be paid by the office of the city manager or the respective departments which benefited from the services or made available from the unappropriated surplus funds of the city.

SECTION 2. No bill shall be approved by the auditor of the city of Lowell for payment or paid by the treasurer thereof under the authority of this act unless and until certificates have been signed and filed with said auditor, stating under the penalties of perjury that the services and supplies for which said bill has been submitted were ordered by an official or an employee or agent of said city and that such services and supplies were rendered to said city or official or agent.

SECTION 3. Any person who knowingly files a certificate required by section two which is false, and who thereby receives payment for services which were not rendered to the city of Lowell, shall be punished by imprisonment for not more than one year or by a fine of not more than three hundred dollars or both.

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

Approved August 15, 1996.

Chapter 372. AN ACT EXEMPTING THE POSITIONS OF POLICE CHIEF AND DEPUTY POLICE CHIEF IN THE CITY OF NEW BEDFORD FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The positions of chief of police and deputy police chief in the city of New 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 the person holding the positions of chief of police or deputy police chief in the city of New Bedford on the effective date of this act.

Approved August 15, 1996.

Chapter 373. AN ACT RELATIVE TO LIMITED LIABILITY COMPANIES AND CERTAIN OTHER MATTERS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make changes in certain laws, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 5 of chapter 59 of the General Laws, as most recently amended by section 63 of chapter 38 of the acts of 1995, is hereby further amended by inserting after clause Sixteenth the following clause:-

Sixteenth A, In the case of a domestic or foreign limited liability company which (*a*) is wholly owned by members which are corporations, (*b*) is engaged in manufacturing in the commonwealth, and (*c*) was in existence and conducting business in the commonwealth on or before November fifteenth, nineteen hundred and ninety-five, all property owned by such limited liability company other than the following: real estate, poles and underground conduits, wires and pipes.

Exemption under this clause shall not extend to an entity subject to the provisions of section three of chapter one hundred and eighty-one, if such entity has failed to comply with said provisions.

The classification by the commissioner, or the appellate tax board, as the case may be, of a limited liability company as a domestic or foreign limited liability company engaged in manufacturing, as respectively defined as aforesaid, shall be followed in the assessment under this chapter of machinery used in the conduct of the business.

Said domestic limited liability company engaged in manufacturing shall be liable for the excise imposed under the provisions of subclause (i) of clause (1) of subsection (a) or subsection (b) of the fourth paragraph, whichever is greater, of section thirty-two of chapter

sixty-three. Said foreign limited liability company engaged in manufacturing shall be liable for the excise imposed under the provisions of said subclause (i) of said paragraph (1) of said subsection (a) or said subsection (b), whichever is greater, of section thirty-nine of said chapter sixty-three.

This clause shall take effect upon its acceptance by any city or town.

SECTION 2. Section 14 of chapter 138 of the acts of 1992 is hereby amended by striking out the last sentence, added by chapter 295 of the acts of 1994, and inserting in place thereof three sentences:- The corporation and its subsidiaries and affiliates shall not be deemed to be an agency, board, bureau, department, division, commission, authority or other subdivision of the commonwealth for any purpose, and its directors and officers who are not otherwise state employees shall not be considered to be state employees for any purpose including but not limited to purposes of chapters two hundred and sixty-eight A and two hundred and sixty-eight B of the General Laws. Any university employees who provide services to the corporation, its subsidiaries and affiliates, as officers, directors or employees of the corporation, its subsidiaries and affiliates, shall be exempt from sections four, six, seven and twenty-three of said chapter two hundred and sixty-eight A in connection with any and all matters between the corporation, its subsidiaries and affiliates, and the university; provided, however, that no such university employee may participate in any matter between the corporation, its subsidiaries and affiliates, and the university in which he or his immediate family member as defined in subsection (e) of section one of said chapter two hundred and sixty-eight A has a financial interest. The board of trustees of the university may establish policies governing contracts for goods and services between the university and the corporation, its subsidiaries and affiliates, and such contracts, other than leases of property in the city of Worcester under the care and control of the university, shall be exempt from all laws requiring competitive bidding.

SECTION 3. Section 15 of said chapter 138 is hereby amended by adding the following three sentences:- 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 lease a portion of the property in the city of Worcester under the care and control of the university to the corporation for a term not to exceed thirty years for the purpose of operating physician practices, ambulatory care centers, mental health programs, health care facilities, outpatient diagnostic or treatment centers, home health care programs, long term care facilities, rehabilitation facilities, laboratories and attendant administrative support services related to the operations of the corporation or the university. Any such lease may be mortgaged, assigned, or transferred to a lender holding a leasehold mortgage or interest in the leased property or improvements thereto and which, in the ordinary course, is foreclosing on its interest in the property or improvements or receiving a deed or other instrument in lieu of foreclosure, or to any persons or entities taking an interest in the property or improvements through or under such foreclosing lender. Any construction, reconstruction, renovation, repair or improvement undertaken by the corporation on any such leased property shall be exempt from the provisions of sections thirty-eight A to thirty-eight O, inclusive, of chapter seven of the

General Laws, sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine of the General Laws, section thirty-nine M of chapter thirty of the General Laws or any other general or special law or regulation relating to the advertising or bidding of design, construction, reconstruction, renovation, repair or improvement of public property, to the extent applicable, but shall be subject to sections twenty-six to twenty-seven D of said chapter one hundred and forty-nine.

SECTION 4. The exemption granted by section one of this act shall apply to taxes assessed for any fiscal year beginning on or after July first, nineteen hundred and ninety-six.

SECTION 5. Except as otherwise provided in this act, the provisions of this act shall take effect as of July first, nineteen hundred and ninety-six.

Approved August 15, 1996.

Chapter 374. AN ACT RELATIVE TO BRAILLE LITERACY.

Be it enacted, etc., as follows:

SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section 133E the following section:-

Section 133G. The Massachusetts commission for the blind shall offer Braille instruction to its registrants; provided, however, that at a minimum such instruction shall be available at sufficient frequency and duration to afford such registrants an opportunity to learn Braille at the grade two Braille level. Vocational rehabilitation and independent living programs provided by the commission shall include within standard client evaluation a written assessment of the appropriateness of Braille instruction. Such assessment shall include: (i) the person's efficiency in reading and writing print as compared with a person of similar intellectual ability; (ii) the person's stamina in using print before fatigue occurs; and (iii) the person's prognosis for further sight loss. For purposes of this section "grade two Braille" shall mean a system of Braille used by the Library of Congress for the production of Braille materials, in which short forms and contractions of words or groups of words are used regularly.

SECTION 2. Section 1B of chapter 69 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the twenty-first paragraph the following paragraph:-

The board shall provide information to schools concerning the titles and sources of Braille text books and technical assistance to schools to develop Braille translation of titles not presently available. The board shall ensure, through referral by the Massachusetts commission for the blind's children's services specialists or other appropriate persons for investigation of any alleged violations, that schools within its jurisdiction purchase or otherwise provide written material to meet the individual education needs of blind persons, either directly or through adaptation.

SECTION 3. Section 38G of chapter 71 of the General Laws, as so appearing, is

hereby amended by inserting after the nineteenth paragraph the following paragraph:-

Competence in Braille instruction shall be a requirement for initial certification as a teacher of students with vision impairments. Such competence shall be verified through a testing program which meets the standards of the Library of Congress National Library Service for the Blind or its successor.

SECTION 4. The fifth paragraph of section 3 of chapter 71B of the General Laws, as so appearing, is hereby amended by adding the following three sentences:- Whenever an evaluation indicates that a child is blind, as defined in section one hundred and thirty-six of chapter six, said evaluation shall also include an assessment of the appropriateness of Braille instruction for the child. Such assessment shall include (i) the child's efficiency in reading and writing print as compared with children who do not have special needs; (ii) the child's stamina in using print before fatigue occurs; (iii) the child's prognosis for further sight loss; and (iv) the child's present competence in Braille and a detailed explanation as to whether instruction is appropriate, conducted by a certified teacher of students with visual impairments. Any such instruction found to be essential to meet such child's special needs shall be available at a frequency and duration sufficient to meet fully the special needs of the child. Braille instruction may be used in combination with other special education services appropriate to the child's educational needs.

SECTION 5. A person who is certified as a teacher of students with visual impairments shall demonstrate continued competency in Braille instruction as a condition of renewal of certification in accordance with the provisions of section thirty-eight G of chapter seventy-one of the General Laws.

SECTION 6. The initial test for Braille competence as required by section thirty-eight G of chapter seventy-one of the General Laws shall be developed by the department of education, in consultation with the commission for the blind and with the advisory council on Braille literacy established by section seven of this act, and shall be administered no later than one year after the effective date of this act.

SECTION 7. There is hereby established an advisory council in Braille literacy consisting of nine members to be appointed by the board of education, one of whom shall have experience and expertise in using computer technology for the production of Braille, two of whom shall be educators of students with visual impairments, two of whom shall be a parent of a blind child, two of whom shall be blind persons who are regular and effective users of Braille and two of whom shall be representatives of advocacy organizations of blind persons. The council shall be appointed no later than one hundred and twenty days after the effective date of this act and shall expire at such time as the council and the board of education agree the council is no longer necessary. The members of said council shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties.

The council shall file a report with the clerk of the house of representatives who shall forward the same to the joint committee on education on the first Wednesday in July, of each year commencing with July second, nineteen hundred and ninety-seven. Said report shall include, but not be limited to the following: the number of teachers certified pursuant to

section thirty-eight G of chapter seventy-one of the General Laws, the number of blind students accepting such instruction; the percentage and types of text books and other educational materials available in Braille, and such recommendations as it may make to improve the amount and variety of such materials; and findings and recommendations concerning the employment conditions of teachers of students with visual impairments.

SECTION 8. Notwithstanding the provisions of section twenty-seven C of chapter twenty-nine or any other general or special law to the contrary, no city or town shall be required to comply with any provision of this act which, upon a determination by the state auditor, imposes on such city or town a cost obligation or additional cost, which such city or town would not be required to assume pursuant to the provisions of said section twenty-seven C, unless the commonwealth appropriates funds for the assumption of such cost; provided, however, that such city or town may, in its discretion, elect to comply with any such provision.

Approved August 16, 1996.

Chapter 375. AN ACT RELATIVE TO THE ASSIGNMENT OR TRANSFER OF MUNICIPAL TAX LIABILITIES BY PUBLIC SALE.

Be it enacted, etc., as follows:

SECTION 1. Chapter 60 of the General Laws is hereby amended by inserting after section 2B the following section:-

Section 2C. (a) For the purposes of this section, the following words shall have the following meaning:-

"Appropriate financial official", the treasurer or collector of a municipality.

"Available funds deficit", the amount by which the funds certified by the director of accounts as available on July first next preceding the date of appropriation pursuant to section twenty-three of chapter fifty-nine, reduced by the amount of all intervening appropriations from available funds and increased by such amounts as the director may authorize, is less than zero.

"Commissioner", the commissioner of the department of revenue.

"Current tax receivables", tax receivables sold on or before the first annual anniversary of the date that the entire amount an individual taxpayer receivable or related tax could have been paid without interest or penalty.

"Entity", any individual or business subject to the provisions of chapter sixty-two or chapter sixty-three.

"Individual taxpayer receivable", tax receivables that are owed to a municipality for single or multiple tax years by or on behalf of a taxpayer that constitute all or part of the tax receivables sold by an appropriate financial official to a purchaser pursuant to the provisions of this section.

"Municipality", any city or town within the commonwealth.

"Parcel", any piece of real or personal property subject to real property taxes or excise taxes.

"Purchaser", a person or entity that purchases tax receivables pursuant to the provisions of this section; provided, however, that any such entity must be registered with the state secretary and must be a party in good standing.

"Related Tax", the tax that gives rise to a tax receivable sold pursuant to the provisions of this section.

"Service agent", a person or entity employed by or acting on behalf of a purchaser, whether or not for a fee or other compensatory arrangement, for the purpose of collecting tax receivables purchased by said purchaser from a municipality in the manner provided herein.

"Statutory notice third party", a third party entitled to receive notices with respect to an individual taxpayer receivable pursuant to section thirty-eight or section thirty-nine or any other general or special law.

"Subsequent individual taxpayer receivable", an individual taxpayer receivable arising in connection with a parcel with respect to which an individual taxpayer receivable is presently outstanding.

"Tax receivable", the right to receive payment of taxes assessed and due on real and personal property, in one or more fiscal years and sold by assignment or transfer, either individually or in bulk, by an appropriate financial official to a purchaser pursuant to the provisions of this section.

"Taxpayer", a person or entity owning property, real or personal, against whom a municipality has assessed real property taxes.

"Taxes", taxes assessed by a municipality against real and personal property under chapters fifty-nine and sixty or any other charge added to and committed as part of the tax and secured by a tax lien.

(b) The appropriate financial official of a municipality may arrange for and assign or transfer to a purchaser the municipality's right to receive payments owed by a taxpayer on tax receivables after the date upon which the amounts so owed may be paid without interest or penalty; provided, however, that if any taxes owed to a municipality include taxes assessed by a district located wholly or in part within the limits of such municipality, then such district may assign or transfer the right to receive payment of such taxes pursuant to this section in accordance with guidelines or regulations that the commissioner may issue. The assignment or transfer of individual taxpayer receivables by a municipality may be either individually or in bulk; provided, however, that prior to the assignment or transfer of individual taxpayer receivables, the appropriate financial official shall publish, in accordance with the provisions of section one, a list of all receivables for class one residential parcels that will be offered for assignment or transfer hereunder at least six months prior to the offer of such parcel for assignment or transfer and a municipality may not offer for assignment or transfer any parcel upon which a taxpayer has entered into and is in compliance with the terms of a payment agreement with the appropriate financial official; provided, however, that if the taxpayer fails to comply with such agreement, the appropriate financial official may

assign or transfer such parcel in accordance with the provisions established hereunder. Prior to the assignment or transfer of individual taxpayer receivables other than class one residential parcels, the appropriate financial official shall publish, at least three months prior to offering for assignment or transfer, a list of all other parcels and may not offer for assignment or transfer any parcel with respect to which the taxpayer has entered into and is in compliance with the terms of a payment agreement with the appropriate financial official; provided, however, that if the taxpayer fails to comply with such agreement, the appropriate financial official may assign or transfer such parcel in accordance with the provisions established hereunder. The appropriate financial official shall assign or transfer in one transaction all receivables for parcels in a given class, as defined in section two A of chapter fifty-nine, except for: (1) parcels with respect to which the taxpayer has entered into a payment agreement in accordance with the provisions of this section; (2) parcels which are part of the estate of a bankrupt; and (3) parcels which the appropriate financial official has determined are or may be subject to a lien under the provisions of chapter twenty-one E.

(c) Tax receivables so assigned or transferred by an appropriate financial official shall be sold subject to the following conditions:-

(1) Said sale of tax receivables shall be by public sale or public auction to the highest qualified bidder responsive to the municipalities' qualifications and may provide for the right to purchase subsequent tax receivables subject to the provisions of subsection (h) and any regulations that may be promulgated by the commissioner pursuant thereto.

(2) The sale price shall be equal to a least (i) the amount assessed and due from the face value of the tax receivables sold hereunder and (ii) any unpaid accrued interest, statutory fees, penalties and charges owed to the municipality as of the date of sale of said tax receivables; provided, however, that tax receivables may be sold either at a discount or premium under such terms as the commissioner may determine by regulations that shall be promulgated pursuant to this section. Such sale price or discounted sale price may reflect any interest accrued on any individual taxpayer receivable or related tax to the date of the sale of the right to receive payment of such tax. Any unpaid statutory fees and charges as of the date of the sale with respect to such individual taxpayer receivable or related tax shall continue to be payable to the municipality and shall be paid to it by the purchaser from the first amounts collected by the purchaser on such tax receivable unless otherwise received by such municipality.

(3) The purchaser shall pay the sale price to the appropriate financial official by certified or bank cashier's check, or by such other transfer of funds authorized by the appropriate financial official under the terms of the sale.

(4) Any amounts paid, except amounts described in paragraph two if under a discount sale, subsequent to the satisfaction of the sale price for tax receivables in respect of an individual taxpayer receivable, by or on behalf of a taxpayer, shall be the sole property of the purchaser thereof, and if received by the municipality shall be paid promptly in accordance with the terms of the sale, to such purchaser. The municipality shall agree to receive payment of such amounts owing to the purchaser as are tendered to it by or on behalf of any taxpayer and to provide such payments to the purchaser in accordance with the terms

of the sale and to issue municipal lien certificates with respect to the unpaid amounts of tax receivables.

(5) Any premium payment received by a municipality shall be deposited in the General Fund of such municipality and applied in such manner and for such purposes as provided by law for amounts in the General Fund.

(6) Any amounts paid by a purchaser to a municipality, exclusive of excess amounts received as described in paragraph (5), for any tax receivables that are not current tax receivables shall be segregated on the books of such municipality to the extent any such amount is in excess of any available funds deficit and shall be appropriated by the city council or town meeting or town council, as applicable, of such municipality only for purposes for which such municipality is authorized to borrow for a period of five years or more unless otherwise approved by the commissioner.

(7) The municipality shall provide the purchaser when tax receivables are sold with the name and address of each statutory notice third party to whom notice is due with respect to any taxpayer, individual taxpayer receivable or related tax.

(8) Whenever after the sale of any tax receivable the municipality shall receive a notice from a statutory notice third party in respect of the individual taxpayer receivable or related tax, the municipality shall make available to the purchaser a copy of such notice.

(9) A purchaser owning any tax receivable shall give notice to a taxpayer and to the appropriate municipality of the name, address, telephone number and preferred method of communication with said purchaser and any service agent acting on behalf of said purchaser within seven business days of purchasing said tax receivable. Upon written request by the taxpayer in such form as may be determined by the municipality, the municipality shall furnish a copy of such information to the taxpayer within seven business days of receiving such request. Whenever the purchaser or the service agent of such tax receivables shall change, the new purchaser or service agent shall provide the notice required herein within seven business days of the effective date of such change.

(10) Except as provided for in the terms of the sale in accordance with regulations promulgated by the commissioner, no purchaser or service agent thereof may enter into an agreement with a taxpayer or with any party with interest in a parcel, that has the effect of requiring said taxpayer or interested party to pay more than said taxpayer or interested party could be required to pay to the municipality on account of the tax receivable owed to the municipality in accordance with the provisions of this chapter or chapter fifty-nine of the General Laws.

(d) The sale of tax receivables shall be without recourse to the municipality selling the same except as otherwise provided in this subsection.

(1) The agreement between a municipality and a purchaser for the purchase of tax receivables may provide for the repurchase of such tax receivables that do not conform to the terms and conditions of such agreement for the amount paid by the purchaser plus actual costs incurred by the purchaser from the date of sale.

(2) If any individual taxpayer receivable (i) shall be abated or (ii) is less than the amount for which the tax receivable in respect thereof was purchased by the purchaser at the

time of sale, then, in each case, the purchaser shall be reimbursed by the amount of such abatement or other reduction in the amount of the tax receivable. If such tax receivable was purchased for a discount as provided in paragraph (2) of subsection (c), the repurchase price or reimbursement shall be reduced by the same percentage by which the purchase price of the tax receivable was discounted. In lieu of any such repurchase or reimbursement, the municipality may provide a replacement tax receivable of the same fiscal year as the tax receivable to be replaced that, together with any cash provided by the municipality or the purchaser, shall equal such purchase price or reimbursement amount; provided, however, that a replacement tax receivable shall be of similar market value as the tax receivable that is being replaced; provided, further, that said replacement tax receivable shall be provided only after compliance with the provisions of subsection (b).

(3) The reimbursement amount, pursuant to paragraph (2), shall include, in the case of abatement, interest accrued on such amount from the date of purchase by the purchaser to the date of repurchase or reimbursement by the municipality, calculated in accordance with the rate provided in section sixty-nine of chapter fifty-nine.

(4) The obligation of the municipality to repurchase any tax receivable pursuant to paragraph (1), or to reimburse the purchaser pursuant to paragraph (2), including any replacement tax receivable in lieu of such repurchase or reimbursement, shall be set forth in an agreement between the municipality and the purchaser thereof, and (i) such obligation shall not exceed ten percent of the aggregate purchase price received by the municipality from the purchaser, inclusive of any interest and statutory fees paid by such purchaser to the municipality; provided, however, that in the case of any reimbursement pursuant to said paragraph (2), such reimbursement amount shall not be charged to such percentage limitation; and (ii) the maximum period of time during which a municipality shall remain obligated to repurchase any tax receivable shall not exceed the lesser of: (a) three years from the date a tax receivable was purchased from the municipality, and (b) the period ending on the date six months prior to the date on which the lien securing the individual tax liability would terminate pursuant to section thirty-seven.

(5) The limitations set forth in this subsection shall not apply in any case involving fraud or misrepresentation.

(e) The sale of tax receivables pursuant to this section shall not affect (i) the legal authority of the municipality with respect to any taxpayer or individual taxpayer receivable or related tax, including the granting of abatements pursuant to law, (ii) the security for the payment of the individual taxpayer receivable and any related tax, (iii) the accrual of interest or the rate thereof in respect of the delinquency of such individual taxpayer receivable and any related tax or (iv) the rights and remedies of each taxpayer in respect of such individual taxpayer receivable and any related tax. The rights and remedies of the purchaser of the right to receive payment of any individual taxpayer receivable shall be subrogated to all the rights and remedies of the municipality to receive and enforce payment of such individual taxpayer receivable and any related tax and interest accrued and to accrue thereon, including, without limitation, the right to take tax title in its own name in the same manner that the municipality is authorized to take tax titles. The said right to take tax title shall vest in the

purchaser with the same force and effect as if such tax title had vested in the municipality, including the accrual of interest at the rate provided in section sixty-two for land taken or purchased by a town and not assigned; provided, however, that:

(1) For purpose of calculating a municipality's available funds, an individual tax receivable or related tax shall be treated as paid to the extent provided in guidelines or regulations issued by the commissioner upon the sale, assignment or transfer of such in accordance with the provisions of this section; provided, however, that for the purposes of issuance of municipal lien certificates, abatement and abatement appeal rights, the rights of the municipality with regard to the individual tax receivable or related tax are preserved in full.

(2) Notwithstanding the third paragraph of section sixty-two, subsequent to a duly authorized and executed sale or auction, a treasurer shall have no authority to adjust the amount of a tax title held by a purchaser on account of erroneous municipality utility bills or interest charges.

(3) The right of a municipality established under section twenty-nine shall remain with the municipality under the terms of any sale or auction pursuant to the provisions of this section and the purchaser shall not have the benefit of the assistance to collect taxes as authorized for a municipality by section thirty-three.

(4) A purchaser shall not have the right to take immediate possession of the land and collect the rent and income from such land as otherwise permitted under section fifty-three, except as necessary to meet a requirement of subsection (b), (c) or (e), as applicable, of the definition of "Owner", or "Operator" in section two of chapter twenty-one E.

(5) For the purposes of subsection (d) of the definition of "Owner", or "Operator" in section two of chapter twenty-one E, the taking of tax title by a purchaser shall be deemed a taking pursuant to section fifty-three, and the purchaser shall be deemed a city or town; provided, however, that the foregoing shall not prohibit the purchaser from the benefits of subsection (b) or subsection (c) of such definition, as otherwise applicable, to the extent that the purchaser meets the requirements thereof.

(6) No notice shall be required to be given to any statutory notice third party from the purchaser in connection with the taking of tax title by the purchaser unless and until the purchaser or its service agent receives actual notice of such statutory notice third party.

(f) A purchaser may use a service agent to act on its behalf, whether or not for compensation. The purchaser, or its service agent, shall maintain a record of all tax receivables so serviced, which shall contain the name and address of the taxpayer and the initial amount owing pursuant to each tax receivable, the amounts paid by or on behalf of the taxpayer liable for the individual tax receivable, the amount of any abatement thereof and of any amounts permitted by law to be added thereto, and the final disposition thereof. Such records shall be open to inspection by the appropriate financial official with respect to his municipality during normal business hours. Within seven business days of receipt by a purchaser of a request by an appropriate financial official, a purchaser or any service agent acting on its behalf shall provide a municipality with any and all records relating to any and all receivables sold, assigned or transferred to a purchaser by a municipality in the form

provided for in the agreement between the municipality and the purchaser; provided, however, if such request by an appropriate financial official indicates that it is made on behalf of a taxpayer, such purchaser shall furnish the requested information within three business days by means of electronic transmission and follow such transmission, where appropriate, with information in the form provided for in the agreement between the municipality and the purchaser. Whenever a purchaser or the service agent shall perform any of the services for which a fee or charge is permitted by law and by the assignment or transfer agreement between the appropriate financial official and the purchaser to be added to the amount of the individual tax liability, the amount of the tax receivable may be increased by the amount of such fee or charge. All fees charged by a purchaser shall be established pursuant to a fee schedule approved by the commissioner and a copy of such fee schedule shall be provided to the appropriate financial official who shall maintain the same in the municipal office of the appropriate financial official. A copy of such shall be furnished to the taxpayer by the appropriate financial official upon request by the taxpayer. A municipality may charge the taxpayer for the actual cost of the copy.

(g) The sale agreement between a municipality and a purchaser shall include, but shall not be limited to, the following provisions:

(1) The sale of tax receivables shall be recorded on a written instrument of transfer upon receipt of the purchase price by the appropriate financial official: (i) reciting that it is an assignment and transfer to the purchaser of the right to receive payment of the taxes identified therein pursuant to this section (ii) identifying all such individual tax liabilities associated with such sale and specifying the name, address and phone number of such purchaser, (iii) specifying the amount of the purchase price and (iv) signed and dated by the appropriate financial official.

(2) Upon receipt of the purchase price by the appropriate financial official pursuant to paragraph (3) of subsection (c), said instrument of transfer shall establish that all rights, title and interest of the municipality in an individual taxpayer receivable and the right of the municipality to receive payment of the individual taxpayer receivable, including interest accruing thereon after the date of sale to the purchaser, and any statutory fees and charges arising after said date of sale, shall thereupon be transferred and assigned to such purchaser; provided, however, that the municipality may collect amounts owing to such purchaser according to the provisions of paragraph (4) of subsection (c).

(3) Tax receivables may be assigned and transferred successively under the same terms and conditions and in the same manner as originally assigned and transferred, provided, however, that the instrument (i) shall be signed by the assignor or transferror and (ii) need not recite the purchase price.

(4) Each assignor or transferror shall provide the municipality with an original record of each instrument of transfer and the municipality shall maintain such instrument of transfer with its official records.

(5) All tax receivables sold in bulk in a single transaction may be identified in a single instrument of transfer, and it shall not be necessary for each such tax receivable to be identified in a separate instrument of transfer; provided, however, that the instrument of

transfer shall identify by name the individual taxpayers contained therein.

(6) Where an instrument of transfer has been lost or destroyed, the purchaser of said instrument may file a notarized affidavit with the appropriate financial official of the municipality from which the tax receivable was purchased attesting under the pains and penalty of perjury to the loss or destruction of said instrument. Upon presentation of the notarized affidavit, the appropriate financial official shall on payment of a fee of ten dollars issue to the holder thereof an exact duplicate of the instrument.

(7) A fee schedule of all fees to be charged by the purchaser or service agent, provided however, that no fee other than the fees established in accordance with the fee schedule approved by the commissioner shall be attributed to any taxpayer receivable or charged to any taxpayer and provided further, that all such fees shall be reasonable in relation to the actual cost of the transaction.

(h) The purchaser of an individual taxpayer receivable may, if the terms and conditions of the original sale by the municipality so permit, have the first right to purchase any subsequent delinquent individual taxpayer receivable to occur with respect to the same parcel, provided, however, that such further purchase shall occur only after compliance with the requirements of subsections (b) and (c) and in accordance with regulations which shall be promulgated by the commissioner to govern the terms and conditions of such subsequent sale or auction. Such regulations shall establish procedures for the exercise of said first right to purchase, including, but not limited to procedures for notifying the purchaser of its first right to purchase, procedures to be followed if a purchaser declines to acquire such subsequent individual taxpayer receivable, and procedures for termination of such right to subsequent purchase. The appropriate financial official may collect a reasonable fee from a purchaser to cover the cost of any notice required with respect to said subsequent purchase.

(i) The amount owed by a taxpayer for an individual taxpayer receivable may be redeemed by said taxpayer upon payment to the purchaser then holding the right to receive said receivable in an amount equal to the sum of the following: (1) the amount of delinquent taxes, penalties, interest, charges and fees that stand charged against the parcel as shown on the instrument of transfer evidencing the tax receivable; and (2) interest at the rate provided by law accruing on said receivable from the date said tax receivable was purchased until the date said tax receivable is redeemed.

(j) The commissioner shall make and from time to time revise such rules, regulations and guidelines as he determines necessary and appropriate to implement the provisions of this section.

SECTION 2. Section 37 of said chapter 60, as appearing in the 1994 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Except as provided in section sixty-one, such lien shall terminate at the expiration of three years and six months from the end of the fiscal year for which such taxes were assessed, if in the meantime the estate has been alienated and the instrument alienating the same has been recorded, otherwise it shall continue until a recorded alienation thereof, but if while such lien is in force a tax sale or taking is made, and the deed or instrument of taking has been duly recorded within sixty days, but the sale or taking is

invalid by reason of any error or irregularity in the proceedings subsequent to the assessment, the lien and also the lien or liens for any subsequent taxes or charges which have been added to the tax title account under authority of section sixty-one shall continue for ninety days after a surrender and discharge under section forty-six or a release, notice or disclaimer under sections eighty-two to eighty-four, inclusive, has been duly recorded, or for ninety days after the sale or taking has been finally adjudged invalid by a court of competent jurisdiction.

Approved August 22, 1996.

Chapter 376. AN ACT RELATIVE TO INSURABLE INTERESTS IN LIFE OR ACCIDENT AND SICKNESS INSURANCE POLICIES.

Be it enacted, etc., as follows:

SECTION 1. Section twenty-four C of chapter one hundred and seventy-five of the General Laws is hereby repealed.

SECTION 2. Said chapter 175 is hereby further amended by inserting after section 123, as appearing in the 1994 Official Edition, the following section:-

Section 123A. (1) A corporation, foreign or domestic shall be deemed to have an insurable interest, including without limitation, in the life or physical or mental ability of: (i) any of its directors, officers, or employees or the directors, officers, or employees of any of its subsidiaries; (ii) any other person whose death or physical or mental disability might cause financial loss to the corporation; (iii) a shareholder pursuant to any contractual arrangement with said shareholder concerning the reacquisition of shares owned by him at the time of his death or disability or (iv) the principal obligor pursuant to a contract obligating the corporation as part of compensation arrangements or pursuant to a contract obligating the corporation as guarantor or surety. The trustee of a trust established by a corporation for the sole benefit of the corporation shall have the same insurable interest in the life or physical or mental ability of any person as does the corporation. The trustee of a trust established by a corporation providing life, health, disability, retirement, or similar benefits to employees of the corporation or its subsidiaries and acting in a fiduciary capacity with respect to such employees, retired employees or their dependents or beneficiaries shall have an insurable interest in the lives of employees or retired employees for whom such benefits are to be provided.

(2) A charitable institution as defined under section 501 (c)(3), (c)(6), (c)(8), and (c)(9) of the Internal Revenue Code shall be deemed to have an insurable interest, without limitation, in the life of any donor.

SECTION 3. The provisions of this act shall apply to all policies of life or accident and sickness insurance issued or renewed on or after the effective date of this act.

Approved August 22, 1996.

Chapter 377. AN ACT FURTHER AMENDING THE UNIFORM COMMERCIAL CODE RELATIVE TO PERSONAL PROPERTY LEASING.

Be it enacted, etc., as follows:

SECTION 1. Paragraph (2) of section 1-105 of chapter 106 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "Section 2-402," the following words:-

"Applicability of the Article on Leases. Sections 2A-105 and 2A-106."

SECTION 2. Said chapter 106 is hereby further amended by inserting, after Article 2 the following Article:-

ARTICLE 2A.

LEASES.

PART I. GENERAL PROVISIONS.

Section 2A-101. SHORT TITLE.

This Article shall be known and may be cited as the Uniform Commercial Code - Leases.

Section 2A-102. SCOPE.

This Article applies to any transaction, regardless of form, that creates a lease.

Section 2A-103. DEFINITIONS AND INDEX OF DEFINITIONS.

(1) In this Article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose, if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed twenty-five thousand dollars.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which:

(i) the lessor does not select, manufacture, or supply the goods;

(ii) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

(iii) one of the following occurs:

(A) the lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) the lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

(C) the lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

(D) if the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing (a) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, (b) that the lessee is entitled under this Article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods, and (c) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (Section 2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Article. Unless the context clearly indicates otherwise, the term includes a sublease agree-

ment.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this Article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this Article and the sections in which they appear are:

"Accessions". Section 2A-310(1).

"Construction mortgage". Section 2A-309(1)(d).

"Encumbrance". Section 2A-309(1)(e).

"Fixtures". Section 2A-309(1)(a).

"Fixture filing". Section 2A-309(1)(b).

"Purchase money lease". Section 2A-309(1)(c).

(3) The following definitions in other Articles apply to this Article:

"Account". Section 9-106.

"Between merchants". Section 2-104(3).

"Buyer". Section 2-103(1)(a).

"Chattel paper". Section 9-105(1)(b).

"Consumer goods". Section 9-109(1).

"Document". Section 9-105(1)(f).

"Entrusting". Section 2-403(3).

"General intangibles". Section 9-106.

"Good faith". Section 2-103(1)(b).

"Instrument". Section 9-105(1)(i).

"Merchant". Section 2-104(1).

"Mortgage". Section 9-105(1)(j).

"Pursuant to commitment". Section 9-105(1)(k).

"Receipt". Section 2-103(1)(c).

"Sale". Section 2-106(1).

"Sale on approval". Section 2-326.

"Sale or return". Section 2-326.

"Seller". Section 2-103(1)(d).

(4) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Section 2A-104. LEASES SUBJECT TO OTHER LAW.

(1) A lease, although subject to this Article, is also subject to any applicable:

(a) certificate of title statute of the commonwealth such as chapter ninety B and chapter ninety D;

(b) certificate of title statute of another jurisdiction (Section 2A-105); or

(c) consumer protection statute of the commonwealth, or final consumer protection decision of a court of the commonwealth existing on the effective date of this Article.

(2) In case of conflict between this Article, other than Sections 2A-105, 2A-304(3), and 2A-305(3), and a statute or decision referred to in subsection (1), the statute or decision controls.

(3) Failure to comply with an applicable law has only the effect specified therein.

Section 2A-105. TERRITORIAL APPLICATION OF ARTICLE TO GOODS COVERED BY CERTIFICATE OF TITLE.

Subject to the provisions of Sections 2A-304(3) and 2A-305(3), with respect to goods covered by a certificate of title issued under a statute of the commonwealth or of another jurisdiction, compliance and the effect of compliance or noncompliance with a certificate of title statute are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until the earlier of (a) surrender of the certificate, or (b) four months after the goods are removed from that jurisdiction and thereafter until a new certificate of title is issued by another jurisdiction.

Section 2A-106. LIMITATION ON POWER OF PARTIES TO CONSUMER LEASE TO CHOOSE APPLICABLE LAW AND JUDICIAL FORUM.

(1) If the law chosen by the parties to a consumer lease is that of a jurisdiction other than a jurisdiction in which the lessee resides at the time the lease agreement becomes enforceable or within thirty days thereafter or in which the goods are to be used, the choice is not enforceable.

(2) If the judicial forum chosen by the parties to a consumer lease is a forum that would not otherwise have jurisdiction over the lessee, the choice is not enforceable.

Section 2A-107. WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER DEFAULT.

Any claim or right arising out of an alleged default or breach of warranty may be discharged in whole or in part without consideration by a written waiver or renunciation signed and delivered by the aggrieved party.

Section 2A-108. UNCONSCIONABILITY.

(1) If the court as a matter of law finds a lease contract or any clause of a lease contract to have been unconscionable at the time it was made the court may refuse to enforce the lease contract, or it may enforce the remainder of the lease contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(2) With respect to a consumer lease, if the court as a matter of law finds that a lease contract or any clause of a lease contract has been induced by unconscionable conduct or that unconscionable conduct has occurred in the collection of a claim arising from a lease contract, the court may grant appropriate relief.

(3) Before making a finding of unconscionability under subsection (1) or (2), the court, on its own motion or that of a party, shall afford the parties a reasonable opportunity to present evidence as to the setting, purpose, and effect of the lease contract or clause thereof, or of the conduct.

(4) In an action in which the lessee claims unconscionability with respect to a consumer lease:

(a) If the court finds unconscionability under subsection (1) or (2), the court shall award reasonable attorney's fees to the lessee.

(b) If the court does not find unconscionability, the court shall award reasonable attorney's fees to the party against whom the claim is made if the criteria of sections six E to six G, inclusive, of chapter two hundred and thirty-one are met.

(c) In determining attorney's fees, the amount of the recovery on behalf of the

claimant under subsections (1) and (2) is not controlling.

Section 2A-109. OPTION TO ACCELERATE AT WILL.

(1) A term providing that one party or his successor in interest may accelerate payment or performance or require collateral or additional collateral "at will" or "when he deems himself insecure" or in words of similar import must be construed to mean that he has power to do so only if he in good faith believes that the prospect of payment or performance is impaired.

(2) With respect to a consumer lease, the burden of establishing good faith under subsection (1) is on the party who exercised the power; otherwise the burden of establishing lack of good faith is on the party against whom the power has been exercised.

PART 2. FORMATION AND CONSTRUCTION OF LEASE CONTRACT.

Section 2A-201. STATUTE OF FRAUDS.

(1) A lease contract is not enforceable by way of action or defense unless:

(a) the total payments to be made under the lease contract, excluding payments for options to renew or buy, are less than one thousand dollars; or

(b) there is a writing, signed by the party against whom enforcement is sought or by that party's authorized agent, sufficient to indicate that a lease contract has been made between the parties and to describe the goods leased and the lease term.

(2) Any description of leased goods or of the lease term is sufficient and satisfies subsection (1)(b), whether or not it is specific, if it reasonably identifies what is described.

(3) A writing is not insufficient because it omits or incorrectly states a term agreed upon, but the lease contract is not enforceable under subsection (1)(b) beyond the lease term and the quantity of goods shown in the writing.

(4) A lease contract that does not satisfy the requirements of subsection (1), but which is valid in other respects, is enforceable:

(a) if the goods are to be specially manufactured or obtained for the lessee and are not suitable for lease or sale to others in the ordinary course of the lessor's business, and the lessor, before notice of repudiation is received and under circumstances that reasonably indicate that the goods are for the lessee, has made either a substantial beginning of their manufacture or commitments for their procurement;

(b) if the party against whom enforcement is sought admits in that party's pleading, testimony or otherwise in court that a lease contract was made, but the lease contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) with respect to goods that have been received and accepted by the lessee.

(5) The lease term under a lease contract referred to in subsection (4) is:

(a) if there is a writing signed by the party against whom enforcement is sought or by that party's authorized agent specifying the lease term, the term so specified;

(b) if the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court a lease term, the term so admitted; or

(c) a reasonable lease term.

Section 2A-202. FINAL WRITTEN EXPRESSION: PAROL OR EXTRINSIC EVIDENCE.

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

(a) by course of dealing or usage of trade or by course of performance; and

(b) by evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement.

Section 2A-203. SEALS INOPERATIVE.

The affixing of a seal to a writing evidencing a lease contract or an offer to enter into a lease contract does not render the writing a sealed instrument and the law with respect to sealed instruments does not apply to the lease contract or offer.

Section 2A-204. FORMATION IN GENERAL.

(1) A lease contract may be made in any manner sufficient to show agreement, including conduct by both parties which recognizes the existence of a lease contract.

(2) An agreement sufficient to constitute a lease contract may be found although the moment of its making is undetermined.

(3) Although one or more terms are left open, a lease contract does not fail for indefiniteness if the parties have intended to make a lease contract and there is a reasonably certain basis for giving an appropriate remedy.

Section 2A-205. FIRM OFFERS.

An offer by a merchant to lease goods to or from another person in a signed writing that by its terms gives assurance it will be held open is not revocable, for lack of consideration, during the time stated or, if no time is stated, for a reasonable time, but in no event may the period of irrevocability exceed three months. Any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.

Section 2A-206. OFFER AND ACCEPTANCE IN FORMATION OF LEASE CONTRACT.

(1) Unless otherwise unambiguously indicated by the language or circumstances, an offer to make a lease contract must be construed as inviting acceptance in any manner and by any medium reasonable in the circumstances.

(2) If the beginning of a requested performance is a reasonable mode of acceptance, an offeror who is not notified of acceptance within a reasonable time may treat the offer as having lapsed before acceptance.

Section 2A-207. COURSE OF PERFORMANCE OR PRACTICAL CONSTRUCTION.

(1) If a lease contract involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to it by the other, any course of performance accepted or acquiesced in without objection is relevant to determine the meaning of the lease agreement.

(2) The express terms of a lease agreement and any course of performance, as well as any course of dealing and usage of trade must be construed whenever reasonable as con-

sistent with each other; but if that construction is unreasonable, express terms control course of performance, course of performance controls both course of dealing and usage of trade, and course of dealing controls usage of trade.

(3) Subject to the provisions of Section 2A-208 on modification and waiver, course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.

Section 2A-208. MODIFICATION, RESCISSION AND WAIVER.

(1) An agreement modifying a lease contract needs no consideration to be binding.

(2) A signed lease agreement that excludes modification or rescission except by a signed writing may not be otherwise modified or rescinded, but, except as between merchants, such a requirement on a form supplied by a merchant must be separately signed by the other party.

(3) Although an attempt at modification or rescission does not satisfy the requirements of subsection (2), it may operate as a waiver.

(4) A party who has made a waiver affecting an executory portion of a lease contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.

Section 2A-209. LESSEE UNDER FINANCE LEASE AS BENEFICIARY OF SUPPLY CONTRACT.

(1) The benefit of a supplier's promises to the lessor under the supply contract and of all warranties, whether express or implied, including those of any third party provided in connection with or as part of the supply contract, extends to the lessee to the extent of the lessee's leasehold interest under a finance lease related to the supply contract, but is subject to the terms of the warranty and of the supply contract and all defenses or claims arising therefrom.

(2) The extension of the benefit of a supplier's promises and of warranties to the lessee (Section 2A-209(1)) does not: (i) modify the rights and obligations of the parties to the supply contract, whether arising therefrom or otherwise, or (ii) impose any duty or liability under the supply contract on the lessee.

(3) Any modification or rescission of the supply contract by the supplier and the lessor is effective between the supplier and the lessee unless, before the modification or rescission, the supplier has received notice that the lessee has entered into a finance lease related to the supply contract. If the modification or rescission is effective between the supplier and the lessee, the lessor is deemed to have assumed, in addition to the obligations of the lessor to the lessee under the lease contract, promises of the supplier to the lessor and warranties that were so modified or rescinded as they existed and were available to the lessee before modification or rescission.

(4) In addition to the extension of the benefit of the supplier's promises and of warranties to the lessee under subsection (1), the lessee retains all rights that the lessee may have against the supplier which arise from an agreement between the lessee and the supplier or under other law.

Section 2A-210. EXPRESS WARRANTIES.

(1) Express warranties by the lessor are created as follows:

(a) Any affirmation of fact or promise made by the lessor to the lessee which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods will conform to the affirmation or promise.

(b) Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods will conform to the description.

(c) Any sample or model that is made part of the basis of the bargain creates an express warranty that the whole of the goods will conform to the sample or model.

(2) It is not necessary to the creation of an express warranty that the lessor use formal words, such as "warrant" or "guarantee", or that the lessor have a specific intention to make a warranty, but an affirmation merely of the value of the goods or a statement purporting to be merely the lessor's opinion or commendation of the goods does not create a warranty.

Section 2A-211. WARRANTIES AGAINST INTERFERENCE AND AGAINST INFRINGEMENT; LESSEE'S OBLIGATION AGAINST INFRINGEMENT.

(1) There is in a lease contract a warranty that for the lease term no person holds a claim to or interest in the goods that arose from an act or ommission of the lessor, other than a claim by way of infringement or the like, which will interfere with the lessee's enjoyment of its leasehold interest.

(2) Except in a finance lease there is in a lease contract by a lessor who is a merchant regularly dealing in goods of the kind a warranty that the goods are delivered free of the rightful claim of any person by way of infringement or the like.

(3) A lessee who furnishes specifications to a lessor or a supplier shall hold the lessor and the supplier harmless against any claim by way of infringement or the like that arises out of compliance with the specifications.

Section 2A-212. IMPLIED WARRANTY OF MERCHANTABILITY.

(1) Except in a finance lease, a warranty that the goods will be merchantable is implied in a lease contract if the lessor is a merchant with respect to goods of that kind.

(2) Goods to be merchantable must be at least such as:

(a) pass without objection in the trade under the description in the lease agreement;

(b) in the case of fungible goods, are of fair average quality within the description;

(c) are fit for the ordinary purposes for which goods of that type are used;

(d) run, within the variation permitted by the lease agreement, of even kind, quality, and quantity within each unit and among all units involved;

(e) are adequately contained, packaged, and labeled as the lease agreement may require; and

(f) conform to any promises or affirmations of fact made on the container or label.

(3) Other implied warranties may arise from course of dealing or usage of trade.

Section 2A-213. IMPLIED WARRANTY OF FITNESS FOR PARTICULAR PURPOSE.

Except in a finance lease, if the lessor at the time the lease contract is made has rea-

son to know of any particular purpose for which the goods are required and that the lessee is relying on the lessor's skill or judgment to select or furnish suitable goods, there is in the lease contract an implied warranty that the goods will be fit for that purpose.

Section 2A-214. EXCLUSION OR MODIFICATION OF WARRANTIES.

(1) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit a warranty must be construed wherever reasonable as consistent with each other; but, subject to the provisions of Section 2A-202 on parol or extrinsic evidence, negation or limitation is inoperative to the extent that the construction is unreasonable.

(2) Subject to subsection (3), to exclude or modify the implied warranty of merchantability or any part of it the language must mention "merchantability", be by a writing, and be conspicuous. Subject to subsection (3), to exclude or modify any implied warranty of fitness the exclusion must be by a writing and be conspicuous. Language to exclude all implied warranties of fitness is sufficient if it is in writing, is conspicuous and states, for example, "There is no warranty that the goods will be fit for a particular purpose".

(3) Notwithstanding subsection (2), but subject to subsection (4):

(a) unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is", or "with all faults", or by other language that in common understanding calls the lessee's attention to the exclusion of warranties and makes plain that there is no implied warranty, if in writing and conspicuous;

(b) if the lessee before entering into the lease contract has examined the goods or the sample or model as fully as desired or has refused to examine the goods, there is no implied warranty with regard to defects that an examination ought in the circumstances to have revealed; and

(c) an implied warranty may also be excluded or modified by course of dealing, course of performance, or usage of trade.

(4) To exclude or modify a warranty against interference or against infringement (Section 2A-211) or any part of it, the language must be specific, be by a writing, and be conspicuous, unless the circumstances, including course of performance, course of dealing, or usage of trade, give the lessee reason to know that the goods are being leased subject to a claim or interest of any person.

Section 2A-214A. LIMITATION ON EXCLUSION OR MODIFICATION OF WARRANTIES.

(1) The provisions of section 2A-214 shall not apply to the extent provided in this section.

(2) Any language, oral or written, in a consumer lease, which attempts to exclude or modify any implied warranties of merchantability and fitness for a particular purpose or to exclude or modify the lessee's remedies for breach of those warranties, shall be unenforceable.

(3) Any language, oral or written, in a consumer lease, which attempts to limit or modify the lessee's remedies for breach of a manufacturer's express warranties, shall be unenforceable, unless such manufacturer maintains facilities within the commonwealth suffi-

cient to provide reasonable and expeditious performance of the warranty obligations.

(4) Any language, oral or written, in a lease which attempts to exclude or modify any implied warranties of merchantability and fitness for a particular purpose or to exclude or modify remedies for breach of those warranties, shall be unenforceable with respect to injury to the person. This subsection does not affect the validity under other law of an agreement between a lessor or supplier and a lessee that is an organization (see Section 1-201(28)), allocating, as between them, the risk of damages from or providing indemnity for breaches of those warranties with respect to injury to the person.

(5) The provisions of this section may not be disclaimed or waived by agreement.

Section 2A-215. CUMULATION AND CONFLICT OF WARRANTIES EXPRESS OR IMPLIED.

Warranties, whether express or implied, must be construed as consistent with each other and as cumulative, but if that construction is unreasonable, the intention of the parties determines which warranty is dominant. In ascertaining that intention the following rules apply:

(a) Exact or technical specifications displace an inconsistent sample or model or general language of description.

(b) A sample from an existing bulk displaces inconsistent general language of description.

(c) Express warranties displace inconsistent implied warranties other than an implied warranty of fitness for a particular purpose.

Section 2A-216. LACK OF PRIVITY IN ACTIONS AGAINST A MANUFACTURER, SUPPLIER OR LESSOR OF GOODS.

Lack of privity between plaintiff and defendant shall be no defense in any action brought against the manufacturer, supplier or lessor of goods to recover damages for breach of warranty, express or implied, or for negligence, although the plaintiff did not rent or lease the goods from the defendant if the plaintiff was a person whom the manufacturer, supplier or lessor might reasonably have expected to use, consume or be affected by the goods. The manufacturer, supplier or lessor may not exclude or limit the operation of this section. Failure to give notice shall not bar recovery under this section unless the defendant proves that he was prejudiced thereby. All actions under this section shall be commenced within three years next after the date the injury and damage occurs.

Section 2A-217. IDENTIFICATION.

Identification of goods as goods to which a lease contract refers may be made at any time and in any manner explicitly agreed to by the parties. In the absence of explicit agreement, identification occurs:

(a) when the lease contract is made if the lease contract is for a lease of goods that are existing and identified;

(b) when the goods are shipped, marked, or otherwise designated by the lessor as goods to which the lease contract refers, if the lease contract is for a lease of goods that are not existing and identified; or

(c) when the young are conceived, if the lease contract is for a lease of unborn young

of animals.

Section 2A-218. INSURANCE AND PROCEEDS.

(1) A lessee obtains an insurable interest when existing goods are identified to the lease contract even though the goods identified are nonconforming and the lessee has an option to reject them.

(2) If a lessee has an insurable interest only by reason of the lessor's identification of the goods, the lessor, until default or insolvency or notification to the lessee that identification is final, may substitute other goods for those identified.

(3) Notwithstanding a lessee's insurable interest under subsections (1) and (2), the lessor retains an insurable interest until an option to buy has been exercised by the lessee and risk of loss has passed to the lessee.

(4) Nothing in this section impairs any insurable interest recognized under any other statute or rule of law.

(5) The parties by agreement may determine that one or more parties have an obligation to obtain and pay for insurance covering the goods and by agreement may determine the beneficiary of the proceeds of the insurance.

Section 2A-219. RISK OF LOSS.

(1) Except in the case of a finance lease, risk of loss is retained by the lessor and does not pass to the lessee. In the case of a finance lease, risk of loss passes to the lessee.

(2) Subject to the provisions of this Article on the effect of default on risk of loss (Section 2A-220), if risk of loss is to pass to the lessee and the time of passage is not stated, the following rules apply:

(a) If the lease contract requires or authorizes the goods to be shipped by carrier:

(i) and it does not require delivery at a particular destination, the risk of loss passes to the lessee when the goods are duly delivered to the carrier; but

(ii) if it does require delivery at a particular destination and the goods are there duly tendered while in the possession of the carrier, the risk of loss passes to the lessee when the goods are there duly so tendered as to enable the lessee to take delivery.

(b) If the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the lessee on acknowledgment by the bailee of the lessee's right to possession of the goods.

(c) In any case not within subsection (a) or (b), the risk of loss passes to the lessee on the lessee's receipt of the goods if the lessor, or, in the case of a finance lease, the supplier, is a merchant; otherwise the risk passes to the lessee on tender of delivery.

Section 2A-220. EFFECT OF DEFAULT ON RISK OF LOSS.

(1) Where risk of loss is to pass to the lessee and the time of passage is not stated:

(a) If a tender or delivery of goods so fails to conform to the lease contract as to give a right of rejection, the risk of their loss remains with the lessor, or, in the case of a finance lease, the supplier, until cure or acceptance.

(b) If the lessee rightfully revokes acceptance, he, to the extent of any deficiency in his effective insurance coverage, may treat the risk of loss as having remained with the lessor from the beginning.

(2) Whether or not risk of loss is to pass to the lessee, if the lessee as to conforming goods already identified to a lease contract repudiates or is otherwise in default under the lease contract, the lessor, or, in the case of a finance lease, the supplier, to the extent of any deficiency in his effective insurance coverage may treat the risk of loss as resting on the lessee for a commercially reasonable time.

Section 2A-221. CASUALTY TO IDENTIFIED GOODS.

If a lease contract requires goods identified when the lease contract is made, and the goods suffer casualty without fault of the lessee, the lessor or the supplier before delivery, or the goods suffer casualty before risk of loss passes to the lessee pursuant to the lease agreement or Section 2A-219, then:

(a) if the loss is total, the lease contract is avoided; and

(b) if the loss is partial or the goods have so deteriorated as to no longer conform to the lease contract, the lessee may nevertheless demand inspection and at his option either treat the lease contract as avoided or, except in a finance lease that is not a consumer lease, accept the goods with due allowance from the rent payable for the balance of the lease term for the deterioration or the deficiency in quantity but without further right against the lessor.

PART 3. EFFECT OF LEASE CONTRACT.

Section 2A-301. ENFORCEABILITY OF LEASE CONTRACT.

Except as otherwise provided in this Article, a lease contract is effective and enforceable according to its terms between the parties, against purchasers of the goods and against creditors of the parties.

Section 2A-302. TITLE TO AND POSSESSION OF GOODS.

Except as otherwise provided in this Article, each provision of this Article applies whether the lessor or a third party has title to the goods, and whether the lessor, the lessee, or a third party has possession of the goods, notwithstanding any statute or rule of law that possession or the absence of possession is fraudulent.

Section 2A-303. ALIENABILITY OF PARTY'S INTEREST UNDER LEASE CONTRACT OR OF LESSOR'S RESIDUAL INTEREST IN GOODS; DELEGATION OF PERFORMANCE; TRANSFER OF RIGHTS.

(1) As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to Article 9, Secured Transactions, by reason of Section 9-102(1)(b).

(2) Except as provided in subsections (3) and (4), a provision in a lease agreement which (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection (5), but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

(3) A provision in a lease agreement which (i) prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods, or (ii) akes such a transfer an event of default, is not enforce-

able unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in (i) the lessor's interest under the lease contract or (ii) the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection (5) unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.

(4) A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection (5).

(5) Subject to subsections (3) and (4):

(a) if a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in Section 2A-501(2);

(b) if paragraph (a) is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

(6) A transfer of "the lease" or of "all my rights under the lease", or a transfer in similar general terms, is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

(7) Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

(8) In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.

Section 2A-304. SUBSEQUENT LEASE OF GOODS BY LESSOR.

(1) Subject to Section 2A-303, a subsequent lessee from a lessor of goods under an existing lease contract obtains, to the extent of the leasehold interest transferred, the leasehold interest in the goods that the lessor had or had power to transfer, and except as provided in subsection (2) and Section 2A-527(4), takes subject to the existing lease contract. A lessor with voidable title has power to transfer a good leasehold interest to a good faith subsequent lessee for value, but only to the extent set forth in the preceding sentence. If goods have been delivered under a transaction of purchase, the lessor has that power even though:

(a) the lessor's transferor was deceived as to the identity of the lessor;

(b) the delivery was in exchange for a check which is later dishonored;

(c) it was agreed that the transaction was to be a "cash sale"; or

(d) the delivery was procured through fraud punishable as larcenous under the criminal law.

(2) A subsequent lessee in the ordinary course of business from a lessor who is a merchant dealing in goods of that kind to whom the goods were entrusted by the existing lessee of that lessor before the interest of the subsequent lessee became enforceable against that lessor obtains, to the extent of the leasehold interest transferred, all of that lessor's and the existing lessee's rights to the goods, and takes free of the existing lease contract.

(3) A subsequent lessee from the lessor of goods that are subject to an existing lease contract and are covered by a certificate of title issued under a statute of the commonwealth or of another jurisdiction takes no greater rights than those provided both by this section and by the certificate of title statute.

Section 2A-305. SALE OR SUBLEASE OF GOODS BY LESSEE.

(1) Subject to the provisions of Section 2A-303, a buyer or sublessee from the lessee of goods under an existing lease contract obtains, to the extent of the interest transferred, the leasehold interest in the goods that the lessee had or had power to transfer, and except as provided in subsection (2) and Section 2A-511(4), takes subject to the existing lease contract. A lessee with a voidable leasehold interest has power to transfer a good leasehold interest to a good faith buyer for value or a good faith sublessee for value, but only to the extent set forth in the preceding sentence. When goods have been delivered under a transaction of lease the lessee has that power even though:

(a) the lessor was deceived as to the identity of the lessee;

(b) the delivery was in exchange for a check which is later dishonored; or

(c) the delivery was procured through fraud punishable as larcenous under the criminal law.

(2) A buyer in the ordinary course of business or a sublessee in the ordinary course of business from a lessee who is a merchant dealing in goods of that kind to whom the goods were entrusted by the lessor obtains, to the extent of the interest transferred, all of the lessor's and lessee's rights to the goods, and takes free of the existing lease contract.

(3) A buyer or sublessee from the lessee of goods that are subject to an existing lease contract and are covered by a certificate of title issued under a statute of the commonwealth

or of another jurisdiction takes no greater rights than those provided both by this section and by the certificate of title statute.

Section 2A-306. PRIORITY OF CERTAIN LIENS ARISING BY OPERATION OF LAW.

If a person in the ordinary course of his business furnishes services or materials with respect to goods subject to a lease contract, a lien upon those goods in the possession of that person given by statute or rule of law for those materials or services takes priority over any interest of the lessor or lessee under the lease contract or this Article unless the lien is created by statute and the statute provides otherwise or unless the lien is created by rule of law and the rule of law provides otherwise.

Section 2A-307. PRIORITY OF LIENS ARISING BY ATTACHMENT OR LEVY ON, SECURITY INTERESTS IN, AND OTHER CLAIMS TO GOODS.

(1) Except as otherwise provided in Section 2A-306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in subsections (3) and (4) and in Sections 2A-306 and 2A-308, a creditor of a lessor takes subject to the lease contract unless:

(a) the creditor holds a lien that attached to the goods before the lease contract became enforceable;

(b) the creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interest; or

(c) the creditor holds a security interest in the goods which was perfected (Section 9-303) before the lease contract became enforceable.

(3) A lessee in the ordinary course of business takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (Section 9-303) and the lessee knows of its existence.

(4) A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than forty-five days after the lease contract becomes enforceable, whichever first occurs, unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five day period.

Section 2A-308. SPECIAL RIGHTS OF CREDITORS.

(1) A creditor of a lessor in possession of goods subject to a lease contract may treat the lease contract as void if as against the creditor retention of possession by the lessor is fraudulent under any statute or rule of law, but retention of possession in good faith and current course of trade by the lessor for a commercially reasonable time after the lease contract becomes enforceable is not fraudulent.

(2) Nothing in this Article impairs the rights of creditors of a lessor if the lease contract (a) becomes enforceable, not in current course of trade but in satisfaction of or as security for a pre-existing claim for money, security, or the like, and (b) is made under circumstances which under any statute or rule of law apart from this Article would constitute the transaction a fraudulent transfer or voidable preference.

(3) A creditor of a seller may treat a sale or an identification of goods to a contract for sale as void if as against the creditor retention of possession by the seller is fraudulent under any statute or rule of law, but retention of possession of the goods pursuant to a lease contract entered into by the seller as lessee and the buyer as lessor in connection with the sale or identification of the goods is not fraudulent if the buyer bought for value and in good faith.

Section 2A-309. LESSOR'S AND LESSEE'S RIGHTS WHEN GOODS BECOME FIXTURES.

(1) In this section:

(a) goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;

(b) a "fixture filing" is the filing, in the office where a mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of Section 9-402(5);

(c) a lease is a "purchase money lease" unless the lessee has possession or use of the goods or the right to possession or use of the goods before the lease agreement is enforceable;

(d) a mortgage is a "construction mortgage" to the extent it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates; and

(e) "encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.

(2) Under this Article a lease may be of goods that are fixtures or may continue in goods that become fixtures, but no lease exists under this Article of ordinary building materials incorporated into an improvement on land.

(3) This Article does not prevent creation of a lease of fixtures pursuant to real estate law.

(4) The perfected interest of a lessor of fixtures has priority over a conflicting interest of an encumbrancer or owner of the real estate if:

(a) the lease is a purchase money lease, the conflicting interest of the encumbrancer or owner arises before the goods become fixtures, the interest of the lessor is perfected by a fixture filing before the goods become fixtures or within ten days thereafter, and the lessee has an interest of record in the real estate or is in possession of the real estate; or

(b) the interest of the lessor is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the lessor's interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the lessee has an interest of record in the real estate or is in possession of the real estate.

(5) The interest of a lessor of fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate if:

(a) the fixtures are readily removable factory or office machines, readily removable equipment that is not primarily used or leased for use in the operation of the real estate, or readily removable replacements of domestic appliances that are goods subject to a consumer

lease, and before the goods become fixtures the lease contract is enforceable; or

(b) the conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the lease contract is enforceable; or

(c) the encumbrancer or owner has consented in writing to the lease or has disclaimed an interest in the goods as fixtures; or

(d) the lessee has a right to remove the goods as against the encumbrancer or owner. If the lessee's right to remove terminates, the priority of the interest of the lessor continues for a reasonable time.

(6) Notwithstanding subsection (4)(a) but otherwise subject to subsections (4) and (5), the interest of a lessor of fixtures, including the lessor's residual interest, is subordinate to the conflicting interest of an encumbrancer of the real estate under a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent given to refinance a construction mortgage, the conflicting interest of an encumbrancer of the real estate under a mortgage has this priority to the same extent as the encumbrancer of the real estate under the construction mortgage.

(7) In cases not within the preceding subsections, priority between the interest of a lessor of fixtures, including the lessor's residual interest, and the conflicting interest of an encumbrancer or owner of the real estate who is not the lessee is determined by the priority rules governing conflicting interests in real estate.

(8) If the interest of a lessor of fixtures, including the lessor's residual interest, has priority over all conflicting interests of all owners and encumbrancers of the real estate, the lessor or the lessee may (i) on default, expiration, termination, or cancellation of the lease agreement but subject to the lease agreement and this Article, or (ii) if necessary to enforce other rights and remedies of the lessor or lessee under this Article, remove the goods from the real estate, free and clear of all conflicting interests of all owners and encumbrancers of the real estate, but the lessor or lessee must reimburse any encumbrancer or owner of the real estate who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

(9) Even though the lease agreement does not create a security interest, the interest of a lessor of fixtures, including the lessor's residual interest, is perfected by filing a financing statement as a fixture filing for leased goods that are or are to become fixtures in accordance with the relevant provisions of the Article on Secured Transactions (Article 9).

Section 2A-310. LESSOR'S AND LESSEE'S RIGHTS WHEN GOODS BECOME ACCESSIONS.

(1) Goods are "accessions" when they are installed in or affixed to other goods.

(2) The interest of a lessor or a lessee under a lease contract entered into before the goods became accessions is superior to all interests in the whole except as stated in subsection (4).

(3) The interest of a lessor or a lessee under a lease contract entered into at the time or after the goods became accessions is superior to all subsequently acquired interests in the whole except as stated in subsection (4) but is subordinate to interests in the whole existing at the time the lease contract was made unless the holders of such interests in the whole have in writing consented to the lease or disclaimed an interest in the goods as part of the whole.

(4) The interest of a lessor or a lessee under a lease contract described in subsection (2) or (3) is subordinate to the interest of:

(a) a buyer in the ordinary course of business or a lessee in the ordinary course of business of any interest in the whole acquired after the goods became accessions; or

(b) a creditor with a security interest in the whole perfected before the lease contract was made to the extent that the creditor makes subsequent advances without knowledge of the lease contract.

(5) When under subsections (2) or (3) and (4) a lessor or a lessee of accessions holds an interest that is superior to all interests in the whole, the lessor or the lessee may (a) on default, expiration, termination, or cancellation of the lease contract by the other party but subject to the provisions of the lease contract and this Article, or (b) if necessary to enforce his other rights and remedies under this Article, remove the goods from the whole, free and clear of all interests in the whole, but he must reimburse any holder of an interest in the whole who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury but not for any diminution in value of the whole caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

Section 2A-311. PRIORITY SUBJECT TO SUBORDINATION.

Nothing in this Article prevents subordination by agreement by any person entitled to priority.

PART 4. PERFORMANCE OF LEASE CONTRACT: REPUDIATED, SUBSTITUTED AND EXCUSED.

Section 2A-401. INSECURITY: ADEQUATE ASSURANCE OF PERFORMANCE.

(1) A lease contract imposes an obligation on each party that the other's expectation of receiving due performance will not be impaired.

(2) If reasonable grounds for insecurity arise with respect to the performance of either party, the insecure party may demand in writing adequate assurance of due performance. Until the insecure party receives that assurance, if commercially reasonable the insecure party may suspend any performance for which he has not already received the agreed return.

(3) A repudiation of the lease contract occurs if assurance of due performance adequate under the circumstances of the particular case is not provided to the insecure party within a reasonable time, not to exceed thirty days after receipt of a demand by the other party.

(4) Between merchants, the reasonableness of grounds for insecurity and the adequa-

cy of any assurance offered must be determined according to commercial standards.

(5) Acceptance of any nonconforming delivery or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

Section 2A-402. ANTICIPATORY REPUDIATION.

If either party repudiates a lease contract with respect to a performance not yet due under the lease contract, the loss of which performance will substantially impair the value of the lease contract to the other, the aggrieved party may:

(a) for a commercially reasonable time, await retraction of repudiation and performance by the repudiating party;

(b) make demand pursuant to Section 2A-401 and await assurance of future performance adequate under the circumstances of the particular case; or

(c) resort to any right or remedy upon default under the lease contract or this Article, even though the aggrieved party has notified the repudiating party that the aggrieved party would await the repudiating party's performance and assurance and has urged retraction. In addition, whether or not the aggrieved party is pursuing one of the foregoing remedies, the aggrieved party may suspend performance or, if the aggrieved party is the lessor, proceed in accordance with the provisions of this Article on the lessor's right to identify goods to the lease contract notwithstanding default or to salvage unfinished goods (Section 2A-524).

Section 2A-403. RETRACTION OF ANTICIPATORY REPUDIATION.

(1) Until the repudiating party's next performance is due, the repudiating party can retract the repudiation unless, since the repudiation, the aggrieved party has cancelled the lease contract or materially changed the aggrieved party's position or otherwise indicated that the aggrieved party considers the repudiation final.

(2) Retraction may be by any method that clearly indicates to the aggrieved party that the repudiating party intends to perform under the lease contract and includes any assurance demanded under Section 2A-401.

(3) Retraction reinstates a repudiating party's rights under a lease contract with due excuse and allowance to the aggrieved party for any delay occasioned by the repudiation.

Section 2A-404. SUBSTITUTED PERFORMANCE.

(1) If without fault of the lessee, the lessor and the supplier, the agreed berthing, loading, or unloading facilities fail or the agreed type of carrier becomes unavailable or the agreed manner of delivery otherwise becomes commercially impracticable, but a commercially reasonable substitute is available, the substitute performance must be tendered and accepted.

(2) If the agreed means or manner of payment fails because of domestic or foreign governmental regulation:

(a) the lessor may withhold or stop delivery or cause the supplier to withhold or stop delivery unless the lessee provides a means or manner of payment that is commercially a substantial equivalent; and

(b) if delivery has already been taken, payment by the means or in the manner provided by the regulation discharges the lessee's obligation unless the regulation is discriminatory, oppressive, or predatory.

Section 2A-405. EXCUSED PERFORMANCE.

Subject to Section 2A-404 on substituted performance, the following rules apply:

(a) Delay in delivery or nondelivery in whole or in part by a lessor or a supplier who complies with paragraphs (b) and (c) is not a default under the lease contract if performance as agreed has been made impracticable by the occurrence of a contingency the nonoccurrence of which was a basic assumption on which the lease contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order, whether or not the regulation or order later proves to be invalid.

(b) If the causes mentioned in paragraph (a) affect only part of the lessor's or the supplier's capacity to perform, he shall allocate production and deliveries among his customers but at his option may include regular customers not then under contract for sale or lease as well as his own requirements for further manufacture. He may so allocate in any manner that is fair and reasonable.

(c) The lessor seasonably shall notify the lessee and in the case of a finance lease the supplier seasonably shall notify the lessor and the lessee, if known, that there will be delay or nondelivery and, if allocation is required under paragraph (b), of the estimated quota thus made available for the lessee.

Section 2A-406. PROCEDURE ON EXCUSED PERFORMANCE.

(1) If the lessee receives notification of a material or indefinite delay or an allocation justified under Section 2A-405, the lessee may by written notification to the lessor as to any goods involved, and with respect to all of the goods if under an installment lease contract the value of the whole lease contract is substantially impaired (Section 2A-510):

(a) terminate the lease contract (Section 2A-505(2)); or

(b) except in a finance lease that is not a consumer lease, modify the lease contract by accepting the available quota in substitution, with due allowance from the rent payable for the balance of the lease term for the deficiency but without further right against the lessor.

(2) If, after receipt of a notification from the lessor under Section 2A-405, the lessee fails so to modify the lease agreement within a reasonable time not exceeding thirty days, the lease contract lapses with respect to any deliveries affected.

Section 2A-407. IRREVOCABLE PROMISES: FINANCE LEASES.

(1) In the case of a finance lease that is not a consumer lease the lessee's promises under the lease contract become irrevocable and independent upon the lessee's acceptance of the goods.

(2) A promise that has become irrevocable and independent under subsection (1):

(a) is effective and enforceable between the parties, and by or against third parties including assignees of the parties; and

(b) is not subject to cancellation, termination, modification, repudiation, excuse, or substitution without the consent of the party to whom the promise runs.

(3) This section does not affect the validity under any other law of a covenant in any lease contract making the lessee's promises irrevocable and independent upon the lessee's acceptance of the goods.

PART 5. DEFAULT.

A. IN GENERAL.

Section 2A-501. DEFAULT: PROCEDURE.

(1) Whether the lessor or the lessee is in default under a lease contract is determined by the lease agreement and this Article.

(2) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement has rights and remedies as provided in this Article and, except as limited by this Article, as provided in the lease agreement.

(3) If the lessor or the lessee is in default under the lease contract, the party seeking enforcement may reduce the party's claim to judgment, or otherwise enforce the lease contract by self-help or any available judicial procedure or nonjudicial procedure, including administrative proceeding, arbitration, or the like, in accordance with this Article.

(4) Except as otherwise provided in Section 1-106(1) or this Article or the lease agreement, the rights and remedies referred to in subsections (2) and (3) are cumulative.

(5) If the lease agreement covers both real property and goods, the party seeking enforcement may proceed under this Part as to the goods, or under other applicable law as to both the real property and the goods in accordance with that party's rights and remedies in respect of the real property, in which case this Part does not apply.

Section 2A-502. NOTICE AFTER DEFAULT.

Except as otherwise provided in this Article or the lease agreement, the lessor or lessee in default under the lease contract is not entitled to notice of default or notice of enforcement from the other party to the lease agreement.

Section 2A-503. MODIFICATION OR IMPAIRMENT OF RIGHTS AND REMEDIES.

(1) Except as otherwise provided in this Article, the lease agreement may include rights and remedies for default in addition to or in substitution for those provided in this Article and may limit or alter the measure of damages recoverable under this Article.

(2) Resort to a remedy provided under this Article or in the lease agreement is optional unless the remedy is expressly agreed to be exclusive. If circumstances cause an exclusive or limited remedy to fail of its essential purpose, or provision for an exclusive remedy is unconscionable, remedy may be had as provided in this Article.

(3) Subject to Sections 2A-214A and 2A-216, consequential damages may be liquidated under Section 2A-504, or may otherwise be limited, altered, or excluded unless the limitation, alteration, or exclusion is unconscionable. Limitation, alteration, or exclusion of consequential damages for injury to the person in the case of consumer goods is prima facie unconscionable but limitation, alteration, or exclusion of damages where the loss is commercial is not prima facie unconscionable.

(4) Rights and remedies on default by the lessor or the lessee with respect to any obligation or promise collateral or ancillary to the lease contract are not impaired by this Article.

Section 2A-504. LIQUIDATION OF DAMAGES.

(1) Damages payable by either party for default, or any other act or omission, includ-

ing indemnity for loss or diminution of anticipated tax benefits or loss or damage to lessor's residual interest, may be liquidated in the lease agreement but only at an amount or by a formula that is reasonable in light of the then anticipated harm caused by the default or other act or omission.

(2) If the lease agreement provides for liquidation of damages, and such provision does not comply with subsection (1), or such provision is an exclusive or limited remedy that circumstances cause to fail of its essential purpose, remedy may be had as provided in this Article.

(3) If the lessor justifiably withholds or stops delivery of goods because of the lessee's default or insolvency (Section 2A-525 or 2A-526), the lessee is entitled to restitution of any amount by which the sum of his payment exceeds:

(a) the amount to which the lessor is entitled by virtue of terms liquidating the lessor's damages in accordance with subsection (1); or

(b) in the absence of those terms, twenty percent of the then present value of the total rent the lessee was obligated to pay for the balance of the lease term, or, in the case of a consumer lease, the lesser of such amount or five hundred dollars.

(4) A lessee's right to restitution under subsection (3) is subject to offset to the extent the lessor establishes:

(a) a right to recover damages under the provisions of this Article other than subsection (1); and

(b) the amount or value of any benefits received by the lessee directly or indirectly by reason of the lease contract.

Section 2A-505. CANCELLATION AND TERMINATION AND EFFECT OF CANCELLATION, TERMINATION, RESCISSION, OR FRAUD ON RIGHTS AND REMEDIES.

(1) On cancellation of the lease contract, all obligations that are still executory on both sides are discharged, but any right based on prior default or performance survives, and the cancelling party also retains any remedy for default of the whole lease contract or any unperformed balance.

(2) On termination of the lease contract, all obligations that are still executory on both sides are discharged but any right based on prior default or performance survives.

(3) Unless the contrary intention clearly appears, expressions of "cancellation", "rescission", or the like of the lease contract may not be construed as a renunciation or discharge of any claim in damages for an antecedent default.

(4) Rights and remedies for material misrepresentation or fraud include all rights and remedies available under this Article for default.

(5) Neither rescission nor a claim for rescission of the lease contract nor rejection or return of the goods may bar or be deemed inconsistent with a claim for damages or other right or remedy.

Section 2A-506. STATUTE OF LIMITATIONS.

(1) An action for default under a lease contract, including breach of warranty or indemnity, must be commenced within four years after the cause of action accrued. By the

original lease contract the parties may reduce the period of limitation to not less than one year.

(2) A cause of action for default accrues when the act or omission on which the default or breach of warranty is based is or should have been discovered by the aggrieved party, or when the default occurs, whichever is later. A cause of action for indemnity accrues when the act or omission on which the claim for indemnity is based is or should have been discovered by the indemnified party, whichever is later.

(3) If an action commenced within the time limited by subsection (1) is so terminated as to leave available a remedy by another action for the same default or breach of warranty or indemnity, the other action may be commenced after the expiration of the time limited and within six months after the termination of the first action unless the termination resulted from voluntary discontinuance or from dismissal for failure or neglect to prosecute.

(4) This section does not alter the law on tolling of the statute of limitations nor does it apply to causes of action that have accrued before this Article becomes effective.

(5) This section does not apply to actions commenced under Section 2A-216.

Section 2A-507. PROOF OF MARKET RENT: TIME AND PLACE.

(1) Damages based on market rent (Section 2A-519 or 2A-528) are determined according to the rent for the use of the goods concerned for a lease term identical to the remaining lease term of the original lease agreement and prevailing at the times specified in Sections 2A-519 and 2A-528.

(2) If evidence of rent for the use of the goods concerned for a lease term identical to the remaining lease term of the original lease agreement and prevailing at the times or places described in this Article is not readily available, the rent prevailing within any reasonable time before or after the time described or at any other place or for a different lease term which in commercial judgment or under usage of trade would serve as a reasonable substitute for the one described may be used, making any proper allowance for the difference, including the cost of transporting the goods to or from the other place.

(3) Evidence of a relevant rent prevailing at a time or place or for a lease term other than the one described in this Article offered by one party is not admissible unless and until he has given the other party notice the court finds sufficient to prevent unfair surprise.

(4) If the prevailing rent or value of any goods regularly leased in any established market is in issue, reports in official publications or trade journals or in newspapers or periodicals of general circulation published as the reports of that market are admissible in evidence. The circumstances of the preparation of the report may be shown to affect its weight by not its admissibility.

B. DEFAULT BY LESSOR.

Section 2A-508. LESSEE'S REMEDIES.

(1) If a lessor fails to deliver the goods in conformity to the lease contract (Section 2A-509) or repudiates the lease contract (Section 2A-402), or a lessee rightfully rejects the goods (Section 2A-509) or justifiably revokes acceptance of the goods (Section 2A-517), then with respect to any goods involved, and with respect to all of the

goods if under an installment lease contract the value of the whole lease contract is substantially impaired (Section 2A-510), the lessor is in default under the lease contract and the lessee may:

(a) cancel the lease contract (Section 2A-505(1));

(b) recover so much of the rent and security as has been paid and is just under the circumstances;

(c) cover and recover damages as to all goods affected whether or not they have been identified to the lease contract (Sections 2A-518 and 2A-520), or recover damages for nondelivery (Sections 2A-519 and 2A-520);

(d) exercise any other rights or pursue any other remedies provided in the lease contract.

(2) If a lessor fails to deliver the goods in conformity to the lease contract or repudiates the lease contract, the lessee may also:

(a) if the goods have been identified, recover them (Section 2A-522); or

(b) in a proper case, obtain specific performance or replevy the goods (Section 2A-521).

(3) If a lessor is otherwise in default under a lease contract, the lessee may exercise the rights and pursue the remedies provided in the lease contract, which may include a right to cancel the lease, and in Section 2A-519(3).

(4) If a lessor has breached a warranty, whether express or implied, the lessee may recover damages (Section 2A-519(4)).

(5) On rightful rejection or justifiable revocation of acceptance, a lessee has a security interest in goods in the lessee's possession or control for any rent and security that has been paid and any expenses reasonably incurred in their inspection, receipt, transportation, and care and custody and may hold those goods and dispose of them in good faith and in a commercially reasonable manner, subject to Section 2A-527(5).

(6) Subject to the provisions of Section 2A-407, a lessee, on notifying the lessor of the lessee's intention to do so, may deduct all or any part of the damages resulting from any default under the lease contract from any part of the rent still due under the same lease contract.

Section 2A-509. LESSEE'S RIGHTS ON IMPROPER DELIVERY; RIGHTFUL REJECTION.

(1) Subject to the provisions of Section 2A-510 on default in installment lease contracts, if the goods or the tender or delivery fail in any respect to conform to the lease contract, the lessee may reject or accept the goods or accept any commercial unit or units and reject the rest of the goods.

(2) Rejection of goods is ineffective unless it is within a reasonable time after tender or delivery of the goods and the lessee seasonably notifies the lessor.

Section 2A-510. INSTALLMENT LEASE CONTRACTS: REJECTION AND DEFAULT.

(1) Under an installment lease contract a lessee may reject any delivery that is nonconforming if the nonconformity substantially impairs the value of that delivery and can-

not be cured or the nonconformity is a defect in the required documents; but if the nonconformity does not fall within subsection (2) and the lessor or the supplier gives adequate assurance of its cure, the lessee must accept that delivery.

(2) Whenever nonconformity or default with respect to one or more deliveries substantially impairs the value of the installment lease contract as a whole there is a default with respect to the whole. But, the aggrieved party reinstates the installment lease contract as a whole if the aggrieved party accepts a nonconforming delivery without seasonably notifying of cancellation or brings an action with respect only to past deliveries or demands performance as to future deliveries.

Section 2A-511. MERCHANT LESSEE'S DUTIES AS TO RIGHTFULLY REJECTED GOODS.

(1) Subject to any security interest of a lessee (Section 2A-508)(5)), if a lessor or a supplier has no agent or place of business at the market of rejection, a merchant lessee, after rejection of goods in his possession or control, shall follow any reasonable instructions received from the lessor or the supplier with respect to the goods. In the absence of those instructions, a merchant lessee shall make reasonable efforts to sell, lease, or otherwise dispose of the goods for the lessor's account if they threaten to decline in value speedily. Instructions are not reasonable if on demand indemnity for expenses is not forthcoming.

(2) If a merchant lessee (subsection (1)) or any other lessee (Section 2A-512) disposes of goods, he is entitled to reimbursement either from the lessor or the supplier or out of the proceeds for reasonable expenses of caring for and disposing of the goods and, if the expenses include no disposition commission, to such commission as is usual in the trade, or if there is none, to a reasonable sum not exceeding ten percent of the gross proceeds.

(3) In complying with this section or Section 2A-512, the lessee is held only to good faith. Good faith conduct hereunder is neither acceptance or conversion nor the basis of an action for damages.

(4) A purchaser who purchases in good faith from a lessee pursuant to this section or Section 2A-512 takes the goods free of any rights of the lessor and the supplier even though the lessee fails to comply with one or more of the requirements of this Article.

Section 2A-512. LESSEE'S DUTIES AS TO RIGHTFULLY REJECTED GOODS.

(1) Except as otherwise provided with respect to goods that threaten to decline in value speedily (Section 2A-511) and subject to any security interest of a lessee (Section 2A-508(5)):

(a) the lessee, after rejection of goods in the lessee's possession, shall hold them with reasonable care at the lessor's or the supplier's disposition for a reasonable time after the lessee's seasonable notification of rejection;

(b) if the lessor or the supplier gives no instructions within a reasonable time after notification of rejection, the lessee may store the rejected goods for the lessor's or the supplier's account or ship them to the lessor or the supplier or dispose of them for the lessor's or the supplier's account with reimbursement in the manner provided in Section 2A-511; but

(c) the lessee has no further obligations with regard to goods rightfully rejected.

(2) Action by the lessee pursuant to subsection (1) is not acceptance or conversion.

Section 2A-513. CURE BY LESSOR OF IMPROPER TENDER OR DELIVERY; REPLACEMENT.

(1) If any tender or delivery by the lessor or the supplier is rejected because nonconforming and the time for performance has not yet expired, the lessor or the supplier may seasonably notify the lessee of the lessor's or the supplier's intention to cure and may then make a conforming delivery within the time provided in the lease contract.

(2) If the lessee rejects a nonconforming tender that the lessor or the supplier had reasonable grounds to believe would be acceptable with or without money allowance, the lessor or the supplier may have a further reasonable time to substitute a conforming tender if he seasonably notifies the lessee.

Section 2A-514. WAIVER OF LESSEE'S OBJECTIONS.

(1) In rejecting goods, a lessee's failure to state a particular defect that is ascertainable by reasonable inspection precludes the lessee from relying on the defect to justify rejection or to establish default:

(a) if, stated seasonably, the lessor or the supplier could have cured it (Section 2A-513); or

(b) between merchants if the lessor or the supplier after rejection has made a request in writing for a full and final written statement of all defects on which the lessee proposes to rely.

(2) A lessee's failure to reserve rights when paying rent or other consideration against documents precludes recovery of the payment for defects apparent on the face of the documents.

Section 2A-515. ACCEPTANCE OF GOODS.

(1) Acceptance of goods occurs after the lessee has had a reasonable opportunity to inspect the goods and:

(a) the lessee signifies or acts with respect to the goods in a manner that signifies to the lessor or the supplier that the goods are conforming or that the lessee will take or retain them in spite of their nonconformity; or

(b) the lessee fails to make an effective rejection of the goods (Section 2A-509(2)).

(2) Acceptance of a part of any commercial unit is acceptance of that entire unit.

Section 2A-516. EFFECT OF ACCEPTANCE OF GOODS; NOTICE OF DEFAULT; BURDEN OF ESTABLISHING DEFAULT AFTER ACCEPTANCE; NOTICE OF CLAIM OR LITIGATION TO PERSON ANSWERABLE OVER.

(1) A lessee must pay rent for any goods accepted in accordance with the lease contract, with due allowance for goods rightfully rejected or not delivered.

(2) A lessee's acceptance of goods precludes rejection of the goods accepted. In the case of a finance lease, if made with knowledge of a nonconformity, acceptance cannot be revoked because of it. In any other case, if made with knowledge of a nonconformity, acceptance cannot be revoked because of it unless the acceptance was on the reasonable assumption that the nonconformity would be seasonably cured. Acceptance does not of itself impair any other remedy provided by this Article or the lease agreement for nonconformity.

(3) If a tender has been accepted:

(a) within a reasonable time after the lessee discovers or should have discovered any default, the lessee shall notify the lessor and the supplier, if any, or be barred from any remedy against the party not notified;

(b) except in the case of a consumer lease, within a reasonable time after the lessee receives notice of litigation for infringement or the like (Section 2A-211) the lessee shall notify the lessor or be barred from any remedy over for liability established by the litigation; and

(c) the burden is on the lessee to establish any default.

(4) If a lessee is sued for breach of a warranty or other obligation for which a lessor or a supplier is answerable over the following apply:

(a) The lessee may give the lessor or the supplier, or both, written notice of the litigation. If the notice states that the person notified may come in and defend and that if the person notified does not do so that person will be bound in any action against that person by the lessee by any determination of fact common to the two litigations, then unless the person notified after seasonable receipt of the notice does come in and defend that person is so bound.

(b) The lessor or the supplier may demand in writing that the lessee turn over control of the litigation including settlement if the claim is one for infringement or the like (Section 2A-211) or else be barred from any remedy over. If the demand states that the lessor or the supplier agrees to bear all expense and to satisfy any adverse judgment, then unless the lessee after seasonable receipt of the demand does turn over control the lessee is so barred.

(5) Subsections (3) and (4) apply to any obligation of a lessee to hold the lessor or the supplier harmless against infringement or the like (Section 2A-211).

Section 2A-517. REVOCATION OF ACCEPTANCE OF GOODS.

(1) A lessee may revoke acceptance of a lot or commercial unit whose nonconformity substantially impairs its value to the lessee if the lessee has accepted it:

(a) except in the case of a finance lease, on the reasonable assumption that its nonconformity would be cured and it has not been seasonably cured; or

(b) without discovery of the nonconformity if the lessee's acceptance was reasonably induced either by the lessor's assurances or, except in the case of a finance lease, by the difficulty of discovery before acceptance.

(2) Except in the case of a finance lease that is not a consumer lease, a lessee may revoke acceptance of a lot or commercial unit if the lessor defaults under the lease contract and the default substantially impairs the value of that lot or commercial unit to the lessee.

(3) If the lease agreement so provides, the lessee may revoke acceptance of a lot or commercial unit because of other defaults by the lessor.

(4) Revocation of acceptance must occur within a reasonable time after the lessee discovers or should have discovered the ground for it and before any substantial change in condition of the goods which is not caused by the nonconformity. Revocation is not effective until the lessee notifies the lessor.

(5) A lessee who so revokes has the same rights and duties with regard to the goods involved as if the lessee had rejected them.

Section 2A-518. COVER; SUBSTITUTE GOODS.

(1) After a default by a lessor under the lease contract of the type described in Section 2A-508(1), or, if agreed, after other default by the lessor, the lessee may cover by making any purchase or lease of or contract to purchase or lease goods in substitution for those due from the lessor.

(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 2A-504) or otherwise determined pursuant to agreement of the parties (Sections 1-102(3) and 2A-503), if a lessee's cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages (i) the present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement, and (ii) any incidental or consequential damages, less expenses saved in consequence of the lessor's default.

(3) If a lessee's cover is by lease agreement that for any reason does not qualify for treatment under subsection (2), or is by purchase or otherwise, the lessee may recover from the lessor as if the lessee had elected not to cover and Section 2A-519 governs.

Section 2A-519. LESSEE'S DAMAGES FOR NON-DELIVERY, REPUDIATION, DEFAULT, AND BREACH OF WARRANTY IN REGARD TO ACCEPTED GOODS.

(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 2A-504) or otherwise determined pursuant to agreement of the parties (Sections 1-102(3) and 2A-503), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under Section 2A-518(2), or is by purchase or otherwise, the measure of damages for non-delivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

(2) Market rent is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.

(3) Except as otherwise agreed, if the lessee has accepted goods and given notification (Section 2A-516(3)), the measure of damages for nonconforming tender or delivery or other default by a lessor is the loss resulting in the ordinary course of events from the lessor's default as determined in any manner that is reasonable together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

(4) Except as otherwise agreed, the measure of damages for breach of warranty is the present value at the time and place of acceptance of the difference between the value of

the use of the goods accepted and the value if they had been as warranted for the lease term, unless special circumstances show proximate damages of a different amount, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default or breach of warranty.

Section 2A-520. LESSEE'S INCIDENTAL AND CONSEQUENTIAL DAMAGES.

(1) Incidental damages resulting from a lessor's default include expenses reasonably incurred in inspection, receipt, transportation, and care and custody of goods rightfully rejected or goods the acceptance of which is justifiably revoked, any commercially reasonable charges, expenses or commissions in connection with effecting cover, and any other reasonable expense incident to the default.

(2) Consequential damages resulting from a lessor's default include:

(a) any loss resulting from general or particular requirements and needs of which the lessor at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

(b) injury to person or property proximately resulting from any breach of warranty.

Section 2A-521. LESSEE'S RIGHT TO SPECIFIC PERFORMANCE OR REPLEVIN.

(1) Specific performance may be decreed if the goods are unique or in other proper circumstances.

(2) A decree for specific performance may include any terms and conditions as to payment of the rent, damages, or other relief that the court deems just.

(3) A lessee has a right of replevin, detinue, sequestration, claim and delivery, or the like for goods identified to the lease contract if after reasonable effort the lessee is unable to effect cover for those goods or the circumstances reasonably indicate that the effort will be unavailing.

Section 2A-522. LESSEE'S RIGHT TO GOODS ON LESSOR'S INSOLVENCY.

(1) Subject to subsection (2) and even though the goods have not been shipped, a lessee who has paid a part or all of the rent and security for goods identified to a lease contract (Section 2A-217) on making and keeping good a tender of any unpaid portion of the rent and security due under the lease contract may recover the goods identified from the lessor if the lessor becomes insolvent within ten days after receipt of the first installment of rent and security.

(2) A lessee acquires the right to recover goods identified to a lease contract only if they conform to the lease contract.

C. DEFAULT BY LESSEE.

Section 2A-523. LESSOR'S REMEDIES.

(1) If a lessee wrongfully rejects or revokes acceptance of goods or fails to make a payment when due or repudiates with respect to a part or the whole, then, with respect to any goods involved, and with respect to all of the goods if under an installment lease contract the value of the whole lease contract is substantially impaired (Section 2A-510), the lessee is in default under the lease contract and the lessor may:

(a) cancel the lease contract (Section 2A-505(1));

(b) proceed respecting goods not identified to the lease contract (Section 2A-524);

(c) withhold delivery of the goods and take possession of goods previously delivered (Section 2A-525);

(d) stop delivery of the goods by any bailee (Section 2A-526);

(e) dispose of the goods and recover damages (Section 2A-527), or retain the goods and recover damages (Section 2A-528), or in a proper case recover rent (Section 2A-529);

(f) exercise any other rights or pursue any other remedies provided in the lease contract.

(2) If a lessor does not fully exercise a right or obtain a remedy to which the lessor is entitled under subsection (1), the lessor may recover the loss resulting in the ordinary course of events from the lessee's default as determined in any reasonable manner, together with incidental damages, less expenses saved in consequence of the lessee's default.

(3) If a lessee is otherwise in default under a lease contract, the lessor may exercise the rights and pursue the remedies provided in the lease contract, which may include a right to cancel the lease. In addition, unless otherwise provided in the lease contract:

(a) if the default substantially impairs the value of the lease contract to the lessor, the lessor may exercise the rights and pursue the remedies provided in subsection (1) or (2); or

(b) if the default does not substantially impair the value of the lease contract to the lessor, the lessor may recover as provided in subsection (2).

Section 2A-524. LESSOR'S RIGHT TO IDENTIFY GOODS TO LEASE CONTRACT.

(1) After default by the lessee under the lease contract of the type described in Section 2A-523(1) or Section 2A-523(3)(a) or, if agreed, after other default by the lessee, the lessor may:

(a) identify to the lease contract conforming goods not already identified if at the time the lessor learned of the default they were in the lessor's or the supplier's possession or control; and

(b) dispose of goods (Section 2A-527(1)) that demonstrably have been intended for the particular lease contract even though those goods are unfinished.

(2) If the goods are unfinished, in the exercise of reasonable commercial judgment for the purposes of avoiding loss and of effective realization, an aggrieved lessor or the supplier may either complete manufacture and wholly identify the goods to the lease contract or cease manufacture and lease, sell, or otherwise dispose of the goods for scrap or salvage value or proceed in any other reasonable manner.

Section 2A-525. LESSOR'S RIGHT TO POSSESSION OF GOODS.

(1) If a lessor discovers the lessee to be insolvent, the lessor may refuse to deliver the goods.

(2) After a default by the lessee under the lease contract of the type described in Section 2A-523(1) or 2A-523(3)(a) or, if agreed, after other default by the lessee, the lessor has the right to take possession of the goods. If the lease contract so provides, the lessor may require the lessee to assemble the goods and make them available to the lessor at a place to

be designated by the lessor which is reasonably convenient to both parties. Without removal, the lessor may render unusable any goods employed in trade or business, and may dispose of goods on the lessee's premises (Section 2A-527).

(3) The lessor may proceed under subsection (2) without judicial process if it can be done without breach of the peace or the lessor may proceed by action.

Section 2A-526. LESSOR'S STOPPAGE OF DELIVERY IN TRANSIT OR OTHERWISE.

(1) A lessor may stop delivery of goods in the possession of a carrier or other bailee if the lessor discovers the lessee to be insolvent and may stop delivery of carload, truckload, planeload, or larger shipments of express or freight if the lessee repudiates or fails to make a payment due before delivery, whether for rent, security or otherwise under the lease contract, or for any other reason the lessor has a right to withhold or take possession of the goods.

(2) In pursuing its remedies under subsection (1), the lessor may stop delivery until:

(a) receipt of the goods by the lessee;

(b) acknowledgment to the lessee by any bailee of the goods, except a carrier, that the bailee holds the goods for the lessee; or

(c) such an acknowledgment to the lessee by a carrier via reshipment or as warehouseman.

(3)(a) To stop delivery, a lessor shall so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

(b) After notification, the bailee shall hold and deliver the goods according to the directions of the lessor, but the lessor is liable to the bailee for any ensuing charges or damages.

(c) A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor.

Section 2A-527. LESSOR'S RIGHTS TO DISPOSE OF GOODS.

(1) After a default by a lessee under the lease contract of the type described in Section 2A-523(1) or 2A-523(3)(a) or after the lessor refuses to deliver or takes possession of goods (Section 2A-525 or 2A-526), or, if agreed, after other default by a lessee, the lessor may dispose of the goods concerned or the undelivered balance thereof by lease, sale, or otherwise.

(2) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 2A-504) or otherwise determined pursuant to agreement of the parties (Sections 1-102(3) and 2A-503), if the disposition is by lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages (i) accrued and unpaid rent as of the date of the commencement of the term of the new lease agreement, (ii) the present value, as of the same date, of the total rent for the then remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement, and (iii) any inci-

dental damages allowed under Section 2A-530, less expenses saved in consequence of the lessee's default.

(3) If the lessor's disposition is by lease agreement that for any reason does not qualify for treatment under subsection (2), or is by sale or otherwise, the lessor may recover from the lessee as if the lessor had elected not to dispose of the goods and Section 2A-528 governs.

(4) A subsequent buyer or lessee who buys or leases from the lessor in good faith for value as a result of a disposition under this section takes the goods free of the original lease contract and any rights of the original lessee even though the lessor fails to comply with one or more of the requirements of this Article.

(5) The lessor is not accountable to the lessee for any profit made on any disposition. A lessee who has rightfully rejected or justifiably revoked acceptance shall account to the lessor for any excess over the amount of the lessee's security interest (Section 2A-508(5)).

Section 2A-528. LESSOR'S DAMAGES FOR NONACCEPTANCE, FAILURE TO PAY, REPUDIATION, OR OTHER DEFAULT.

(1) Except as otherwise provided with respect to damages liquidated in the lease agreement (Section 2A-504) or otherwise determined pursuant to agreement of the parties (Sections 1-102(3) and 2A-503), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under Section 2A-527(2), or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in Section 2A-523(1) or 2A-523(3)(a), or, if agreed, for other default of the lessee, (i) accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor, (ii) the present value as of the date determined under clause (i) of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term, and (iii) any incidental damages allowed under Section 2A-530, less expenses saved in consequence of the lessee's default.

(2) If the measure of damages provided in subsection (1) is inadequate to put a lessor in as good a position as performance would have, the measure of damages is the present value of the profit, including reasonable overhead, the lessor would have made from full performance by the lessee, together with any incidental damages allowed under Section 2A-530, due allowance for costs reasonably incurred and due credit for payments or proceeds of disposition.

Section 2A-529. LESSOR'S ACTION FOR THE RENT.

(1) After default by the lessee under the lease contract of the type described in Section 2A-523(1) or 2A-523(3)(a) or, if agreed, after other default by the lessee, if the lessor complies with subsection (2), the lessor may recover from the lessee as damages:

(a) for goods accepted by the lessee and not repossessed by or tendered to the lessor, and for conforming goods lost or damaged within a commercially reasonable time after risk

of loss passes to the lessee (Section 2A-219), (i) accrued and unpaid rent as of the date of entry of judgment in favor of the lessor, (ii) the present value as of the same date of the rent for the then remaining lease term of the lease agreement, and (iii) any incidental damages allowed under Section 2A-530, less expenses saved in consequence of the lessee's default; and

(b) for goods identified to the lease contract if the lessor is unable after reasonable effort to dispose of them at a reasonable price or the circumstances reasonably indicate that effort will be unavailing, (i) accrued and unpaid rent as of the date of entry of judgment in favor of the lessor, (ii) the present value as of the same date of the rent for the then remaining lease term of the lease agreement, and (iii) any incidental damages allowed under Section 2A-530, less expenses save in consequence of the lessee's default.

(2) Except as provided in subsection (3), the lessor shall hold for the lessee for the remaining lease term of the lease agreement any goods that have been identified to the lease contract and are in the lessor's control.

(3) The lessor may dispose of the goods at any time before collection of the judgment for damages obtained pursuant to subsection (1). If the disposition is before the end of the remaining lease term of the lease agreement, the lessor's recovery against the lessee for damages is governed by Section 2A-527 or Section 2A-528, and the lessor will cause an appropriate credit to be provided against a judgment for damages to the extent that the amount of the judgment exceeds the recovery available pursuant to Section 2A-527 or 2A-528.

(4) Payment of the judgment for damages obtained pursuant to subsection (1) entitles the lessee to the use and possession of the goods not then disposed of for the remaining lease term of and in accordance with the lease agreement.

(5) After default by the lessee under the lease contract of the type described in Section 2A-523(1) or Section 2A-523(3)(a) or, if agreed, after other default by the lessee, a lessor who is held not entitled to rent under this section must nevertheless be awarded damages for non-acceptance under Section 2A-527 or Section 2A-528.

Section 2A-530. LESSOR'S INCIDENTAL DAMAGES.

Incidental damages to an aggrieved lessor include any commercially reasonable charges, expenses, or commissions incurred in stopping delivery, in the transportation, care and custody of goods after the lessee's default, in connection with return or disposition of the goods, or otherwise resulting from the default.

Section 2A-531. STANDING TO SUE THIRD PARTIES FOR INJURY TO GOODS.

(1) If a third party so deals with goods that have been identified to a lease contract as to cause actionable injury to a party to the lease contract (a) the lessor has a right of action against the third party, and (b) the lessee also has a right of action against the third party if the lessee:

(i) has a security interest in the goods;

(ii) has an insurable interest in the goods; or

(iii) bears the risk of loss under the lease contract or has since the injury assumed

that risk as against the lessor and the goods have been converted or destroyed.

(2) If at the time of the injury the party plaintiff did not bear the risk of loss as against the other party to the lease contract and there is no arrangement between them for disposition of the recovery, his suit or settlement, subject to his own interest, is as a fiduciary for the other party to the lease contract.

(3) Either party with the consent of the other may sue for the benefit of whom it may concern.

Section 2A-532. LESSOR'S RIGHTS TO RESIDUAL INTEREST.

In addition to any other recovery permitted by this Article or other law, the lessor may recover from the lessee an amount that will fully compensate the lessor for any loss of or damage to the lessor's residual interest in the goods caused by the default of the lessee.

SECTION 3. Said chapter 106 is hereby further amended by striking out Section 9-113, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 9-113. SECURITY INTERESTS ARISING UNDER ARTICLE ON SALES OR UNDER ARTICLE ON LEASES.

A security interest arising solely under the Article on Sales (Article 2) or the Article on Leases (Article 2A) is subject to the provisions of this Article except that to the extent that and so long as the debtor does not have or does not lawfully obtain possession of the goods:

(a) no security agreement is necessary to make the security interest enforceable; and

(b) no filing is required to perfect the security interest; and

(c) the rights of the secured party on default by the debtor are governed (i) by the Article on Sales (Article 2) in the case of a security interest arising solely under such Article or (ii) by the Article on Leases (Article 2A) in the case of a security interest arising solely under such Article.

SECTION 4. Section 9-318 of said chapter 106, as so appearing, is hereby amended by striking out paragraph (4) and inserting in place thereof the following paragraph:-

(4) A term in any contract between an account debtor and an assignor is ineffective if it prohibits assignment of an account or prohibits creation of a security interest in chattel paper or a general intangible for money due or to become due or requires the account debtor's consent to such assignment or security interest.

SECTION 5. Said chapter 106 is hereby further amended by striking out section 2-316A, as so appearing, and inserting in place thereof the following section:-

Section 2-316A. LIMITATION ON EXCLUSION OR MODIFICATION OF WARRANTIES.

(1) The provisions of section 2-316 shall not apply to the extent provided in this section.

(2) Any language, oral or written, used by a seller or manufacturer of consumer goods and services, which attempts to exclude or modify any implied warranties of merchantability and fitness for a particular purpose or to exclude or modify the consumer's remedies for breach of those warranties, shall be unenforceable.

(3) Any language, oral or written, used by a manufacturer of consumer goods, which attempts to limit or modify a consumer's remedies for breach of such manufacturer's express warranties, shall be unenforceable, unless such manufacturer maintains facilities within the commonwealth sufficient to provide reasonable and expeditious performance of the warranty obligations.

(4) Any language, oral or written, used by a seller or manufacturer of goods and services, which attempts to exclude or modify any implied warranties of merchantability and fitness for a particular purpose or to exclude or modify remedies for breach of those warranties, shall be unenforceable with respect to injury to the person. This subsection does not affect the validity under other law of an agreement between a seller or manufacturer of goods and services and a buyer that is an organization (see Section 1-201(28)), allocating, as between them, the risk of damages from or providing indemnity for breaches of those warranties with respect to injury to the person.

(5) The provisions of this section may not be disclaimed or waived by agreement.

Approved August 29, 1996.

Chapter 378. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND NOTES TO BE ISSUED BY THE COMMONWEALTH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section eight A of chapter three hundred of the acts of nineteen hundred and ninety-two, as amended by section fourteen of chapter four of the acts of nineteen hundred and ninety-five, shall be issued for a term not to exceed thirty years; provided, however, that all such bonds shall be payable by December thirty-first, two thousand and thirty, as recommended by the governor in a message to the general court dated June seventh, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 2. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section eight B of chapter three hundred of the acts of nineteen hundred and ninety-two, shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and seven, as recommended by the governor in a message to the general court dated June seventh, nineteen hundred and ninety-six, pursuant to Section 3 of Article LXII of the Amendments to the Constitution.

Approved August 29, 1996.

Chapter 379. AN ACT RELATIVE TO REDUCING THE TERMS OF OFFICE OF THE MEMBERS OF THE BOARD OF APPEALS OF THE TOWN OF WAYLAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section twelve of chapter forty A of the General Laws, the board of selectmen of the town of Wayland is hereby authorized to appoint a board of appeals consisting of five members for overlapping terms of three years. The terms of appointment of said members shall be arranged so that the terms of not more than two members expire in any one year.

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

Approved September 4, 1996.

Chapter 380. AN ACT AUTHORIZING THE TOWN OF BEDFORD TO SELL OR LEASE CERTAIN PROPERTY.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section three of chapter forty of the General Laws, the town of Bedford, acting by and through its board of selectmen, is hereby authorized to sell or to lease for a term not to exceed fifty years the old town hall located in said town upon such terms and conditions as said board of selectmen shall deem appropriate.

Approved September 4, 1996.

Chapter 381. AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF NORFOLK COUNTY TO ACQUIRE AND DEVELOP CERTAIN LAND IN THE CITY OF QUINCY AND TO BORROW MONEY THEREFOR.

Be it enacted, etc., as follows:

SECTION 1. The county commissioners of Norfolk county are hereby authorized to take by eminent domain or acquire by purchase or otherwise the fee of or lesser interest in a certain parcel of land within the city of Quincy for incorporation and integration into, said county's multi-faceted recreational facility authorized under chapter seven hundred and thirty-six of the acts of nineteen hundred and seventy-two and said county commissioners are further authorized to make such modifications, changes and improvements to said land as may be necessary to integrate said parcel into its existing facility. Said parcel is that portion of Parcel 2 located in the city of Quincy shown on a plan of land, entitled "New York New Haven and Hartford Railroad Office of Engineer - Real Estate Surveys Land in Quincy and Milton Mass. to be conveyed to C. P. Gardiner & Sons", dated December 1953 and

recorded in the Norfolk county registry of deeds, Book 3291, Page 408.

SECTION 2. For the purposes authorized by section one, the treasurer of said county, with the approval of the county commissioner, may borrow upon the credit of the county such sums as may be necessary, not exceeding, in the aggregate, eight hundred thousand dollars, and may issue bonds or notes of the county therefor, which shall bear on their face the words, Wollaston Recreational Facility Loan, Act of 1995. Each authorized issue shall constitute a separate loan and such loans shall be payable in not more than twenty 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 the said securities at public or private sale, upon such terms and conditions 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 3. The provisions of section two of chapter seven hundred and thirty-six of the acts of nineteen hundred and seventy-two shall be applicable to the authority granted to the county commissioners of Norfolk county pursuant to section one of this act.

SECTION 4. Upon the sale or transfer of the Wollaston Recreational Facility, any debt incurred under this act shall become the obligation of the successor.

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

Approved September 4, 1996.

Chapter 382. AN ACT VALIDATING CERTAIN PROCEEDINGS TAKEN BY THE TOWN OF FALMOUTH.

Be it enacted, etc., as follows:

SECTION 1. The votes taken by the town of Falmouth under articles twenty-four, twenty-five, twenty-six and twenty-seven of the warrant at its annual town meeting held on April first and second, nineteen hundred and ninety-six, and the votes taken by the town of Falmouth on ballot questions one, two, three and four at its annual town election held on May twenty-first, nineteen hundred and ninety-six, are hereby ratified, validated and confirmed, notwithstanding that said election was held more than forty-five days following the date of adoption of said votes at said annual town meeting.

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

Approved September 4, 1996.

Chapter 383. AN ACT RELATIVE TO THE CHARTER OF THE SOUTHWOOD COMMUNITY HOSPITAL.

Be it enacted, etc., as follows:

Section 3 of chapter 747 of the acts of 1981 is hereby amended by inserting after the word "purposes", in line 14, the following words:- , health care, or medical care and related purposes including, but not limited to, for-profit uses such as free-standing long-term care facility or assisted living units.

Approved September 13, 1996.

Chapter 384. AN ACT AUTHORIZING THE TOWN OF ABINGTON TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALCOHOLIC BEVERAGES TO RAYMOND G. ALONGI.

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 to Raymond G. Alongi, President, Gina's Fine Foods Inc., d/b/a Casa Regina Restaurant, a license to sell all alcoholic beverages to be drunk on the premises under the provisions of section twelve of said chapter one hundred and thirty-eight. Said license shall be subject to all of the provisions of said chapter one hundred and thirty-eight except said section seventeen.

SECTION 2. All actions taken by the licensing authority of the town of Abington at a meeting held on February twelfth, nineteen hundred and ninety-six issuing a license for the sale of all alcoholic beverages to be drunk on the premises to Raymond G. Alongi d/b/a Casa Regina Restaurant are hereby ratified, validated, and confirmed in all respects as though this act had been in full force and effect at the time of said meeting.

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

Approved September 13, 1996.

Chapter 385. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF SWAMPSCOTT AS THE PATROLMAN JOSEPH H. DOANE MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the bridge located on Danvers road in the town of Swampscott shall be designated as the Patrolman Joseph H. Doane Memorial Bridge, in memory of patrolman Joseph H. Doane of the Swampscott Police Department who died of injuries sustained in the line of duty. The

department of highways is hereby directed to erect suitable markers thereon bearing said designation in compliance with the standards of said department.

Approved September 13, 1996.

Chapter 386. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO LEASE CERTAIN PROPERTY IN THE CITY OF WORCESTER.

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 certain property for a term of five years with an option to renew for an additional five years, currently used for military division purposes, located in the city of Worcester to an individual entity, subject to the requirements of sections two and three and to such additional terms and conditions as the commissioner may prescribe in consultation with the military division. Said property is described as follows:

The northern portion of the National Guard armory located at 44 Salisbury street in said city of Worcester, containing approximately sixteen thousand square feet and being the three story building north of the drill shed, so-called.

SECTION 2. The recipient of said property shall assume the costs of appraisals, surveys, and other expenses as deemed necessary by the commissioner.

SECTION 3. Said lease shall provide that in the event of military necessity, the lease shall be terminated upon thirty days written notice to the lessee.

Approved September 13, 1996.

Chapter 387. AN ACT PROVIDING FOR THE APPOINTMENT OF THE TREASURER/COLLECTOR IN THE TOWN OF COHASSET.

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/collector of the town of Cohasset shall be appointed by the board of selectmen of said town. The appointment shall be for a term of three years. Said board of selectmen shall have the power to remove such appointee during the term of office only after hearing for good cause.

SECTION 2. Notwithstanding the provisions of section one of this act, the incumbent in the office of treasurer/collector elected at the town election held in the year nineteen hundred and ninety-six, shall continue to hold said office and perform the duties thereof until the expiration of his term or a prior vacating of office.

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

Approved September 19, 1996.

Chapter 388. AN ACT EXEMPTING CERTAIN CHARITABLE ORGANIZATIONS FROM THE MORTGAGE BROKER OR LENDER LICENSE REQUIREMENT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately exempt certain charitable organizations from the mortgage broker or lender license requirement, 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 2 of chapter 255E of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "Code", in line 42, the following words:- , or to any charitable organization originally created by a last will and testament before January first, nineteen hundred and fifty which makes no more than twelve mortgage loans during a twelve month period.

Approved September 19, 1996.

Chapter 389. AN ACT RELATIVE TO PLACEMENT OF THE ONE SENTENCE STATEMENT ON THE BALLOT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for review of the one sentence statement to be placed on the ballot, 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 42A of chapter 54 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "consecutively", in line 8, the following words:- ; provided, however, that the fair, concise summary of any measure submitted to the voters under the provisions of said Article XLVIII shall be accompanied on the ballot by the one-sentence statements describing the effect of a yes or no vote, prepared as required in section fifty-three.

SECTION 2. The first paragraph of section 53 of said chapter 54, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following four sentences:- The secretary shall cause to be printed and sent to all residential

addresses and to each voter residing in group residential quarters, with copies of the measures to which they refer, a summary prepared by the attorney general, a ballot question title prepared jointly by the attorney general and state secretary, fair and neutral one sentence statements describing the effect of a yes or no vote prepared jointly by the attorney general and state secretary, and, as provided in section fifty-four, arguments for and against measures to be submitted to the voters under Article XLVIII of the Amendments to the Constitution. The secretary shall make available for public examination a copy of such ballot question titles and one-sentence statements describing the effect of a yes or no vote, and shall publish the same in the Massachusetts register on or before the second Wednesday in May. Any fifty voters may petition the supreme judicial court for Suffolk county to require that any such title or statement be amended; provided, however, that such petition must be filed within twenty days after the publication of said title and statement. The court may issue an order requiring amendment by the attorney general and state secretary only if it is clear that the title or one-sentence statement in question is false, misleading or inconsistent with the requirements of this section.

SECTION 3. The second paragraph of said section 53 of said chapter 54, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Any such question shall be presented as set forth in this section for measures submitted under Article XLVIII of the Amendments to the Constitution, provided that the publication and judicial review procedures set forth herein shall be inapplicable where questions are received by the secretary on or after the first Wednesday in May.

Approved September 23, 1996.

Chapter 390. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF NATICK AS THE VIETNAM VETERANS BRIDGE AND A CERTAIN PEDESTRIAN BRIDGE IN SAID TOWN AS THE LETTER CARRIER RICHARD WALKER WALKWAY.

Be it enacted, etc., as follows:

SECTION 1. The bridge on North Main street spanning the railroad tracks in the town of Natick shall be designated and known as the Vietnam Veterans Bridge, in honor of Natick veterans who served in Vietnam. A suitable marker bearing such designation shall be attached thereto by the department of highways in compliance with the standards of said department.

SECTION 2. The pedestrian bridge on Walnut street in the town of Natick spanning the railroad tracks in said town shall be designated and known as the Letter Carrier Richard Walker Walkway, in honor of the late Richard Walker, a postal employee who served the downtown area of Natick. A suitable marker bearing such designation shall be attached thereto by the department of highways in compliance with the standards of said department.

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

Approved September 24, 1996.

Chapter 391. AN ACT PROVIDING FOR AN EARLY RETIREMENT INCENTIVE PROGRAM FOR CERTAIN EMPLOYEES OF THE SPRINGFIELD MUNICIPAL HOSPITAL.

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 provisions of this act providing for a retirement program for the city of Springfield retirement system shall apply to a member who is a Group 1 employee which shall mean an employee of the Springfield Municipal Hospital and as defined in section three of said chapter thirty-two, who is a member of said city of Springfield retirement system and who (*i*) shall be an employee of the city of Springfield Municipal Hospital; (*ii*) 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 effective retirement date specified in his written application to said board; and (*iii*) shall have filed a written application after September first, nineteen hundred and ninety-six but not later than January fifteenth, nineteen hundred and ninety-seven to retire for superannuation as of the date which shall be specified in such application; provided, however, that such date for retirement shall be not earlier than December first, nineteen hundred and ninety-six and not later than January fifteenth, nineteen hundred and ninety-seven.

Notwithstanding any provisions of said chapter thirty-two to the contrary the normal yearly amount of the retirement allowance for an eligible employee of the Springfield Municipal Hospital 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 mayor may limit the amount of additional credit for service or age or a combination of service and age offered and the number of employees from Springfield Municipal Hospital for whom it will approve a retirement calculated under the provisions of this act; and, provided further, that if participation is so limited, the retirement of employees with greater creditable service shall be approved before approval is given to employees with lesser creditable service.

SECTION 2. 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 who retires and receives an additional benefit in accordance with the provisions of this act shall be deemed to be retired for superannuation under the provisions of said chapter thirty-two and shall be subject to 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 of Springfield Municipal Hospital who retires and receives an additional benefit under the retirement incentive program in accordance with the provisions of this act shall not exceed four-fifths of the average annual rate of his regular compensation received during any period of three consecutive years of creditable service for which the rate of compensation was the highest or of the average annual rate of his regular compensation received during the periods, whether or not consecutive, constituting his last three years of creditable service preceding retirement, whichever is greater.

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 act of the retirement incentive program established by this act for the city of Springfield; provided, however, that said commissioner shall file a report in writing of his findings to the board on or before December thirty-first, nineteen hundred and ninety-seven and shall send a copy thereof to the mayor and, provided further, that such reports shall be filed with the legislature's joint committee on public service on or before December thirty-first, nineteen hundred and ninety-seven.

SECTION 3. The Springfield 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 act and such schedule shall be designed to reduce the city of Springfield retirement system's additional pension liability attributable to such costs and liabilities to zero on or before June thirtieth, two thousand and eleven; provided, however, that in preparing such schedule, the board shall consider the analysis of the commissioner of the public employee retirement administration filed in accordance with the provisions of this act; and, provided further, that said board shall triennially update such schedule until said June thirtieth, two thousand and eleven. In each of the fiscal years until the actuarial liability determined under this section shall be reduced to zero it shall be appropriated to the applicable pension reserve fund in each such fiscal year the amount required by the funding schedule and the updates thereto.

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

Approved September 24, 1996.

Chapter 392. AN ACT RELATIVE TO QUINCY COLLEGE.

Be it enacted, etc., as follows:

SECTION 1. The board of governors of Quincy College is hereby authorized to establish a foundation for Quincy College and its corresponding endowment funds, including those funds formerly held by the Quincy College Trustees, and funds held by the Quincy College Plymouth Campus Council, or funds donated as charitable gifts to the operating account of Quincy College pursuant to chapter three hundred and thirteen of the acts of nineteen hundred and eighty-one. Said endowment funds shall receive revenue from charitable gifts and donations, and may be used for purposes of Quincy College; provided, however, that such expenditures shall conform to any restrictions imposed by the charitable donor.

SECTION 2. A foundation created under the authority of this section shall be a corporation within the meaning of clause (*c*) of section two of chapter one hundred and eighty of the General Laws, and said corporation shall be governed by the provisions of said chapter one hundred and eighty except as hereinafter provided. Any foundation created under the authority of this section shall be organized and operated exclusively for the benefit of Quincy College and shall be certified by the board of governors to be operating in a manner consistent with the goals of Quincy College. Any foundation which is not so certified or whose certification has been revoked by the board of governors shall not use the name of Quincy College in the foundation's name and for fund raising, and shall not be considered authorized under the provision of this section.

SECTION 3. Any foundation for Quincy College shall have a governing board to oversee its operation. The president of Quincy College or his designee, two members of the board of governors and a faculty member elected by the faculty of Quincy College pursuant to election procedures approved by the board of governors shall all be members of the governing board of the foundation. In no event shall such Quincy College trustees, employees and alumni constitute one-half or more of the membership of such foundation's governing board. The governing board of each foundation shall annually file a list of the members and officers of such board with the board of governors.

SECTION 4. The board of governors of Quincy College is authorized to permit the use, without compensation, of facilities and personnel services of Quincy College by the foundation.

SECTION 5. All gifts from the foundation to Quincy College shall be approved for acceptance by the board of governors, in accordance with applicable college policies. Any person soliciting funds or any other thing of value on behalf of the foundation from a person, firm, corporation or other entity shall at the time of the solicitation clearly and conspicuously disclose to the potential donor that the donations are to be provided to the foundation and not to Quincy College directly, and that the donor may request in writing that the donor's identity not be publicly disclosed.

SECTION 6. Any foundation formed pursuant to this statute shall provide an annual report of its financial accounts in the form, and containing the information, required by the board of governors and shall provide such report to the board of governors. The board of governors may require any supplemental data relative to the operations for the foundation which it may request. The identity of donors who wish to remain anonymous shall be pro-

tected, and the anonymity of such donors shall be maintained in all audit reports. The annual financial report, when received by the board of governors, shall be considered a public record as defined in clause Twenty-sixth of section seven of chapter four of the General Laws.

SECTION 7. The city auditor shall have the authority to audit the foundation upon request of the board of governors or upon his own initiative. Such an audit may include, but shall not be limited to an examination of transfers to or expenditures from foundation accounts of public funds; use of employees paid with public funds to staff the foundation; the existence of contracts or agreements between the foundation and Quincy College; an examination of books and records of the foundation as the auditor deems necessary and appropriate.

SECTION 8. The foundation authorized under the provision of this act shall not be deemed to be an agency, board, bureau, department or division of the city of Quincy. Members of the governing board of this foundation who are not already employees of Quincy College or the city of Quincy shall not be considered to be employees or public employees for the purposes of chapter two hundred and sixty-eight A and two hundred and sixty-eight B of the General Laws.

SECTION 9. This act shall take effect upon its passage.

Approved September 26, 1996.

Chapter 393. AN ACT PROVIDING CONCURRENT JURISDICTION IN THE SUPERIOR AND DISTRICT COURTS FOR THE CRIME OF INTIMIDATION OF A WITNESS.

Be it enacted, etc., as follows:

SECTION 1. Section 26 of chapter 218 of the General Laws is hereby amended by inserting after the word "age", in line 49, as appearing in the 1994 Official Edition, the following words:- , intimidation of a witness or juror under section thirteen B of chapter two hundred and sixty-eight.

SECTION 2. Section 13B of chapter 268 of the General Laws, as so appearing, is hereby amended by inserting after the word "or", in line 3, the following words:- express or implied.

SECTION 3. Said section 13B of said chapter 268, as so appearing, is hereby further amended by inserting after the word "trial", in lines 5 and 9, in each instance, the following words:- , grand jury.

SECTION 4. Said section 13B of said chapter 268, as so appearing, is hereby further amended by striking out, in lines 10 to 12, inclusive, the words "the state prison for not less than two and one-half years and not more than five" and inserting in place thereof the following words:- a house of correction for not more than two and one-half years or in the state prison for not less than two and one-half years and not more than ten.

SECTION 5. Section 58A of chapter 276 of the General Laws, as so appearing, is hereby amended by inserting after the word "ninety-four C", in line 17, the following words:- , arrested and charged with a violation of section thirteen B of chapter two hundred and sixty-eight.

Approved September 26, 1996.

Chapter 394. AN ACT RELATIVE TO PAYMENTS OF FEES BY CREDIT CARDS AT THE REGISTRY OF MOTOR VEHICLES AND TO FURTHER REGULATE THE OPERATION OF COMMERCIAL MOTOR VEHICLES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is, in part, to immediately regulate the operation of commercial motor vehicles, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 25 of chapter 64H of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

If payment of any such tax due is made by check, credit card, debit card or any other payment method and the amount is not duly paid, the registrar of motor vehicles shall withhold issuance of the certificate of title for the motor vehicle, and shall prohibit the transfer or swap of the registration, and shall suspend or revoke any learner's permit, license to operate motor vehicles, certificate of registration or title, number plate, sticker, decal or other item for which the check, credit card, debit card or other payment method was tendered and order the return of the same forthwith. The holder of said registration for which such check, credit card, debit card or other payment method was used, may not apply for, receive or renew any learner's permit, license to operate motor vehicles, certificate of registration or title, number plates, stickers, decals or any other items issued under the provisions of chapter ninety or chapter ninety D until said amount has been duly paid.

SECTION 2. The twenty-sixth paragraph of section 33 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out the second and third sentences and inserting in place thereof the following two sentences:- If payment of any fee required under this chapter or chapter ninety D is made by check, credit card, debit card or any other payment method and the amount is not duly paid, the registrar of motor vehicles shall withhold issuance of the certificate of title for the motor vehicle, shall prohibit the transfer or swap of the registration, and shall suspend or revoke any learner's permit, license to operate motor vehicles, certificate of registration or title, number plate, sticker, decal or other item for which such check, credit card, debit card, or other payment method was tendered

and order the return of same forthwith. The holder of said item for which said check, credit card, debit card or other payment method used may not apply for, receive or renew any other learner's permit, license to operate motor vehicles, certificate of registration or title, number plates, stickers, decals, or any other items issued under the provisions of this chapter or said chapter ninety D until said amount has been duly paid.

SECTION 3. Subparagraph (b) of paragraph (6) of subsection (A) of section 3 of chapter 90C of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- If a violator attempts to pay a scheduled assessment with a check, credit card, debit card, or any other payment method that is returned unpaid or rejected, or fails to pay the full amount of an assessment imposed by a magistrate or justice pursuant to this section within the time allowed plus such grace period as the registrar shall allow, the registrar shall revoke any operator's license, learner's permit, certificate of registration or title, number plate, sticker, decal or other item issued by the registrar and held by the violator and order the return thereof forthwith.

SECTION 4. Chapter 90D of the General Laws is hereby amended by inserting after section 11, as so appearing, the following section:-

Section 11A. The registrar is authorized to develop, establish and maintain an electronic data and communication system with banks, credit or other financial institutions for the purpose of electronically recording the existence of security interests under the provisions of this chapter. Where an electronic lien recording method is employed, the registrar may waive the issuance and mailing of the certificate of title to the lienholder required under section eleven.

SECTION 5. The definition of "Commercial motor vehicle" in section 1 of chapter 90F of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following sentence:- For purposes of section nine, "commercial motor vehicle" shall include any vehicle described in 49 CFR part 390.5.

SECTION 6. Said section 1 of said chapter 90F, as so appearing, is hereby further amended by striking out the definition of "Out of service order" and inserting in place thereof the following definition:-

"Out-of-service order", a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican or local jurisdiction that a driver, a commercial motor vehicle or a motor carrier operation is out-of-service pursuant to 49 CFR parts 386.72, 392.5, 395.13, 396.9, or any compatible law or the North American Uniform Out-of-Service Criteria.

SECTION 7. Section 4 of said chapter 90F, as so appearing, is hereby amended by adding the following paragraph:-

(C) No employer shall knowingly allow, require, permit or authorize a driver to operate a commercial motor vehicle during any period in which the driver or the commercial motor vehicle or the motor carrier operation is subject to an out-of-service order. Any employer who violates the provisions of this paragraph shall be subject to a civil penalty of twenty-five hundred dollars.

SECTION 8. Section 9 of said chapter 90F, as so appearing, is hereby amended by

inserting after paragraph (E) the following paragraph:-

(E½)(1) Except as provided in subparagraph (2), any person who violates the provisions of an out-of-service order shall be disqualified from driving a commercial motor vehicle as follows:

(i) for not less than ninety days for a first violation of an out-of-service order;

(ii) for not less than one year for a second violation of an out-of-service order; provided, however, that such violations arose out of separate incidents during any ten year period; and

(iii) for not less than three years for a third or subsequent violation of an out-of-service order; provided, however, that such violations arose out of separate incidents during any ten year period.

(2) Any person who violates the provisions of an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, 49 USC app. 1801-1813, or while operating a motor vehicle designed to transport more than fifteen passengers, including the driver, shall be disqualified from driving a commercial motor vehicle as follows:

(i) for not less than one hundred and eighty days for a first violation of an out-of-service order; and

(ii) for not less than three years for a second or subsequent violation of an out-of-service order; provided, however, that such violations arose out of separate incidents during any ten year period.

(3) In addition to the disqualification provided for in subparagraphs (1) and (2), any driver who violates the provisions of an out-of-service order shall be subject to a civil penalty of one thousand dollars.

SECTION 9. The provisions of sections five to eight, inclusive, shall take effect as of September thirtieth, nineteen hundred and ninety-six.

Approved September 26, 1996.

Chapter 395. AN ACT RELATIVE TO TREE WARDENS.

Be it enacted, etc., as follows:

Chapter 41 of the General Laws is hereby amended by striking out section 106, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 106. If the town provides by vote or by-law that the tree warden shall be appointed, such appointment shall be made by the board of selectmen. The term of such appointment shall be for three years.

In any city or in a town which exceeds ten thousand inhabitants and which provides by vote, by-law or by ordinance that the tree warden shall be appointed, such appointment shall be made by the mayor, with the approval of the city council or by the board of selectmen. In such city or town, the tree warden shall exercise the duties of tree warden and

of insect pest control. Such tree warden shall be qualified by training and experience in the field of arborculture and licensed with the department of food and agriculture in accordance with the provisions of section ten of chapter one hundred and thirty-two B. The term of such appointment shall be for three years.

Approved September 27, 1996.

Chapter 396. AN ACT AUTHORIZING THE TOWN OF BUCKLAND TO REIMBURSE CERTAIN TAX PAYMENTS.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Buckland is hereby authorized to pay five thousand four hundred eighty-six dollars to Edmund Smith for reimbursement of taxes for fiscal years nineteen hundred and eighty-nine, nineteen hundred and ninety and nineteen hundred and ninety-one.

Approved October 3, 1996.

Chapter 397. AN ACT AUTHORIZING THE TOWN OF DEDHAM TO REIMBURSE CERTAIN SEWER FEES PAID IN ERROR.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law or by-law to the contrary, the town of Dedham is hereby authorized to reimburse Douglas DeNatale the sum of one thousand fifty-three dollars and sixty-seven cents for sewer fees erroneously paid to said town for the years nineteen hundred and eighty-nine to nineteen hundred and ninety-four, inclusive.

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

Approved October 10, 1996.

Chapter 398. AN ACT AUTHORIZING THE CONSERVATION COMMISSION OF THE TOWN OF DEDHAM TO ESTABLISH A CERTAIN SPECIAL ACCOUNT.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding the provisions of section fifty-three or fifty-three G of chapter forty-four of the General Laws, the conservation commission of the town of Dedham may provide by rule promulgated hereunder for the imposition of reasonable fees for the employment of outside consultants and may deposit such fees in a

special account.

(b) Such regulation shall provide for an administrative appeal from the selection of the outside consultant to the board of selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. The required time limits for action upon an application by the permit granting board shall be extended by the duration of the administrative appeal. If no decision is made by said board of selectmen within one month following the filing of the appeal, the selection made by the permit granting authority shall stand. Such an administrative appeal shall not preclude further judicial review, if otherwise permitted by law.

(c) Any such account shall be established by the treasurer and shall be kept separate and apart from other monies. Said special account, including accrued interest, if any, shall be expended at the direction of the conservation commission without further appropriation; provided, however, that such funds are to be expended by it only in connection with carrying out its responsibilities under the law. Any excess amount in the account attributable to a specific project, including any accrued interest, at the completion of said project shall be repaid to the applicant or to the applicant's successor in interest and a final report of said account shall be made available to the applicant or to the applicant's successor in interest.

(d) The town treasurer shall submit annually a report of said special account to the board of selectmen and town administrator for their review. Said report shall be published in the town annual report. Said town treasurer shall submit annually a copy of said report to the director of the bureau of accounts.

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

Approved October 10, 1996.

Chapter 399. AN ACT VALIDATING THE ACTS AND PROCEEDINGS OF THE ANNUAL TOWN ELECTION IN THE TOWN OF MENDON.

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 Mendon at its annual town election held on May sixth, nineteen hundred and ninety-six 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 10, 1996.

Chapter 400. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND 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 bonds and 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:

SECTION 1. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 2. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section four of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 3. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section five of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued for a term not to exceed five years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and six, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 4. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section six of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued for a term not to exceed five years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and six, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 5. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section seven of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes, whether original or renewal, shall be not later than June thirtieth, two thousand and three, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred

and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 6. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section eight of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued for a term not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and eleven, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 7. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section nine of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued and may be renewed one or more times not exceeding one year and the final maturities of such notes whether original or renewal, shall be not later than June thirtieth, two thousand and three, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 8. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section ten of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued for a term not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and eleven, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 9. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section eleven of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued and may be renewed one or more times not exceeding one year and the final maturities of such notes, whether original or renewal, shall be not later than June thirtieth, two thousand and three, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 10. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section twelve of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued for a term not to exceed five years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and six, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 11. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section thirteen of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued for a term not to ex-

ceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 12. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section fourteen of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued and may be renewed one or more times not exceeding one year and the final maturities of such notes, whether original or renewal, shall be not later June thirtieth, two thousand and three, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 13. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section fifteen of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 14. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section sixteen of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued and may be renewed one or more times not exceeding one year and the final maturities of such notes, whether original or renewal, shall be not later than June thirtieth, two thousand and three, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 15. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section seventeen of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 16. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section eighteen of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued and may be renewed one or more times not exceeding one year and the final maturities of such notes, whether original or renewal, shall be not later than June thirtieth, two thousand and three, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 17. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section twenty-one of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 18. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section twenty-two of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued and may be renewed one or more times not exceeding one year and the final maturities of such notes, whether original or renewal, shall be not later than June thirtieth, two thousand and three, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 19. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section twenty-four of chapter two hundred and five of the acts of nineteen hundred and ninety-six shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated July nineteenth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 20. Notwithstanding any provision of law to the contrary, the 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 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 each of the calendar years nineteen hundred and ninety-seven and nineteen hundred and ninety-eight; provided, however, that all such notes shall be payable by June thirtieth, two thousand and one, as recommended by the governor, in a message to the general court dated July nineteenth, nineteen hundred and ninety-six in pursuance of Article LXII of the Amendments to the Constitution of the Commonwealth.

Approved October 11, 1996.

Chapter 401. AN ACT VALIDATING THE PROCEEDINGS OF THE ANNUAL TOWN ELECTION HELD IN THE TOWN OF CHELMSFORD ON APRIL SECOND, NINETEEN HUNDRED AND NINETY-SIX.

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 Chelmsford at the town election held on April second, nineteen hundred and ninety-six and all actions taken pursuant thereto, regarding the amendment of Part VIII, Section 8-5(1) of the town charter, are hereby ratified, validated and confirmed, notwithstanding the failure to comply with the statutory amendment procedures.

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

Approved October 11, 1996.

Chapter 402. AN ACT PROVIDING PENALTIES FOR FALSELY ASSUMING THE IDENTITY OF A GAS OR ELECTRIC COMPANY OFFICER OR SERVANT.

Be it enacted, etc., as follows:

Chapter 164 of the General Laws is hereby amended by inserting after section 126, as appearing in the 1994 Official Edition, the following section:-

Section 126A. Whoever falsely assumes, pretends to be or holds himself out as an officer or servant of a gas or electric company for the purpose of gaining access to any premises shall be punished by imprisonment in a house of correction for not more than two years or by a fine of not more than one thousand dollars, or both such fine and imprisonment.

Approved October 11, 1996.

Chapter 403. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF WAREHAM.

Be it enacted, etc., as follows:

SECTION 1. Section 3-1 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 subsection (a) and inserting in place thereof the following subsection:-

(a) Elective Offices - The offices to be filled by voters shall be a board of selectmen, a school committee, a town moderator, a board of assessors, a town clerk, a town collector, a housing authority and such other members of regional authorities, or districts, as may be established by statute, intergovernmental agreement, or otherwise.

SECTION 2. Said charter is hereby further amended by striking out section 3-8.

SECTION 3. Said charter is hereby further amended by adding the following section:-

Section 4-5. Additional Town Administrator Appointments.

(a) Town Treasurer - The town administrator shall appoint a town treasurer for an indefinite term. The treasurer shall receive and take charge of all money belonging to the town. He shall pay out and account for all town funds according to the order of the town and its authorized officers. No other person shall have authority to pay any bill of any municipal department. The treasurer shall have all of the other powers and duties which are given to treasurers by general laws and such other powers, duties and responsibilities as may be provided by charter, by by-law or by other town meeting vote.

(b) No person shall be appointed or removed as town treasurer except as provided in subsections (1), (2) and (3) following:

(1) Appointment and removal shall be in a manner consistent with section 4-2 (b).

(2) No person shall be appointed town treasurer, who, on the effective date of his appointment, does not possess at least an earned Baccalaureate Degree from an accredited institution of higher learning in either accounting, financial administration, financial management or treasury management or has earned sufficient course work credits in any combination of the aforementioned which otherwise would be equal to the requisite earned degree in any one of the individual disciplines set forth herein.

(3) No person shall be appointed to the position of town treasurer, who, on the effective date of such appointment, does not possess at least five years of full time professional experience, within the ten years immediately preceding the date of such appointment in the practice of accounting, treasury management, financial administration or financial management, at least three years of which shall have been as a full time appointed employee or elected official of a municipality, county government, regional authority or agency, state government agency, interstate governmental agency, or federal government agency.

SECTION 4. This act shall take effect upon its passage. The present elected town treasurer shall remain in office until the completion of his elected term, or until the position becomes vacant for any reason, whichever may first occur.

Approved October 16, 1996.

Chapter 404. AN ACT VALIDATING THE PROCEEDINGS OF THE ANNUAL TOWN ELECTION IN THE TOWN OF WESTMINSTER.

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 Westminster at its annual town election held on April thirtieth, nineteen hundred and ninety-six 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 16, 1996.

Chapter 405. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND 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 bonds and notes to carry out the purposes of various acts passed by the general court, 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 any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section nine of chapter two hundred and fifty-eight of the acts of nineteen hundred and ninety-six shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated August fifteenth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 2. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section ten of chapter two hundred and fifty-eight of the acts of nineteen hundred and ninety-six shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and one, as recommended by the governor in a message to the general court dated August fifteenth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 3. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter two hundred and ninety-four of the acts of nineteen hundred and ninety-six shall be issued for a term not to exceed seven years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and fifteen, as recommended by the governor in a message to the general court dated August fifteenth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 4. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four of chapter two hundred and ninety-four of the acts of nineteen hundred and ninety-six shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and three, as recommended by the governor in a message to the general court dated August fifteenth, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

Approved October 18, 1996.

Chapter 406. AN ACT DESIGNATING CERTAIN BRIDGES IN THE CITY OF MEDFORD.

Be it enacted, etc., as follows:

SECTION 1. The bridge on Grove street spanning the Massachusetts Bay Transportation Authority tracks in the city of Medford shall be designated and known as the Norma E. Jeffers bridge, in memory of Norma E. Jeffers for her lifetime of service to the city of Medford. 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.

SECTION 2. The bridge on North street spanning the Massachusetts Bay Transportation Authority tracks in the city of Medford shall be designated and known as the Albert S. Lanni bridge, in memory of Albert S. Lanni, a veteran of World War II. 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.

SECTION 3. The bridge on College avenue spanning the Massachusetts Bay Transportation Authority tracks in the city of Medford shall be designated and known as the Anthony Pagano bridge in honor of Anthony Pagano for his service as city engineer for the city of Medford. 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 October 25, 1996.

Chapter 407. AN ACT VALIDATING THE PROCEEDINGS OF THE ANNUAL TOWN ELECTION IN THE TOWN OF ROCHESTER.

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 Rochester at its annual town election held on April tenth, nineteen hundred and ninety-six, and all actions taken pursuant thereto are hereby ratified, validated and confirmed notwithstanding any defect or omission in the calling of such election.

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

Approved October 25, 1996.

Chapter 408. AN ACT RELATIVE TO A CERTAIN REVOLVING FUND IN THE TOWN OF HOLDEN.

Be it enacted, etc., as follows:

Notwithstanding the provisions of clause (4) of the third paragraph of section fifty-three E½ of chapter forty-four of the General Laws, the town of Holden is hereby au-

thorized to expend from the revolving fund established for the recreation department of said town under the provisions of said section fifty-three E½ of said chapter forty-four an amount not to exceed two percent of the amount raised by taxation by the town in a fiscal year for which the tax rate has been certified under section twenty-three of chapter fifty-nine of the General Laws.

Approved October 31, 1996.

Chapter 409. AN ACT RELATIVE TO DEPOSITORIES FOR CAMPAIGN FUNDS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately allow candidates to designate additional financial institutions as depositories under the campaign finance law during current election campaigns, 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 19 of chapter 55 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) Candidates for nomination or election to the offices of governor, lieutenant governor, secretary of state, attorney general, state treasurer and receiver general, auditor, governor's council, district attorney, clerk of court, register of probate, registrar of deeds, county commissioner, county treasurer, and sheriff, mayor or other citywide office, except for the office of school committee, in a city with a total population, as determined by the most recent decennial federal census, of one hundred thousand or more persons and the treasurer of each state committee referred to in section one of chapter fifty-two, and the treasurer of the nonelected political committee authorized by any of the aforesaid candidates shall forthwith, upon the organization of said political committee, or upon becoming a candidate in accordance with the provision of clauses (1) and (2) of the definition of candidate in section one, designate a financial institution as a depository for the campaign funds of such candidate or political committee. The financial institution so designated shall be a national bank, federal savings bank, federal savings and loan association or federal credit union, if such bank, association or credit union is authorized to transact business and has its main office or a branch office in the commonwealth; or a trust company, credit union, co-operative bank or savings bank, if such company, credit union or bank is organized and exists under the laws of the commonwealth or any other state of the United States or is otherwise authorized to transact business in the commonwealth and has its main office or a branch office in the commonwealth. Each such candidate, and the treasurer of each such political committee shall file with the director, no later than the third business day following the designation of such depository, a certificate of appointment containing the name of the

financial institution so designated, and the name of the candidate or political committee, and shall authorize the financial institution so designated to submit the reports required by subsection (e).

Approved October 31, 1996.

Chapter 410. AN ACT RELATIVE TO A CERTAIN MOSQUITO CONTROL DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 1 of chapter 516 of the acts of 1958, as most recently amended by section 1 of chapter 108 of the acts of 1967, is hereby further amended by striking out, in line 4, the word "project" and inserting in place thereof the following word:- district.

SECTION 2. Said first paragraph of said section 1 of said chapter 516, as most recently amended by said section 1 of said chapter 108, is hereby further amended by striking out, in lines 8 and 9, the words "Essex County, City of Revere and Towns of Winthrop and North Reading Mosquito Control Project" and inserting in place thereof the following words:- North East Massachusetts Mosquito Control and Wetlands Management District.

SECTION 3. Section 2 of said chapter 516, as most recently amended by section 2 of said chapter 108, is hereby further amended by striking out, in line 2, the words "Essex County, City of Revere and Towns of Winthrop and North Reading Mosquito Control Project" and inserting in place thereof the following words:- North East Massachusetts Mosquito Control and Wetlands Management District.

SECTION 4. Section 3 of said chapter 516 is hereby amended by striking out, in lines 1 and 2, the words "mosquito control project" and inserting in place thereof the following words:- North East Massachusetts Mosquito Control and Wetlands Management District.

SECTION 5. Said section 3 of said chapter 516 is hereby further amended by striking out, in lines 3 and 10, the word "project" and inserting in place thereof, in each instance, the following word:- district.

SECTION 6. Section 4 of said chapter 516 is hereby amended by striking out, in lines 5 and 6, the words "mosquito control project" and inserting in place thereof the following words:- North East Massachusetts Mosquito Control and Wetlands Management District.

Approved October 31, 1996.

Chapter 411. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND NOTES TO BE ISSUED BY THE COMMONWEALTH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter two hundred and eight of the acts of nineteen hundred and ninety-six, providing for the revitalization and development of the commonwealth's seaports, shall be issued for a term not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and twenty-one, as recommended by the governor in a message to the general court dated August seventh, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 2. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section four of chapter two hundred and eight of the acts of nineteen hundred and ninety-six, providing for the revitalization and development of the commonwealth's seaports, shall be issued and may be renewed one or more times not exceeding one year; and the final maturities of such notes whether original or renewal, shall be no later than June thirtieth, two thousand and two, as recommended by the governor in a message to the general court dated August seventh, nineteen hundred and ninety-six, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

Approved November 7, 1996.

Chapter 412. AN ACT EXEMPTING CERTAIN POSITIONS IN THE TOWN OF SHREWSBURY FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

The positions of foreman and general foreman in the highway, sewer and water and park and cemetery departments of the town of Shrewsbury shall be exempt from the provisions of chapter thirty-one of the General Laws.

Approved November 7, 1996.

Chapter 413. AN ACT RELATIVE TO DISTINCTIVE LICENSE PLATES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 29 of the General Laws is hereby amended by inserting after section 2FF, inserted by section 2 of chapter 203 of the acts of 1996, the following section:-

Section 2GG. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Child Care Quality Fund. There shall be

credited to said fund revenues received from the sale of Invest in Children distinctive registration plates issued pursuant to subsection (b) of section two E of chapter ninety. Amounts credited to said fund shall be available for expenditure by the commissioner of the office for children for providing grants to not-for-profit child care organizations for the purpose of improving child care services including, but not limited to, teacher training, training and education of consumers and parents, the purchase of educational curricula and materials, specialized training for bilingual and bicultural providers and consumers and technical assistance for acquiring accreditation by the National Association for the Education of Young Children.

SECTION 2. Chapter 90 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after section 2D the following section:-

Section 2E. The registrar shall furnish, upon application, to the owners of private passenger motor vehicles distinctive registration plates which shall display on their face a design indicating support for the children of the commonwealth and the words "Invest in Children". There shall be a fee of not less than forty dollars for such plates in addition to the established registration fee for private passenger motor vehicles, such fee being payable at the time of registration of such vehicle and at each renewal thereof. The portion of the total fee remaining after the deduction of costs directly attributable to the issuance of such plates shall be deposited within ninety days of receipt thereof in the Child Care Quality Fund established by section two GG of chapter twenty-nine.

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, the registrar of motor vehicles shall make available the distinctive registration plates provided for in this act not later than May first, nineteen hundred and ninety-seven.

Approved November 13, 1996.

Chapter 414. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR NINETEEN HUNDRED AND NINETY-SEVEN 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 appropriations act and other appropriation acts for fiscal year nineteen hundred and ninety-seven and for certain other activities and projects in said fiscal year, the sums set forth in section two A are hereby appropriated from the General Fund unless specifically designated otherwise herein or in said appropriation acts, for the several purposes and subject to the conditions specified herein or in said appropriation acts, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June thirtieth, nineteen hundred and ninety-seven. Unless otherwise specified, the sums appropriated herein shall be in addition to any amounts previously appropriated and made

available for the purposes of said items.

NO SECTION 2.

SECTION 2A.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves.

1599-3806 For a reserve to meet the fiscal year nineteen hundred and ninety-six and nineteen hundred and ninety-seven costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Coalition of Public Safety (Unit 5), and to meet the costs of salary adjustments and benefits necessary to provide equal salary adjustments and benefits to employees employed in "confidential" positions which otherwise would be covered by said collective bargaining agreement; provided, however, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments and benefits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which otherwise would cover said positions; provided, further, that said secretary is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year nineteen hundred and ninety-seven such amounts as are necessary to meet the costs of said adjustments and benefits where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided, further, that said secretary is hereby authorized to allocate the cost of said adjustments and benefits to the several state or other funds to which such items of appropriation are charged $1,540,000

1599-9989 For a one-time reserve in anticipation of capital funding to meet the immediate operating costs of the government land bank for administration and the provision of municipal services for the Devens Regional Enterprise Zone pursuant to the provisions of chapter four hundred and ninety-eight of the acts of nineteen hundred and ninety-three; provided, however, that no funds shall be expended from this item until said government land bank files with the secretary of administration and finance and the house and senate committees on ways and means a financial plan detailing said costs and a schedule projecting the monthly allotment needed to meet said costs; provided, further, that the

comptroller is hereby authorized and directed to transfer to said government land bank the monthly allotment amount specified by said schedule; and, provided further, that the General Fund shall be reimbursed any amounts expended from this item from monies generated by any capital outlay appropriations made on behalf of said government land bank for said Devens Regional Enterprise Zone after the effective date of this act $3,750,000

EXECUTIVE OFFICE OF EDUCATION.

Department of Education.

7061-0014 For certain one-time costs to correct calculations for the distribution in chapter seventy school aid, so-called, as provided by section three of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six; provided, however, that forty thousand four hundred eighty-eight dollars shall be expended for the town of Amherst; provided, further, that two thousand six hundred twenty-five dollars shall be expended for the town of Andover; provided, further, that twenty-seven thousand fifteen dollars shall be expended for the town of Ashfield; provided, further, that six hundred sixty-four dollars shall be expended for the city of Attleboro; provided, further, that seventy-eight thousand seventeen dollars shall be expended for the town of Belchertown; provided, further, that two hundred three thousand seven hundred fourteen dollars shall be expended for the town of Billerica; provided, further, that seven hundred ninety-four thousand two hundred twenty-three dollars shall be expended for the city of Boston; provided, further, that one thousand one hundred twenty-two dollars shall be expended for the town of Brimfield; provided, further, that seventy-one thousand five hundred twenty-one dollars shall be expended for the city of Brockton; provided, further, that eight thousand seven hundred sixty dollars shall be expended for the town of Carver; provided, further, that fifteen thousand one hundred seventy-three dollars shall be expended for the town of Charlemont; provided, further, that three thousand two hundred two dollars shall be expended for the town of Clarksburg; provided, further, that one hundred sixty-three thousand seven hundred one dollars shall be expended for the city of Fall River; provided, further, that three thousand seven hundred sixty-eight dollars shall be expended for the town of Falmouth; provided, further, that one hundred forty-six thousand one hundred twenty-four dollars shall be expended for the city of Fitchburg; provided, further, that nine thousand two

hundred three dollars shall be expended for the town of Hawley; provided, further, that sixty-nine thousand four hundred fifty-three dollars shall be expended for the town of Hingham; provided, further, that one thousand five hundred twenty-seven dollars shall be expended for the town of Holland; provided, further, that sixty-three thousand seven hundred forty dollars shall be expended for the city of Lawrence; provided, further, that three thousand five hundred thirty-six dollars shall be expended for the town of Leverett; provided, further, that eleven thousand one dollars shall be expended for the town of Lunenburg; provided, further, that five hundred eighteen thousand seven hundred fifty-two dollars shall be expended for the city of Lynn; provided, further, that one hundred ninety-five thousand six hundred ninety-four dollars shall be expended for the city of Malden; provided, further, that four thousand eight hundred two dollars shall be expended for the town of Pelham; provided, further, that fifty-two thousand six hundred eight dollars shall be expended for the city of Revere; provided, further, that four hundred twelve dollars shall be expended for the city of Salem; provided, further, that two hundred six thousand two hundred thirty-two dollars shall be expended for the city of Springfield; provided, further, that six hundred twenty-eight dollars shall be expended for the town of Sunderland; provided, further, that one hundred fifty dollars shall be expended for the town of Tyringham; provided, further, that one thousand fifty-nine dollars shall be expended for the town of Wales; provided, further, that twenty-three thousand seventy-five dollars shall be expended for the Amherst-Pelham Regional School District; provided, further, that one hundred ninety-seven thousand one hundred fifty dollars shall be expended for the Dennis-Yarmouth Regional School District; provided, further, that twenty-nine thousand nine hundred five dollars shall be expended for the Gill-Montague Regional School District; provided, further, that one thousand one hundred eighteen dollars shall be expended for the Hampshire Regional School District; provided, further, that five hundred seventy-four dollars shall be expended for the New Salem-Wendell Regional School District; provided, further, that eleven thousand five hundred fifty-nine dollars shall be expended for the Ralph C. Mahar Regional School District; provided, further, that seven thousand eighty-nine dollars shall be expended for the Tantasqua Regional School District; provided, further, that thirty-one thousand two dollars shall be expended for the North

Shore Regional School District; provided, further, that three thousand six hundred fifty dollars shall be expended for the Southern Worcester Regional School District; and provided, further, that two thousand forty-nine dollars shall be expended for the Essex County Regional School District $3,006,105
Local Aid Fund 100.0%

SECTION 3. Item 7061-0011 of section 2 of chapter 151 of the acts of 1996 is hereby amended by striking out the words "; provided, further, that not less than two hundred and sixteen thousand one hundred and seventy-four dollars shall be expended for the Dennis Yarmouth Regional School District", as appearing in section 116 of chapter 204 of the acts of 1996, and inserting in place thereof the following words:- provided, further, that not less than nineteen thousand twenty-four dollars shall be expended for Dennis Yarmouth regional school district.

SECTION 4. Said section 2 of said chapter 151 is hereby further amended by striking out item 7061-9010 and inserting in place thereof the following item:-

7061-9010 For fiscal year nineteen hundred and ninety-seven reimbursements to certain cities, towns and regional school districts pursuant to section nineteen of chapter two hundred and sixty-seven of the acts of nineteen hundred and ninety-five; provided, further, that one hundred and twenty-nine thousand four hundred ninety-six dollars shall be expended for below foundation school choice reimbursements to the town of Shirley; and provided, further, that three hundred sixty-four thousand dollars shall be expended for below foundation charter school reimbursements to the city of Medford $2,415,461
Local Aid Fund 100.0%

SECTION 5. Section 166 of chapter 204 of the acts of 1996 is hereby amended by striking out the line reading "Brookline 22,156" and inserting in place thereof the following line:- Brookline 127,155.

SECTION 6. Notwithstanding the provisions of any general or special law to the contrary, an amount not to exceed four hundred sixty-seven thousand three hundred thirty-two dollars and seventy-five cents of the balance from item 1599-3750 of section two A of chapter thirty-nine of the acts of nineteen hundred and ninety-five which otherwise would have reverted as of June thirtieth, nineteen hundred and ninety-six, shall remain available for expenditure until June thirtieth, nineteen hundred and ninety-seven.

SECTION 7. For the purposes of calculating chapter seventy school aid, so-called, for fiscal year nineteen hundred and ninety-eight, the amounts delineated below shall be considered as the fiscal year nineteen hundred and ninety-seven chapter seventy school aid, so-called.

MUNICIPALITY	7061-0008 Chapter 70 School Aid
Abington	4,714,515
Acton	1,137,052
Acushnet	3,571,652
Adams	
Agawam	7,969,963
Alford	
Amesbury	7,048,502
Amherst	4,406,656
Andover	2,840,569
Arlington	3,531,573
Ashburnham	
Ashby	
Ashfield	47,403
Ashland	1,097,118
Athol	
Attleboro	16,269,570
Auburn	2,904,820
Avon	351,015
Ayer	3,727,748
Barnstable	2,787,386
Barre	7,451
Becket	2,347
Bedford	1,052,980
Belchertown	5,580,516
Bellingham	5,148,486
Belmont	1,632,669
Berkley	2,314,199
Berlin	307,455
Bernardston	
Beverly	4,646,789
Billerica	9,731,234
Blackstone	15,933
Blandford	
Bolton	
Boston	115,517,953
Bourne	2,156,197
Boxborough	171,660
Boxford	340,535

MUNICIPALITY	7061-0008 Chapter 70 School Aid
Boylston	227,445
Braintree	2,681,491
Brewster	300,709
Bridgewater	33,271
Brimfield	733,882
Brockton	65,947,832
Brookfield	1,155,528
Brookline	2,701,838
Buckland	
Burlington	2,244,208
Cambridge	4,027,744
Canton	1,457,899
Carlisle	291,341
Carver	6,258,661
Charlemont	36,843
Charlton	
Chatham	201,355
Chelmsford	4,382,785
Chelsea	23,850,065
Cheshire	46,418
Chester	
Chesterfield	32,665
Chicopee	25,251,717
Chilmark	
Clarksburg	870,631
Clinton	6,216,324
Cohasset	719,809
Colrain	
Concord	842,673
Conway	374,282
Cummington	27,289
Dalton	276,215
Danvers	1,860,091
Dartmouth	5,213,402
Dedham	1,921,271
Deerfield	482,472
Dennis	
Dighton	

MUNICIPALITY	7061-0008 Chapter 70 School Aid
Douglas	3,050,178
Dover	126,414
Dracut	9,506,830
Dudley	
Dunstable	
Duxbury	1,565,597
East Bridgewater	5,690,320
East Brookfield	7,636
Eastham	111,905
Easthampton	6,246,791
East Longmeadow	2,545,605
Easton	4,565,568
Edgartown	153,123
Egremont	
Erving	163,638
Essex	274,493
Everett	7,840,465
Fairhaven	4,897,900
Fall River	64,902,480
Falmouth	3,031,080
Fitchburg	22,852,450
Florida	340,787
Foxborough	4,047,143
Framingham	4,313,992
Franklin	9,024,902
Freetown	692,129
Gardner	10,147,261
Gay Head	
Georgetown	1,837,886
Gill	
Gloucester	3,395,196
Goshen	1,650
Gosnold	1,075
Grafton	3,000,502
Granby	1,905,669
Granville	391,483
Great Barrington	
Greenfield	7,619,026

MUNICIPALITY	7061-0008 Chapter 70 School Aid
Groton	
Groveland	
Hadley	312,527
Halifax	1,582,251
Hamilton	
Hampden	
Hancock	41,415
Hanover	1,958,487
Hanson	
Hardwick	43,142
Harvard	756,368
Harwich	598,316
Hatfield	488,760
Haverhill	23,751,884
Hawley	18,489
Heath	
Hingham	2,045,275
Hinsdale	33,623
Holbrook	3,379,230
Holden	
Holland	323,152
Holliston	3,552,919
Holyoke	46,246,297
Hopedale	2,375,831
Hopkinton	1,324,071
Hubbardston	
Hudson	4,635,009
Hull	3,316,350
Huntington	
Ipswich	1,141,809
Kingston	1,613,820
Lakeville	1,122,064
Lancaster	
Lanesborough	420,781
Lawrence	73,216,720
Lee	1,188,870
Leicester	4,778,821
Lenox	910,667

MUNICIPALITY	7061-0008 Chapter 70 School Aid
Leominster	18,012,925
Leverett	143,098
Lexington	2,802,306
Leyden	
Lincoln	224,505
Littleton	654,804
Longmeadow	2,337,138
Lowell	70,356,716
Ludlow	6,781,649
Lunenburg	2,366,295
Lynn	57,614,750
Lynnfield	1,039,050
Malden	14,345,482
Manchester	424,048
Mansfield	3,966,655
Marblehead	1,347,794
Marion	135,805
Marlborough	2,565,220
Marshfield	7,344,835
Mashpee	1,121,082
Mattapoisett	243,193
Maynard	1,374,230
Medfield	1,144,439
Medford	8,930,786
Medway	3,105,534
Melrose	4,076,443
Mendon	
Merrimac	
Methuen	14,298,707
Middleborough	10,994,267
Middlefield	
Middleton	281,870
Milford	8,856,614
Millbury	3,559,895
Millis	1,220,472
Millville	6,763
Milton	1,696,645
Monroe	12,748

MUNICIPALITY	7061-0008 Chapter 70 School Aid
Monson	3,967,121
Montague	
Monterey	
Montgomery	
Mount Washington	5,192
Nahant	213,054
Nantucket	312,585
Natick	2,346,539
Needham	2,072,823
New Ashford	10,720
New Bedford	70,962,735
New Braintree	
Newbury	
Newburyport	2,214,865
New Marlborough	
New Salem	
Newton	5,379,166
Norfolk	1,621,926
North Adams	10,603,876
Northampton	5,744,003
North Andover	2,163,587
North Attleborough	8,408,007
Northborough	1,382,533
Northbridge	6,964,209
North Brookfield	2,924,062
Northfield	
North Reading	1,524,607
Norton	6,162,553
Norwell	1,136,729
Norwood	2,117,877
Oak Bluffs	112,960
Oakham	45,307
Orange	3,906,049
Orleans	98,465
Otis	
Oxford	6,086,304
Palmer	6,041,167
Paxton	

MUNICIPALITY	7061-0008 Chapter 70 School Aid
Peabody	8,738,286
Pelham	44,762
Pembroke	3,068,314
Pepperell	
Peru	37,591
Petersham	114,042
Phillipston	
Pittsfield	22,032,780
Plainfield	11,335
Plainville	897,778
Plymouth	12,613,079
Plympton	421,906
Princeton	
Provincetown	164,305
Quincy	9,579,537
Randolph	6,759,134
Raynham	13,866
Reading	2,848,025
Rehoboth	
Revere	13,696,406
Richmond	232,078
Rochester	524,318
Rockland	7,395,392
Rockport	539,942
Rowe	21,465
Rowley	
Royalston	
Russell	
Rutland	
Salem	7,047,005
Salisbury	
Sandisfield	
Sandwich	2,327,434
Saugus	2,341,756
Savoy	280,845
Scituate	1,874,862
Seekonk	2,243,817
Sharon	2,607,679

MUNICIPALITY	7061-0008 Chapter 70 School Aid
Sheffield	
Shelburne	
Sherborn	157,696
Shirley	2,326,755
Shrewsbury	3,843,718
Shutesbury	295,941
Somerset	1,413,903
Somerville	17,605,326
Southampton	896,386
Southborough	461,537
Southbridge	10,944,320
South Hadley	4,624,259
Southwick	
Spencer	94,745
Springfield	133,461,741
Sterling	
Stockbridge	
Stoneham	1,496,509
Stoughton	6,533,444
Stow	
Sturbridge	825,674
Sudbury	1,018,880
Sunderland	463,840
Sutton	2,189,318
Swampscott	1,106,554
Swansea	3,599,614
Taunton	24,131,896
Templeton	
Tewksbury	7,243,186
Tisbury	123,260
Tolland	
Topsfield	230,965
Townsend	
Truro	62,550
Tyngsborough	3,206,262
Tyringham	10,400
Upton	
Uxbridge	4,043,156

MUNICIPALITY	7061-0008 Chapter 70 School Aid
Wakefield	2,806,368
Wales	537,434
Walpole	3,277,362
Waltham	4,162,251
Ware	4,568,296
Wareham	7,834,077
Warren	
Warwick	
Washington	19,582
Watertown	1,466,412
Wayland	1,269,949
Webster	5,757,172
Wellesley	1,635,569
Wellfleet	60,640
Wendell	
Wenham	
Westborough	1,375,662
West Boylston	914,542
West Bridgewater	1,368,750
West Brookfield	
Westfield	19,622,443
Westford	2,461,843
Westhampton	162,259
Westminster	
West Newbury	
Weston	595,883
Westport	2,383,769
West Springfield	8,354,340
West Stockbridge	
West Tisbury	
Westwood	1,149,102
Weymouth	14,230,954
Whately	51,133
Whitman	
Wilbraham	
Williamsburg	268,895
Williamstown	739,335
Wilmington	1,909,929

MUNICIPALITY	7061-0008 Chapter 70 School Aid
Winchendon	6,695,460
Winchester	1,878,610
Windsor	
Winthrop	3,211,557
Woburn	2,666,480
Worcester	91,012,111
Worthington	
Wrentham	2,396,198
Yarmouth	

REGIONAL SCHOOL DISTRICT	7061-0008 Chapter 70 School Aid
Lawrence Vocational	
Northampton Smith	762,642
Worcester Trade	6,955,253
Acton Boxborough	2,110,517
Adams	
Cheshire	7,062,711
Amherst Pelham	5,790,658
Ashburnham Westminster	6,618,505
Ashfield Plainfield	
Athol Royalston	11,393,217
Berkshire Hills	2,452,415
Berlin Boylston	683,409
Blackstone Millville	6,969,736
Bridgewater Raynham	13,995,073
Buckland Shelburne	
Chesterfield Goshen	360,702
Central Berkshire	5,540,553
Concord Carlisle	1,166,058
Dennis Yarmouth	4,881,580
Dighton Rehoboth	7,342,485
Dover Sherborn	869,245
Dudley Charlton	11,360,461
Nauset	2,335,758
Farmington River	259,688

REGIONAL SCHOOL DISTRICT	7061-0008 Chapter 70 School Aid
Freetown Lakeville	4,231,807
Frontier	913,073
Gateway	5,353,280
Groton Dunstable	4,077,542
Gill Montague	4,962,336
Hamilton Wenham	2,312,323
Hampden Wilbraham	6,630,802
Hampshire	1,486,933
Hawlemont	477,631
King Philip	3,503,358
Lincoln Sudbury	1,428,002
Marthas Vineyard	579,340
Masconomet	1,773,194
Mendon Upton	3,065,271
Mount Greylock	1,635,755
Mohawk Trail	4,895,377
Narragansett	5,339,242
Nashoba	4,521,115
New Salem Wendell	624,079
Northboro Southboro	1,191,844
North Middlesex	14,530,345
Old Rochester	1,247,830
Pentucket	7,380,264
Pioneer	2,912,681
Plymouth Carver	
Quabbin	9,075,224
Ralph C Mahar	2,877,329
Silver Lake	7,198,677
Southern Berkshire	1,426,018
Southwick Tolland	5,328,531
Spencer East Brookfield	9,432,215
Tantasqua	3,738,004
Triton	6,117,034
Upisland	316,096
Wachusett	13,293,723
Quaboag	5,997,513
Whitman Hanson	14,856,619
Assabet Valley	2,662,938

REGIONAL SCHOOL DISTRICT	7061-0008 Chapter 70 School Aid
Blackstone Valley	4,164,132
Blue Hills	3,088,171
Bristol Plymouth	3,824,172
Cape Cod	1,636,406
Franklin County	1,805,563
Greater Fall River	7,692,533
Greater Lawrence	9,417,379
Greater New Bedford	12,042,940
Greater Lowell	12,632,983
South Middlesex	2,237,022
Minuteman	2,170,778
Montachusett	5,189,948
Northern Berkshire	2,269,628
Nashoba Valley	1,841,855
Northeast Metropolitan	4,922,513
North Shore	1,211,746
Old Colony	1,927,269
Pathfinder	1,862,974
Shawsheen Valley	3,044,597
Southeastern	7,188,675
South Shore	1,690,856
Southern Worcester	4,061,129
Tri County	2,402,971
Upper Cape Cod	1,399,721
Whittier	4,390,379
Bristol County	1,245,928
Essex County	3,518,969
Norfolk County	624,441
TOTAL MUNICIPAL AND REGIONAL SCHOOL DISTRICT CH. 70 DISTRIBUTION	2,058,587,637

SECTION 8. This act shall take effect upon its passage.

Approved November 13, 1996.

Chapter 415. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF OAKHAM.

Be it enacted, etc., as follows:

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

SECTION 2. Any qualified voter 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 ground for recall. The town clerk shall thereupon deliver to the person filing 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 typing and shall contain the name of the person to whom they were 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. Such 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 fourteen days after the date they were issued, signed by at least fifteen percent of the qualified persons registered to vote in the town as of the time 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.

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 fifteen 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 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 14, 1996.

Chapter 416. AN ACT RELATIVE TO SEALERS OF WEIGHTS AND MEASURES.

Be it enacted, etc., as follows:

SECTION 1. Section 29 of chapter 98 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Rules and regulations and orders issued by the director hereunder may provide penalties for violations thereof not exceeding, for the first offense, a fine of one hundred dollars and, for the second or subsequent offense, a fine not exceeding five hundred dollars.

SECTION 2. Section 34 of said chapter 98, as so appearing, is hereby amended by striking out, in line 8, the words "fifty dollars" and inserting in place thereof the following words:- five hundred dollars for the first offense and a fine of not more than one thousand dollars for each subsequent offense.

SECTION 3. Section 42 of said chapter 98, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- A person who neglects or refuses to exhibit his weighing or measuring device to a sealer or deputy, or who hinders, obstructs or in any way interferes with a sealer or deputy in the performance of duty, or violates any provisions of this section shall be punished by a fine of not more than five hundred dollars for the first offense and a fine of not more than one thousand dollars for each subsequent offense.

SECTION 4. Section 45 of said chapter 98, as so appearing, is hereby amended by striking out, in line 6, the word "ten" and inserting in place thereof the following words:- one hundred.

SECTION 5. Section 52 of said chapter 98, as so appearing, is hereby amended by striking out, in line 14, the words "fifty nor more than one hundred" and inserting in place thereof the following words:- five hundred nor more than one thousand.

SECTION 6. Section 53 of said chapter 98, as so appearing, is hereby amended by striking out, in line 12, the word "fifty" and inserting in place thereof the following words:- five hundred.

SECTION 7. Section 55 of said chapter 98, as so appearing, is hereby amended by striking out, in line 5, the word "fifty" and inserting in place thereof the following words:- five hundred.

Approved November 14, 1996.

Chapter 417. AN ACT ESTABLISHING A DEPARTMENT OF PUBLIC WORKS IN THE TOWN OF ROYALSTON.

Be it enacted, etc., as follows:

SECTION 1. There is hereby established in the town of Royalston a department of public works, hereinafter called the department, which shall be under the jurisdiction of the board of selectmen.

SECTION 2. The board of selectmen shall appoint and fix the compensation of a director of public works whose qualifications, powers and duties shall be determined and prescribed by said board and who shall be responsible to said board. The director shall have full authority for carrying out the policies of said board and over the operations of the department, and may be removed for just cause only by a vote of the board.

SECTION 3. The department shall be responsible for the functions of the existing highway department and shall assume responsibility for the upkeep and maintenance of all town-owned buildings, parks and other properties, for the operation and maintenance of the wastewater treatment system, for the water system at such time as it may revert to the town, for landfill cover operations at the landfill site, for monitoring and final closure operations at the landfill and for contract maintenance of the town cemeteries. The cemetery commissioners, sewer commissioners and board of health shall continue to exercise their respective responsibilities with regard to administering policies under their control or as established by statute or town by-law.

SECTION 4. This act shall constitute a general by-law of the town of Royalston and any changes in the composition or administration of the department of public works shall be accomplished by amendments to said by-law in the manner prescribed for any such by-law.

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

Approved November 14, 1996.

Chapter 418. AN ACT ESTABLISHING A DEPARTMENT OF FINANCE IN THE TOWN OF FRAMINGHAM.

Be it enacted, etc., as follows:

SECTION 1. There is hereby established in the town of Framingham, hereinafter referred to as the town, a department of finance which shall be responsible for the overall management and administration of the town's financial operations and services. The department of finance shall be under the direction of a chief financial officer, hereinafter referred to as the CFO, who shall be responsible to the town manager for the duties specified in this act.

SECTION 2. The town manager, with the approval of the board of selectmen, shall appoint the CFO for a term of three years. Compensation shall be established within the classification and pay plan of the town's personnel by-law for the salary of the CFO. Said CFO may be removed by the town manager, with the approval of said board of selectmen,

after written notice to said CFO of the reasons for the proposed removal and a public hearing, at which the reasons for removal shall be set forth and said CFO shall be entitled to be heard.

SECTION 3. Said CFO shall be a person qualified in accordance with the by-laws of the town and especially suited by education, training and experience to perform the duties of the office. Said CFO shall devote full time to the duties of this position and shall not engage in any other business or occupation during his term except as permitted herein. Any person appointed or reappointed to such position shall meet such additional qualifications as may be established by by-law or in accordance with the town's personnel by-law.

SECTION 4. The department of finance shall assume and be responsible for the functions and statutory duties of the offices of town accountant, town treasurer/collector, chief procurement officer, and town assessors and their respective departments, each of which shall become a division within the department of finance.

SECTION 5. The responsibilities and duties of said CFO shall include the following:

(1) Except as otherwise expressly prohibited by general or special law or by-law of the town, said CFO shall supervise, direct and be responsible for the overall management and administration of the department of finance. In addition, the responsibilities of said CFO shall include, but not be limited to, the following:

(*a*) to coordinate and manage the town-wide annual operating and capital budget process for all town departments, officers, boards, committees and commissions, in cooperation with those entities;

(*b*) to compile and coordinate for all town departments, officers, boards, committees and commissions their operating and capital budgets, and present a budget recommendation to the finance committee, and for capital items, to the capital budget committee;

(*c*) to receive, evaluate and provide to the finance committee recommendations with respect to all requests for transfers from the town's reserve fund;

(*d*) to prepare and maintain long-term financial forecasts; including revenue expectations, future implications of operating budget program decisions and capital budget programs related to infrastructure maintenance, improvement and expansion;

(*e*) to manage the financing and refinancing processes of the town, including financing strategies to maximize future flexibility relative to long-term capital expenditure forecasts;

(*f*) to monitor actual line item income and expense information for all town departments and prepare financial and statistical reports relative to approved operating and capital budgets;

(*g*) to advise all town officers, departments, boards, committees and commissions on financial and financing implications of operational proposals; and

(*h*) to report to the annual town meeting, in writing, upon the financial condition of the town and the administration of the town's financial affairs.

(2) Said CFO, with the approval of the town manager, shall appoint the town accountant, town treasurer/collector, chief procurement officer, and the town assessors. The

persons to be appointed to these positions shall meet the qualifications established by general or special law, town by-law or regulations established thereunder. Persons holding these positions may be removed from office by said CFO, with the approval of said town manager, after written notice to such persons of the reasons for the proposed removal and a public hearing at which the reasons for removal shall be set forth and at which such persons shall be entitled to be heard.

(3) Said CFO, with the approval of said town manager, shall be authorized to organize or reorganize the department of finance and to assign, within the department, the personnel reporting to the town accountant, town treasurer/collector, assessors and the chief procurement officer. Said CFO, with the approval of the town manager, shall have the authority to implement the reorganization of the department on an interim basis pending such approvals as may be required by the personnel by-law.

(4) Said CFO shall have access to all town books, papers and records of any sort for information necessary for the proper performance of the duties defined herein. All town officers, boards, committees and commissions shall respond promptly, thoroughly and accurately to requests for information made by said CFO. Any contract or agreement entered into by town officers, boards, committees or commissions that impacts the current or future financial condition of the town, other than those covered by the town's purchasing by-law, shall be submitted to said CFO within seven days of signing.

(5) All town departments, officers, boards, committees and commissions shall keep said CFO fully informed as to the progress of all labor negotiations. Said CFO shall prepare and submit to the finance committee and town meeting, as part of the process to consider appropriation of moneys to fund any negotiated labor agreement which effects the town, its departments, officers, boards, committees or commissions, an analysis of the financial impact on the town of any such labor agreement throughout the entirety of its proposed term together with a recommendation for action by the finance committee or town meeting.

(6) Said CFO shall have such additional duties and responsibilities as may from time to time be delegated by the town manager or as authorized by general or special law or town by-law and may be relieved of any duties and responsibilities if so provided by an amendment to this act.

SECTION 6. The various town officers, departments, boards, committees and commissions charged with the expenditure of town funds shall, not later than November fifteenth of each year, or at such other time as directed by said CFO, prepare and submit to said CFO detailed estimates of the amounts deemed by them to be necessary for the administration of their respective duties for the ensuing fiscal year and for capital items to be considered for the ensuing fiscal year and future years, with explanatory statements of the reasons for the amounts requested. The specific format and categories of this information shall be as directed by said CFO, with the approval of the finance committee, unless otherwise voted by town meeting before commencement of the budget process in any year.

SECTION 7. Said CFO shall present to the finance committee, not less than sixty days prior to the annual town meeting and within an appropriate time period prior to any special town meeting called to consider budgetary matters or articles requiring the appropria-

tion of funds or otherwise having a financial impact upon the town, recommendations on the detailed estimates of all revenues, the operating and capital expenditures for the administration of all town departments, boards, committees and commissions with respect to the annual town meeting, and changes thereto with respect to any such special town meeting. Said CFO shall present to the capital budget committee, not less than ninety days prior to the annual town meeting and within an appropriate time period prior to any special town meeting called to consider capital budget matters, recommendations for annual capital projects covering a period of six years for all town departments, boards, committees and commissions with respect to the annual town meeting, and changes thereto with respect to any such special town meeting. Said CFO shall present to the finance committee, capital budget committee and the town meeting recommendations as to the sources from which such appropriations shall be funded.

SECTION 8. Said CFO may also be appointed by the town manager, with the approval of the board of selectmen, to serve concurrently in any one of the following positions: chief assessor; town treasurer/collector; town accountant; or chief procurement officer; provided, however, that he satisfies all of the job requirements established for any such position.

SECTION 9. Each request made by any town officer, department, board, committee or commission for transfer of funds from the town's reserve fund shall, prior to submission to the finance committee, be submitted to said CFO who shall prepare an evaluation and recommendation to the finance committee regarding each such request.

SECTION 10. Said CFO shall have the authority to make appropriate motions to the town meeting regarding any article that relates to operating or capital appropriations for the town.

SECTION 11. Nothing in this act shall serve to prevent any officer, department, board, committee or commission of the town from appearing before the finance committee, the capital budget committee, town meeting or any of its committees to present or discuss budgetary or appropriation requests.

SECTION 12. The town manager, with the approval of the board of selectmen, shall make the initial appointment to the position of CFO within one hundred and eighty days after the effective date of this act. At the sole discretion of the town manager, but only for the purpose of coordinating the expiration date of such initial appointment with those of other similar positions of the town, the initial term of appointment of said CFO may be for less than three but not less than two years.

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 said CFO 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.

SECTION 13. The town, by by-law, 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 of this act or the provisions of any act relative thereto.

SECTION 14. Chapter two hundred and eighty-four of the acts of nineteen hundred and eighty-two is hereby repealed.

SECTION 15. This act shall take effect upon its passage.

Approved November 15, 1996.

Chapter 419. AN ACT RELATIVE TO THE MATURITIES OF CERTAIN SCHOOL DEBT.

Be it enacted, etc., as follows:

The third paragraph of section 19 of chapter 44 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the last sentence.

Approved November 15, 1996.

Chapter 420. AN ACT RELATIVE TO THE CLASSIFICATION OF PRISONERS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 127 of the General Laws is hereby amended by inserting after section 20, as appearing in the 1994 Official Edition, the following section:-

Section 20A. The superintendent of each correctional facility shall establish a periodic classification board, the membership of which he shall appoint. Such boards shall make recommendation to such superintendent or his deputy for a prisoner's periodic grading and classification; provided, however, that such recommendation shall be made only by a full board. No less than three members shall constitute a full board. Such classification boards shall consist of correction officers, prison camp officers, correctional counselors, unit managers, directors of classification or deputy superintendents; provided, however, that in a facility designated by the commissioner as maximum or medium security, one member shall be a correction officer and, in a facility designated by the commissioner as a community correction facility, one member shall be an employee of the department whose primary role includes security responsibilities.

Nothing in this section shall be construed to prohibit the grading and classification of any prisoner at a correctional facility other than that facility to which such prisoner is currently committed if, in the commissioner's opinion, conducting such procedure at another facility is appropriate for such prisoner.

SECTION 2. The second paragraph of section 49A of said chapter 127, as so appearing, is hereby amended by striking out the second sentence and inserting in place

thereof the following sentence:- The membership of said committees shall be appointed by the superintendent of each correctional facility and shall consist of correction officers, prison camp officers, correctional counselors, unit managers, directors of classification or deputy superintendents; provided, however, that, in a facility designated by the commissioner as maximum or medium security, one member shall be a correction officer and, in a facility designated by the commissioner as a community correction facility, one member shall be an employee of the department whose primary role includes security responsibilities.

SECTION 3. Said section 49A of said chapter 127, as so appearing, is hereby further amended by inserting after the word "prison", in line 17, the following words:- ; provided, however, that such evaluation shall be made only by a full board. No less than three members shall constitute a full board.

Approved November 15, 1996.

Chapter 421. AN ACT AUTHORIZING THE TOWN OF COHASSET TO INSTALL A CERTAIN PIPELINE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the towns of Cohasset and Hingham are hereby authorized to install, own, operate and maintain a sewer main in any of the towns of Cohasset, Hingham and Hull, consistent with and subject to, the terms of one or more intermunicipal agreements among the towns of Cohasset, Hingham and Hull, or between any of them; provided, however, that any construction or other activities, which are to take place within the town of Hull, shall be subject to the specific and prior approval of the board of selectmen and the permanent sewer commission of the town of Hull. Any such intermunicipal agreement among the towns of Cohasset, Hingham and Hull, or between any of them, may remain in effect for not more than thirty-two years; provided, however, that such agreement may be extended for more than thirty-two years by further agreement among the towns of Cohasset, Hingham and Hull, or between any of them. Except as provided herein, said installation, ownership, operation and maintenance shall otherwise be subject to the local and state laws and regulations.

Approved November 22, 1996.

Chapter 422. AN ACT RELATIVE TO THE MANDATORY DISPLAY OF FISH AND GAME LICENSES.

Be it enacted, etc., as follows:

SECTION 1. Section 12 of chapter 131 of the General Laws is hereby amended by adding the following paragraph:-

At such time as the division of fisheries and wildlife has instituted an automated licensing system, the holder of a hunting, fishing, sporting or trapping license shall carry said license on his person and shall not be required to wear it in a visible manner.

SECTION 2. Section 35 of said chapter 131 is hereby amended by adding the following paragraph:-

The provisions of this section which relate to the wearing of a license shall be in effect until such time as the division of fisheries and wildlife has instituted an automated licensing system for hunting, fishing, sporting and trapping licenses.

Approved November 27, 1996.

Chapter 423. AN ACT VALIDATING THE ACTS AND PROCEEDINGS TAKEN AT A SPECIAL TOWN MEETING OF THE TOWN OF WILLIAMSBURG.

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 Williamsburg at the special town meeting held on March twenty-first, nineteen hundred and ninety-six and all actions taken pursuant thereto are hereby ratified, validated and confirmed to the same extent as if the warrant thereof had been properly posted and published.

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

Approved November 27, 1996.

Chapter 424. AN ACT RELATIVE TO THE INDUSTRIAL ACCIDENT NOMINATING PANEL.

Be it enacted, etc., as follows:

The first paragraph of section 9 of chapter 23E of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first and second sentences and inserting in place thereof the following two sentences:- There shall be an industrial accident nominating panel to consist of thirteen members. The panel shall include the governor's legal counsel, the director of labor and workforce development, the director of economic development, the commissioner of the department of industrial accidents and the senior judge, and eight members to be appointed by the governor, two of whom shall be representatives of business, two of whom shall be representatives of organized labor, one of whom shall be a health care provider, one of whom shall be an attorney who represents claimants in workers' compensation matters, one of whom shall be an attorney who represents employers or insurers in workers' compensation matters, and one of whom shall

be an attorney who does not practice workers' compensation law.

Approved November 27, 1996.

Chapter 425. AN ACT VALIDATING A CERTAIN VOTE PASSED BY THE TOWN OF MEDWAY.

Be it enacted, etc., as follows:

SECTION 1. The vote passed by the voters of the town of Medway at the election held on May sixth, nineteen hundred and ninety-six to exempt from the provisions of section twenty-one C of chapter fifty-nine of the General Laws the amounts required to pay for the bonds to be issued in order to construct, equip and furnish an addition to the Medway Public Library and to remodel, reconstruct and make extraordinary repairs to the Medway Public Library building is hereby ratified, validated and confirmed notwithstanding any defect or omission in the calling of said election as related to such vote.

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

Approved November 27, 1996.

Chapter 426. AN ACT RELATIVE TO THE TIME FOR FILING CERTAIN ABATEMENT APPLICATIONS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately allow the filing of certain abatements, 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. Clause Sixteenth A of section 5 of chapter 59 of the General Laws, inserted by section 1 of chapter 373 of the acts of 1996, is hereby amended by striking out subclause (c) and inserting in place thereof the following subclause:- (c) was in existence and conducting business in the commonwealth on or before January fifteenth, nineteen hundred and ninety-six, all property owned by such limited liability company other than the following: real estate, poles and underground conduits, wires and pipes.

SECTION 2. Section 59 of said chapter 59, as appearing in the 1994 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A person upon whom a tax has been assessed or the administrator of the estate of such person or the executor or trustee under the will of such person, if aggrieved by such tax, may, except as hereinafter otherwise provided, on or before the last day for payment, without incurring interest in accordance with the provisions of section fifty-seven or section fifty-seven C, of the first installment of the actual tax bill issued upon

the establishment of the tax rate for the fiscal year to which the tax relates, apply in writing to the assessors, on a form approved by the commissioner, for an abatement thereof, and if they find him taxed at more than his just proportion or upon an improper classification, or upon an assessment of any of his property in excess of its fair cash value, they shall make a reasonable abatement; provided, however, that a person aggrieved by a tax assessed upon him under section seventy-five or section seventy-six or reassessed upon him under section seventy-seven may apply for such abatement at any time within three months after the bill or notice of such assessment or reassessment is first sent to him.

SECTION 3. The first paragraph of section 3A of chapter 60 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following four sentences:- Every bill or notice shall be in a form approved by the commissioner and shall summarize the deadlines under section fifty-nine of chapter fifty-nine for applying for abatements and exemptions. Every bill or notice shall also have printed on it the last date for the assessed owner to apply for abatement and for exemptions under clauses other than those specifically listed in said section fifty-nine of said chapter fifty-nine. Except in the case of a bill or notice for reassessed taxes under section seventy-seven of said chapter fifty-nine, every bill shall also have printed on it the last date on which payment can be made without interest being due. If a bill or notice contains an erroneous payment or abatement application date that is later than the date established under said chapter fifty-nine, the date printed on the bill or notice shall be the deadline for payment or for applying for abatement or exemption, but if the error in the date is the wrong year, the due date shall be the day and month as printed on the bill but for the current year.

SECTION 4. Chapter 204 of the acts of 1996 is hereby amended by striking out section 156 and inserting in place thereof the following section:-

Section 156. Notwithstanding the provisions of section two A of chapter fifty-nine of the General Laws or any other general or special law to the contrary, the board of assessors of the towns of Monterey, Egremont and Great Barrington may, for the fiscal year beginning July first, nineteen hundred and ninety-five determine the valuation of property destroyed or damaged by the tornado of May twenty-ninth, nineteen hundred and ninety-five, immediately subsequent to the said tornado for the purpose of granting abatements applied under section fifty-nine of said chapter fifty-nine. This section shall apply to any of said towns only upon acceptance of its provisions by vote at a town meeting pursuant to section twenty-seven C of chapter twenty-nine of the General Laws.

SECTION 5. Section one of this act shall not apply to any city or town which accepted clause Sixteenth A of section five of chapter fifty-nine of the General Laws before the effective date of said section one, unless the city or town also accepts the provisions of said section one.

SECTION 6. Sections two and three of this act shall take effect for fiscal years beginning on or after July first, nineteen hundred and ninety-seven.

Approved November 27, 1996.

Chapter 427. AN ACT RELATIVE TO THE DISABILITY RETIREMENT LAW.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately clarify the disability retirement law 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. Section 18 of chapter 15 of the General Laws, as appearing in section 2 of chapter 315 of the acts of 1996, is hereby amended by striking out the first and second sentences and inserting in place thereof the following two sentences:- The teachers' retirement board shall appoint and may remove an executive director and shall establish his salary. Subject to the approval of said board, the executive director shall employ other employees, prescribe their duties and fix their compensation; provided, however, that the salaries of said employees shall not exceed the sum annually approved therefore by said board.

SECTION 2. Paragraph (a) of subdivision (1) of section 8 of chapter 32 of the General Laws, as appearing in section 16 of chapter 306 of the acts of 1996, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The commission shall require, after consultation with the local board, any member retired for disability under the provisions of sections six and seven to participate in an evaluation to determine whether the member is able to perform the essential duties of the position from which he retired or a similar job within the same department for which he is qualified without a medical or vocational rehabilitation program, or whether such member's return to his former or similar job within the same department would likely be expedited by participation in a medical or vocational rehabilitation program.

SECTION 3. Said paragraph (a) of said subdivision (1) of said section 8 of said chapter 32, as so appearing, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- Such evaluations shall include mental or physical medical examinations, vocational testing, meetings, and consultations with medical professionals, including the member's treating physician and vocational rehabilitation counselors, which are necessary to determine whether the disability for which the member was retired continues to render the member unable to perform the essential duties of his job; provided, however, that the commission may excuse a member from such examination if the commission determines based on written findings that such examination is unwarranted based on the catastrophic nature of the member's illness or injury.

SECTION 4. The last paragraph of said paragraph (a) of said subdivision (1) of said section 8 of said chapter 32, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Said member may appeal such termination to the contributory retirement appeals board.

SECTION 5. Said subdivision (1) of said section 8 of said chapter 32, as so appearing, is hereby further amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) For the purpose of mental or physical examinations under this section, the commission may appoint either a single physician or a three member regional panel to examine the retired member.

SECTION 6. Paragraph (a) of subdivision (2) of said section 8 of said chapter 32, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- If, within two years of the date that a member is retired under section six or seven, a regional medical panel determines that the retired member is able to perform the essential duties of the position from which he retired or, if following the completion of a rehabilitation program required under subdivision (1), a regional medical panel so finds, the member shall be returned to such position and his disability retirement shall be revoked; provided, however, that if the retired member is able to perform the essential duties of a similar job within the same department for which he is qualified, as determined by the department of personnel administration, and such position is vacant, said member shall return to such position.

SECTION 6A. Paragraph (b) of subdivision (3) of section 20 of said chapter 32 is hereby amended by striking out the first two paragraphs, inserted by section 24 of chapter 306 of the acts of 1996, and inserting in place thereof the following paragraph:-

Each such county system shall be managed by a retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: the county treasurer, but if there is no county treasurer the director of finance, who shall be a member ex officio and serve as chairman; a second member appointed by the county commissioners; two members hereinafter referred to as the elected members; and one member of the county retirement board advisory council who shall be elected by a majority of those present and voting at a public meeting of said council, properly posted, called specifically for such election pursuant to paragraph (g). The election of the elected member shall be conducted in accordance with the provisions of paragraph (h).

SECTION 7. Paragraph (b) of subdivision (4) of said section 20 of said chapter 32, as appearing in section 26 of said chapter 306, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Such board shall consist of five members and shall be chosen in the following manner, except as provided in paragraph (c), the city auditor or town accountant or other officer having similar powers and duties who shall be a member ex officio, a second member appointed by the board of selectmen in a town, the mayor in a city, the city manager in a city having a Plan D or Plan E form of government, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the mayor in a city or the board of selectmen in a town shall determine, and a fifth member who shall not be an employee, a retiree, or official of the governmental unit and shall be chosen by the other four for a term of three years.

SECTION 8. Paragraph (a) of subdivision (7) of section 22 of said chapter 32, as appearing in section 58 of said chapter 306, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- Said budgets shall include all salaries for personnel employed by the state board of retirement and the teachers'

retirement board and said budgets shall be funded from the investment income of each system without further appropriation.

SECTION 9. Section 86 of chapter 152 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 8, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 10. Chapter 338 of the acts of 1990 is hereby amended by striking out section 1, as appearing in section 54 of chapter 306 of the acts of 1996, and inserting in place thereof the following section:-

Section 1. (*a*) The public employee retirement administration commission is hereby authorized to create a pension fraud unit with the powers and duties specified in this section for the prevention and investigation of fraudulent disability pension claims and payments.

(*b*) The commission shall appoint employees of said pension fraud unit as necessary. The commission may expend for legal, investigative, clerical and any other such expenses in such sums as may be necessary. The commission shall encourage the public to report fraudulent pension disability pension claims and payments and shall maintain a toll free number to receive such reports.

(*c*) The commission shall designate such authorized personnel employed by said pension fraud unit to have access to the following information and records when the same are relevant to any pension fraud unit investigation: records kept by the registry of motor vehicles; records kept by the department of industrial accidents; records kept by the department of revenue; records kept by the department of transitional assistance; records kept by the department of employment and training; records kept by any retirement board of a city, town, county or other governmental unit; and the criminal offender record information which may be disseminated pursuant to clause (*b*) of section one hundred and seventy-two of chapter six of the General Laws; provided, however, that access to such information and records shall be solely for the use by such authorized personnel in the performance of their official duties and responsibilities within said pension fraud unit.

(*d*) Any person or entity paying disability benefits to any public employee, having reason to believe that a disability pension claim or payment may be fraudulent, or having knowledge that a fraudulent disability pension claim or payment is about to take place, or has taken place, shall promptly send to said pension fraud unit, on a form prescribed by the commission, the information requested by the form and such additional information relative to the transaction and the parties involved as the commission may require. Said pension fraud unit shall review each such report and undertake such further investigation as it deems necessary and proper to determine the validity of the transaction.

(*e*) The commission may request the attendance and testimony of witnesses and the production of books and records relevant to an investigation. If a person neglects or refuses to comply with any request to provide testimony or produce books and records relevant to the investigation, the commission may refer the matter to the attorney general, the appropriate district attorney, or the United States attorney.

(*f*) Whenever the commission is satisfied that a material fraud, deceit, or intentional

misrepresentation has been committed in a disability pension claim or payment or in a purported disability pension claim or payment, or a violation of other laws of the commonwealth concerning pension disability fraud has occurred, the commission shall refer the matter to the attorney general, the appropriate district attorney or the United States attorney. The commission shall also report any suspected violations of law to the appropriate licensing agencies of the state and federal governments.

(*g*) Beginning August first, nineteen hundred and ninety-seven and every twelve months thereafter the commission shall file a report with the joint committee on public service of the general court and with the attorney general, which shall include appropriate information, unless otherwise prohibited by law, on the disposition of matters referred to said pension fraud unit. Beginning August first, nineteen hundred and ninety-seven and every twelve months thereafter, the attorney general shall file a report with the said joint public service committee and with the commission, which shall include appropriate information, unless prohibited by law, on the disposition of matters referred to the attorney general by said pension fraud unit.

(*h*) A person convicted for the violation of any law concerning pension fraud, following the investigation and referral for prosecution by said pension fraud unit, shall be ordered to make restitution to the pension fraud unit, or the state or other pension system, as appropriate, for any financial loss sustained as a result of such violation.

SECTION 11. Chapter 306 of the acts of 1996 is hereby amended by striking out section 55 and inserting in place thereof the following section:-

Section 55. The public employee retirement administration commission shall succeed to and perform the duties of the division of the public employee retirement administration. All duties, responsibilities, obligations, rule and regulation making authority, and all other activities formerly mandated to, granted to, or performed by the division of public employee retirement administration and all related books, papers, records, property, documents, equipment, and other property, both personal and real, which immediately prior to the effective date of this act are in the custody of the division of public employee retirement administration are hereby transferred to the public employee retirement administration commission and all related existing contracts, memoranda of understanding, and other obligations of the division of public employee retirement administration which are in force on the effective date of this act shall become the obligations of and shall thereafter be performed by said public employee retirement administration commission, and all orders, rules, regulations, other determinations, approvals, and permissions granted by the division of public employee retirement administration shall continue in effect as if established or granted by the public employee retirement administration commission unless or until amended, modified, suspended, or revoked. All monies heretofore appropriated for the division of public employee retirement administration, remaining unexpended on the effective date of this act, are hereby transferred to the public employee retirement administration commission and shall be available for expenditure by said commission for the purposes for which such funds were originally appropriated.

The employees of the division of public employee retirement administration shall be

transferred to the public employee retirement administration commission, and any such employee so transferred may continue to be an employee without loss of accrued rights to holidays, sick leave, vacation and benefits, and shall thereafter perform his duties at the direction of the public employee retirement administration commission. Nothing in this act shall prevent the commission from appointing the commissioner of the public employee retirement administration as the executive director of the public employee retirement administration commission.

SECTION 12. Said chapter 306 is hereby further amended by striking out section 57 and inserting in place thereof the following section:-

Section 57. Notwithstanding the provisions of any general or special law to the contrary, the elected member of each retirement board shall continue to serve in office until the expiration of his term and until the qualification of his successor. The current appointed member of each retirement board shall serve in office until the qualification of his successor who is chosen by the other four members of said board or until sixty days after the effective date of this act, whichever occurs first. The public employee retirement administration commission shall determine the manner in which the new elected member of each board shall first be elected. Said new elected member shall be so elected within sixty days of the effective date of this act.

SECTION 13. Notwithstanding the provisions of any general or special law to the contrary, the Automobile Insurance Bureau of Massachusetts, or its successor licensed under the provisions of section eight of chapter one hundred and seventy-five A of the General Laws, and the Workers' Compensation Rating and Inspection Bureau of Massachusetts or its successor licensed under the provisions of section fifty-two C of chapter one hundred and fifty-two of the General Laws are hereby authorized to create an insurance fraud bureau with the powers and duties specified in this section for the prevention and investigation of fraudulent insurance transactions.

(*a*) Said insurance fraud bureau shall be governed by a board consisting of fifteen members, one of whom shall be the secretary of the executive office of public safety, one of whom shall be the director of labor and workforce development, one of whom shall be the registrar of motor vehicles, one of whom shall be the commissioner of insurance, and one of whom shall be the commissioner of the department of industrial accidents, and five of whom shall be members of the governing committee of the Automobile Insurers Bureau of Massachusetts, or its successor, and five of whom shall be members of the governing committee of the Workers' Compensation Rating and Inspection Bureau of Massachusetts or its successor.

(*b*) The governing board of said insurance fraud bureau shall employ an executive director and a general counsel. The executive director shall be responsible for the administrative operation of said insurance fraud bureau and shall perform such other tasks as said board may direct. The executive director shall ensure that appropriate resources of the insurance fraud bureau are dedicated to the investigation of fraudulent workers' compensation insurance transactions as well as other fraudulent insurance transactions. The general counsel shall be the chief legal officer of said insurance fraud bureau.

(*c*) The executive director shall appoint other employees of said insurance fraud bureau as necessary. The executive director may expend for legal, investigative, clerical and any other expenses in such sums as may be necessary. The executive director shall also disseminate the provisions of this act by publishing informational brochures and other materials which encourage the public to report workers' compensation fraud and shall maintain a toll free number to receive such reports. All costs of administration and operation of said insurance fraud bureau shall be borne equally by the Automobile Insurers Bureau of Massachusetts, or its successor, and by the Workers' Compensation Rating and Inspection Bureau of Massachusetts or its successor. The executive director shall determine the estimated costs for the operation of said insurance fraud bureau and, upon approval by said board, shall assess the Automobile Insurers Bureau of Massachusetts and the Workers' Compensation Rating and Inspection Bureau of Massachusetts for such estimated costs. The estimated costs shall be paid to the executive director and he shall subsequently make adjustments to future assessments for any variation between estimated and actual costs on a fair and reasonable basis.

(*d*) The executive director shall designate such authorized personnel employed by said insurance fraud bureau to have access to the following information and records when the same are relevant to any said insurance fraud bureau investigation: records kept by the registry of motor vehicles; records kept by the department of industrial accidents; records kept by the department of revenue; records kept by the department of transitional assistance; records kept by the Workers' Compensation Rating and Inspection Bureau; records kept by the department of employment and training; records kept by insurance companies; and criminal offender record information which may be disseminated pursuant to clause (*b*) of section one hundred and seventy-two of chapter six of the General Laws; provided, however, that access to such information and records shall be solely for the use by such authorized personnel in the performance of their official duties and responsibilities within said insurance fraud bureau.

(*e*) Any insurer licensed pursuant to the provisions of chapter one hundred and seventy-five of the General Laws, and any person engaged in the business of insurance in the commonwealth exempted from compliance with the licensing requirements of said chapter one hundred and seventy-five, or other similar entity, having reason to believe that an insurance transaction may be fraudulent, or having knowledge that a fraudulent insurance transaction is about to take place, or has taken place, shall within thirty days after determination that the transaction may be fraudulent, send to said insurance fraud bureau, on a form prescribed by the executive director, the information requested by the form and such additional information relative to the transaction and the parties involved as the executive director may require. Fraudulent insurance transactions shall include, but shall not be limited to, fraud and abuse of the system by attorneys, insurers, employers, medical providers, vocational rehabilitation providers, agents for attorneys or other service providers, claimants, or any other individuals or companies alleged to have engaged in unlawful acts under the provisions of section fourteen of chapter one hundred and fifty-two, sections one hundred and eleven A or one hundred and eleven B of chapter two hundred and sixty-six of

the General Laws or other laws of the commonwealth concerning insurance fraud.

(*f*) Said insurance fraud bureau shall review each such report and undertake such further investigation as it deems necessary and proper to determine the validity of the transaction. Upon receipt of such report pursuant to subsection (*e*), or other information which provides reason to believe that any person has violated any law of the commonwealth concerning insurance fraud, said insurance fraud bureau may conduct an investigation within or without the commonwealth. A person having material which is located outside the commonwealth and is requested by the executive director may make it available to the executive director or his representative to be examined at the place where it is located. The executive director may designate representatives, including officials of the state in which the material is located, to inspect the material on his behalf, and may respond to similar requests from officials of other states.

(*g*) The executive director, or his designee, may request the attendance and testimony of witnesses and the production of books and records relevant to an investigation. If a person neglects or refuses to comply with any request to provide testimony or produce books and records relevant to the investigation, the executive director may refer the matter to the attorney general, the appropriate district attorney, or the United States attorney.

(*h*) Whenever the executive director is satisfied that a material fraud, deceit, or intentional misrepresentation has been committed in an insurance transaction or purported insurance transaction, or that a violation of subsection three of section fourteen of chapter one hundred and fifty-two of the General Laws or sections one hundred and eleven A and one hundred and eleven B of chapter two hundred and sixty-six of the General Laws or other laws of the commonwealth concerning insurance fraud has occurred, the executive director shall refer the matter to the attorney general, the appropriate district attorney or the United States attorney. The executive director shall also report any suspected violation of law to appropriate licensing agencies of the state and federal governments.

(*i*) In the absence of malice or bad faith, no insurer, member of said insurance fraud bureau, member of said governing board, or an employee or agent of said insurance fraud bureau or other person subject to the provisions of this section, or an employee or agent of such insurer or person, shall be subject to civil liability for damages by reason of any statement, report or investigation made pursuant to the provisions of this section.

(*j*) Beginning on August first, nineteen hundred and ninety-two and every six months thereafter said insurance fraud bureau shall file a report with the clerk of the house of representatives who shall forward the same to the joint legislative committee on insurance and to the joint legislative committee on commerce and labor and with the attorney general which shall include appropriate information, unless otherwise prohibited by law, on the disposition of matters referred to said insurance fraud bureau. Beginning August first, nineteen hundred and ninety-two and every six months thereafter the attorney general shall file a report with the clerk of the house of representatives who shall forward the same to the joint legislative committee on insurance and the joint legislative committee on commerce and labor and with said insurance fraud bureau which shall include appropriate information, unless prohibited by law, on the disposition of matters referred to the attorney general by

said insurance fraud bureau. Said insurance fraud bureau shall periodically report to insurers regarding the status of matters reported to said insurance fraud bureau by insurers, the outcome of all investigations and prosecutions conducted by said insurance fraud bureau, and patterns and practices of fraudulent insurance transactions identified in the course of performing its duties. Said insurance fraud bureau shall perform such research functions and data collection efforts as directed by the governing board to assist in the prevention, detection and prosecution of fraudulent insurance transactions.

(*k*) A person convicted for the violation of any law concerning insurance fraud, following the investigation and referral for prosecution by said insurance fraud bureau, shall be ordered to make restitution to the insurer for any financial loss sustained as a result of such violation.

SECTION 14. The early intervention plans required by section five B of chapter thirty-two of the General Laws shall be established by retirement boards not later than March fifteenth, nineteen hundred and ninety-seven consistent with guidelines to be established by the public employee retirement administration commission no later than February first, nineteen hundred and ninety-seven. Said plans shall include projections of implementation costs to be borne by every such board and the commonwealth, if applicable. Said commission shall file said cost projections with the clerk of the house of representatives who shall forward the same to the house and senate committees on ways and means and the joint committee on public service of the general court not later than March nineteenth, nineteen hundred and ninety-seven. Said plans shall be implemented no later than July first, nineteen hundred and ninety-seven.

SECTION 15. Notwithstanding the provisions of any general or special law to the contrary, all monies heretofore appropriated for the state board of retirement, the teachers' retirement board and the retirement board of any other governmental unit remaining unexpended on November seventh, nineteen hundred and ninety-six are hereby transferred to said boards and shall be available for expenditure by said boards for the purposes for which such funds were originally appropriated.

The comptroller is hereby authorized and directed to establish on the Massachusetts management accounting and reporting system separate accounts for any of the appropriated monies available to the state board of retirement, the teachers' retirement board and the public employee retirement administration pursuant to the first paragraph. Any expenditure of said monies by said entities shall be recorded on said accounting and reporting system.

In fiscal year nineteen hundred and ninety-seven, the workers' compensation unit within the public employee retirement administration commission shall not be funded from the investment income account of the state employees' and state teachers' retirement systems and shall be funded from funds previously appropriated for the purposes of said unit.

SECTION 15A. Not later than January fifteenth, nineteen hundred and ninety-seven, the public employee retirement administration commission shall make recommendations to the general court for establishing a mechanism to assess retirement systems for the administrative expenses incurred by the commission, and any other recommendations concerning proposed changes to the disability retirement law as set forth

in chapter three hundred and six of the acts of nineteen hundred and ninety-six.

SECTION 16. This act shall take effect as of November seventh, nineteen hundred and ninety-six.

Approved December 5, 1996.

Chapter 428. AN ACT RELATIVE TO THE QUINCY SHIPYARD.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately allow the commonwealth to use funds from the Massachusetts Technology Park Corporation's Center Fund to reactivate and modernize the Quincy shipyard, 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 2 of chapter 466 of the acts of 1984 is hereby amended by striking out the second paragraph, added by section 302 of chapter 138 of the acts of 1991.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, including without limitation clause (*k*) of section four of chapter forty J of the General Laws, and in anticipation and furtherance of the creation by the Massachusetts Technology Park Corporation, in accordance with the provisions of said chapter forty J and other applicable law, of an advanced materials processing center to be operated by said corporation in conjunction with the Massachusetts Institute of Technology through a technology partnership in support of the reactivation and modernization of the Quincy shipyard and for other public purposes of said corporation, (*i*) the secretary of administration and finance is hereby authorized to disburse forthwith to the corporation an amount equal to the amount of all or a portion of the remaining balance of funds authorized for the purposes of such center, said amount to be credited upon receipt by said corporation to the Center Fund under the provisions of section five of said chapter forty J, (*ii*) said corporation shall not expend any portion of said amount, except for investment earnings thereon, for any purpose unless and until a detailed plan therefor has been approved by the secretary of administration and finance as provided in said chapter forty J, (*iii*) prior to application of said amount by said corporation to the purposes of such center, said corporation shall, at the request of the governor, apply all or a portion of said amount, not to exceed twelve percent of the total amount of federal loan guaranties issued to support the reactivation and modernization of said Quincy shipyard, in a manner which will satisfy the financing account deposit requirements of the Federal Credit Reform Act of 1990 relative to the issuance of federal loan guaranties to support the reactivation and modernization of said Quincy shipyard; provided, however, that all investment earnings on any amount so applied shall be credited to said corporation; provided, further, that all amounts so applied shall be returned to said corporation no later than December thirty-first, nineteen hundred and ninety-seven,

and (*iv*) federal funds granted and federal loan guaranties made in support of the reactivation and modernization of said Quincy shipyard shall be deemed to be received in satisfaction of the matching fund requirements in respect of such center under applicable law; provided, however, that the secretary of administration and finance may enter into agreement, subject to appropriation, making the commonwealth liable for additional amounts for said deposit requirements; and provided, further, that said additional amounts have been appropriated by the commonwealth to be available for that purpose.

SECTION 3. The purposes for which bonds of the commonwealth may be issued under chapter four hundred and sixty-six of the acts of nineteen hundred and eighty-four, including the creation of an advanced materials processing center as aforesaid, are hereby confirmed and not altered or modified by this act.

Approved December 5, 1996.

Chapter 429. AN ACT REPEALING CERTAIN PROVISIONS PREEMPTED BY THE MOTOR VEHICLE TITLE LAW.

Be it enacted, etc., as follows:

Sections sixty-one and sixty-four of chapter one hundred and forty of the General Laws are hereby repealed.

Approved December 5, 1996.

Chapter 430. AN ACT RELATIVE TO SHOPLIFTING.

Be it enacted, etc., as follows:

Section 30A of chapter 266 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 28 to 37, inclusive, the words "any person who intentionally removes a shopping cart from the premises of a store or other retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of permanently depriving the merchant of the possession, use or benefit of such cart, shall be punished for a first offense by a fine not to exceed two hundred and fifty dollars, for a second offense by a fine of not less than one hundred dollars nor more than five hundred dollars and for a third or subsequent offense by a fine of not more than five hundred dollars or imprisonment in jail for not more than two years, or both such fine and imprisonment" and inserting in place thereof the following:-

any person who intentionally removes a shopping cart from the premises of a store or other retail mercantile establishment, without the consent of the merchant given at the time of such removal, with the intention of permanently depriving the merchant of the possession, use or benefit of such cart; and

where the retail value of the goods obtained is less than one hundred dollars, shall be punished for a first offense by a fine not to exceed two hundred and fifty dollars, for a second offense by a fine of not less than one hundred nor more than five hundred dollars and for a third or subsequent offense by a fine of not more than five hundred dollars or imprisonment in a jail for not more than two years, or by both such fine and imprisonment. Where the retail value of the goods obtained equals or exceeds one hundred dollars, any violation of this section shall be punished by a fine of not more than one thousand dollars or by imprisonment in the house of correction for not more than two and one-half years, or by both such fine and imprisonment.

If the retail value of the goods obtained is less than one hundred dollars, this section shall apply to the exclusion of section thirty.

Emergency Letter: December 9, 1996 @ 10:07A.M. Approved December 5, 1996.

Chapter 431. AN ACT RELATIVE TO THE INFRASTRUCTURE INVESTMENT FUND OF THE TOWN OF HOLDEN.

Be it enacted, etc., as follows:

Section 1 of chapter 365 of the acts of 1993 is hereby amended by inserting after the third paragraph the following paragraph:-

In addition to the foregoing, said treasurer may invest the proceeds on the following:-

(*i*) obligations of the United States or any agency or instrumentality thereof which as to principal and interest constitute direct obligations of or are guaranteed by the United States of America;

(*ii*) obligations of banks (certificates of deposit, time deposits and bankers' acceptances) located in the commonwealth;

(*iii*) deposits in any savings bank, cooperative bank and federal savings and loan institution whose principal office is located in the commonwealth;

(*iv*) short-term corporate obligations, including commercial paper, notes and bonds, with ratings of not less than A-1 or P-1 or their equivalents by Moody's Investors Service or Standard & Poor's Corporation or their successors;

(*v*) corporate obligations and mortgage-backed securities with remaining maturities of ten years or less and rated not less than AA or its equivalent by either Moody's Investors Service or Standard & Poor's Corporation or their successors;

(*vi*) registered investment companies (mutual funds) that invest only in one or more of the types of securities described in clauses (*i*) to (*v*), inclusive.

Approved December 5, 1996.

Chapter 432. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF THE MONTH OF OCTOBER AS POLISH-AMERICAN HERITAGE MONTH.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15VVV, inserted by chapter 214 of the acts of 1996, the following section:-

Section 15WWW. The governor shall annually issue a proclamation setting apart the month of October as Polish-American Heritage Month, in recognition of the significant contributions Polish-Americans have made to the commonwealth and to the United States. The governor may include such contributions as he shall see fit, after consultation with Polish-American groups, in such proclamation and shall recommend that said month be observed in an appropriate manner by the people.

Approved December 12, 1996.

Chapter 433. AN ACT TO PROMOTE ECONOMIC DEVELOPMENT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is immediately to promote economic development 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:

Notwithstanding the provisions of any general or special law to the contrary, a person whose sole business location in the commonwealth is a retail establishment within the Connecticut Riverfront Development District which includes the Naismith Memorial Basketball Hall of Fame, as described in the urban renewal plan amendment approved by the executive office of communities and development or its successor agency, on or about May sixteenth, nineteen hundred and ninety-six, and that derives more than fifty percent of its gross revenues from mail order sales, shall be considered to have a business location in the commonwealth only with respect to its retail sales made at or from said business location within said district, and such person shall not be considered as engaged in business in the commonwealth as said term is defined in section one of chapter sixty-four H of the General Laws with respect to sales made by mail order from a location outside the commonwealth to customers within the commonwealth; provided, however, that the provisions of this act shall not apply unless such person: (1) files with the commissioner of revenue, not later than ninety days after the effective date of this act, a letter stating its intent to establish a retail business location within said Connecticut Riverfront Development District; and (2) files with said commissioner, not later than one hundred and eighty days after the effective date of this act, an affidavit attesting that it has entered into a lease or a purchase and sale agreement for such a retail business location within said district.

A person who meets the criteria of the first paragraph shall maintain records sufficient to enable the commissioner of revenue to determine which of its sales are made at or from the business location within said district, and which are made by mail order from outside the commonwealth to customers within the commonwealth. If such person does not maintain such records, the commissioner shall presume that all sales made by such person to customers in the commonwealth are made at or from the business location within the district. Nothing in said first paragraph shall be construed as (*i*) affecting the jurisdiction of the commonwealth to impose on such person a corporate excise under chapter sixty-three of the General Laws; or (*ii*) precluding imposition of a use tax pursuant to chapter sixty-four I of the General Laws collection responsibility upon such person to the extent that imposition of such responsibility is otherwise consistent with state and federal law.

Approved December 12, 1996.

Chapter 434. AN ACT DESIGNATING THE BOSTON CREAM PIE AS THE OFFICIAL DESSERT OR DESSERT EMBLEM OF THE COMMONWEALTH.

Be it enacted, etc., as follows:

Chapter 2 of the General Laws is hereby amended by adding the following section:-

Section 41. The Boston cream pie shall be the official dessert or dessert emblem of the commonwealth.

Approved December 12, 1996.

Chapter 435. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR NINETEEN HUNDRED AND NINETY-SEVEN.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriations acts for fiscal year nineteen hundred and ninety-seven and for certain other activities and projects in said fiscal year, the sums set forth in section two are hereby 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 the general appropriation act and other appropriation acts for fiscal year nineteen hundred and ninety-seven. The sums so appropriated shall be in addition to any amounts available for said purposes.

SECTION 2.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves.

1599-3807 For a reserve to meet the cost of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the board of trustees of the University of Massachusetts and the International Brotherhood of Police Officers, Local 432, Units A and B; provided, however, 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 fiscal year nineteen hundred and ninety-seven such amounts as are necessary to meet the cost of said adjustments and benefits for fiscal years nineteen hundred and ninety-five through nineteen hundred and ninety-seven where the amounts otherwise available are insufficient for the purpose, in accordance with an allocation plan which shall be filed in advance with the house and senate committees on ways and means $216,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Massachusetts Emergency Management Agency.

8800-0034 For grants and reimbursements to state agencies, the National Guard, authorities, commissions, local and county governments, public districts, mosquito control districts and Indian tribes for assistance as a result of the Presidential Declaration occasioned by the natural disaster of flooding beginning October twentieth, nineteen hundred and ninety-six; provided, however, that such assistance shall be twelve and one-half percent of the total assistance determined as eligible by the Federal Emergency Management Agency, as documented in damage survey reports, so-called, to be distributed according to a schedule of disbursements prepared by the Massachusetts emergency management agency; provided, further, that said disbursements shall include, but not be limited to, assistance for debris removal, protective measures, repairs, construction, reconstruction and other measures for roads and bridges, water control facilities and public buildings and other allowable activities, as authorized by the Federal Emergency Management Agency; provided, further, that funds may be made available from this item for the commonwealth share of disaster relief assistance to individuals required as a result of said flooding; provided, further, that such assistance to individuals shall be twenty-five percent of the total

of such assistance; provided further, that funds may be allocated from this item to the department of transitional assistance in accordance with an interdepartmental service agreement to be entered into between said department and the Massachusetts emergency management agency; provided, further, that no disbursements shall be made from this item to the Massachusetts Bay Transportation Authority until the Massachusetts emergency management agency files with the house and senate committees on ways and means a schedule of flood damage costs requested by said authority and a schedule of said authority's costs that are eligible for reimbursement from this item; provided, further, that said Massachusetts emergency management agency shall file with said committees on ways and means updated requests from said authority for disbursements from this item and the amounts eligible therefore; provided, further, that said Massachusetts emergency management agency and said authority shall take all steps necessary to maximize federal assistance for said flood damage costs; provided, further, that said schedule of flood damage costs shall distinguish between the personnel and nonpersonnel costs incurred to restore service and remedy immediate flood damage; provided further, that said nonpersonnel costs shall separately state the costs incurred to replace machinery, electrical fixtures and other capital equipment; provided, further, that said authority, in projecting the calendar year nineteen hundred and ninety-six net cost of service pursuant to the provisions of chapter one hundred and sixty-one A of the General Laws, shall account for disbursements from this item that reduce the net cost of service, amounts of flood damage costs charged to capital accounts and any remaining unreimbursed one time costs solely attributable to flood damage that are in excess of normal operating costs covered by the commonwealth's subsidy of said net cost of service $7,500,000

SECTION 3. Section 2 of chapter 151 of the acts of 1996 is hereby amended by striking out item 4000-0215 and inserting in place thereof the following item:-

4000-0215 For the provision of day care services to the children of (*a*) teen parents attending high school and receiving transitional aid to families with dependent children benefits pursuant to subsection (*i*) of section one hundred and ten of chapter five of the acts of nineteen hundred and ninety-five; (*b*) teen parents receiving supplemental security income payments who participate in school, education, work and training related activities or a

combination thereof and whose dependent children receive said aid; and (*c*) teen parents who participate in school, education, work and training related activities or a combination thereof and who are at risk of becoming eligible for transitional aid to families with dependent children benefits; provided however, that the executive office of health and human services, in consultation with the department of transitional assistance and the department of social services, shall allocate from this item funds sufficient to ensure the priority of provision of day care services first to children of teen parents in category (*a*), then category (*b*), and lastly, category (*c*); provided, further, that nothing herein shall be construed to give rise to enforceable legal rights or an enforceable entitlement to services other than to the extent that such rights or entitlements exist pursuant to regulations promulgated for the transitional aid to families with dependent children program; provided, further, that all teens eligible for year round full time day care services shall be participating in school, education, work and training related activities or a combination thereof for at least the minimum number of hours required by regulations promulgated for the transitional aid to families with dependent children program, whether or not such teens are recipients of transitional aid to families with dependent children benefits; provided, further, that five million eight hundred twelve thousand twenty-seven dollars shall be expended for contracted day care services for said teen parents; provided further, that one million two hundred seven thousand six hundred five dollars shall be expended for voucher day care services for such teen parents; provided, further, that three hundred three thousand seven hundred ninety dollars shall be expended for informal child care services for such teen parents; and, provided further, that the secretary of health and human services shall issue monthly reports to the house and senate committees on ways and means and the secretary of administration and finance detailing expenditures made from this item including, but not limited to, the number and cost of day care slots funded from this item and the fiscal year nineteen hundred and ninety-eight annualized costs of slots funded from this item $7,323,422

SECTION 4. Notwithstanding the provisions of any general or special law to the contrary, the secretary of health and human services is hereby authorized to transfer an amount not to exceed six million dollars from item 4000-0195 of section two of chapter one hundred and fifty-one of the acts of nineteen hundred and ninety-six to item 4000-0225 of

said section two of said chapter one hundred and fifty-one; provided, that funds so transferred shall be expended for post-transitional day care, so-called; and, provided further, that said secretary of health and human services shall, prior to any transfer of funds as herein authorized, file with the secretary of administration and finance and the house and senate committees on ways and means an estimate of the number of voucher day care slots funded by any such transfer and the annualized impact of any such transfer.

SECTION 5. Notwithstanding the provisions of any general or special law to the contrary, an amount not to exceed four hundred thirty-four thousand six hundred fifty-seven dollars of the balance which otherwise would have reverted as of June thirtieth, nineteen hundred and ninety-six from item 1599-3788 of section two A of chapter two hundred and four of the acts of nineteen hundred and ninety-six shall remain available for expenditure until June thirtieth, nineteen hundred and ninety-seven.

SECTION 6. Chapter 204 of the acts of 1996 is hereby amended by striking out section 160 and inserting in place thereof the following section:-

Section 160. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer thirty-five million dollars from the General Fund to the Commonwealth Cost Relief Fund established by subsection (*b*) of section eighty-three of chapter one hundred and twenty of the acts of nineteen hundred and ninety-five; provided, however, that said transfer shall have been deemed to occur as of June thirtieth, nineteen hundred and ninety-six; provided further, that of said amount, fifteen million dollars shall be available, subject to appropriation, in the fiscal year beginning July first, nineteen hundred and ninety-six; provided, further, that of said amount, twenty million dollars shall be available, subject to appropriation, in the fiscal year beginning July first, nineteen hundred and ninety-seven for the purposes of (1) subsidies or other assistance that is equivalent to grants of not more than fifty percent of the eligible cost of projects financed by loans pursuant to chapter twenty-nine C of the General Laws; (2) programs to assist homeowners in complying with the revised state environmental code for subsurface disposal of sanitary waste, or Title V, so-called; and (3) assistance in the mitigation of sewer rate increases pursuant to the Commonwealth Sewer Rate Relief Fund established by section two Z of chapter twenty-nine of the General Laws; and provided, further, that said twenty million dollars shall be divided equally for said purposes.

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

Approved December 13, 1996.

Chapter 436. AN ACT RELATIVE TO THE LEASING OF CERTAIN PROPERTY BY THE TOWN OF SALISBURY.

Be it enacted, etc., as follows:

SECTION 1. The town of Salisbury is hereby authorized to lease the property shown on Assessors Map 22 - Parcel 13 Salisbury, to the Triton Regional School District as

the site for a new elementary school. Such lease shall be for a term not exceeding fifty years and shall be authorized, executed and delivered on behalf of the town by its board of selectmen and by said school district by its regional district school committee. Such lease may provide that it shall terminate and the leased property shall revert to said town of Salisbury if the town should no longer be a member of the regional school district or if the regional district school committee should determine that the land, with the building and other improvements thereon, is no longer needed for the educational program of said school district.

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

Approved December 13, 1996.

Chapter 437. AN ACT RELATIVE TO THE TANTASQUA REGIONAL SCHOOL DISTRICT.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the cost of connecting to the existing sewer facilities of the town of Sturbridge performed in connection with the building addition and renovation project of the Tantasqua regional school district shall be included in determining the total construction grant for said district under the provisions of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight.

Approved December 13, 1996.

Chapter 438. AN ACT AUTHORIZING THE HOUSING AUTHORITY OF THE TOWN OF SOUTH HADLEY TO MAKE A CERTAIN PAYMENT.

Be it enacted, etc., as follows:

SECTION 1. Chapter fifty-four of the acts of nineteen hundred and ninety-six is hereby repealed.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the South Hadley housing authority is hereby authorized to make payment to Lawler Construction Company in an amount not exceeding fifty-seven thousand three hundred and forty-two dollars, including any payments previously made, for the demolition and dumping fees in connection with the damage to the Cowan block in the town of South Hadley. Said payment shall not be made until insurance proceeds are received for said demolition and dumping fees, and shall not exceed the amount of said insurance proceeds.

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

Approved December 19, 1996.

Chapter 439. AN ACT RELATIVE TO THE ASSESSMENT OF BETTERMENTS IN THE TOWN OF MASHPEE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of chapter eighty of the General Laws or any other general or special law to the contrary, the town of Mashpee is hereby authorized to assess betterments for improvements to High Sachem road, Matchewuttah road, Papnommett road, Ships Lantern drive, Clipper street, Compass drive, Topsail road, Ships Rudder drive, Ships Wheel drive, Davit road, Porthole drive, Ships Anchor drive, Shipwreck drive, Vista circle, Scituate road, Alden road, Essex road, Oregon road, Radcliffe road, Brewster road, Chatham lane, Harwich road, Dennis road, and Truro road, all in the town of Mashpee, which betterments were authorized pursuant to vote of the town meeting.

Approved December 19, 1996.

Chapter 440. AN ACT RELATIVE TO THE LAKE BUEL RESTORATION/ PRESERVATION DISTRICT IN THE TOWNS OF MONTEREY AND NEW MARLBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. Paragraph E of the third paragraph of section 7 of chapter 756 of the acts of 1985 is hereby amended by inserting after the word "act", in line 8, the following words:- , and a district tax collector.

SECTION 2. Said paragraph E of said third paragraph of said section 7 of said chapter 756 is hereby further amended by inserting after the word "superintendent", in line 9, the following words:- , the district tax collector.

SECTION 3. The last paragraph of section 13 of said chapter 756 is hereby amended by striking out the second sentence and inserting in place thereof the following two sentences:- The assessors of both towns 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 district, who thereupon shall, in the collection of such accounts, have the power to use the remedies enumerated in chapter sixty of the General Laws for the collection of taxes. All bills for accounts due the district shall state that all checks, drafts or money orders shall be made payable to the order of the Lake Buel Restoration Preservation District.

Approved December 20, 1996.

Chapter 441. AN ACT FURTHER REGULATING THE LICENSING OF MOTELS WITHIN THE CITY OF REVERE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of sections thirty-two B to thirty-two S, inclusive, of chapter one hundred and forty of the General Laws, the license commission of the city of Revere is hereby authorized to exercise all of the powers and duties of the board of health with respect to the grant, suspension and revocation of licenses for motels.

Approved December 20, 1996.

Chapter 442. AN ACT PROVIDING FOR THE APPOINTMENT OF A TREASURER-COLLECTOR IN THE TOWN OF WINTHROP.

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 office of treasurer-collector in the town of Winthrop is hereby established. Said treasurer-collector shall be appointed by the board of selectmen of said town for a term of three years and the person so appointed shall have all the powers and duties vested in the office of treasurer and the office of collector. A vacancy in said office shall be filled in a like manner for the unexpired portion of the term. Said office shall not be subject to the provisions of chapter thirty-one of the General Laws. The compensation of said office shall be established within the classification and pay plan of the town by-laws, as recommended by the personnel board and set by the board of selectmen.

SECTION 2. The incumbent 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 his term and the appointment of a treasurer-collector or a preceding vacating of office.

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

Approved December 20, 1996.

Chapter 443. AN ACT GRANTING THE BOARD OF SELECTMEN THE POWERS OF THE BOARD OF WATER COMMISSIONERS IN THE TOWN OF WINTHROP.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 477 of the acts of 1905 is hereby amended by striking out, in lines 25 and 26, the words "water commissioners hereinafter provided for" and inserting in place thereof the following words:- selectmen of said town.

SECTION 2. Section 3 of said chapter 477 is hereby amended by striking out, in lines 7 and 8, the words "water commissioners hereinafter provided for" and inserting in place thereof the following words:- board of selectmen of said town.

SECTION 3. Section 6 of said chapter 477 is hereby amended by striking out, in lines 13 and 14, the words "water commissioners hereinafter provided for" and inserting in place thereof the following words:- board of selectmen of said town.

SECTION 4. Section 8 of said chapter 477 is hereby amended by striking out, in lines 1 and 2, the words "water commissioners hereinafter provided for" and inserting in place thereof the following words:- board of selectmen of said town.

SECTION 5. Said chapter 477 is hereby further amended by striking out section 9 and inserting in place thereof the following section:-

Section 9. All contracts made by the board of selectmen shall be made in the name of the town and no contract shall be made by said department which involves the expenditure of money not already appropriated.

The board of selectmen shall have all the powers and duties now and from time to time vested by general or special law or town by-laws in water departments.

SECTION 6. Section 13 of said chapter 477 is hereby amended by striking out, in lines 1 and 10, the words "water commissioners", each time they appear, and inserting in place thereof, in each instance, the following words:- board of selectmen of said town.

SECTION 7. Said section 13 of said chapter 477 is hereby further amended by striking out, in line 27, the word "commissioners" and inserting in place thereof the following words:- board of selectmen of said town.

SECTION 8. No contracts or liabilities in force on the effective date of this act shall be affected by the transfer of powers from the board of water commissioners to the board of selectmen pursuant to the provisions of this act. The board of selectmen shall, in all respects, be the lawful successor of the board of water commissioners.

The staff and employees of the board of water commissioners shall be assigned to the department of public works. Every employee so assigned shall continue to serve and shall retain all rights to holidays, sick leave, vacations and other benefits in effect on the effective date of this act and shall be retained in a capacity as similar to the person's former capacity as is practical.

All records, offices, property, equipment and facilities of the board of water commissioners shall be transferred to the care, custody and control of the board of selectmen on the effective date of this act.

SECTION 9. This act shall take effect upon its passage.

Approved December 20, 1996.

Chapter 444. AN ACT FURTHER REGULATING THE DISSEMINATION OF CRIMINAL OFFENDER RECORD INFORMATION.

Be it enacted, etc., as follows:

SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section 172B the following section:-

Section 172C. For purposes of this section, the following words shall, unless the context requires otherwise, have the following meanings:-

"Elderly person", an individual who is sixty years of age or over.

"Disabled person", a person between the ages of eighteen and fifty-nine, inclusive, who is mentally retarded, as defined by section one of chapter one hundred and twenty-three B, or who is otherwise mentally or physically disabled and as a result of such mental or physical disability is wholly or partially dependent on others to meet his daily living needs.

Notwithstanding the provisions of section one hundred and seventy-two, criminal offender record information shall be available to any of the following entities which employ, accept as a volunteer or refer for employment to a client any individual who will provide care, treatment, education, training, transportation, delivery of meals, instruction, counseling, supervision, recreation or other services in a home or in a community based setting for any elderly person or disabled person or who will have any direct or indirect contact with such elderly or disabled persons or access to such persons' files:

(1) any agency which provides homemaker, home health aide, companion or other community based services to elderly persons or disabled persons in home or community based settings, including, but not limited to home health agencies certified under Title XVIII of the Social Security Act;

(2) a home care corporation established pursuant to the provisions of chapter nineteen A;

(3) a municipality; or

(4) any other entity receiving federal, state or local funds.

Such entities shall obtain all available criminal offender record information concerning any such individual from the criminal history systems board prior to employing such individual, accepting such individual as a volunteer or referring such individual for employment to an elderly or disabled person. Any entity obtaining information under this section shall not disseminate such information for any purpose other than to further the protection of the elderly or the disabled.

SECTION 2. The criminal history systems board may waive or reduce the fee assessable pursuant to section one hundred and seventy-two A of chapter six of the General Laws for criminal offender record information made available pursuant to section one.

SECTION 3. No entity as described in section one shall be required to obtain criminal offender record information as a condition of continued service of any person who is employed, is serving as a volunteer or has been referred for employment to a client and who serves in such position or capacity as set forth in said section one as of the effective date of this act.

Approved December 20, 1996.

Chapter 445. AN ACT REQUIRING CERTAIN HEALTH CARE PROVIDERS TO WEAR IDENTIFICATION BADGES.

Be it enacted, etc., as follows:

Section 70E of chapter 111 of the General Laws, as amended by section 2 of chapter 202 of the acts of 1996, is hereby further amended by inserting after the eighth paragraph the following paragraph:-

A facility shall require all persons, including students, who examine, observe or treat a patient or resident of such facility to wear an identification badge which readily discloses the first name, licensure status, if any, and staff position of the person so examining, observing or treating a patient or resident.

Approved December 24, 1996.

Chapter 446. AN ACT AUTHORIZING THE NEWTON HOUSING AUTHORITY TO SELL A CERTAIN PARCEL OF LAND AND THE BUILDINGS THEREON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, and subject to approval of the department of housing and community development, the Newton Housing Authority is hereby authorized to negotiate a contract for sale and to sell to Newton-Wellesley-Weston Committee for Community Living, Inc., a charitable corporation organized under the laws of the commonwealth, the land and buildings thereon in the city of Newton, described in a deed dated December 5, 1984, recorded in the southern district of Middlesex county, registry of deeds in Book 15917, Page 527, for the fair market value thereof as determined by said department, but not for less than the amount necessary to pay in full the principal of and interest on the outstanding obligations of said housing authority with respect to said property, said real property to be used for the civic purpose of providing housing for handicapped persons of low income; provided that the deed conveying said land and buildings shall include a restrictive covenant restricting occupancy of the property to handicapped persons of low income as defined under applicable federal or state law.

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

Approved December 24, 1996.

Chapter 447. AN ACT PROVIDING FOR THE APPOINTMENT OF TREE WARDEN IN THE TOWN OF WINTHROP.

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 office of tree warden in the town of Winthrop shall be appointed by the board of selectmen for a term not to exceed three years. The tree warden shall be assigned to the department of public works. A vacancy in said office shall be filled in a like manner for the unexpired portion of the term. Said office shall not be subject to the provisions of chapter thirty-one of the General Laws. The compensation of said office shall be established within the classification and pay plan of the town by-laws, as recommended by the personnel board and set by the board of selectmen.

SECTION 2. The incumbent in the office of tree warden on the effective date of this act shall continue to hold said office and to perform the duties thereof until the expiration of the term and the appointment of a tree warden or a preceding vacating of office.

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

Approved December 24, 1996.

Chapter 448. AN ACT RELATIVE TO TOWN MEETINGS.

Be it enacted, etc., as follows:

SECTION 1. Section 9 of chapter 39 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- Town meetings shall be held within the geographic limits of the town unless a special law, charter or by-law provides otherwise; provided, however, that any meeting for the election by ballot of federal, state or other officers or the determination of other matters that are to be determined by ballot at an election shall be held within the geographic limits of the town.

SECTION 2. Section 15 of said chapter 39, as so appearing, is hereby amended by striking out, in line 9, the word "but" and inserting in place thereof the following words:- provided, however, that a town may decide by by-law or vote not to take a count and record the vote if a two-thirds vote of a town meeting is required by statute; and provided, further, that.

Approved December 27, 1996.

Chapter 449. AN ACT RELATIVE TO CERTAIN RECORDS OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

Be it enacted, etc., as follows:

SECTION 1. Chapter 23B of the General Laws is hereby amended by adding the following section:-

Section 29. As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:-

"Community development block grant", funds designated to promote the development of viable urban communities within the commonwealth and which are distributed by the federal government to the commonwealth pursuant to sections 300, *et seq.*, of the Omnibus Budget Reconciliation Act of 1981, or its successor.

"Program", a program administered by the department pursuant to section 105(a) (17) of the Housing and Community Development Act of 1974, 42 USC 5305(a)(17), as amended, in which loans are made to private, for-profit entities through local communities with community development block grant funds.

Any documentary materials or data made or received by an employee of the department, an employee or official of a city or town or a member of an advisory committee created by the director to make recommendations concerning the use of program funds, to the extent that such materials or data consist of trade secrets or commercial or financial information regarding the operation of a business conducted by an applicant for, or a recipient of, assistance which the program is empowered to render or regarding the competitive position of such applicant or recipient in a particular field of endeavor, shall not be deemed to be public records and shall not be subject to the provisions of section ten of chapter sixty-six. Any discussion or consideration of such trade secrets or commercial or financial information may be held by an advisory committee created by the director to make recommendations concerning the use of program funds, in executive session closed to the public, notwithstanding the provisions of section eleven A½ of chapter thirty A.

SECTION 2. Section twenty-nine of chapter twenty-three B of the General Laws, added by this act, shall apply to materials or data made or received before the effective date of this act.

Approved December 27, 1996.

Chapter 450. AN ACT MAKING CERTAIN CORRECTIVE CHANGES IN CERTAIN GENERAL AND SPECIAL LAWS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately make certain corrective changes in certain general and special 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:

SECTION 1. Section 7 of chapter 4 of the General Laws is hereby amended by striking out, in line 167, as appearing in the 1994 Official Edition, the word "person." and inserting in place thereof the following word:- person;.

SECTION 2. Said section 7 of said chapter 4 is hereby further amended by striking

out, in line 171, as so appearing, the word "expired." and inserting in place thereof the following word:- expired;.

SECTION 3. Said section 7 of said chapter 4 is hereby further amended by striking out, in line 179, as so appearing, the word "cards." and inserting in place thereof the following word:- cards;.

SECTION 4. Clause Twenty-sixth of said section 7 of said chapter 4, is hereby amended by striking out subclause (1), as appearing in section 3 of chapter 204 of the acts of 1996, and inserting in place thereof the following subclause:-

(1) questions and answers, scoring keys and sheets and other materials used to develop, administer or score a test, examination or assessment instrument; provided, however, that such materials are intended to be used for another test, examination or assessment instrument;.

SECTION 5. Chapter 6 of the General Laws is hereby amended by striking out the caption preceding section 21, as appearing in the 1994 Official Edition.

SECTION 6. Said chapter 6 is hereby further amended by striking out the caption preceding section 22, as so appearing.

SECTION 7. Section 207 of chapter 6 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 20 and 21, the words "118 or chapter 118E of the General Laws" and inserting in place thereof the following words:- one hundred and eighteen or one hundred and eighteen E.

SECTION 8. Section 8A of chapter 6A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 13, the word "maybe" and inserting in place thereof the following words:- may be.

SECTION 9. Section 16 of said chapter 6A, as so appearing, is hereby amended by striking out, in line 37, the words "hundred five and section two hundred eight" and inserting in place thereof the following words:- hundred and five and section two hundred and eight.

SECTION 10. Said chapter 6A is hereby further amended by striking out section 16A, as so appearing, and inserting in place thereof the following section:-

Section 16B. 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 11. Section 18B of said chapter 6A is hereby amended by striking out, in line 1, as so appearing, the words "shall, be" and inserting in place thereof the following words:- shall be,.

SECTION 12. Section 28 of chapter 7 of the General Laws, as so appearing, is

hereby amended by striking out, in line 11, the word "provided" and inserting in place thereof the following word:- ; provided.

SECTION 13. Section 38B of said chapter 7, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "of whom", the first time they appear.

SECTION 14. Section 41B of said chapter 7, as so appearing, is hereby amended by striking out, in line 45, the word "and".

SECTION 15. Said section 41B of said chapter 7, as so appearing, is hereby further amended by inserting after the word "decisions;", in lines 47 and 48, the following word:- and.

SECTION 16. Section 42E of said chapter 7, as so appearing, is hereby amended by striking out, in line 2, the words "section 42E through 42I" and inserting in place thereof the following words:- sections forty-two E to forty-two I,.

SECTION 17. Section 43F½ of said chapter 7, as so appearing, is hereby amended by striking out, in line 9, the word "by," and inserting in place thereof the following word:- by.

SECTION 18. Section 2 of chapter 9 of the General Laws, as so appearing, is hereby amended by striking out the second sentence.

SECTION 19. Section 35 of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out, in line 14, the word "and," and inserting in place thereof the following word:- and.

SECTION 20. Said section 35 of said chapter 10, as so appearing, is hereby further amended by striking out, in lines 15 and 16, the words "created by section two D of chapter twenty-nine".

SECTION 21. Section 35D of said chapter 10, as so appearing, is hereby amended by striking out, in line 8, the word "or".

SECTION 22. Said section 35D of said chapter 10, as so appearing, is hereby further amended by striking out, in line 10, the word "(4) or" and inserting in place thereof the following word:- ; or (4).

SECTION 23. Section 37 of said chapter 10, as so appearing, is hereby amended by striking out, in lines 34 and 35, the words "established under the provisions of section two D of chapter twenty-nine".

SECTION 24. Section 39 of said chapter 10, as so appearing, is hereby amended by striking out, in lines 22 and 23, the words "established under the provisions of section two D of chapter twenty-nine".

SECTION 25. Section 50 of said chapter 10, as so appearing, is hereby amended by striking out the first two paragraphs and inserting in place thereof the following two paragraphs:-

There shall be established upon the books of the commonwealth a separate fund to be known as the Children's Trust Fund, which shall not be subject to further appropriation. Said fund shall be expended for the purposes set forth in the fourth paragraph of section two hundred and two and subsections (1) to (9), inclusive, of section two hundred and three of chapter six.

The child abuse prevention board, established pursuant to section two hundred and two and two hundred and three of chapter six, is authorized to receive and expend monies received from (1) state appropriations; (2) gifts, grants and donations from public or private sources; (3) federal reimbursements, grants-in-aid, or other monies credited or transferred from any other fund or source pursuant to law; (4) and any interest earned from the Children's Trust Fund. Such funds shall be impressed with a trust and held for said board in the Children's Trust Fund. The treasurer may receive, deposit and invest funds held for said board in a manner that will insure the highest interest rate available consistent with the safety of said Children's Trust Fund.

SECTION 26. Section 56 of said chapter 10, as so appearing, is hereby amended by striking out, in line 5, the word "advise" and inserting in place thereof the following word:- advice.

SECTION 27. Section 57 of said chapter 10, as so appearing, is hereby amended by striking out, in line 27, the words "established by section two D of chapter twenty-nine".

SECTION 28. Section 42 of chapter 13 of the General Laws, as so appearing, is hereby amended by inserting after the word "be", in line 34, the following word:- a.

SECTION 29. Section 1G of chapter 15 of the General Laws, as so appearing, is hereby amended by inserting after the word "providers", in line 37, the following words:- and a member representing the Massachusetts Head Start Directors Association.

SECTION 30. Section 17 of chapter 15A of the General Laws, as so appearing, is hereby amended by striking out, in line 16, the word "programs" and inserting in place thereof the following word:- program.

SECTION 31. Section 19 of said chapter 15A, as so appearing, is hereby amended by striking out, in line 19, the word "provision" and inserting in place thereof the following word:- provisions.

SECTION 32. Section 32 of said chapter 15A, as so appearing, is hereby amended by inserting after the word "assessment", in line 9, the following word:- and.

SECTION 33. Section 10 of chapter 18 of the General Laws, as so appearing, is hereby amended by striking out, in line 18, the figure "XIV," and inserting in place thereof the following word:- XIV or.

SECTION 34. Section 2 of chapter 18B of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the letter "(A)".

SECTION 35. Section 5 of chapter 19C of the General Laws is hereby amended by striking out, in line 21, as so appearing, the word "department" and inserting in place thereof the following word:- commission.

SECTION 36. Section 19 of chapter 21A of the General Laws, as so appearing, is hereby amended by striking out, in line 25, the word "review" and inserting in place thereof the following word:- reviewed.

SECTION 37. Paragraph (c) of subsection (1) of section 19G of said chapter 21A, as so appearing, is hereby amended by striking out clause (iii) and inserting in place thereof the following clause:-

(iii) Notwithstanding any provision of paragraph (b) to the contrary, the total amount

of a civil administrative penalty subject to this paragraph shall not exceed, in the aggregate, one thousand dollars.

SECTION 38. Section 19I of said chapter 21A, as so appearing, is hereby amended by striking out, in line 4, the words "through nineteen J" and inserting in place thereof the following words:- to nineteen J, inclusive.

SECTION 39. Said section 19I of said chapter 21A, as so appearing, is hereby further amended by striking out, in line 12, the words "of the General Laws".

SECTION 40. Section 19J of said chapter 21A, as so appearing, is hereby amended by striking out, in line 27, the words "of the General Laws".

SECTION 41. Section 3 of said chapter 21E, as so appearing, is hereby amended by striking out, in line 42, the word "question;" and inserting in place thereof the following word:- question,.

SECTION 42. Section 3B of said chapter 21E, as so appearing, is hereby amended by striking out, in lines 18 and 19, the words "reasonable, costs" and inserting in place thereof the following words:- reasonable costs,.

SECTION 43. Section 5 of said chapter 21E, as so appearing, is hereby amended by striking out, in line 244, the word "on" and inserting in place thereof the following word:- of.

SECTION 44. Section 5B of said chapter 21E, as so appearing, is hereby amended by striking out, in line 5, the word "or", the second time it appears, and inserting in place thereof the following word:- of.

SECTION 45. Section 13 of said chapter 21E, as so appearing, is hereby amended by striking out, in line 75, the word:- to.

SECTION 46. Section 6 of chapter 21H of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the letter "(a)".

SECTION 47. Section 1 of chapter 21J of the General Laws is hereby amended by striking out, in line 15, as so appearing, the word "or", the second time it appears, and inserting in place thereof the following word:- of.

SECTION 48. Said section 1 of said chapter 21J is hereby further amended by striking out, in line 41, as so appearing, the word "environmental" and inserting in place thereof the following word:- environment.

SECTION 49. Section 4 of said chapter 21J, as so appearing, is hereby amended by striking out, in lines 12 and 13, the words "Section 8 of this chapter" and inserting in place thereof the following words:- section eight.

SECTION 50. Said section 4 of said chapter 21J, as so appearing, is hereby further amended by striking out, in line 14, the word "claims" and inserting in place thereof the following word:- claim.

SECTION 51. Section 2 of chapter 22A of the General Laws, as amended by section 97 of chapter 151 of the acts of 1996, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- The director may use existing data processing and data communications systems of the criminal justice information system.

SECTION 52. Section 19 of chapter 22C of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 9, the word "that" and inserting in place thereof the following word:- than.

SECTION 53. Section 26 of said chapter 22C is hereby amended by inserting after the word "shall", in line 40, as so appearing, the following word:- be.

SECTION 54. Section 40 of said chapter 22C, as so appearing, is hereby amended by striking out, in line 7, the word "eleven B" and inserting in place thereof the following word:- eleven C.

SECTION 55. Section 60 of said chapter 22C, as so appearing, is hereby amended by striking out, in line 7, the word "institution" and inserting in place thereof the following word:- institutions.

SECTION 56. Section 68 of said chapter 22C, as so appearing, is hereby amended by striking out, in line 12, the word "to".

SECTION 57. Section 3D of chapter 23A of the General Laws, as so appearing, is hereby amended by striking out, in line 38, the word "or".

SECTION 58. Section 10 of chapter 23B of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the word "(m) or" and inserting in place thereof the following word:- or (m).

SECTION 59. Chapter 29 of the General Laws is hereby amended by striking out section 2T, as inserted by section 2 of chapter 254 of the acts of 1992.

SECTION 60. Said chapter 29 is hereby further amended by striking out section 2X, inserted by section 8 of chapter 300 of the acts of 1992.

SECTION 61. Said chapter 29 is hereby further amended by striking out section 2Y, as amended by section 159 of chapter 151 of the acts of 1996.

SECTION 62. Said chapter 29 is hereby further amended by inserting after section 2FF, inserted by section 2 of chapter 203 of the acts of 1996, the following three sections:-

Section 2GG. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Health Protection Fund. There shall be credited to said fund all amounts collected pursuant to section seven of chapter sixty-four C, together with any penalties, forfeitures, interest, costs of suits and fines collected in connection therewith, less all amounts refunded or abated in connection therewith, all as determined by the commissioner of revenue according to his best information and belief; any appropriation, grant, gift, or other contribution explicitly made to said fund; and any income derived from the investment of amounts credited to said fund.

Amounts credited to said fund shall be expended, subject to appropriation, to supplement existing levels of funding for the following purposes:

(a) for comprehensive school health education programs, to be administered by the department of education; provided, however, that such programs shall incorporate information relating to the hazards of tobacco use;

(b) for workplace-based and community smoking prevention and smoking cessation programs, for tobacco-related public service advertising and for drug education programs,

to be administered by the department of public health;

(c) for the support of community health centers and their programs of prenatal and maternal care, under the supervision of said department of public health; provided, however, that such prenatal and maternal care programs incorporate smoking cessation assistance and guidance regarding the harmful effects of smoking on fetal development; and

(d) for ongoing activities, by said department of public health, relating to the monitoring of morbidity and mortality from cancer and other tobacco-related illnesses in the commonwealth.

In conjunction with the preparation of the commonwealth's comprehensive annual financial report, the comptroller shall prepare and issue an annual report detailing the revenues and expenditures of said fund.

Section 2HH. There is hereby established upon the books of the commonwealth a separate fund to be known as the Federal Facilities Reserve Fund. There shall be credited to said fund all revenues resulting from the development leasing, operation, granting of concessions or other use of the selected site and its facilities or agreements related thereto including, without limitation, grants, fees, compensation, payments or revenues of any kind from any agency of the federal government or any other governmental entity.

Amounts credited to said fund shall be available, subject to appropriation, for planning and studies, acquisition of land and buildings and interest therein, the preparation of plans and specifications, the development, construction, reconstruction, improvement, renovation, enlargement, expansion, remodeling, build-out, repair, furnishings and equipment, or management, operation or maintenance of the selected site and its facilities and any administration costs associated therewith; provided, however, that said funds shall not be used for management, operation or maintenance unless the commissioner determines that adequate reserves necessary to meet the foreseeable capital needs of the selected site and its facilities will be available in said Fund despite such use.

Section 2II. 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 said fund forty-five per cent or four hundred and fifty 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 63. Section 4 of said chapter 29, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 2, the words "recommend or petition" and inserting in place thereof the following words:- recommends or petitions.

SECTION 64. Section 7C of said chapter 29, as so appearing, is hereby amended by striking out, in lines 11, 24 and 62, each time they appear, the words "long range" and inserting in place thereof, in each instance, the following word:- long-range.

SECTION 65. Said section 7C of said chapter 29, as so appearing, is hereby further amended by striking out, in line 12, the word "request" and inserting in place thereof the following word:- requests.

SECTION 66. Section 7E of said chapter 29, as so appearing, is hereby amended by inserting after the word "as", in line 28, the following word:- to.

SECTION 67. Section 7G of said chapter 29, as so appearing, is hereby amended by striking out, in line 8, the words "2F of this chapter" and inserting in place thereof the following word:- two F.

SECTION 68. Said section 7G of said chapter 29, as so appearing, is hereby further amended by striking out, in line 10, the word "Top" and inserting in place thereof the following word:- top.

SECTION 69. Said section 7G of said chapter 29, as so appearing, is hereby further amended by striking out, in line 13, the word "Secondary" and inserting in place thereof the following word:- secondary.

SECTION 70. Section 7H of said chapter 29, as so appearing, is hereby amended by striking out, in line 15, the word "the", the first time it appears, and inserting in place thereof the following word:- be.

SECTION 71. Said section 7H of said chapter 29, as so appearing, is hereby further amended by striking out, in line 34, the word "State" and inserting in place thereof the following word:- state.

SECTION 72. Section 7I of said chapter 29, as so appearing, is hereby amended by striking out, in line 44, the word "his/her" and inserting in place thereof the following word:- his.

SECTION 73. Section 7J of said chapter 29, as so appearing, is hereby amended by striking out, in line 3, the word "sections" and inserting in place thereof the following word:- section.

SECTION 74. Section 31A of said chapter 29, as so appearing, is hereby amended by inserting after the word "days", in line 43, the following word:- of.

SECTION 75. Section 7B of chapter 30 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the word "or" and inserting in place thereof the following word:- of.

SECTION 76. Section 39F of said chapter 30, as so appearing, is hereby amended by striking out, in line 98, the word "the".

SECTION 77. Section 39M of said chapter 30, as so appearing, is hereby amended by striking out, in line 32, the word "forty-four L" and inserting in place thereof the following word:- forty-four J.

SECTION 78. Section 39Q of said chapter 30, as so appearing, is hereby amended by striking out, in line 75, the word "claim:" and inserting in place thereof the following word:- claim;.

SECTION 79. Section 62H of said chapter 30, as so appearing, is hereby amended by striking out, in line 37, the word "is", the second time it appears, and inserting in place thereof the following word:- it.

SECTION 80. Section 1 of chapter 30B of the General Laws, as so appearing, is hereby amended by striking out, in line 71, the word "collector." and inserting in place thereof the following word:- collector;.

SECTION 81. Said section 1 of said chapter 30B, as so appearing, is hereby further amended by striking out, in line 87, the word "fuel." and inserting in place thereof the following word:- fuel;.

SECTION 82. Section 5 of said chapter 30B, as so appearing, is hereby amended by inserting after the word "thirty A", in line 62, the following words:- , section nine G of chapter thirty-four or section twenty-three B of chapter thirty-nine.

SECTION 83. Section 10 of said chapter 30B, as so appearing, is hereby amended by striking out, in line 11, the words "Name of person signing bid or proposal" and inserting in place thereof the following words:- Signature of individual submitting bid or proposal.

SECTION 84. Section 12 of said chapter 30B, as so appearing, is hereby amended by striking out, in line 3, the word "services" and inserting in place thereof the following word:- serves.

SECTION 85. Said section 12 of said chapter 30B, as so appearing, is hereby further amended by striking out, in line 12, the words "solicit or".

SECTION 86. Section 16 of said chapter 30B, as so appearing, is hereby amended by striking out, in line 46, the word "bidding" and inserting in place thereof the following word:- binding.

SECTION 87. Section 18 of chapter 31 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the word "indicted" and inserting in place thereof the following word:- indicated.

SECTION 88. Section 22 of said chapter 32 is hereby amended by striking out, in line 816, as so appearing, the words "provided however" and inserting in place thereof the following words:- provided, however,.

SECTION 89. Section 23 of said chapter 32 is hereby amended by striking out, in line 445, as so appearing, the word "no" the second time it appears.

SECTION 90. Section 26 of said chapter 32 is hereby amended by striking out, in line 69, as so appearing, the letter "(a)" and inserting in place thereof the following:- (3)(a).

SECTION 91. Section 91 of said chapter 32 is hereby amended by striking out, in line 71, as so appearing, the word "disability" and inserting in place thereof the following word:- , disability.

SECTION 92. Chapter 32A of the General Laws is hereby amended by striking out section 17A, inserted by section 5 of chapter 458 of the acts of 1993.

SECTION 93. Said chapter 32A is hereby further amended by inserting after section 17C the following section:-

Section 17D. 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.

SECTION 94. Section 19 of chapter 32B of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "pursuant", in line 59, the following word:- to.

SECTION 95. Section 1 of chapter 38 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the second time they appear, the words "the following".

SECTION 96. Section 59 of chapter 40 of the General Laws, as so appearing, is hereby amended by inserting after the word "designates", in line 9, the following word:- one.

SECTION 97. Section 9 of chapter 40N of the General Laws, as so appearing, is hereby amended by striking out, in lines 115 and 116, the words "or sixty-four, inclusive, or" and inserting in place thereof the following words:- to sixty-four, inclusive, of.

SECTION 98. Section 81Q of chapter 41 of the General Laws, as so appearing, is hereby amended by striking out, in line 84, the word "court," and inserting in place thereof the following word:- court.

SECTION 99. Section 69 of chapter 44 of the General Laws is hereby amended by striking out the first paragraph, as appearing in chapter 273 of the acts of 1996, and inserting in place thereof the following paragraph:-

If a check in payment of a municipal or district service rendered or fee or charge imposed is not duly paid, there may, in addition to any other penalty provided by law, be imposed on the person who tendered such check, upon notice and demand by the city, town or district treasurer, a penalty in the same amount as that imposed under the provisions of section fifty-seven A of chapter sixty.

SECTION 100. Section 70 of said chapter 44, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words "118E of the General Laws" and inserting in place thereof the following words:- one hundred and eighteen E.

SECTION 101. Section 16 of chapter 48 of the General Laws, as so appearing, is hereby amended by striking out, in line 38, the words "public works" and inserting in place thereof the following word:- highways.

SECTION 102. Section 48 of chapter 53 of the General Laws, as so appearing, is hereby amended by striking out, in line 16, the second time it appears, the word "on".

SECTION 103. Section 6 of chapter 54 of the General Laws, as so appearing, is hereby amended by inserting after the word "later", in line 40, the following word:- than.

SECTION 104. Said chapter 54 is hereby further amended by striking out section 62, as so appearing, and inserting in place thereof the following section:-

Section 62. The biennial state election for the choice of the officers to be elected pursuant to sections one hundred and fifty to one hundred and sixty-two, inclusive, shall be held on the Tuesday next after the first Monday in November in every even-numbered year.

SECTION 105. Section 18 of chapter 55 of the General Laws is hereby amended by striking out, in lines 428 to 431, inclusive, as so appearing, the words "established under the provisions of section two D of chapter twenty-nine or the Categorical Grants Fund established under the provisions of section two N of chapter twenty-nine, whichever is in

effect".

SECTION 106. Chapter 58 of the General Laws is hereby amended by striking out section 18C, inserted by section 3 of chapter 268 of the acts of 1990, and inserting in place thereof the following section:-

Section 18C. Commencing with fiscal year nineteen hundred and ninety-three and continuing thereafter, the state treasurer shall, subject to appropriation and upon certification of the commissioner, annually distribute the Local Aid Fund including, but not limited to, forty percent of the sales tax, forty percent of the income tax and forty percent of the corporate income tax as well as the balance of the State Lottery Fund, in accordance with the provisions of this section. The distribution shall be made in four equal payments. Said payments shall be made annually, in each fiscal year, on or before September thirtieth, December thirty-first, March thirty-first and June thirtieth.

(1) The amount distributed under this section to any city or town shall not be less than one hundred percent of the sum of the total amounts actually received by such city or town under sections eighteen A and eighteen C of chapter fifty-eight and section thirty-five of chapter ten for the preceding fiscal year, unless the amount credited to the Local Aid Fund in the current fiscal year is less than the amount credited to the Local Aid Fund, as certified by the commissioner in the preceding fiscal year.

(2) In the event that the amount credited to the Local Aid Fund and appropriated to cities and towns in any fiscal year is greater than the amount credited to the Local Aid Fund and appropriated to cities and towns in the preceding fiscal year, the excess shall be distributed to each city and town as determined by the secretary of administration with the advice and consent of the local government advisory committee operating pursuant to section sixty-two of chapter three.

The distribution shall be made such that each city and town shall receive some portion of the excess funds and such that no city or town shall receive less than such city or town received in the previous fiscal year.

(3) In the event that the amount credited to the Local Aid Fund and appropriated in any fiscal year to cities and towns is less than the amount credited to the Local Aid Fund and appropriated to cities and towns in the preceding fiscal year, then such deficiency shall be applied against each city and town, such that the distribution to each city and town in the current fiscal year shall equal the distribution in the previous fiscal year, multiplied by a fraction, the numerator of which shall be the total amount available for distribution in the current year and the denominator of which shall be the total amount distributed in the previous fiscal year.

SECTION 107. Section 59 of chapter 59 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 5, the words "the tax is other than a poll tax and".

SECTION 108. Section 15 of chapter 60 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "Except as provided in section five and section fifteen A, the" and inserting in place thereof the following word:- The.

SECTION 109. Section 2 of chapter 62 of the General Laws, as so appearing, is

hereby amended by striking out, in line 83, the figure "(1)" and inserting in place thereof the following letter:- (I).

SECTION 110. Said section 2 of said chapter 62, as so appearing, is hereby further amended by striking out, in line 94, the letter "(j)" and inserting in place thereof the following letter:- (J).

SECTION 111. Section 40 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking out, in line 26, the word "corporations" and inserting in place thereof the following word:- corporation.

SECTION 112. Said chapter 62C is hereby further amended by striking out section 78, as so appearing.

SECTION 113. Section 84 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 1, the letter "(a)".

SECTION 114. Said chapter 62C is hereby further amended by adding the following section:-

Section 85. The commissioner may provide for the payment of any tax, interest or penalty or the refund or abatement thereof by the electronic transfer of funds. The commissioner may permit the filing of any return or document by electronic data submission. The commissioner may by regulation or otherwise establish procedures necessary to implement this section.

SECTION 115. Chapter 64C of the General Laws is hereby amended by striking out section 7, as so appearing.

SECTION 116. Said chapter 64C is hereby further amended by inserting after section 7B, inserted by section 3 of chapter 203 of the acts of 1996, the following section:-

Section 7C. (a) In addition to the excise imposed by section six, every licensee who is required to file a return under section sixteen of chapter sixty-two C shall, at the time of filing such return, pay to the commissioner an excise equal to twelve and one-half mills for each cigarette so sold during the calendar month covered by the return; provided, however, that cigarettes with respect to which the excise under this section has once been imposed and has not been refunded, if paid, shall not be subject upon a subsequent sale to the excise imposed by this section. In addition to the excise imposed by section six, each unclassified acquirer shall, at the time of filing a return required by said section sixteen of chapter sixty-two C, pay to the commissioner an excise equal to twelve and one-half mills for each cigarette so imported or acquired and held for sale or consumption, and cigarettes with respect to which such excise has been imposed and has not been refunded, if paid, shall not be subject, when subsequently sold, to any further excise under this section. Notwithstanding the provisions of this section, the excise imposed by this section shall equal twenty-five percent of the price paid by such licensee or unclassified acquirer to purchase smokeless tobacco so sold, imported or acquired.

(b) Except as the provisions of this section expressly provide to the contrary, all of the provisions of this chapter and of chapter sixty-two C relative to the assessment, collection, payment, abatement, verification and administration of taxes, including penalties, shall, so far as pertinent, be applicable to the excise imposed by this section.

(c) Notwithstanding the provisions of section twenty-eight, all revenues received pursuant to this section, together with any penalties, forfeitures, interest, costs of suits and fines collected in connection therewith, less all amounts refunded or abated in connection therewith, all as determined by the commissioner of revenue according to his best information and belief, shall be credited to the Health Protection Fund established pursuant to section two GG of chapter twenty-nine.

SECTION 117. Section 13 of chapter 64D of the General Laws, as so appearing, is hereby amended by striking out, in lines 14 and 15, the words "accompanied by copies of the budget for any jail or house of correction in".

SECTION 118. Section 1 of chapter 64H of the General Laws, as so appearing, is hereby amended by striking out, in line 43, the word "vendors" and inserting in place thereof the following word:- vendor.

SECTION 119. Section 6 of said chapter 64H is hereby amended by striking out, in lines 389 and 390, as so appearing, the words "of the General Laws".

SECTION 120. Section 3A of chapter 65C of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the word "spouse," and inserting in place thereof the following word:- spouse.

SECTION 121. Section 11 of chapter 69 of the General Laws, as so appearing, is hereby amended by striking out, in line 97, the words "(i) technology education;".

SECTION 122. Section 34 of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out, in line 12, the words "or her".

SECTION 123. Section 37M of said chapter 71, as so appearing, is hereby amended by striking out, in line 9, the word "not" and inserting in place thereof the following word:- no.

SECTION 124. Section 38G of said chapter 71 is hereby amended by striking out, in lines 41 and 42, as so appearing, the word "certificate.;" and inserting in place thereof the following word:- certificate.

SECTION 125. Said section 38G of said chapter 71 is hereby further amended by striking out, in line 114, as so appearing, the word "A" and inserting in place thereof the following word:- a.

SECTION 126. Said section 38G of said chapter 71 is hereby further amended by striking out, in line 255, as so appearing, the word "proceeding" and inserting in place thereof the following word:- preceding.

SECTION 127. Section 41 of said chapter 71 is hereby amended by striking out the first paragraph, as most recently amended by chapter 99 of the acts of 1996, and inserting in place thereof the following paragraph:-

For the purposes of this section, a teacher, school librarian, school adjustment counselor, school social worker or school psychologist who has served in the public schools of a school district for the three previous consecutive school 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.

SECTION 128. Chapter 71B of the General Laws is hereby amended by striking out section 1, as so appearing, and inserting in place thereof the following section:-

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

"Department", the department of education.

"Least restrictive environment", the educational placement that assures that, to the maximum extent appropriate, children with special needs, including children in public or private institutions or other care facilities, are educated with children who do not have special needs and that special classes, separate schooling or other removal of children with special needs from the regular educational environment occurs only when the nature or severity of the special needs is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

"Regular education", the school program and pupil assignment which normally leads to college preparatory or technical education or to a career.

"School age child", any person of ages three through twenty-one who has not attained a high school diploma or its equivalent.

"School age child with special needs", a school age child who, because of a disability consisting of a developmental delay or any intellectual, sensory, neurological, emotional, communication, physical, specific learning or health impairment or combination thereof, is unable to progress effectively in regular education and requires special education services in order to successfully develop the child's individual educational potential; provided, however, that no child shall be determined to be a student with special needs solely because such child's behavior violates the school's disciplinary code; and, provided further, that use of the word disability in this section shall not be used to provide a basis for labeling or stigmatizing the child or defining the needs of the child and shall in no way limit the services, programs, and integration opportunities provided to such child.

"School age child requiring special education", a child with special needs who requires special education as determined in accordance with the regulations set forth by the department.

"Special education", educational programs and assignments, namely, special classes, programs or services designed to develop the educational potential of children with special needs including, but not limited to, educational placements of children by school committees, the departments of public health, mental health, mental retardation and youth services and the department of social services in accordance with the regulations of the department of education.

SECTION 129. Section 17 of chapter 73 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the word "college" and inserting in place thereof

the following word:- college;.

SECTION 130. Section 11A of chapter 75 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the first time it appears, the word "a" and inserting in place thereof the following word:- an.

SECTION 131. Section 40 of said chapter 75, as so appearing, is hereby amended by striking out, in line 1, the word "marine" and inserting in place thereof the following word:- Marine.

SECTION 132. Section 15 of chapter 83 of the General Laws, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "or according to the area of such land within a fixed depth from such way,".

SECTION 133. Section 30A of chapter 85 of the General Laws, as so appearing, is hereby amended by striking out, in line 32, the words "public works" and inserting in place thereof the following word:- highways.

SECTION 134. Section 1 of chapter 89 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the word "seasonably" and inserting in place thereof the following word:- reasonably.

SECTION 135. Section 8G of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "this act" and inserting in place thereof the following words:- section eight E.

SECTION 136. Section 19 of said chapter 90 is hereby amended by striking out, in line 7, as so appearing, the word "moter" and inserting in place thereof the following word:- motor.

SECTION 137. Section 24 of said chapter 90 is hereby amended by striking out, in line 800, as so appearing, the words "subparagraphs (a) or (a½)" and inserting in place thereof the following words:- paragraph (a) or paragraph (a½).

SECTION 138. Subparagraph (2) of paragraph (f) of subdivision (1) of said section 24 of said chapter 90 is hereby amended by striking out clause (iii), as amended by section 113 of chapter 38 of the acts of 1995, and inserting in place thereof the following clause:-

(iii) issue to each such person who refuses such test, on behalf of the registrar, a temporary driving permit, unless: (1) driving privileges of the person were suspended, revoked or canceled at the time the person was arrested; (2) the person whose license was taken into custody was operating on an invalid license; (3) the person was not entitled to driving privileges at the time of the arrest for any other reason; or (4) the person holds a license or permit granting driving privileges that was issued by another state or jurisdiction. Police officers, cities, towns and other public employers shall not be civilly liable for any injury or loss of property or personal injury or death which may result from or be connected with any act in issuing a temporary driving permit under this section.

SECTION 139. Section 7 of chapter 90F of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The application for a license to operate a commercial vehicle or for a learner's permit

to operate a commercial vehicle shall include the following:

(1) the full name and current mailing and residential addresses of the applicant;

(2) a physical description of the applicant, including sex, height, weight and eye and hair color;

(3) date of birth of the applicant;

(4) the applicant's Social Security number;

(5) the signature of the applicant;

(6) a photograph of the applicant;

(7) certifications, including those required by 49 CFR 383.71 (a);

(8) consent of the applicant to release driving record information; and

(9) any other information required by the registrar.

The application shall be accompanied by the application fee required by the provisions of section thirty-three of chapter ninety.

SECTION 140. Section 6 of chapter 92B of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the word "maintain" and inserting in place thereof the following word:- maintain,.

SECTION 141. Section 156 of chapter 94 of the General Laws, as so appearing, is hereby amended by striking out, in lines 149 and 150, the words "has provides," and inserting in place thereof the following word:- provides.

SECTION 142. Said chapter 94 is hereby further amended by striking out section 307A, inserted by section 1 of chapter 234 of the acts of 1996, and inserting in place thereof the following section:-

Section 307B. For the purpose of protecting the public health, any manufacturer of cigarettes, snuff or chewing tobacco sold in the commonwealth shall provide the department of public health with an annual report, in a form and at a time specified by that department, which lists for each brand of such product sold the following information:

(a) The identity of any added constituent other than tobacco, water or reconstituted tobacco sheet made wholly from tobacco, to be listed in descending order according to weight, measure, or numerical count; and

(b) The nicotine yield ratings, which shall accurately predict nicotine intake for average consumers, based on standards to be established by the department of public health.

The nicotine yield ratings so provided, and any other such information in the annual reports with respect to which the department determines that there is a reasonable scientific basis for concluding that the availability of such information could reduce risks to public health, shall be public records; provided, however, that before any public disclosure of such information the department shall request the advice of the attorney general whether such disclosure would constitute an unconstitutional taking of property, and shall not disclose such information unless and until the attorney general advises that such disclosure would not constitute an unconstitutional taking.

This section shall not require a manufacturer, in its report to the department or otherwise, to identify or disclose the specific amount of any ingredient that has been approved by the Food and Drug Administration, Public Health Service, United States

Department of Health and Human Services ("FDA"), or its successor agency, as safe when burned and inhaled or that has been designated by the FDA, or its successor agency, as generally recognized as safe when burned and inhaled, according to the Generally Recognized As Safe list of the FDA.

SECTION 143. Section 23 of chapter 94C of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 24, the word "Clinic" and inserting in place thereof the following word:- (h) Clinic.

SECTION 144. Said section 23 of said chapter 94C, as so appearing, is hereby further amended by striking out, in line 25, the figure "176G" and inserting in place thereof the following words:- one hundred and seventy-six G.

SECTION 145. Section 47 of said chapter 94C is hereby amended by striking out, in line 190, as so appearing, the words "said section" and inserting in place thereof the following word:- subsection.

SECTION 146. Section 2 of chapter 94D of the General Laws, as so appearing, is hereby amended by striking out, in lines 19 and 20, the word "distributer" and inserting in place thereof the following word:- distributor.

SECTION 147. Section 1 of chapter 100 of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the word "designed" and inserting in place thereof the following word:- designated.

SECTION 148. Section 9 of said chapter 100, as so appearing, is hereby amended by striking out, in line 41, the second time it appears, the word "or".

SECTION 149. Said section 9 of said chapter 100, as so appearing, is hereby further amended by striking out, in line 42, the word "goods" and inserting in place thereof the following words:- goods; or.

SECTION 150. Section 202 of chapter 110A of the General Laws, as so appearing, is hereby amended by striking out, in line 52, the letter "(e)", and inserting in place thereof the following letter:- (f).

SECTION 151. Section 204 of said chapter 110A, as so appearing, is hereby amended by striking out, in line 115, the words "to revoke" and inserting in place thereof the following word:- is.

SECTION 152. Section 197B of chapter 111 of the General Laws is hereby amended by striking out, in line 21, as so appearing, the word ", but" and inserting in place thereof the following word:- but.

SECTION 153. Section 12CC of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the word "patients" and inserting in place thereof the following word:- patient's.

SECTION 154. Section 23E of said chapter 112, as so appearing, is hereby amended by striking out, in line 4, the words "licensed or:" and inserting in place thereof the following words:- licensed, or.

SECTION 155. Section 68 of said chapter 112, as so appearing, is hereby amended by striking out, in line 40, the word "Supervised" and inserting in place thereof the following word:- supervised.

SECTION 156. Section 4 of chapter 115A of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the word "county" and inserting in place thereof the following word:- country.

SECTION 157. Chapter 118E of the General Laws is hereby amended by striking out section 24, as so appearing, and inserting in place thereof the following section:-

Section 23A. 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 158. Subsection (a) of section 31 of said chapter 118E, as appearing in section 133 of chapter 38 of the acts of 1995, is hereby amended by striking out clause (2) and inserting in place thereof the following clause:-

(2) Recovery from Persons Age 65 and Over: From the estate of an individual who was sixty-five years of age or older when such individual received such assistance. Any recovery may be made only after the death of the surviving spouse, if any, and only at a time when such individual has no surviving child who is under age twenty-one or is blind or permanently and totally disabled. The division shall waive recovery where it would result in undue hardship, as defined by the division in its regulations.

SECTION 159. Section 24 of chapter 119 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 1, the word "The", the first time it appears.

SECTION 160. Section 51B of said chapter 119 is hereby amended by striking out, in line 94, as so appearing, the word "department;", the first time it appears, and inserting in place thereof the following word:- department.

SECTION 161. Said section 51B of said chapter 119 is hereby further amended by striking out, in line 103, as so appearing, the word "department." and inserting in place thereof the following word:- department;.

SECTION 162. Section 63 of said chapter 119 is hereby amended by striking out, in lines 2 and 4, as so appearing, the words "waywardness or", each time they appear.

SECTION 163. Section 64 of said chapter 119 is hereby amended by striking out, in line 2, as so appearing, the words "wayward and".

SECTION 164. Section 84 of said chapter 119, as so appearing, is hereby amended by striking out, in line 25, the word "training;," and inserting in place thereof the following word:- training,.

SECTION 165. Section 12 of chapter 119A of the General Laws, as so appearing,

is hereby amended by striking out, in line 12, the word "twenty-eight A" and inserting in place thereof the following word:- twenty-eight.

SECTION 166. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 17, the word "public" and inserting in place thereof the following word:- transitional.

SECTION 167. Said section 12 of said chapter 119A is hereby further amended by striking out, in line 49, as so appearing, the words "public welfare" and inserting in place thereof the following words:- transitional assistance.

SECTION 168. Section 13 of said chapter 119A, as so appearing, is hereby amended by striking out, in line 12, the word "chapters" and inserting in place thereof the following word:- chapter.

SECTION 169. Section 14 of said chapter 119A is hereby amended by striking out, in line 83, as so appearing, the words "one hundred dollars for each such violation" and inserting in place thereof the following words:- five hundred dollars for the first violation and one thousand dollars for each subsequent violation.

SECTION 170. Subsection (d) of said section 13 of said chapter 119A is hereby amended by striking out the words "and two hundred and seventy-nine D", as inserted by section 68 of chapter 5 of the acts of 1995, and inserting in place thereof the following words:- and two hundred and nine D.

SECTION 171. Section 3 of chapter 127 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "hundred", in line 14, the following word:- and.

SECTION 172. Section 130A of said chapter 127, as so appearing, is hereby amended by striking out, in line 7, the word "parole", the first time it appears, and inserting in place thereof the following word:- parole;.

SECTION 173. Section 7 of chapter 128A of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the word "steward" and inserting in place thereof the following word:- stewards.

SECTION 174. The first paragraph of section 7 of chapter 128C of the General Laws, as appearing in section 7 of chapter 268 of the acts of 1995, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- For purposes of this section, the words "in a humane manner" shall mean by means of euthanasia by lethal injection, or by such other standard of humane killing as may be established by the American Veterinary Association.

SECTION 175. Section 82 of chapter 131 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 21, the words "and members of the metropolitan district commission police".

SECTION 176. Section 89 of said chapter 131, as so appearing, is hereby amended by adding the following sentence:- Whenever seizure, and confiscation or forfeiture is authorized by any provision of this chapter, unless another procedure is therein indicated, such seizure, confiscation or forfeiture shall be conducted in accordance with the provisions of chapter two hundred and fifty-seven.

SECTION 177. Section 90 of said chapter 131, as so appearing, is hereby amended by striking out, in line 41, the word ", by" and inserting in place thereof the following word:- by.

SECTION 178. Section 5 of chapter 131A of the General Laws, as so appearing, is hereby amended by striking out, in line 77, the word "subparagraph" and inserting in place thereof the following word:- paragraph.

SECTION 179. Section 47 of chapter 132 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the word "fifty-one" and inserting in place thereof the following word:- fifty.

SECTION 180. Section 49 of said chapter 132, as so appearing, is hereby amended by striking out, in line 12, the word "fifty-one" and inserting in place thereof the following word:- fifty.

SECTION 181. Chapter 140 of the General Laws, as so appearing, is hereby amended by striking out the caption "RECREATIONAL CAMPS, OVERNIGHT CAMPS OR CABINS, MOTELS AND MOBILE HOME PARKS", preceding section 32A, and inserting in place thereof the following caption:- RECREATIONAL CAMPS, OVERNIGHT CAMPS OR CABINS, MOTELS AND MANUFACTURED HOUSING COMMUNITIES.

SECTION 182. Section 173A of said chapter 140, as so appearing, is hereby amended by striking out, in line 9, the word "calander" and inserting in place thereof the following word:- calendar.

SECTION 183. Section 18 of chapter 142A of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the letter "(a)".

SECTION 184. Section 21 of said chapter 142A, as so appearing, is hereby amended by striking out, in line 3, the word "ninety-four I" and inserting in place thereof the following word:- ninety-four.

SECTION 185. Section 38C of chapter 148 of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the number "1.100" and inserting in place thereof the following words:- one thousand and one hundred.

SECTION 186. Section 44F of chapter 149 of the General Laws is hereby amended by striking out, in line 8, as so appearing, the word "calking" and inserting in place thereof the following word:- caulking.

SECTION 187. Section 113 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 14 and 16, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- attorney general.

SECTION 188. Section 6 of chapter 150 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the word "be".

SECTION 189. Said section 6 of said chapter 150, as so appearing, is hereby amended by striking out the last four sentences and inserting in place thereof the following paragraph:-

The application shall contain a concise statement of the existing controversy and a promise to continue in business or at work without any lockout or strike until the decision

of the board, if made within three weeks after the date of filing the application. The board shall forthwith, after such filing, cause public notice to be given of the time and place for a hearing on the application, unless both parties join in the application and present therewith a written request that no public notice be given. If such request is made, notice of the hearings shall be given to the parties in such manner as the board may order, and the board may give public notice thereof, notwithstanding such request. If the petitioner or petitioners fail to perform the promise made in the application, the board shall proceed no further thereon without the written consent of the adverse party.

SECTION 190. Section 14A of chapter 151A of the General Laws, as so appearing, is hereby amended by striking out, in line 227, the words "unemployment compensation fund" and inserting in place thereof the following words:- Unemployment Compensation Fund.

SECTION 191. Section 29D of said chapter 151A, as so appearing, is hereby amended by striking out, in line 31, the word "director" and inserting in place thereof the following word:- commissioner.

SECTION 192. Section 13A of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out, in line 64, the word "judge," and inserting in place thereof the following word:- judge.

SECTION 193. Section 25A of said chapter 152, as so appearing, is hereby amended by striking out, in line 58, the word "By" and inserting in place thereof the following word:- (b) By.

SECTION 194. Section 47 of said chapter 152 is hereby amended by striking out the words "or two hundred and seventy-nine D", inserted by section 77 of chapter 5 of the acts of 1995, and inserting in place thereof the following words:- or two hundred and nine D.

SECTION 195. Section 65 of said chapter 152, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 246, the word "Worker's" and inserting in place thereof the following word:- Workers'.

SECTION 196. Section 65 of chapter 156B of the General Laws, as so appearing, is hereby amended by striking out, in line 14, the word "officer," and inserting in place thereof the following word:- officer.

SECTION 197. Section 6B of chapter 159B of the General Laws, as so appearing, is hereby amended by striking out, in line 33, the words "and section six C".

SECTION 198. Section 14A of said chapter 159B, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "or investigator or examiner or registry of motor vehicles personnel with police powers".

SECTION 199. Section 6 of chapter 161A of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the word "coterminus" and inserting in place thereof the following word:- coterminous.

SECTION 200. The definition of "Cogeneration facility" in section 1 of chapter 164 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- A cogeneration facility shall also include any electric generating unit having a

power production capacity which, together with any other facilities located at the same site, is not greater than thirty megawatts and which produces electric energy and steam or other form of useful energy utilized for industrial, commercial, heating or cooling purposes that is within the confines of an industrial park, which park existed prior to March first, nineteen hundred and eighty-two and, in which park there existed, as of said date, electrical generating capacity of more than fifteen megawatts, and in which park there existed, since said date, a cogeneration facility, as defined herein, or a small power production facility.

SECTION 201. Said section 1 of said chapter 164, as so appearing, is hereby further amended by striking out the last sentence.

SECTION 202. Section 69L of said chapter 164, as so appearing, is hereby amended by striking out, in line 2, the word "an" and inserting in place thereof the following word:- a.

SECTION 203. Said section 69L of said chapter 164, as so appearing, is hereby further amended by striking out, in line 61, the word "An" and inserting in place thereof the following word:- A.

SECTION 204. Section 69M of said chapter 164, as so appearing, is hereby amended by striking out, in lines 1 and 16, the word "an", each time it appears, and inserting in place thereof, in each instance, the following word:- a.

SECTION 205. Section 69N of said chapter 164, as so appearing, is hereby amended by striking out, in line 1, the word "an" and inserting in place thereof the following word:- a.

SECTION 206. Section 14 of chapter 167E of the General Laws, as so appearing, is hereby amended by striking out, in line 151, the letter "(D)" and inserting in place thereof the following letter:- D.

SECTION 207. Section 26B of chapter 170 of the General Laws is hereby amended by striking out, in line 28, as so appearing, the word "forty-seven" and inserting in place thereof the following word:- twenty-four.

SECTION 208. Chapter 175 of the General Laws is hereby amended by striking out section 47M, inserted by section 1 of chapter 458 of the acts of 1993.

SECTION 209. Said chapter 175 is hereby further amended by striking out section 47Q, inserted by section 2 of chapter 284 of the acts of 1994.

SECTION 210. Said chapter 175 is hereby further amended by inserting after section 47Q, as appearing in the 1994 Official Edition, the following two sections:-

Section 47R. 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 47S. 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 licensed hospice services to terminally ill patients with a life expectancy of six months or less, as set forth and regulated by the provisions of section fifty-seven D of chapter one hundred and eleven and as authorized by a duly licensed physician.

SECTION 211. Section 54E of said chapter 175, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 4, the word "commissioner," and inserting in place thereof the following word:- commissioner.

SECTION 212. Section 54F of said chapter 175, as so appearing, is hereby amended by striking out, in line 4, the word "commissioner," and inserting in place thereof the following word:- commissioner.

SECTION 213. Section 85A of said chapter 175, as so appearing, is hereby amended by striking out, in line 3, the word "nor" and inserting in place thereof the following word:- not.

SECTION 214. Section 5C of chapter 175A of the General Laws, as so appearing, is hereby amended by striking out, in lines 395 and 396, 525 and 526, 604 and in lines 610 and 611, in each instance, the words "of the General Laws".

SECTION 215. Said section 5C of said chapter 175A, as so appearing, is hereby further amended by striking out, in line 304, the word "Commonwealth" and inserting in place thereof the following word:- commonwealth.

SECTION 216. Section 17 of chapter 175I of the General Laws, as so appearing, is hereby amended by striking out, in line 26, the word "alter" and inserting in place thereof the following word:- alter,.

SECTION 217. Section 5 of chapter 176A of the General Laws, as so appearing, is hereby amended by striking out, in lines 5, 163 and 174, the word "non-profit", each time it appears, and inserting in place thereof, in each instance, the following word:- nonprofit.

SECTION 218. Said section 5 of said chapter 176A, as so appearing, is hereby further amended by striking out, in lines 100, 115, 134, 144, 157, 161, 163, 174 and 175, the word "nonacute", each time it appears, and inserting in place thereof, in each instance, the following word:- non-acute.

SECTION 219. Said chapter 176A is hereby further amended by striking out section 8 O, inserted by section 144 of chapter 60 of the acts of 1994.

SECTION 220. Said chapter 176A is hereby further amended by striking out section 8P, inserted by section 3 of chapter 284 of the acts of 1994.

SECTION 221. Said chapter 176A is hereby further amended by striking out section 8P, inserted by section 4 of chapter 302 of the acts of 1994.

SECTION 222. Said chapter 176A is hereby further amended by inserting after section 8P, as appearing in the 1994 Official Edition, the following three sections:-

Section 8Q. 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 which provides coverage for prescription drugs shall provide as benefits to

all individual subscribers and members within the commonwealth and to all group members having a coverage for off-label uses of prescription drugs used in the treatment of HIV/AIDS as set forth in sections forty-seven O and forty-seven P of chapter one hundred and seventy-five.

Section 8R. 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 licensed hospice services for terminally ill patients with a life expectancy of six months or less, as set forth and regulated by the provisions of section fifty-seven D of chapter one hundred and eleven and as authorized by a duly licensed physician.

Section 8S. 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 or nurse practitioner designated as such certified registered nurse anesthetist or nurse practitioner 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 or nurse practitioner's authorization to practice by the board of registration in nursing; and (2) the policy or contract currently provides benefits for identical services rendered by a provider of health care licensed by the commonwealth.

SECTION 223. Section 1 of chapter 176J of the General Laws is hereby amended by striking out, in line 179, as appearing in the 1994 Official Edition, the word "subdivisions" and inserting in place thereof the following word:- subdivision.

SECTION 224. Section 17 of chapter 181 of the General Laws is hereby amended by striking out, in line 12, as so appearing, the word "changes" and inserting in place thereof the following word:- charges.

SECTION 225. Section 63 of chapter 183 of the General Laws, as so appearing, is hereby amended by striking out, in line 36, the word "mortgage" and inserting in place thereof the following word:- mortgagee.

SECTION 226. Section 6 of chapter 183A of the General Laws, as so appearing, is hereby amended by striking out, in line 141, the word "Futhermore" and inserting in place thereof the following word:- Furthermore.

SECTION 227. Section 10 of said chapter 183A, as so appearing, is hereby amended by striking out, in line 61, the word "units" and inserting in place thereof the following word:- unit.

SECTION 228. Section 4 of chapter 185C of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the second time it appears, the word "and".

SECTION 229. Section 1A of chapter 188 of the General Laws, as so appearing,

is hereby amended by striking out, in line 21, the word "on" and inserting in place thereof the following word:- in.

SECTION 230. Section 16 of chapter 195 of the General Laws, as so appearing, is hereby amended by striking out, in lines 14 and 15, the words "department of public welfare" and inserting in place thereof the following words:- division of medical assistance.

SECTION 231. Section 14 of chapter 201 of the General Laws is hereby amended by striking out, in line 31, as so appearing, the word "however" and inserting in place thereof the following word:- however,.

SECTION 232. Section 1 of chapter 209A of the General Laws is hereby amended by striking out, in line 17, as so appearing, the word "or" and inserting in place thereof the following word:- of.

SECTION 233. Section 3C of said chapter 209A, as so appearing, is hereby amended by striking out, in line 3, the words "3B of this chapter" and inserting in place thereof the following word:- three B.

SECTION 234. Section 19 of chapter 209C of the General Laws is hereby amended by striking out, in line 3, as so appearing, the word "fourteen" and inserting in place thereof the following word:- fifteen.

SECTION 235. Section 2 of chapter 211B of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the word "departments" and inserting in place thereof the following word:- department.

SECTION 236. Section 9 of said chapter 211B, as so appearing, is hereby amended by striking out, in line 210, the word "standards." and inserting in place thereof the following word:- standards;.

SECTION 237. Said section 9 of said chapter 211B, as so appearing, is hereby further amended by striking out, in line 245, the word "commonwealth." and inserting in place thereof the following word:- commonwealth;.

SECTION 238. Said section 9 of said chapter 211B, as so appearing, is hereby further amended by striking out, in line 266, the word "The" and inserting in place thereof the following word:- the.

SECTION 239. Said section 9 of said chapter 211B, as so appearing, is hereby further amended by striking out, in line 272, the word "court." and inserting in place thereof the following word:- court;.

SECTION 240. Said section 9 of said chapter 211B, as so appearing, is hereby further amended by striking out, in line 273, the word "The" and inserting in place thereof the following word:- the.

SECTION 241. Section 13 of said chapter 211B, as so appearing, is hereby amended by striking out, in line 1, the second time it appears, the word "justice".

SECTION 242. Section 4 of chapter 215 of the General Laws is hereby amended by striking out the words "two hundred and seventy-nine D", inserted by section 88 of chapter 5 of the acts of 1995, and inserting in place thereof the following words:- two hundred and nine D.

SECTION 243. Section 1 of chapter 218 of the General Laws, as appearing in the

1994 Official Edition, is hereby amended by striking out, in line 80, the second time it appears, the word "Ipswich" and inserting in place thereof the following word:- Ipswich,.

SECTION 244. Section 26 of said chapter 218 is hereby amended by striking out the words "sections fifteen A and thirteen K", as inserted by section 3 of chapter 297 of the acts of 1995, and inserting in place thereof the following words:- sections thirteen K, fifteen A and twenty-one A.

SECTION 245. Section 59H of chapter 231 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the second time it appears, and in line 10, the word "that".

SECTION 246. Section 85S of said chapter 231, as so appearing, is hereby amended by striking out, in line 8, the word "requries" and inserting in place thereof the following word:- requires.

SECTION 247. Chapter 233 of the General Laws is hereby amended by striking out section 23E, inserted by section 1 of chapter 477 of the acts of 1993.

SECTION 248. Said chapter 233 is hereby further amended by inserting after section 23E, inserted by section 1 of chapter 352 of the acts of 1994, the following section:-

Section 23F. In the trial of criminal cases charging the use of force against another where the issue of defense of self or another, defense of duress or coercion, or 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 death or serious bodily injury was imminent, the reasonableness of the defendant's belief that he had availed himself of all available means to avoid physical combat 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.

Nothing in this section shall be interpreted to preclude the introduction of evidence or expert testimony as described in clause (a) or (b) in any civil or criminal action where such evidence or expert testimony is otherwise now admissible.

SECTION 249. The third paragraph of section 12G of chapter 255 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by adding the following sentence:- No group involuntary unemployment insurance policy shall have a waiting period in excess of thirty-one days.

SECTION 250. The third paragraph of subsection C of section 26 of chapter 255D of the General Laws, as so appearing, is hereby amended by adding the following sentence:- No group involuntary unemployment insurance policy shall have a waiting period in excess of thirty-one days.

SECTION 251. Chapter 258B of the General Laws is hereby amended by striking out section 1, as most recently amended by section 4 of chapter 24 of the acts of 1995, and inserting in place thereof the following section:-

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

"Board", the victim and witness assistance board as established in section four.

"Court", a forum established under the General Laws for the adjudication of criminal and delinquency complaints, indictments and civil motor vehicle infractions.

"Crime", an act committed in the commonwealth which would constitute a crime if committed by a competent adult including any act which may result in an adjudication of delinquency.

"Disposition", the sentencing or determination of penalty or punishment to be imposed upon a person convicted of a crime or found delinquent or against whom a finding of sufficient facts for conviction or finding of delinquency is made.

"Family member", a spouse, child, stepchild, sibling, parent, stepparent, dependent, as defined in section one of chapter two hundred and fifty-eight C, or legal guardian of a victim, unless such family member has been charged in relation to the crime against the victim.

"Prosecutor", the attorney general, assistant attorneys general, district attorney, assistant district attorneys, police prosecutors, other attorneys specially appointed to aid in the prosecution of a case, law students approved for practice pursuant to and acting as authorized by the rules of the supreme judicial court, or any other person acting on behalf of the commonwealth, including victim-witness advocates.

"Restitution", money or services which a court orders a defendant to pay or render to a victim as part of the disposition.

"Victim", any natural person who suffers direct or threatened physical, emotional, or financial harm as the result of the commission or attempted commission of a crime or delinquency offense, as demonstrated by the issuance of a complaint or indictment, the family members of such person if the person is a minor, incompetent or deceased, and, for relevant provisions of this chapter, a person who is the subject of a case reported to a prosecutor pursuant to section eighteen of chapter nineteen A, sections five and nine of chapter nineteen C, and section fifty-one B of chapter one hundred and nineteen, and the family members of such person if the person is a minor, incompetent or deceased.

"Victim-witness advocate", an individual employed by a prosecutor, the board, or other criminal justice agency to provide necessary and essential services in carrying out policies and procedures under this chapter.

"Witness", any person who has been or is expected to be summoned to testify for the prosecution whether or not any action or proceeding has yet been commenced.

SECTION 252. Section 21 of chapter 260 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 5 and 6, the words ", except as hereinafter provided".

SECTION 253. Section 80 of chapter 276 of the General Laws, as so appearing, is

hereby amended by striking out, in line 8, the word "banks" and inserting in place thereof the following word:- bank.

SECTION 254. Chapter 278 of the General Laws is hereby amended by striking out section 29D, as so appearing, and inserting in place thereof the following section:-

Section 29D. The court shall not accept a plea of guilty or nolo contendere from any defendant in any criminal proceeding unless the court advises such defendant of the following: "If you are not a citizen of the United States, you are hereby advised that conviction of the offense for which you have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization, pursuant to the laws of the United States." The defendant shall not be required at the time of the plea to disclose to the court his legal status in the United States.

If the court fails so to advise the defendant, and he later at any time shows that his plea and conviction may have one of the enumerated consequences, the court, on the defendant's motion, shall vacate the judgment, and permit the defendant to withdraw the plea of guilty or nolo contendere, and enter a plea of not guilty. Absent a record that the court provided the advisement required by this section, the defendant shall be presumed not to have received the required advisement.

SECTION 255. Chapter 212 of the acts of 1975 is hereby amended by striking out section 8E, inserted by section 4 of chapter 498 of the acts of 1993, and inserting in place thereof the following section:-

Section 8F. 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 256. Section four hundred and nineteen of chapter one hundred and seventy-seven of the acts of nineteen hundred and ninety is hereby repealed.

SECTION 257. Section twenty-one of chapter one hundred and eighteen of the acts of nineteen hundred and ninety-two is hereby repealed.

SECTION 258. Section forty-five of said chapter one hundred and eighteen of the acts of nineteen hundred and ninety-two is hereby repealed.

SECTION 259. Section 6 of chapter 343 of the acts of 1992 is hereby amended by striking out, in line 7, the words ", such city or town,".

SECTION 260. Section 2 of chapter 150 of the acts of 1993 is hereby amended by striking out, in line 1, the figure "161" and inserting in place thereof the following figure:- 103.

SECTION 261. Section ten of chapter one hundred and eighty-two of the acts of nineteen hundred and ninety-three is hereby repealed.

SECTION 262. Section 26 of chapter 495 of the acts of 1993 is hereby amended by striking out, in line 2, the number "1973" and inserting in place thereof the following number:- 1993.

SECTION 263. Section 48 of chapter 126 of the acts of 1994 is hereby amended by striking out, in line 4, the word "ninety-three" and inserting in place thereof the following word:- ninety-four.

SECTION 264. Section 1 of chapter 272 of the acts of 1994 is hereby amended by striking out, in line 4, the words "simple of" and inserting in place thereof the following words:- simple or.

SECTION 265. Chapter 151 of the acts of 1996 is hereby amended by striking out section 484.

SECTION 266. The annual reports required by section one hundred and forty-two of this act shall be filed beginning in the year nineteen hundred and ninety-seven.

SECTION 267. The provisions of section two HH of chapter twenty-nine of the General Laws, inserted by section sixty-two of this act, shall expire on June thirtieth, two thousand, if final approval by the United States Congress of the Defense Base Closure and Realignment Commission's recommendation to locate said Finance and Accounting Services

Facility in the town of Southbridge has not been received.

SECTION 268. Section one hundred and twenty-seven of this act shall take effect as of August twenty-first, nineteen hundred and ninety-six.

SECTION 269. Section one hundred and forty-two of this act shall take effect as of August second, nineteen hundred and ninety-six.

SECTION 270. Section two hundred and fifty-six of this act shall take effect as of June thirtieth, nineteen hundred and ninety-two.

Approved December 27, 1996.

Chapter 451. AN ACT FURTHER REGULATING CERTAIN MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAMS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate motor vehicle inspection and maintenance 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. Section 142M of chapter 111 of the General Laws is hereby amended by striking out the word "ninety-six", inserted by section 2 of chapter 302 of the acts of 1995, and inserting in place thereof the following word:- ninety-seven.

SECTION 2. Said section 142M of said chapter 111 is hereby amended by striking out the word "ninety-seven", inserted by section 3 of said chapter 302, and inserting in place thereof the following word:- ninety-eight.

SECTION 3. Chapter 490 of the acts of 1993 is hereby amended by striking out section 9, as most recently amended by section 1 of chapter 302 of the acts of 1995, and inserting in place thereof the following section:-

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-seven. Section eight shall take effect on June thirtieth, nineteen hundred and ninety-seven.

Approved December 31, 1996.

Chapter 452. AN ACT RELATIVE TO THE RETIREMENT BENEFITS OF PHILLIP E. SHEA AND RELATIVE TO EXTENDING THE SUBJECT MATTER JURISDICTION OF CERTAIN DISTRICT COURTS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law or rule to the contrary, the retirement beneficiary of Phillip E. Shea, a former assistant district attorney in the middle district, shall be allowed to purchase creditable service for the period of October twenty-third, nineteen hundred and sixty-eight to September fourth, nineteen hundred and seventy, inclusive, pursuant to the provisions of the fourth paragraph of paragraph (h) of subdivision (1) of section four of chapter thirty-two of the General Laws for the purpose of determining the retirement allowance pursuant to the provisions of option (d) of subdivision (2) of section twelve of said chapter thirty-two; provided, however, that said retirement beneficiary shall thereupon receive such increased allowance together with an amount equal to the difference between the allowance said retirement beneficiary actually received from the date of retirement to the date of recalculation and the amount of the allowance which said retirement beneficiary would have received had such recalculation allowance been paid to said retirement beneficiary from the date of retirement.

SECTION 2. Section 203 of chapter 379 of the acts of 1992 is hereby amended by striking out the word "ninety-seven", inserted by section 6A of chapter 243 of the acts of 1995, and inserting in place thereof the following word:- ninety-eight.

Emergency Letter: January 2, 1997 @ 1:34 P.M. Approved December 31, 1996.

Chapter 453. AN ACT THE MASSACHUSETTS WILDLIFE PROTECTION ACT.

Be it enacted by the People, and by their authority, as follows:

SECTION 1: In order to protect people, domestic animals, and wildlife from the dangers of cruel traps and to facilitate the release of non-targeted animals, the existing language of MASS. GEN. LAWS ch. 131, {80A, shall be deleted and replaced with the following provisions:

{80A. Use of Leghold Traps and Certain Other Devices Restricted.

Notwithstanding any other provision of this chapter, a person shall not use, set, place, maintain, manufacture or possess any trap for the purpose of capturing fur-bearing mammals, except for common type mouse and rat traps, nets, and box or cage type traps, as otherwise permitted by law. A box or cage type trap is one that confines the whole animal without grasping any part of the animal, including Hancock or Bailey's type live traps for beavers. Other than nets and common type mouse or rat traps, traps designed to capture and hold a fur-bearing mammal by gripping the mammal's body or body part are prohibited including steel jaw leghold traps, padded leghold traps, conibear traps, and snares.

The above provision shall not apply to the use of prohibited devices by federal and

state departments of health for the purpose of protection from threats to human health and safety.

A person or his duly authorized agent may apply to the director for a special permit to use otherwise prohibited traps on property owned by such person. Issuance of such special permits shall be governed by rules and regulations adopted by the director pursuant to chapter thirty A. Such rules and regulations shall include, but not be limited to provisions relative to the following:

The applicant shall apply to the director in writing and shall state that there exists on the property an animal problem which cannot reasonably be abated by the use of traps other than those prohibited by this section, and that he or she has attempted to abate the problem using traps permitted under this section. If the director determines that the applicant has attempted to abate the problem using permissible traps, that the applicant has complied with {37 and {80 of this chapter, if required to do so, and any other laws regarding trapping, and that such an animal problem exists which cannot reasonably be abated by the use of alternative, non-lethal management techniques or of traps other than those prohibited by this section, the director may authorize the use, setting, placing or maintenance of such traps, not including leghold traps, for a period not exceeding thirty days during which time the applicant shall remain in compliance with the procedures for obtaining a special permit as set forth in regulations adopted pursuant to this section.

Whoever violates any provisions of this section, or any rule or regulation made under the authority thereof, shall be punished 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 by both such fine and imprisonment for each trap possessed, used, set, placed, maintained, or manufactured. Each day of violation shall constitute a separate offense. A person found guilty of, or convicted of, or assessed in any manner after a plea of nolo contendere, or penalized for, a second violation of this section shall surrender to an officer authorized to enforce this chapter any trapping license and/or problem animal control permit issued to him or her and shall be barred forever from obtaining a trapping license and a problem animal control permit.

SECTION 2: In order to end the harassment with dogs of bears which occurs during most of their non-hibernating lives and of bobcats year-round; to eliminate fights between wildlife and dogs where both may be injured; to outlaw hunting methods employed effectively by bear poachers; and to protect the private property rights of landowners who do not want packs of dogs running through their land, a new section in MASS. GEN. LAWS ch. 131 shall be added as follows:

{21A. Certain Unfair Hunting Practices Prohibited.

It shall be unlawful to pursue or hunt bear or bobcat with the aid of a dog or dogs.

It shall be unlawful to hunt bear by the aid of baiting or knowingly to hunt bear in a baited area. "Baiting" means the placing, exposing, depositing, distributing, or scattering of any substance so as to constitute for bears a lure or attraction to areas where hunters are attempting to take them.

The prohibitions on the use of dog(s) and bait may be waived by the director upon

written application (1) for the control of individual animals specifically identified as posing a threat to human safety or individual animals that have destroyed livestock, property or crops, and (2) for legitimate scientific research projects that are conducted in a humane manner.

Whoever violates any provisions of this section, or any rule or regulation made under the authority thereof, shall be punished 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 by both such fine and imprisonment for each violation. A person found guilty of, or convicted of, or assessed in any manner after a plea of nolo contendere, or penalized for, a second violation of this section shall surrender to an officer authorized to enforce this chapter all hunting and dog training licenses and permits issued to him or her and shall be barred forever from obtaining any such licenses and permits.

MASS. GEN. LAWS ch. 131 {21 shall be amended by adding "twenty-one A" to the first sentence as follows:

Except as provided in sections twenty-one A, seventy, eighty-one and eighty-two, nothing in this chapter . . .

SECTION 3: In order to allow for the appointment of qualified citizens of the Commonwealth concerned with wildlife protection who would not otherwise be eligible because of quotas, MASS. GEN. LAWS ch. 21, {7 shall be amended by deleting the following language: "shall hold and have held for at least five consecutive years a sporting license in the commonwealth, four of whom shall represent the fishing, hunting and trapping interests and".

SECTION 4: If any part, section or subdivision of this legislation, or the application thereof, shall be held invalid, unconstitutional or inoperative, as to any particular person, persons or conditions, the remainder thereof, or the application of any such part, section or subdivision to other persons and conditions, shall not be affected thereby.

This law was approved by the people at the November 5, 1996 state election under Article XLVIII of the Amendments to the Constitution.

Chapter 454. AN ACT FURTHER AMENDING THE ELECTION LAWS.

Be it enacted, etc., as follows:

SECTION 1. The second paragraph of section 22F of chapter 40 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- The provisions of this section shall not apply to any certificate, service or work required by chapters fifty to fifty-six, inclusive, or by chapter sixty-six.

SECTION 2. Section 7 of chapter 41 of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the word "thirty" and inserting in place thereof the word:- sixty.

SECTION 3. Section 14 of said chapter 41, as so appearing, is hereby amended by adding the following sentence:- A temporary clerk appointed under this section shall not be required to be a resident nor a registered voter of the city or town.

SECTION 4. Section 19 of said chapter 41, as so appearing, is hereby amended by adding the following sentence:- An assistant clerk appointed under this section shall not be required to be a resident nor a registered voter of the town.

SECTION 5. Section 23 of said chapter 41, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A town may, after a vote under section twenty-one has been in effect therein for a period of not less than three years, by a vote at a meeting held at least sixty days before the annual town election, rescind such action in whole or in part and thereupon such town shall, at the next town election, nominate and elect such officers as are necessary to carry out the duties exercised in accordance with section twenty-one by the board of selectmen or officers appointed by them.

SECTION 6. Section 5 of chapter 43B of the General Laws, as so appearing, is hereby amended by striking out, in line 11, the word "twenty-eighth" and inserting in place thereof the following word:- thirty-fifth.

SECTION 7. Section 1F of chapter 51 of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the words "ten o'clock post meridian of the twenty-eighth" and inserting in place thereof the following words:- eight o'clock post meridian of the twentieth.

SECTION 8. Section 37 of said chapter 51, as so appearing, is hereby amended by inserting after the word "preaddressed", in line 60, the following words:- and postage prepaid.

SECTION 9. Section 38 of said chapter 51, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following two sentences:- They shall strike therefrom the name of every deceased voter which has been transmitted to them under section fourteen or which has been electronically transmitted to them. After the name of a voter has been placed upon the current annual register or upon the inactive voters list, they shall not strike such name therefrom unless: (a) the voter has died; (b) they have received a duplicate copy of an affidavit of registration from the registrars of another city or town; (c) they have received a change of address notification from the registry of motor vehicles; (d) they have received a written request from the voter or the voter has confirmed in writing that he has moved to another city or town; or (e) the voter has not responded to the notice described in section thirty-seven and has not voted in the next two biennial state elections following the mailing of such notice.

SECTION 10. Section 41 of said chapter 51, as so appearing, is hereby amended by striking out, in line 6, the word "records" and inserting in place thereof the following words:- records, except large print affidavits of registration.

SECTION 11. The third paragraph of section 42A of said chapter 51, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- No such person shall be provided with an affidavit of registration

after the close of registration nor in any city or town other than that in which he claims the right to vote; provided, however, if the applicant is in the military or naval service of the United States, he may so register up until four o'clock post meridian on the day preceding a primary election, preliminary election or election.

SECTION 12. The first paragraph of section 42G of said chapter 51, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- 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.

SECTION 13. Section 42H of said chapter 51, as so appearing, is hereby amended by striking out, in lines 12 to 14, inclusive, the words "to the registrars shall be sufficient for this purpose, if the affidavit is maintained on file at the registration agency" and inserting in place thereof the following words:- of registration shall be sufficient for such purpose.

SECTION 14. Said chapter 51 is hereby further amended by striking out section 47C, as so appearing, and inserting in place thereof the following section:-

Section 47C. Subject to appropriation, the state secretary shall maintain a central registry of voters which shall contain, if provided by the registrars, the names, addresses and effective dates of registration of all registered voters in the commonwealth and which shall contain the name, date of birth, occupation, nationality, if not a citizen of the United States, for street list purposes only, and residence on January first in the preceding year and in the current year, of every person three years of age or older in the commonwealth, and shall adopt regulations governing the operation of said central registry. The names and addresses contained in said central registry shall not be a matter of public record; provided however, that they shall be available to state party committees, statewide candidate committees, state ballot question committees, the jury commissioner and any other individual, agency or entity that the state secretary shall designate by regulation consistent with the purposes of this section, at a fair and reasonable cost not to exceed the cost of printing or preparing computer readable documents.

SECTION 15. Section 55 of said chapter 51, as so appearing, is hereby amended by striking out the first two sentences and inserting in place thereof the following three sentences:- Registrars shall, from the names entered in the annual register and from the names maintained on the inactive voters list, prepare voting lists for use at elections; provided, however, that such registrars shall not enter the names of women voters in separate columns or lists. In such voting lists, such registrars shall place the names of all voters entered on the annual register and those maintained on the inactive voters list and opposite to the name of each his residence and party enrollment. The registrars shall maintain separate voting lists for active and inactive voters or one voting list if inactive voters are designated as such on the voting list.

SECTION 16. The second paragraph of said section 59 of said chapter 51, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Whenever the presiding officer, after a reasonable attempt, is unable to identify a voter whose name does not appear on the voting list, such voter may

request permission to vote from the registrars of voters.

SECTION 17. Section 9 of chapter 53 of the General Laws, as so appearing, is hereby amended by inserting after the word "candidate", in line 26, the following words:- , including a candidate for presidential elector,.

SECTION 18. Section 1 of chapter 54 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

For any city that fails to act by October fifteenth, the local election districts review commission shall, within thirty days, make such division of the city into wards and precincts or appoint a master who shall make such division which shall be subject to approval and amendment by the commission. The cost of redistricting by a master shall be paid by the city.

SECTION 19. Section 6 of said chapter 54, as so appearing, is hereby amended by inserting after the word "having", in line 5, the following words:- precincts or.

SECTION 20. Said section 6 of said chapter 54, as so appearing, is hereby amended by striking out, in line 14, the words "of six thousand, two hundred or more inhabitants".

SECTION 21. Said section 6 of said chapter 54, as so appearing, is hereby further amended by adding the following paragraph:-

For any town that fails to act by September twentieth, the local election districts review commission shall, within thirty days, make such division of the town into precincts or appoint a master who shall make such division which shall be subject to approval and amendment by the commission. The cost of redistricting by a master shall be paid by the town.

SECTION 22. Section 42C of said chapter 54, as so appearing, is hereby amended by adding the following sentence:- Notwithstanding the provisions of any general or special law to the contrary establishing a later time, a city or town clerk shall not print on a city or town election ballot any question to the voters for which he receives final written notice after the thirty-fifth day before such election.

SECTION 23. Chapter 56 of the General Laws is hereby amended by striking out section 27, as so appearing, and inserting in place thereof the following section:-

Section 27. Whoever, not being entitled to vote under the laws relative to absent voting, votes or attempts to vote thereunder or whoever being entitled to vote under said laws knowingly votes or attempts to vote in violation thereof shall be punished by a fine of not more than ten thousand dollars and by imprisonment for not more than five years.

SECTION 24. Said chapter 56 is hereby further amended by striking out section 27A, as so appearing, and inserting in place thereof the following section:-

Section 27A. Whoever, at any election at which absent voting is permitted, knowingly and wilfully delivers an absent voter ballot to a voter or other person in any other manner than as provided for in section ninety-one A and ninety-one B of chapter fifty-four shall be punished by a fine of not more than ten thousand dollars.

SECTION 25. Section 60 of said chapter 56, as so appearing, is hereby amended by striking out, in line 3, the word "clerk" and inserting in place thereof the following word:- clerk,.

SECTION 26. Paragraph (m) of section 21C of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out clause (3) and inserting in place thereof the following clause:-

(3) the first election at which the referendum question appears on the ballot must take place no later than forty-five days after the date of the close of the town meeting at which the appropriation vote occurs; provided, however, that no such election shall take place later than ninety days after such meeting.

SECTION 27. Section 15 of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The selectmen or council of each of the several towns shall, upon receipt of the recommendation that a regional school district should be formed and of a proposed agreement therefor submitted in accordance with the provisions of sections fourteen to fourteen B, inclusive, or otherwise in the form and with the approval required by said sections, cause to be presented the question of accepting the provisions of sections sixteen to sixteen I, inclusive, and the proposed agreement or agreements. Said question shall be determined, in a town having an open town meeting, by vote with printed ballots at an annual or special town meeting to be held in either case within thirty days after receipt of such recommendation by the selectmen and, in a town having a representative town meeting or council, at an annual or special town election to be held in either case not less than thirty-five nor more than fifty days after receipt of such recommendation. The article in the warrant for such annual or special town meeting or election and the question on the printed ballots to be used at such meeting or election shall be in substantially the following form:

Shall the town accept the provisions of sections sixteen to sixteen I, inclusive, of chapter seventy-one of the General Laws providing for the establishment of a regional school district, together with the towns of , and , etc., and for construction, maintenance and operation of a regional school by said district in accordance with the provisions of a proposed agreement filed with the selectmen?

YES.	
NO.	

Approved January 2, 1997.

Chapter 455. AN ACT RELATIVE TO VOTING PRECINCTS IN THE CITY OF CHICOPEE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, ward three, precinct A of the city of Chicopee shall be one precinct for the purpose of forming congressional, representative, senatorial and councillor districts, and presidential

preference elections, but shall have two polling places for the purpose of any state or municipal election; provided, however, that one such polling place shall be located to the east of interstate highway route 391, to serve voters residing in ward three, precinct A east of said route and the other polling place shall be located to the west of said interstate highway route 391 to serve voters residing in ward 3, precinct A west of said route.

SECTION 2. The city clerk of the city of Chicopee and the board of registrars of the city of Chicopee are hereby authorized to take all necessary actions to assure compliance herewith including, but not limited to, such actions as will assure the accuracy of the voting lists as located at each such polling place.

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

Approved January 2, 1997.

Chapter 456. AN ACT PROVIDING FOR A PROBATIONARY PERIOD FOR CERTAIN WESTBOROUGH FIREFIGHTERS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section forty-two of chapter forty-eight of the General Laws, members of the Westborough fire department who are members of the collective bargaining unit shall serve a probationary period as provided for in the collective bargaining agreement. During such probationary period such firefighters shall be employees-at-will.

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

Approved January 2, 1997.

Chapter 457. AN ACT AUTHORIZING THE COMMISSIONER OF THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ENTER INTO CERTAIN LEASE AGREEMENTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the commissioner of the division of capital planning and operations to enter into certain lease agreements, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of sections forty F½, forty H, and forty I 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 to enter into a lease agreement with the Good Shepherd Association, so-called,

for real estate known as Our Lady of Lourdes School as the convent building and other portions of the facility determined by the parties on the premises located in the city of Springfield.

The term of said lease agreement shall be for five years, with an option to renew for up to five additional years if the commissioner of the department of youth services and the commissioner of the division of capital planning and operations approve such option to renew, in writing. The lessee shall use the property solely for the purposes of said Good Shepherd Association. It shall be considered a breach of the lease if said parcel of land and building cease to be used for the purposes described herein or are used for any other purposes and said breach shall result in the termination of said lease and all interest therein shall revert to the commonwealth upon notice to the Good Shepherd Association by said commissioner of the division of capital planning and operations.

The terms of the lease agreement shall be determined by said commissioner of the division of capital planning and operations. The lease price paid by the lessee for said parcel shall be the full and fair market value of the property as determined by independent appraisal, for its use as described herein. The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology utilized for said appraisal and the terms of said lease agreement. Said lessee shall pay such lease price in accordance with the terms of this agreement. The lessee shall be responsible for all costs and expenses of appraisals and other expenses relating to the lease of the property authorized by this section, and for all costs, expenses, and liabilities of every nature and kind for the use, occupancy, maintenance, repair, replacement and operation of the property subject to the lease. The lessee shall maintain insurance coverage on said property in an amount to be determined by the said commissioner. The commonwealth assumes no obligation for any injury or damage sustained on the leased property which shall be the total and exclusive responsibility of the lessee.

SECTION 2. (*a*) To provide additional facilities for the University of Massachusetts at Dartmouth in the downtown area of the city of New Bedford, the commissioner of the division of capital planning and operations is hereby authorized, notwithstanding the provisions of chapter seven of the General Laws to the contrary, to negotiate and enter into a lease having a term of up to twenty years, including such options for the commonwealth to extend said term as the commissioner may determine, after consulting with the chancellor of the University of Massachusetts at Dartmouth, for land, buildings and improvements in the Commercial Area Revitalization Central Business district, so-called, of said city of New Bedford.

Said lease shall be for use of the property by said university for a campus facility in the downtown area of said city of New Bedford. The developer selected pursuant to the provisions of this subsection shall be the landlord under the lease and shall be obliged to construct the improvements required under this section. Funding for said lease shall be subject to annual appropriation by the general court and to annual authorization for expenditure of said funds by the secretary of administration and finance and the board of trustees of the University of Massachusetts, and shall contain such other terms as shall be

required by the commissioner.

The commissioner is hereby authorized to select the developer of the property. Said commissioner shall establish competitive and public processes for the selection of said developer, which processes shall include: the issuance of requests for proposals containing the date, time and place for the submission of proposals, the developer selection criteria, and the required content for proposals; public advertisement for the issuance of said requests for proposals; and the use of selection criteria which shall include the experience, qualifications, capability and financial viability of the developer, designer or construction contractor as the case may be, the cost to the commonwealth, and the financial and other benefits to the commonwealth and the local community. Said commissioner shall also select the designer and construction contractor pursuant to the process established by said commissioner.

The acquisition, lease, construction, renovation, design, development, and management of the property as authorized by this section, and any contract relating thereto, shall be exempt from the provisions of said chapter seven, section thirty-nine M of chapter thirty, sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine of the General Laws, and any other general or special law or regulation governing acquisition, leasing, construction, renovation, design, development and management of real or personal property by or for the commonwealth or municipality. Notwithstanding the foregoing all contractors and subcontractors engaged in the construction or renovation of improvements at the property shall pay the wages determined under the provisions of sections twenty-six to twenty-seven H, inclusive, of said chapter one hundred and forty-nine.

(*b*) The lease authorized in this section shall include final plans and specifications at one-hundred percent design stage, ready for construction, and containing such improvements to the property as are necessary for the University of Massachusetts at Dartmouth for its downtown New Bedford campus facility as determined by the commissioner in consultation with the chancellor of said university. Such plans and specifications shall be prepared by the designer selected pursuant to the provisions of subsection (*a*). Said lease shall require the developer to construct the improvements shown in said plans and specifications and said lease shall not be executed until the completion and incorporation of such plans and specifications.

(*c*) The lease authorized by this section shall contain an option for the commonwealth to purchase the property which shall be exercisable during the lease term, or at the end of the lease term, or any extension thereof. The commonwealth, if it exercises said option to purchase, may purchase the property, subject to appropriation, for not more than the fair market value of the property at the time of exercise of the option, taking into account any rental and other payments made by the commonwealth under the terms of said lease. Said commissioner is hereby authorized, notwithstanding said chapter seven, to exercise said option and to acquire the property on behalf of the commonwealth.

(*d*) The developer who is the landlord under the lease authorized by this section shall pay for all surveys, plans and specifications and other costs and expenses associated with the improvements to the property required under the lease and all costs and expenses associated with the leasing process as required by the commissioner, and shall be responsible for, and

indemnify the commonwealth from and against, all costs and liabilities associated with, the environmental condition of the property.

(*e*) The lease authorized by this section shall be in a form approved by the attorney general. The negotiated lease price for any parcel or site pursuant to this section shall be for not more than fair market value determined by independent appraisal, for the uses described in subsection (*a*). The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology utilized for said appraisal. Said inspector general shall review and approve the reasonableness and appropriateness of the process and criteria, as such protect the public interest, established by the commissioner of the division of capital planning and operations for the selection of any developer, designer and construction contractor pursuant to the provisions of subsection (*a*). Said inspector general shall prepare a report of his review and file said report with the commissioner, the house and senate committees on ways and means and the joint committee on state administration.

(*f*) Said commissioner shall, thirty days before the execution of any lease agreement authorized by this section, or any subsequent amendment thereof, submit the agreement or amendment and a report thereon to the inspector general for his review and approval. Said inspector general shall issue his review and comment within fifteen days of receipt of any agreement or amendment. Said 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 chairmen of the joint committee on state administration at least fifteen days prior to execution.

(*g*) The chancellor of the University of Massachusetts at Dartmouth shall submit sixty days after the effective date of this act, but in no event after the inspector general receives the lease agreement pursuant to the provisions of subsection (*f*), a financial plan and an operating plan for any property used, owned, leased or maintained by said university in said city of New Bedford after the effective date of this act. Said plans shall include, but not be limited to:

(1) A financial and operating plan for the continued use or discontinued use by said university campus of any property in said city of New Bedford in use on the effective date of this act, including current and future fiscal year costs of such usage and any savings resulting from the discontinued use of said property;

(2) A financial plan for any new property lease pursuant to this section, including current and future fiscal year lease payments, utility costs, maintenance and operating costs and capital replacement reserves;

(3) Revenue sources proposed to fund any net increase in lease, maintenance and operating costs resulting from said newly leased property in excess of the amounts paid by the said university as identified by clause (1);

(4) An operating plan for any new property leased pursuant to this section detailing the proposed usage and hours of operation of said property, the programs, services and administrative operations proposed to be located at said new property, any proposed subleases of said new property to parties other than the said university-Dartmouth campus

and revenues resulting from said subleases and the full-time or contracted personnel proposed to maintain and operate said new property.

The future fiscal year cost projections required by clauses (1) and (2) shall be for the term of any lease authorized by this section.

Approved January 6, 1997.

Chapter 458. AN ACT RELATIVE TO THE MILK PRODUCERS SECURITY FUND.

Be it enacted, etc., as follows:

Section 21 of chapter 20 of the General Laws is hereby amended by adding the following paragraph:-

The commissioner may suspend the requirements of the previous paragraph from time to time for such a length of time as deemed necessary, but not exceeding two years, upon determination that the interests of the producers would be best served by a suspension; provided, however, that the commissioner shall not suspend said requirements if the balance of said fund does not exceed one million dollars. The commissioner shall provide thirty days' written notice of any suspension or reinstatement of payments into said fund to the house and senate committees on ways and means and to all dealers and producers affected.

Emergency Letter: January 23, 1997 @ 3:58 P.M. Approved January 6, 1997.

Chapter 459. AN ACT VALIDATING CERTAIN ACTIONS TAKEN AT THE ANNUAL TOWN MEETING OF THE TOWN OF HALIFAX.

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 Halifax at its annual town meeting held on May thirteenth, nineteen hundred and ninety-six and all actions taken pursuant thereto are hereby ratified, validated and confirmed to the same extent as if the warrant for such meeting had been published and posted as required by law.

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

Approved January 6, 1997.

Chapter 460. AN ACT AUTHORIZING THE ESTABLISHMENT OF THE WATERTOWN ARSENAL DEVELOPMENT CORPORATION.

Be it enacted, etc., as follows:

SECTION 1. It is hereby found that there exists within the town of Watertown underutilized property owned by the town or by the federal government, which property is surplus to current and projected governmental need; that such surplus property is a significant resource which, if returned to productive economic use, would contribute to the provision of gainful employment, additional housing opportunities for persons of all incomes, increased revenue of the commonwealth and the town, and a more stable economy; and that the acquisition, development or disposition of such property in accordance with an economic development plan is a valid public purpose. Therefore, it is the purpose of the corporation created by this act to aid private enterprise or public agencies in the speedy and orderly conversion and redevelopment of certain land within the town formerly used for military activities to nonmilitary uses, including industrial, commercial and residential uses, and in the development and redevelopment of this surplus governmental property to stimulate economic development including industrial, commercial and residential uses in order to prevent blight, economic dislocation and additional unemployment.

It is hereby further found that decadent, substandard or blighted open areas exist in the town; that each such area constitutes a serious and growing menace, injurious and inimical to the safety, health, morals and welfare of the residents of the town; that each such area constitutes an economic liability, substantially impairs or arrests the sound growth of the town and retards its economic well being; that each decreases 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 substandard conditions and the prevention of their recurrence is necessary to retain existing industries, businesses and residents, attract new industries, businesses and residents, and promote the sound economic growth of the town. It is hereby further found that the menace of such decadent, substandard or blighted open 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 operations of private enterprise without the aid herein provided; that the acquisition of property for the purpose of eliminating decadent, substandard, or blighted open conditions therein, preventing recurrence of such conditions in the area, the removal of structures and improvement of sites for industrial, commercial and residential uses, the disposition of the property for redevelopment incidental to the foregoing, the exercise of powers by the corporation and any assistance which may be given by the town, or any other public body in connection therewith, are public uses and purposes for which pubic money may be expended.

SECTION 2. As used in this act the following words shall, unless a different meaning clearly appears from the context, have the following meanings:

"Arsenal reuse committee", the committee established by the Watertown town manager and town council in nineteen hundred and eighty-nine for the purpose of recommending appropriate reuses for the Army Materials Technology Laboratory, herein-

after referred to as AMTL and to oversee the environmental restoration of the AMTL site.

"Corporation", the Watertown Arsenal Development Corporation established by section three.

"Cost of a project", all costs, whether incurred prior to or after the issue of bonds or notes hereunder, of acquisition, site development, construction, improvement, enlargement, reconstruction, alteration, machinery, equipment, furnishings, demolition or removal of existing buildings or structures, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during the carrying out of any project, interest for up to two years after completion or estimated completion date of any project, planning, engineering and legal service, administrative expense, the funding of notes issued for capital purposes, such reserve for debt service or other capital or current expenses as may be required by a trust agreement or resolution securing notes or bonds, and all other expenses incidental to the determination of the feasibility of any project or to carrying out the project or to placing the project in operation.

"Economic development area", any blighted open area or any decadent area, as defined in section one of chapter one hundred and twenty-one B of the General Laws, which is located in the town. For the purposes of this act, an economic development area shall be located only within the property formerly used by the AMTL.

"Economic development plan", a detailed plan, as it shall be approved from time to time by vote of the town council as herein provided, for one or more economic development projects within an economic development area, which plan shall at a minimum indicate the boundaries of the area, indicate intended land acquisition areas and establish the appropriate land uses for the area, such that the approved plan shall have the same effect as a zoning overlay district approved by the town council. The plan shall include design guidelines and siting standards. The plan shall also describe the process by which the corporation shall notify the public of the availability of development sites within the economic development area in order to encourage competing development proposals and shall include the criteria that will be used in judging the development proposals submitted to assure maximum overall public benefits. The plan as adopted will, for purposes of chapter thirty B of the General Laws, be considered the plan required by clause (25) of subsection (b) of section one of said chapter thirty B.

"Economic development project", (1) a project to be undertaken in accordance with an economic development plan for acquisition by the corporation of land and the improvements thereon, if any, within an economic development area covered by an economic development plan and for clearance and development of the land so acquired; or (2) a project for the rehabilitation or conservation of an economic development area, or for the demolition, removal, or rehabilitation of improvements on land within an economic development area whenever necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards, or eliminate obsolete or other uses detrimental to the public welfare; or (3) a project involving any combination of the foregoing types of projects. An economic development project may include improvements necessary for carrying out the objectives of the economic

development project, together with such site improvements as are necessary for the preparation of any site for uses in accordance with the economic development plan, and making any land or improvements acquired in the area of the project available for redevelopment or rehabilitation by private enterprise, including sale, initial leasing or retention by the corporation for light industrial or manufacturing, commercial or residential uses in accordance with the economic development plan. An economic development project may also include the construction or demolition by the corporation, or a designated public or private entity, of any of the buildings, structures or other facilities for uses contemplated by the economic development plan and the repair, removal or rehabilitation by the corporation or a designated public or private entity of any of the buildings, structures or other facilities located in the area in accordance with the economic development plan.

"Town", the city known as the town of Watertown.

SECTION 3. The town is hereby authorized to organize the Watertown Arsenal Development Corporation, a public body politic and corporate, hereinafter referred to as the corporation. No such corporation, however, shall be organized, transact any business, employ any personnel or exercise any powers until the town council with the recommendation of the town manager shall by vote declare a need for such a corporation to assist with the conversion and redevelopment of land formerly used for military purposes to nonmilitary uses and to develop decadent, substandard and blighted open areas as security against future unemployment because a lack of business opportunity and a lack of sufficient residential units is hampering efforts aimed at attracting new industry and commerce into the town and substantially expanding existing industry, commerce and housing and that an economic development project or projects financed under this act and implemented by such a corporation would alleviate unemployment, lack of business opportunity and residential problems.

The corporation shall be managed by a board of directors consisting of nine members, six of whom shall be appointed by the town manager and approved by the town council. The three remaining members shall be members of the town council, all of whom shall be approved by a majority vote of the town council. In the event that a council member's term on the town council terminates prior to the end of that member's appointment as a member of the board of directors, the vacancy shall be filled by the council president, by appointment, for the unexpired term. Of the six members to be appointed by the town manager, at least one shall be experienced in financial matters, one in real estate matters and one shall be a representative of the legal profession. All members of the board of directors shall be residents of the town. The town manager shall designate one of the nine members as chairman and another as vice-chairman. Each of the nine members shall be sworn to the faithful performance of his official duties as a director of the corporation. A majority of the nine directors shall constitute a quorum for the transaction of any business, but any action of the board of directors shall require the affirmative vote of a majority of the entire board. For the purposes of section eleven A of chapter thirty A of the General Laws, the corporation shall be deemed to be an authority established by the general court to serve a public purpose in the commonwealth. The original members of the board of directors of the corporation

shall be chosen as soon as possible following the effective date of this act. All shall serve for an initial period ending on May fifteenth, nineteen hundred and ninety-seven and then for an additional term according to their appointments. Of the members of the board of directors of the corporation first appointed, three shall be appointed to serve for one year from May fifteenth, nineteen hundred and ninety-seven, three for two years from said date, and three for three years from said date. All terms thereafter shall be for three years. Upon the expiration of the term of office of any such member of the board of directors, or of any subsequent member of the board of directors, his successor shall be appointed in like manner for a term of three years. In the event of a vacancy in the office of a member of the board of directors appointed by the town manager, a substitute member shall be appointed in like manner to serve for the unexpired term. Unless reappointed, no member of the board of directors of the corporation shall hold office after the expiration of his term; and the appointment of a successor to any person whose term has expired shall be for the remainder of the term which would have begun at such expiration if the successor had then been appointed.

Any member of the board of directors may be removed by the town manager, with the approval of town council, for malfeasance, misfeasance, or willful neglect of duty, but only after reasonable notice and a public hearing by the town council, unless the same are in writing expressly waived. For purposes of chapter two hundred and sixty-eight A of the General Laws, the members of the board of directors of the corporation shall be deemed to be special municipal employees.

The members of the board of directors of the corporation shall receive no compensation for the performance of their duties hereunder, but each member shall be reimbursed for expenses actually incurred in the performance of his duties. Every such reimbursement shall be open to public inspection from and after the requisition therefor.

The corporation may be dissolved if the town council shall by vote declare that there is no longer a need for the corporation to provide the redevelopment and conversion assistance and development services described in the first paragraph and that the purpose of the corporation, as set forth in section one, has been fulfilled. Following a vote of dissolution as described herein, the corporation shall transact only such business as is necessary to conclude its affairs.

SECTION 4. The board of directors of the corporation shall adopt a corporate seal for the corporation, and designate the custodian thereof. The directors may from time to time appoint and at pleasure remove a clerk, a treasurer or such other officers of the corporation as they may deem necessary, and may determine their duties and their compensation, which shall be paid by the corporation; shall cause at all times accurate accounts to be kept of all receipts and expenditures of the funds of the corporation; and shall make a report annually to the town, containing an abstract of such accounts and detailed information of all receipts and expenditures, including prices paid for land purchased or taken and any buildings constructed thereon, contracts for construction of facilities and for the leasing thereof, and such other detailed information as may be deemed helpful. The office of treasurer and clerk may be held by the same person. The corporation shall cause

an audit of its books and accounts to be made at least once in each fiscal year by certified public accountants and the cost thereof shall be treated as an item of current expense. Except as otherwise provided in this act, the corporation shall have full power to exercise care of its property and the management of its business and affairs, and to sell and convey any real estate or other property not needed for its business or affairs, by deed or other instrument sealed with the corporate seal, signed and acknowledged by a majority of the board of directors or in like manner to authorize such sale and conveyance by any of its officers or agents. The treasurer shall give bond for the faithful performance of his duties, with a surety company authorized to do business in this commonwealth as surety, in such sum as the said board may determine, the premium therefor to be paid by the corporation. Neither chapter thirty-one of the General Laws nor any rule made thereunder shall apply to any person employed or engaged by the corporation under this act. For the purposes of chapter two hundred and sixty-eight A or paragraph (7) of section forty-four D of chapter one hundred and forty-nine of the General Laws, the corporation shall be considered a municipal agency and, without limiting the power of the town to classify additional special municipal employees pursuant to said chapter, any person who performs professional services for the corporation on a part-time, intermittent or consultant basis, such as those of architect, attorney, engineer, planner, or construction, financial, real estate or traffic expert, shall be considered a special municipal employee.

SECTION 5. The corporation is hereby authorized:

(*a*) To sue and be sued in its own name, and plead and be impleaded.

(*b*) To adopt rules for the regulation of its affairs and the conduct of its business, and to alter the same at its pleasure.

(*c*) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, and to employ consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts and attorneys and such other employees, agents and consultants as may be necessary in its judgment, and to fix their compensation.

(*d*) To receive and accept from any federal agency, the commonwealth or the town grants, loans or advances for or in aid of an economic development project or projects and to receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which such grants, loans, advances and contributions may be made. The town may borrow outside its debt limits to obtain money for loans to the corporation, or within its debt limits to obtain money for grants to the corporation.

(*e*) To borrow money and to borrow money against its income stream as well as its assets, and, from time to time, to make, accept, endorse and execute promissory notes, bills of exchange, and other obligations of the corporation, for moneys borrowed or in payment for property acquired or for any of the other purposes of the corporation, and to secure the payment of such obligations by mortgage, pledge, deed, indenture, agreement, or other instrument of trust, or by other lien upon, assignment of, or agreement in regard to all or any part of the property, rights, or privileges of the corporation.

(*f*) To invest any funds not required for immediate use or disbursement in certificates of deposit or in obligations of the government of the United States or in obligations the payment of the principal of, and interest on, which is guaranteed by the government of the United States; and subject to a specific vote of the board of directors, to invest funds in any fashion in which municipal funds may be invested pursuant to the provisions of chapter forty-four of the General Laws.

(*g*) To provide such advisory services and technical assistance as may be necessary or desirable to carry out the purposes of this act.

(*h*) To prepare or cause to be prepared plans, designs, drawings, specifications and estimates of cost for the construction, reconstruction, development, redevelopment, rehabilitation, remodeling, alteration or repair of economic development projects and from time to time modify such plans, designs, drawings, specifications and estimates.

(*i*) Subject to the approval of the town, by vote of the town council, to designate areas of the town within the AMTL site as economic development areas.

(*j*) To acquire and hold by bequest, devise, grant, gift, purchase, exchange, lease, judicial order or decree, or otherwise, for any of its objects and purposes, any property, either real or personal, or any interest therein; and without limiting the generality of the foregoing, to acquire by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper.

(*k*) To procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable.

(*l*) To clear and improve property acquired by it, and to engage in or contract for the construction, reconstruction, development, redevelopment, rehabilitation, remodeling, alteration or repair thereof.

(*m*) To arrange or contract with the town for the planning, replanning, opening, grading or closing of streets, roads, alleys or other places or for the furnishing of facilities or for the acquisition by the town of property or property rights or for the furnishing of property or services in connection with an economic development project or projects.

(*n*) To sell, convey, mortgage, lease, transfer, option, exchange or otherwise dispose of, any property, either real or personal, or any interest therein, as the objects and purposes of the corporation may require, subject to such limitations as may be prescribed by law.

(*o*) To loan on mortgages, including purchase money mortgages, on real estate and personal property within economic development areas, to foreclose the same when in default, and to bid for and purchase property at any foreclosure or other sale; and in such event, to deal with such property in such manner as may be necessary or desirable to protect the interests of the corporation therein.

(*p*) To manage any economic development project whether owned or leased by the corporation and to enter into agreements with the commonwealth or the town or any agency or instrumentality thereof or with any person, firm, partnership or corporation either public or private for the purpose of causing any project to be managed.

(*q*) To act with respect to one or more projects as a corporation organized under section three or section eighteen B of chapter one hundred and twenty-one A of the General

Laws; provided, however, that the accounts for each project shall be kept separately, and the income of one project shall not be expended upon or for the benefit of another project.

(*r*) To do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

SECTION 6. No economic development project shall be undertaken until (*a*) a public hearing relating to the economic development plan covering such project has been held by the corporation after due notice which shall include publication in a local newspaper of local circulation at least ten days in advance of said hearing; (*b*) the economic development plan has been approved by a majority vote of the town council with the recommendation of either the corporation or the arsenal reuse committee. If no economic development project covered by an economic development plan is commenced within seven years after the approval of such plan and the acquisition by the corporation of the land included in the economic development plan, the approval of such plan shall lapse.

Every economic development plan submitted to the town for approval under this act (*i*) shall require that every person conducting a business located in whole or in part in the economic development area covered by such plan during the period of twenty years after the approval of such plan, make every reasonable effort, in employing persons in his business, to give to the fullest practicable extent preference to residents of the town and (*ii*) shall prepare an annual report on the implementation of such plan for the corporation.

Notice of the public hearing required by the first paragraph of this section shall be given by the corporation to (1) such persons, groups and organizations as have requested in writing that such notice be given them, (2) any department or agency of the town which is likely in the judgment of the corporation to have an actual or potential interest in the economic development plan, (3) the senator for the senatorial district or districts and the representative for the representative district or districts of the commonwealth within which the economic development area or any part thereof lies, and (4) community groups known to the corporation that provide services or conduct programs within any portion of the economic development area. In the course of preparing an economic development plan, the corporation shall consult with each of the aforesaid so far as in the judgment of the corporation it is practicable.

If an economic development plan is so approved by the town the corporation shall have the powers and duties imposed by this act to undertake and carry out the economic development projects covered by such plan.

SECTION 7. The corporation shall be liable in contract and in tort in the same manner as a municipal corporation. The directors, employees, officers and agents of the corporation shall not be liable as such on its contracts or for torts not committed or directly authorized by them. The property or funds of the corporation shall not be subject to attachment or to levy and sale on execution, but if the corporation refuses to pay a judgment entered against it in any court of competent jurisdiction, the superior court, sitting within and for the county in which the corporation is situated, may, by writ of mandamus, direct the treasurer of such corporation to pay such judgment. The real estate owned by the corporation shall not be subject to liens under chapter two hundred and fifty-four of the

General Laws but the provisions of sections twenty-eight and twenty-nine of chapter one hundred and forty-nine of the General Laws shall be applicable to any construction work by the corporation.

SECTION 8. The real estate and tangible personal property of the corporation shall be deemed to be public property used for essential public and governmental purposes and shall be exempt from taxation and from betterments and special assessments; provided, however, that in lieu of such taxes, betterments and special assessments, the town may determine a sum to be paid to it annually in any year or period of years, such sum to be in any year not in excess of the amount that would be levied at the then current tax rate upon the average of the assessed value of such real estate, including buildings and other structures, for the three years preceding the year of acquisition thereof, the valuation for each year being reduced by all abatements thereon.

The town may, however, agree with the corporation upon the payments to be made, or the corporation may make and the town may accept such payments, the amount of which shall not in either case be subject to the foregoing limitation.

Nothing in this act shall be construed to prevent the taxation, to the same extent and in the same manner as other real estate is taxed, of real estate sold or otherwise transferred by the corporation pursuant to an economic development project, or the taxation to the same extent and in the same manner as real estate of the commonwealth is taxed, of real estate acquired by the corporation pursuant to an economic development project and thereafter leased by the corporation; provided, however, that real estate so acquired by the corporation and sold or leased to an urban redevelopment corporation or other entity operating under chapter one hundred and twenty-one A of the General Laws or to an insurance company or savings bank or group of savings banks operating under said chapter, shall be taxed as provided in said chapter and not otherwise. In addition, so long as the corporation owns a parcel of land within an economic development area and has a reversionary interest in any building constructed upon such parcel, the town may enter into a payment in lieu of tax agreement with the corporation even though the parcel as improved is leased to a for-profit entity.

The corporation and the debentures issued 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 by the commonwealth or any subdivision thereof.

SECTION 9. The town may borrow or otherwise appropriate, or may agree with the corporation or with the federal government or the commonwealth to borrow or otherwise appropriate, in aid of the corporation, such sums as may be necessary to carry out the purposes and powers of the corporation, including defraying part of the development, acquisition and operating costs of any economic development project. Indebtedness of the town authorized under this section shall be outside the limit of indebtedness prescribed in section ten of chapter forty-four of the General Laws and shall be payable within twenty years and otherwise subject to sections sixteen to twenty-seven, inclusive, of said chapter forty-four; provided, however, that the total amount of indebtedness of the town outstanding at any one time under this section and clauses one, two, and four of section twenty of chapter

one hundred and twenty-one B of the General Laws shall not exceed five percent of the town's equalized valuation as defined in section one of said chapter forty-four. Indebtedness incurred under this act shall also be subject to approval under section twenty-two of said chapter one hundred and twenty-one B in like manner as indebtedness incurred under said section twenty.

SECTION 10. Insofar as the provisions of this act are inconsistent with the provisions of any other law, general or special, excluding the state building code or any corresponding ordinance or regulation of the town, the provisions of this act shall be controlling.

SECTION 11. This act, being necessary for the welfare of the commonwealth and the town and its inhabitants, shall be liberally construed to effect the purpose thereof.

SECTION 12. This act shall take effect upon its passage.

Approved January 6, 1997.

Chapter 461. AN ACT ESTABLISHING THE WAYLAND WASTEWATER MANAGEMENT DISTRICT COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. It is hereby declared essential for the benefit of the people of the town of Wayland, in order that there be an increase in their welfare, prosperity, an improvement in their living conditions and greater protection of drinking water supplies, that said town through its commission establish an economical and efficient wastewater management system as needed and where appropriate; that accurate, appropriate, and self-sustaining fees, rates and charges for the wastewater collection, treatment and disposal services provided by the commission be established and that all consumers of such service, public and private, taxpayer and tax exempt, pay their fair share of the costs of such service; that the wastewater management system of said commission be operated in a modern, efficient and financially self-sustaining manner to further its sound financial, environmental and physical condition; that the remedying of failing or inadequate systems be facilitated; that the implementation and financing of on-site systems including alternative systems for single facilities be facilitated; that conservation of water sources be encouraged; that the implementation of Title V of the state environmental code be facilitated so as to protect and improve ground water supplying drinking water; that said town be provided a means to improve its treatment and disposal of wastewater and insure the continued availability of wastewater treatment and disposal services at sufficient rates; all to the public benefit and good, and to the extent and in the manner provided herein.

SECTION 2. This act shall be known and may be cited as the Wayland Wastewater Management District Commission Act.

SECTION 3. As used in this act, the following words shall, unless the context otherwise requires, have the following meanings:-

"Board of health", the board of health of the town of Wayland.

"Bonds or bond", bonds, notes and other obligations or evidences of indebtedness of the town of Wayland issued for the commission under the provisions of this act.

"Commission", the wastewater management district commission of said town established by section four.

"Costs", applied to any extension, improvement or enlargement of the wastewater management system or to any other project of the commission financed under the provisions of this act; all or any part of the cost of acquisition, construction, reconstruction, alteration, and remodeling of such work, including, without limiting the generality of the foregoing, costs of labor, materials, machinery and equipment, lands, structures, and all rights of any kind in real and personal property, costs of demolitions or relocations, costs of removal or relocation of any public utilities facilities, financing charges and expenses, interest prior to, during and for a period after completion of such work, reserves for debt service and other capital and current expenses, costs of architectural, engineering, financial, legal and consulting services, costs of plans, specifications, appraisals, surveys, inspections, financial and feasibility studies, expenses of organization, administration and operations prior to the commencement of and during such work, costs of equipment and supplies and advance training of operating personnel and other expenses of completing and commencing operation of such work, working capital, and other expenses, necessary or incidental, to the acquisition, construction, financing and placing in operation of such work.

"Current expenses", the commission's current expenses, whether or not annually recurring, relative to maintaining, repairing and operating the wastewater management system and any other properties of said commission, including, without limiting the generality of the foregoing, administrative, general system payments and other employee benefits, engineering expenses for maintenance, operation and repairs, legal, financial and auditing expenses, insurance and surety bond premiums, fees and expenses of trustees and paying agents, payments to others for services rendered to said commission, taxes which may be lawfully imposed upon said commission or its income or operations or the property under its control, and other current expenses required or permitted by law to be paid by said commission, including the funding of reasonable reserves for maintenance, repair, replacements or operations.

"Revenues", all revenues, rates, fees, charges, rents and other receipts derived from the operation of the wastewater management system and all other properties of said commission, including, without limiting the generality of the foregoing, bond proceeds, proceeds of any grant or loan to said commission, investment earnings and the proceeds of insurance, condemnation, sale or other disposition of properties.

"Town", the town of Wayland.

"Wastewater management system", the wastewater collection, treatment and disposal systems serving more than one facility as defined in Title V of the state environmental code to be constructed and or to be in the possession of and under the jurisdiction, control and regulation of said commission, but owned by said town, including all plants, works, instrumentalities or parts thereof, lands, easements, rights in land and water rights, rights of

way, contract rights, franchises and privileges, all publicly constructed main, trunk, intercepting, connecting, lateral, outlet and other sewers, outfalls, pumping and ventilating stations, disposal and treatment plants, or works, structures, equipment, vehicles, appliances, and other adjuncts thereto, and any other property or interests in property, real or personal, incidental to and included in such wastewater disposal systems, and all facilities, betterments, extensions, improvements and enlargements thereto hereafter constructed or acquired.

"Wastewater", greywater and blackwater from domestic, commercial and other non-industrial sources as defined in said Title V of the state environmental code.

SECTION 4. There is hereby established in the town of Wayland a commission to be known as the wastewater management district commission which shall have all the rights, powers, and duties specified in this act and the General Laws relating to town boards, and shall be subject to such instructions as said town may from time to time impose by vote of its town meeting.

Except as otherwise provided in this act, said commission shall consist of three members, each of whom shall be a resident of the town. The members shall be appointed by the board of selectmen within sixty days after the effective date of this act. The members shall include one member with extensive experience in the field of administration or business, and one member with extensive experience in the field of finance or accounting. Of the members first appointed, one shall serve in office for a term expiring on June thirtieth in the year following the effective date of this act, and one for a term expiring on June thirtieth, in the second year following the effective date of this act and one for a term expiring on June thirtieth, in the third year following the effective date of this act. Thereafter, the board of selectmen shall appoint successors for a term of three years or, in the case of an appointment to fill a vacancy, for the unexpired term, and until his successor is appointed and qualified. Any member of said commission shall be eligible for reappointment. Any member of said commission may be removed at any time for cause. No vacancy in the membership of said commission shall impair the right of a quorum to exercise the powers of said commission. Two members of said commission shall constitute a quorum and the affirmative vote of two members shall be necessary for any action taken by vote of said commission.

Said commission shall annually elect one of its members as chair. Said commission may establish, with the approval of said board of selectmen a reasonable per diem compensation for its members for attendance upon the business of said commission. Such amount may be payable to each member for one day in each month and for any additional days as may be approved by said board of selectmen. In addition, each member may be reimbursed for all reasonable and necessary expenses incurred in the discharge of official duties as approved by said commission.

SECTION 5. Said commission may appoint, employ and determine the compensation, duties and conditions of employment of an executive director and such other officers as said commission shall deem necessary, who shall not be members of said commission and who shall serve at the pleasure of said commission; provided, however, that

said commission may bind itself by contract to employ an executive director, and such other officers, but no such contract may be for a period of more than five years. The executive director shall be the chief executive officer of said commission and shall administer and direct its affairs as authorized or approved by said commission and shall have such of the powers and perform such of the duties of said commission as said commission may from to time have delegated to him and not recalled. The executive director or designee as approved by said commission shall be the secretary of said commission and shall keep a record of the proceedings of said commission and shall be custodian of all books, documents and papers filed with said commission in the minute book or journal of said commission and its official seal. The executive director and any other officer designated by said commission for this purpose, each alone, may cause copies to be made of all minutes and other records and documents of said commission and may give certificates under its official seal to the effect that such copies are true copies, and all persons dealing with said commission may rely upon such certificates.

Said commission may from time to time hire, transfer or otherwise appoint or employ engineers and such other experts, and other consultants and employees as it deems necessary and determine their duties.

SECTION 6. The commission shall have all the rights and powers necessary or convenient to carry out and effectuate this act, including, but without limiting the generality of the foregoing, the rights and powers:

(*a*) to adopt rules, regulations, and procedures in connection with the performance of its functions and duties, and regarding the use of, and connection to, the wastewater management system. Said commission may, by regulation, prescribe civil penalties, which shall enure to said town, in accordance with section ten of chapter eighty-three of the General Laws for the violation of any rule or regulation prescribed by said commission. Said commission may further assess fines not exceeding three hundred dollars for each violation of its rules and regulations in accordance with section twenty-one of chapter forty of the General Laws;

(*b*) to maintain an office in said town at such place or places as it may determine;

(*c*) to apply for, receive, accept, administer, expend and comply with the conditions, obligations and requirements respecting any grant, gift, loan, including without limitation any grant, gift or loan from agencies of local, state and federal governments, donation or appropriation of any property or money in aid of the purposes of said commission and to accept contributions of money, property, labor or other things of value;

(*d*) to acquire in the name of said town by purchase, lease, lease-purchase, sale and leaseback, gift or devise, or to obtain options for the acquisition of, any property, real or personal, tangible or intangible, or any interest therein, in the exercise of its powers and the performance of its duties;

(*e*) to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to, any property, real or personal, tangible or intangible, or any interest therein, consistent with all requirements of the General Laws;

(*f*) to enter onto any land to make surveys, borings, soundings and examinations

thereon, provided that said commission, notwithstanding section three, shall make reimbursements for any injury or actual damage resulting to such lands and premises caused by any act of its authorized agents or employees and shall so far as possible restore the land to the same condition as prior to making of such surveys, borings, soundings and examinations; and to acquire by eminent domain any interest in real property within said town in the name of said commission in accordance with the provisions of chapters seventy-nine and chapter eighty A of the General Laws or any alternative method provided by law; provided, however, that said commission shall not exercise the power of eminent domain without the prior approval of the town meeting and the selectmen of said town. Said commission may order the removal or relocation of any conduits, pipes, wires, poles or other property located in public ways or places or in or upon private lands, which it deems to interfere with the laying out, construction or operation of any wastewater disposal project, and the proper authorities shall grant new locations for any such structure so removed or relocated, and the owner thereof may be reimbursed by said commission for reasonable cost of such removal or relocation. Such orders, to the extent specified therein, shall be deemed a revocation of the right or license to maintain such tracks, pipes, conduits, wires, poles or other property in such public ways or places, and the private owner of any such structures in public ways or lands shall comply with any such order of said commission relating to any such structure in public ways or lands. If any such owner shall fail to comply with any such order of said commission relating to any such structure in public ways and places within a reasonable time, to be fixed in the order, said commission may discontinue and remove such tracks, conduits, pipes, wires, poles or other property, and may relocate the same, and the cost of such discontinuance, removal or relocation shall be repaid to said commission by owner. No such discontinuance, removal or relocation shall entitle the owner of the property thus affected to any damages on account thereof, except for reimbursement of cost provided for above. This section shall not apply to facilities on property of the commonwealth under the control of the department of highways or the metropolitan district commission or installed under license or permits granted by said department or commission, except with its approval;

(*g*) to contract for and purchase wastewater disposal and treatment services from, and to provide wastewater disposal and treatment services to, any person, private or public corporation or public instrumentality or town, the commonwealth and the federal government when necessary or convenient for the operation of the wastewater management system;

(*h*) to construct, improve, extend, enlarge, maintain and repair the wastewater management system; provided, however, despite anything else in this act to the contrary, the power granted in this clause to construct, extend and enlarge the wastewater management system shall be limited in that the commission shall not provide service to:

(1) replace, repair or upgrade an existing facility's system at the same design flow unless and until the board of health has approved such replacement, repair or upgrade; unless there is a request by said board of health based on the need to protect the public health, welfare, or the environment, or unless the facility's system is provided for in a permit issued

by the Massachusetts department of environmental protection;

(2) a new facility's system or for an increase in design flow to an existing facility's system if that new system or increase in design flow could not have been permitted in the absence of this act, unless there is a request by said board of health based on the need to protect the public health, welfare, or the environment, or unless the facility's system is provided for in a permit issued by said department of environmental protection;

(*i*) to use monies borrowed or appropriated by said town for the purposes of this act;

(*j*) to make contracts of every name and nature and to execute and deliver all instruments necessary or convenient for carrying out any of its purposes;

(*k*) to exercise the powers and privileges of, and to be subject to limitations upon towns and cities provided by the provisions of sections one to twenty-four, inclusive, and twenty-seven to twenty-nine, inclusive, of chapter eighty-three of the General Laws, insofar as such provisions may be applicable and are consistent with the provisions of this act;

(*l*) to provide financing, technical and administrative assistance and to provide or cause to be provided maintenance for systems, including alternative systems, serving single facilities, as defined in Title V of the state environmental code;

(*m*) to administer and execute the provisions of section one hundred and twenty-seven B½ of chapter one hundred and eleven of the General Laws as they pertain to inadequate septic tanks; provided, however, that said board of health has first made findings consistent with its authority as provided in said section one hundred and twenty-seven B½ as to any affected owner;

(*n*) to create an overall wastewater policy and plan for said town;

(*o*) to do all things necessary, convenient or desirable for carrying out the purposes of this act or the powers expressly granted or necessarily implied in this act;

(*p*) consistent with the constitution and laws of the commonwealth, said commission shall have such other powers as may be necessary for or incident to carrying out the foregoing powers and the accomplishment of the purposes of this act; provided, however, that nothing in this act shall impose any duty on said commission to maintain groundwater levels within or without the boundaries of said town.

SECTION 7. In addition to the powers of the commission otherwise provided herein, said commission shall have the following powers and shall be subject to the following limitations:

(*a*) Said commission is authorized and empowered to fix, revise, charge, collect and abate fees, rates, rents, assessments, delinquency charges and other charges for wastewater collection, treatment and disposal and other services, facilities and commodities furnished or supplied by it. Subject to paragraph (*c*), fees, rates, rents, assessments, delinquency charges and other charges of general application shall be adopted and revised by said commission at least annually in accordance with procedures to be established by said commission for assuring that interested persons are afforded notice and an opportunity to present data, views and arguments. Said commission shall hold at least one public hearing on its schedule of fees, rates and charges or any revision thereof prior to adoption, notice of which shall be delivered to the legislative and executive bodies of said town and be pub-

lished in a newspaper of substantial circulation in said town at least one month in advance of the hearing. No later than the date of such publication, said commission shall make available to the public and deliver to the selectmen its most recent financial statement, the proposed schedule of fees, rates and charges and its proposed operating and capital budgets for its next fiscal year. Said commission may combine its fees, rates and other charges for wastewater services provided by it in a single schedule of charges. Fees, rates, rents, assessments, abatements and other charges established by said commission shall not be subject to supervision or regulation by any department, division, commission, board, bureau, or agency of the commonwealth or any of its political subdivisions.

(*b*) Subject to paragraph (*e*), the fees, rates, rents, assessments and other charges established by the commission in accordance with paragraph (*a*) shall be so fixed and adjusted in respect to the aggregate thereof so as to provide revenues at least sufficient (*i*) to pay the current expenses of said commission, (*ii*) to pay the principal of, premium, if any, and interest on bonds or other evidences of indebtedness issued by said town for said commission as the same become due and payable, (*iii*) to create and maintain such reasonable reserves as may be reasonably required by any trust agreement or resolution securing bonds, (*iv*) to provide funds for paying the cost of all necessary repairs, replacements and renewals of the wastewater management system and (*v*) to pay or provide for any amounts which said commission may be obligated to pay or provide for by law or contract including any resolution or contract with or for the benefit of the holders of bonds issued for said commission. The annual operating budget of said commission shall be submitted to the finance committee for review and recommendation, and all funds expended by said commission shall be subject to appropriation by town meeting.

(*c*) Said commission shall undertake a study and examination of its estimated expenses and costs of constructing, maintaining, operating and improving the system, and shall prior to one year after the effective date of this act promulgate in accordance with paragraph (*a*) a schedule of fees, rents, rates and other charges sufficient thereafter to satisfy the requirements of paragraph (*b*). Such schedule shall become effective upon promulgation. Such schedule shall provide for the metering, monitoring and other measuring of, and charging for, wastewater management services provided by said commission to consumers of such services in said town, including said town, the commonwealth and all independent agencies and authorities of said town and the commonwealth, and any exemptions from such charges provided to the commonwealth or said town 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 said commission under the authority of chapters forty, eighty, eighty-three of the General Laws or any other provision of law against property owned by the commonwealth or any town of the commonwealth, or any political subdivisions thereof.

(*d*) Said commission shall have the benefit, without further acceptance of sections sixteen A and sixteen B of said chapter eighty-three, to the extent applicable and consistent with this act. Applications for abatements in accordance with section sixteen E of said chapter eighty-three shall be made within thirty days after the date of such demand. Upon

written application, said commission shall issue lien certificates in accordance with section twenty-three of chapter sixty of the General Laws. No recordation of certificates issued by said town pursuant to said section twenty-three of said chapter sixty shall affect liens for the unpaid fees, rates, rents, assessments, and other charges of said commission.

(*e*) Said town is hereby authorized to establish an Enterprise Fund in accordance with the provisions of section fifty-three F½ of chapter forty-four of the General Laws for the operation of the wastewater management system.

(*f*) On or before one year after the effective date of this act and annually thereafter, said commission shall prepare a proposed capital improvement program for the next three succeeding fiscal years of said commission and shall adopt a capital improvement budget for the next succeeding fiscal year. Such program and budget shall include a description of the projects proposed to be undertaken during such periods, the costs proposed to be incurred on such projects, the method of financing such costs and an estimate of the effect, if any, that such costs will have on the current or projected fees, rates, rents and other charges of said commission. The program and budget shall be annually prepared and the budget shall be presented for approval to the town meeting without review or approval of the board of selectmen. Said commission shall submit its capital budget to the finance committee for review and recommendation. Said commission shall hold at least one public hearing on the proposed capital improvement program and budget prior to adoption, which hearing may be combined with a hearing provided in paragraph (*a*), notice of which shall be delivered to said board of selectmen and be published in a newspaper of substantial circulation in said town at least one month in advance of the hearing. No later than the date of such publication said commission shall make available to the public and deliver to said board of selectmen copies of the proposed program and budget. Said town may incur debt for development of the wastewater management system in accordance with chapter forty-four of the General Laws.

(*g*) Any wastewater management system, as defined in section three, shall be subject to the rules and regulations of said board of health of said town, applicable laws of the commonwealth and any approvals required thereunder.

(*h*) The activities of said commission shall be consistent with the official planning documents adopted from time to time by said town boards and commissions including, without limitation, said town of Wayland Open Space and Recreation Plan.

(*i*) No owner of a home, facility or lot who can demonstrate compliance with Title V of the state environmental code and the regulations of said board of health shall be compelled to join the wastewater management system unless required to do so by said board of health or otherwise required to do so by law. Notwithstanding the provisions of section three of chapter eighty-three of the General Laws, said commission shall not be required to connect any home, facility or lot to the wastewater management system.

SECTION 8. The principal of, premium, if any, and interest on all notes and bonds issued by said town for said commission, unless otherwise provided by said town, shall be payable solely from the funds provided therefor from revenues as herein provided, but shall be general obligations of said town for payment of which the full faith and credit of said town shall be pledged.

SECTION 9. Insofar as the provisions of this act are inconsistent with the provisions of any general or special law, administrative order or regulation, or law of said town other than rules and regulations of the board of health, the provisions of this act shall be controlling.

SECTION 10. This act, being necessary for the welfare of the town of Wayland and its inhabitants, shall be liberally construed to effect its purposes.

SECTION 11. This act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

SECTION 12. This act shall take effect upon its passage.

Approved January 6, 1997.

Chapter 462. AN ACT RELATIVE TO CERTAIN INDUSTRIAL PROPERTY IN THE TOWN OF CHARLTON.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the United States Generating Company's electric generation facility located in the town of Charlton shall be exempt from local property taxation; provided, however, that said exemption shall be allowed for a period not to exceed twenty-five years from the effective date of this act; and, provided further, that said facility shall be exempt only if the owner thereof has entered into an agreement with the board of selectmen and the board of assessors of said town of Charlton, which boards are hereby jointly authorized to enter into such agreement for and on behalf of the town upon such terms as is deemed to be in the town's best interests, whereby said company shall: (1) forego obtaining manufacturing corporation classification and local property taxation exemption pursuant to paragraph (3) of the clause Sixteenth 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 that the company would pay as a manufacturing corporation so classified. For the purposes of this section, electric generation facility shall mean all real property, including land, and all personal property used in connection with the production of electricity.

Approved January 6, 1997.

Chapter 463 AN ACT AUTHORIZING THE BOSTON REDEVELOPMENT AUTHORITY TO WITHDRAW CERTAIN PARCELS OF REGISTERED LAND FROM THE REQUIREMENTS OF LAND COURT REGISTRATION.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section two of chapter four hundred and forty-five of the acts of nineteen hundred and seventy-eight or any other general or special law to the contrary, the Boston Redevelopment Authority and the registered owners of parcels of land described in certificate number 109255 are hereby authorized to file a petition with the land court to withdraw said parcels from the provisions of chapter one hundred and eighty-five of the General Laws; provided, however, that said Boston Redevelopment Authority determines by majority vote of its members that such withdrawal serves the public interest and convenience. Such determination shall be sufficient ground for allowing such withdrawal. The land court shall render its decision on the petition within thirty days after the filing of said petition.

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

Approved January 6, 1997.

Chapter 464. AN ACT AUTHORIZING THE TOWN OF DUDLEY TO ASSESS TAXES IN EXCESS OF ITS LEVY LIMITATION.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section twenty-one C of chapter fifty-nine of the General Laws, the town of Dudley, acting by and through its board of selectmen, is hereby authorized to assess taxes in excess of the levy limitation imposed by said section twenty-one C for the purpose of paying said town's share of the capital costs of the town of Webster's treatment plant in accordance with an intermunicipal agreement entered into in nineteen hundred and eighty-six, including any amendments thereto, for the fiscal year nineteen hundred and ninety-seven and for fiscal years subsequent thereto. Water and sewer charges assessed by said town of Dudley shall be reduced in an amount equal to the additional taxes assessed hereunder.

Emergency Letter: January 9, 1997 @ 4:19 P.M. Approved January 6, 1997.

Chapter 465. AN ACT RELATIVE TO CREDITABLE SERVICE FOR SERVICE RENDERED IN UNITED STATES OVERSEAS DEPENDENT SCHOOLS.

Be it enacted, etc., as follows:

Subdivision (4) of section 3 of chapter 32 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 473 to 478, the words "; and provided further, in the case of service rendered in such overseas dependent school, the member was a member of the teachers' retirement system upon his entrance into the service of said overseas dependent school and returned to the service of the public schools in the commonwealth immediately upon the termination of his service in said overseas dependent school".

Approved January 9, 1997.

Chapter 466. AN ACT AUTHORIZING AND DIRECTING THE CITY OF QUINCY TO PAY A CERTAIN RETIREMENT BENEFIT TO THE SURVIVING SPOUSE OF ROBERT D. HURLEY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary and for the purpose of promoting the public good, the city of Quincy is hereby authorized and directed to pay to the surviving spouse of Robert D. Hurley, a firefighter of the fire department of said city of Quincy, an accidental death benefit as provided under the provisions of section nine of chapter thirty-two of the General Laws.

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

Approved January 9, 1997.

Chapter 467. AN ACT RELATIVE TO HEALTH INSURANCE IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately increase the affordability of health 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. Subsection (a) of section 5 of chapter 176J of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 2, the words "an actual or expected health condition" and inserting in place thereof the following words:- age, occupation, actual or expected health condition, claims experience, duration of coverage, or medical condition of such person.

SECTION 2. Section 7 of said chapter 176J is hereby amended by striking out, in line 3, as appearing in section 27 of chapter 297 of the acts of 1996, the words "who pur-

chase a health benefit plan from the carrier" and inserting in place thereof the following words:- enrolled in a health benefit plan offered by the carrier.

SECTION 3. Section 1 of chapter 176M of the General Laws, as appearing in section 29 of said chapter 297, is hereby amended by inserting after the definition of "Actuarial opinion" the following definition:-

"Adjusted composite rate", the composite rate for each guaranteed issue health plan issued by a carrier adjusted in a consistent manner to be prescribed by the commissioner by regulation to account for differences in premiums between carriers that are the result of (i) geographic differences in the cost of health care, (ii) the average age of eligible individuals enrolled in a carrier's guaranteed issue health plan; and (iii) differences in benefit levels as permitted by subsection (d) of section two.

SECTION 4. Said section 1 of said chapter 176M, as so appearing, is hereby further amended by striking out the definition of "Carrier" and inserting in place thereof the following definition:-

"Carrier", an insurer licensed or otherwise authorized to transact accident and health insurance under chapter one hundred and seventy-five or the laws of any other jurisdiction; a nonprofit hospital service corporation organized under chapter one hundred and seventy-six A or the laws of any other jurisdiction, a nonprofit medical service corporation organized under chapter one hundred and seventy-six B or the laws of any other jurisdiction; a health maintenance organization organized under chapter one hundred and seventy-six G or the laws of any other jurisdiction; and an insured health plan that includes a preferred provider arrangement organized under chapter one hundred and seventy-six I or the laws of any other jurisdiction. For the purposes of this chapter, carriers that are affiliated companies shall be treated as one carrier; provided, however, that a carrier shall offer a guaranteed issue health plan in every geographic area served by one or more of its affiliates. Joint marketing ventures between carriers shall not constitute an affiliation.

SECTION 5. Said section 1 of said chapter 176M, as so appearing, is hereby further amended by striking out the definition of "Closed plan" and inserting in place thereof the following definition:-

"Closed plan", a nongroup health plan issued by a carrier to a natural person for said person, as well as any covered dependents, prior to the first day of the first open enrollment period specified in subsection (b) of section three. A carrier may permit a natural person to continue to add new dependents to a policy issued under a closed plan.

SECTION 6. Said section 1 of said chapter 176M, as so appearing, is hereby further amended by striking out the definition of "Conversion nongroup health plan" and inserting in place thereof the following definition:-

"Conversion nongroup health plan", a nongroup health plan, offered, sold, issued, delivered, made effective or renewed by a carrier to a former employee or member or the dependents, including a spouse of said former employee or member, within or without the commonwealth pursuant to the terms of a group policy, contract or agreement with said former employee's former employer, or through a trust or association; provided, however, that this definition shall not include a group policy, contract, or agreement issued to any

natural person eligible for continued group coverage under section four thousand nine hundred and eighty B of the Internal Revenue Code of 1986, as amended, under sections six hundred and one to six hundred and eight, inclusive, of the Employee Retirement Income Security Act of 1974, as amended, under sections two thousand two hundred and one to two thousand two hundred and eight, inclusive, of the Public Health Service Act, as amended, or under section nine of chapter one hundred and seventy-six J.

SECTION 7. Said section 1 of said chapter 176M, as so appearing, is hereby further amended by striking out the definition of "Guaranteed issue managed care plan" and inserting in place thereof the following definition:-

"Guaranteed issue managed care plan", a nongroup health plan, including a conversion nongroup health plan, sold, issued, delivered, made effective or renewed by a carrier, within or without the commonwealth pursuant to chapter one hundred and seventy-six G or the laws of any other jurisdiction, to any eligible individual for said individual or his eligible dependents regardless of age, occupation, actual or expected health condition, claims experience, duration of coverage or medical condition of such person, subject to the exclusions set forth in this chapter, that provides the benefits specified in subsection (c) of section two. A carrier may establish no more than one guaranteed issue managed care plan.

SECTION 8. Said section 1 of said chapter 176M, as so appearing, is hereby further amended by striking out the definition of "Guaranteed issue medical plan" and inserting in place thereof the following definition:-

"Guaranteed issue medical plan", a nongroup health plan, including a conversion nongroup health plan, sold, issued, delivered, made effective or renewed within or without the commonwealth by a carrier pursuant to either chapter one hundred and seventy-five, one hundred and seventy-six A or chapter one hundred and seventy-six B or the laws of any other jurisdiction to any eligible individual for said individual or his or her eligible dependents regardless of age, occupation, actual or expected health condition, claims experience, duration of coverage or medical condition of such person, subject to the limitations set forth in this chapter, that provides the benefits specified in subsection (c) of section two. A carrier may establish no more than one guaranteed issue medical plan.

SECTION 9. Said section 1 of said chapter 176M, as so appearing, is hereby further amended by striking out the definition of "health plan" and inserting in place thereof the following definition:-

"Health plan", any individual, general, blanket, or group policy of health, accident or sickness insurance issued by an insurer licensed under chapter one hundred and seventy-five or the laws of any other jurisdiction; a hospital service plan issued by a nonprofit hospital service corporation pursuant to chapter one hundred and seventy-six A or the laws of any other jurisdiction; a medical service plan issued by a nonprofit hospital service corporation pursuant to chapter one hundred and seventy-six B or the laws of any other jurisdiction; a health maintenance contract issued by a health maintenance organization pursuant to chapter one hundred and seventy-six G or the laws of any other jurisdiction; and an insured health benefit plan that includes a preferred provider arrangement issued pursuant

to chapter one hundred and seventy-six I or the laws of any other jurisdiction. The words "health plan" shall not include accident only, credit or dental insurance, hospital indemnity insurance policies which for the purposes of this chapter shall mean policies issued pursuant to chapter one hundred and seventy-five which provide a benefit not to exceed two hundred and fifty dollars per day, as adjusted on an annual basis by the amount of increase in the average weekly wage in the commonwealth as defined in chapter one hundred and fifty-two, to be paid to an insured or a dependent, including the spouse of an insured, on the basis of a hospitalization of the insured or a dependent or disability income insurance issued as a supplement to liability insurance, insurance arising out of a worker's compensation law or similar law, automobile medical payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in a liability insurance policy or equivalent self insurance, long term care only insurance, or any policy subject to the provisions of chapter one hundred and seventy-six K. The commissioner may by regulation define other health coverage as a health plan for the purposes of this chapter.

SECTION 10. Said section 1 of said chapter 176M, as so appearing, is hereby further amended by striking out the definition of "Guaranteed issue preferred provider plan" and inserting in place thereof the following definition:-

"Guaranteed issue preferred provider plan", a nongroup health plan, including a conversion nongroup health plan, sold, issued, delivered, made effective or renewed within or without the commonwealth by a carrier pursuant to chapter one hundred and seventy-six I or the laws of any other jurisdiction to any eligible individual for said individual or his eligible dependents regardless of age, occupation, actual or expected health condition, claims experience, duration of coverage or medical condition of such person, subject to the limitations set forth in this chapter, that provides the benefits set forth in subsection (c) of section two. A carrier may establish no more than one guaranteed issue preferred provider plan.

SECTION 11. The definition of "Nongroup health plan" of said section 1 of said chapter 176M, as so appearing, is hereby amended by adding the following sentence:- The term nongroup health plan shall not include a health benefit plan issued or renewed to a natural person pursuant to chapter one hundred and seventy-six J.

SECTION 12. Said section 1 of said chapter 176M, as so appearing, is hereby further amended by striking out the definition of "Qualifying health plan".

SECTION 13. Said section 1 of said chapter 176M, as so appearing, is hereby further amended by striking out the definition of "Rating factor" and inserting in place thereof the following definition:-

"Rating factor", characteristics including, but not limited to age, occupation, sex, geography, actual or expected health condition, medical history, claims history, or duration of coverage.

SECTION 14. Section 2 of said chapter 176M, as so appearing, is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following two subsections:-

(a) Any nongroup health plan offered, sold, issued, delivered, made effective, or renewed by any carrier on or after August fifteenth, nineteen hundred and ninety-six shall comply with the provisions of this chapter; provided, however, that the offer, sale, issue, renewal or delivery of a conversion nongroup health plan shall not obligate the carrier to otherwise offer, sell, issue, renew or deliver a nongroup health plan to any person to whom it does not have such an obligation pursuant to a group policy, contract or agreement with an employer or through a trust or association; provided, however, that a conversion nongroup health plan shall be subject to all other requirements of this chapter.

(b)(1) As a condition of doing business in the commonwealth, a carrier that offers health benefit plans to qualified small businesses, as defined by chapter one hundred and seventy-six J, shall participate in the nongroup health insurance market. A carrier shall be exempt from this requirement if, as of the close of the preceding calendar year, the combined total of eligible employees and eligible dependents, as defined by chapter one hundred and seventy-six J, enrolled in health benefit plans offered by it to qualified small businesses does not exceed five thousand individuals.

(2) A carrier that, as of the close of the preceding calendar year, has a combined total of five thousand or more eligible employees and eligible dependents, as defined by chapter one hundred and seventy-six J, who are residents of the commonwealth and who are enrolled in health benefit plans sold, issued, delivered, made effective or renewed to qualified small businesses pursuant to its license under chapter one hundred and seventy-six G, shall be considered to be participating in the nongroup health insurance market only if it offers for sale, issue, delivery, effectuation or renewal to any eligible individual a guaranteed issue managed care plan, subject to the exceptions set forth in this chapter.

(3) A carrier that, as of the close of the preceding calendar year, has a combined total of five thousand or more eligible employees and eligible dependents, as defined by chapter one hundred and seventy-six J, who are residents of the commonwealth and who are enrolled in health benefit plans sold, issued, delivered, made effective or renewed to qualified small businesses pursuant to its license or licenses under chapter one hundred and seventy-five, chapter one hundred and seventy-six A or chapter one hundred and seventy-six B, shall be considered to be participating in the nongroup health insurance market only if it offers for sale, issue, delivery, effectuation or renewal to any eligible individual a guaranteed issue medical plan, subject to the exceptions set forth in this chapter. For the purposes of this section, neither an eligible employee, nor an eligible dependent, shall be considered to be enrolled in a health benefit plan issued pursuant to a carrier's license under chapter one hundred and seventy-five if said health benefit plan is sold, issued, delivered, made effective or renewed to said eligible employee or eligible dependent as a supplement to a health benefit plan subject to licensure under chapter one hundred and seventy-six G.

(4) A carrier that is required, pursuant to subsection (3), to offer for sale to any eligible individual a guaranteed issue medical plan may instead offer for sale, issue, delivery, effectuation or renewal to any eligible individual a guaranteed issue preferred provider plan, subject to the exceptions set forth in this chapter; provided, however, that nothing in this chapter shall prohibit a carrier from offering both a guaranteed issue medical plan and a

guaranteed issue preferred provider plan should it so choose.

SECTION 15. Paragraph (1) of subsection (c) of said section 2 of said chapter 176M, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Said contractors shall develop recommendations consistent with this section relative to the benefits to be provided by, and the cost sharing requirements of, the standard guaranteed issue managed care plan, the standard guaranteed issue medical plan, and the standard guaranteed issue preferred provider plan.

SECTION 16. Said subsection (c) of said section 2 of said chapter 176M, as so appearing, is hereby further amended by striking out paragraph (2) and inserting in place thereof the following paragraph:-

(2) After due consideration of the recommendations of the contractors, and no later than fourteen days after the submission of said recommendations, said board shall make final recommendations, upon which a majority of the members shall agree and which are consistent with the standards established in paragraph (1), to the commissioner relative to the benefits to be provided by, and the cost sharing requirements of, the standard guaranteed issue health plans. The commissioner shall, no later than fourteen days after the submission of the board's recommendations, either approve or disapprove said recommendations. The commissioner shall not modify the recommendations of said board. If the commissioner does not approve the recommendations of said board, said board shall, after consulting with the contractors, submit new recommendations, upon which a majority of the members agree and which are consistent with the standards established in said paragraph (1), to the commissioner no later than fourteen days following his decision to disapprove the standard benefit plans.

SECTION 17. Said subsection (c) of said section 2 of said chapter 176M, as so appearing, is hereby further amended by striking out paragraphs (5) and (6).

SECTION 18. Section 3 of said chapter 176M, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) No carrier shall exclude any eligible individual or eligible dependent on the basis of age, occupation, actual or expected health condition, claims experience, duration of coverage, or medical condition of such person, nor impose any pre-existing condition provision or waiting period in any guaranteed issue health plan.

SECTION 19. Subsection (b) of said section 3 of said chapter 176M, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- In calendar year nineteen hundred and ninety-seven, the carrier shall enroll eligible individuals into guaranteed issue health plans during an open enrollment period commencing June first and ending July thirty-first with coverage to become effective September first.

SECTION 20. Said section 3 of said chapter 176M, as so appearing, is hereby further amended by adding the following five subsections:-

(d) As of the first day of the first open enrollment period specified in subsection (b), no carrier shall issue a health plan to an eligible individual other than a guaranteed issue

health plan; provided, however, that a carrier may renew a closed plan for a period of no more than three years. A carrier shall file its rates for a closed plan in accordance with subsection (a) of section five. A closed plan shall not otherwise be subject to the requirements of section five. A closed plan shall not be subject to the requirements of section four. No carrier shall, during the allowable renewal period for a closed plan, add any new rating factor to the rating methodology which was applicable to its closed plan as of August fifteenth, nineteen hundred and ninety-six. A carrier shall permit a subscriber of a closed plan to enroll in a guaranteed issue health plan at any time during the allowable three year renewal period. All carriers with closed plans shall, pursuant to their underwriting guidelines, continue to enroll individuals into said closed plans until the first day of the first open enrollment period specified in subsection (b).

(e) No carrier shall knowingly issue a guaranteed issue health plan to any individual other than an eligible individual. A carrier may renew a nongroup health plan previously issued to an individual who is not an eligible individual only if said individual either was insured under said plan as of August fifteenth, nineteen hundred and ninety-six or was insured as of August fifteenth, nineteen hundred and ninety-six under a nongroup health plan issued by said carrier and said plan is no longer offered by the carrier.

(f) A carrier shall not be required to issue or renew a guaranteed issue health plan to any eligible individual if the carrier can demonstrate any of the following (1) that the acceptance of applications would create for the carrier a condition of financial impairment, and the carrier demonstrates the same to the commissioner; (2) that the eligible individual does not meet a health maintenance organization's requirements regarding residence or employment within the health maintenance organization's approved service area; or (3) that within an area, where the health maintenance organization reasonably anticipates, and demonstrates to the satisfaction of the commissioner, that it will not, within that area, have the capacity in its network of providers to deliver services adequately to the individual because of its obligation to existing contract holders and enrollees; provided, however, that such a health maintenance organization shall not offer coverage in the applicable area to any new applicants for coverage, whether they be applicants for group or nongroup coverage, until the later of ninety days after each such refusal or the date on which the health maintenance organization notifies the commissioner that it has regained capacity to deliver services to eligible individuals.

(g) A carrier shall not be required to issue or renew a guaranteed issue health plan to an eligible individual, and may cancel a previously issued guaranteed issue health plan, if (1) the individual failed to pay the required premium for any health benefit plan on a timely basis, (2) the individual committed fraud or misrepresented whether he qualifies as an eligible individual, (3) the individual failed to comply in a material way with the provisions of the health benefit plan, the member contract, or the subscriber agreement, or (f) the individual failed to comply with the carrier's reasonable request for information in accordance with subsection (d) of section four in the application for coverage under a guaranteed issue health plan. A premium shall be considered to have been paid on a timely basis if it is paid within sixty days.

(h) A carrier that decides to terminate coverage for all eligible individuals enrolled in a specific guaranteed issue health benefit plan shall notify the commissioner no later than ninety days prior to the beginning of the next open enrollment period that it is terminating coverage under that guaranteed issue health benefit plan and that it will not participate in the upcoming open enrollment period with respect to that plan. Such carrier shall continue to provide coverage until ninety days after the conclusion of the said open enrollment period or until all of such carrier's enrollees in that guaranteed issue health plan are transferred to another carrier providing guaranteed issue health plans to eligible individuals, whichever occurs first. A carrier may not terminate a guaranteed issue health plan if such termination would cause the carrier to violate subsection (b) of section two. A carrier who terminates guaranteed issue health plans pursuant to this subsection shall not issue any guaranteed issue health benefit plans pursuant to this subsection for a period of five years; provided, however, that the commissioner, in his discretion, may allow a carrier to re-enter the nongroup market sooner.

SECTION 21. Subsection (a) of section 4 of said chapter 176M, as so appearing, is hereby amended by striking out paragraph (1) and inserting in place thereof the following paragraph:-

(1) Each carrier shall establish a base premium rate for each rate basis type within each guaranteed issue health plan it offers. The premium charged to any eligible purchaser shall be limited to the base premium rate multiplied by the factors specified in paragraphs (2) and (3).

SECTION 22. Paragraph (2) of said subsection (a) of said section 4 of said chapter 176M, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A carrier may establish a premium rate adjustment based upon the age of an insured individual.

SECTION 23. Said paragraph (2) of said subsection (a) of said section 4 of said chapter 176M, as so appearing, is hereby further amended by striking out the third, fourth and fifth sentences and inserting in place thereof the following two sentences:- Between December first, nineteen hundred and ninety-six and November thirtieth, nineteen hundred and ninety-nine, a carrier may establish an age rate adjustment, the value of which may range from sixty-seven one-hundredths to one hundred and thirty-three one-hundredths. Effective December first, nineteen hundred and ninety-nine, the value of the age rate adjustment established by a carrier may range from eighty one-hundredths to one hundred and twenty one-hundredths.

SECTION 24. Said subsection (a) of said section 4 of said chapter 176M, as so appearing, is hereby further amended by striking out paragraph (4) and inserting in place thereof the following paragraph:-

(4) The premium rate charged by a carrier to each individual on the date of the individual's guaranteed issue health policy is issued or renewed shall be the base premium rate charged for that rate basis type, multiplied by the age rate adjustment, multiplied by the area rate adjustment, as may be applicable pursuant to this section.

SECTION 25. Said section 4 of said chapter 176M, as so appearing, is hereby fur-

ther amended by striking out subsections (b), (c), (d) and (e).

SECTION 26. Section 5 of said chapter 176M, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a)(1) No later than seventy-five days after the commissioner has approved the standard benefits plans pursuant to section two and no later than May first of each year thereafter, each carrier shall submit a nongroup rate filing to the commissioner. Each carrier shall also submit a copy of its nongroup rate filing to the nongroup health insurance advisory board. The board may include information from nongroup rate filings in its annual consumer's guide.

(2) Nongroup rate filings shall contain the following information:

(i) the base premium rate to be charged within each rate basis type for each guaranteed issue health plan and for each closed plan;

(ii) the age and geographic adjustments to be charged within each rate basis type for each guaranteed issue health plan and for each closed plan;

(iii) the composite rate for each guaranteed issue health plan;

(iv) the adjusted composite rate for each guaranteed issue health plan and documentation reasonably necessary to substantiate the adjustments made;

(v) a memorandum signed by an actuary certifying that the rates for each guaranteed issue health plan have been developed in accordance with section four, including the rate bands and multipliers specified therein and that the proposed rates are reasonable in relation to the benefits provided;

(vi) for each guaranteed issue health plan and each closed plan, the actual loss ratio for the previous year and the projected loss ratios for the present year and the year for which the rate is being filed. Loss ratio shall be defined as the ratio of the incurred costs for hospital, medical or health care services for the relevant period to the premium earned for that same period;

(vii) a comparison of current and proposed rates for each guaranteed issue health plan which shows premium cost components, including but not limited to the cost of prescription drugs administered on an outpatient basis, stated as a percentage of premium;

(viii) a copy of its annual report; and

(ix) for the filing in calendar year nineteen hundred and ninety-seven only, the total number of insured, the total number of policies issued, the total number of policies issued within each rate basis type, and the rates charged for each closed plan offered by the carrier as of August fifteenth, nineteen hundred and ninety-six.

SECTION 27. Subsection (b) of said section 5 of said chapter 176M, as so appearing, is hereby amended by striking out the first two sentences and inserting in place thereof the following two sentences:- No later than forty-five days after carriers are required to submit their nongroup rate filings, the commissioner shall determine the average adjusted composite rate for each type of guaranteed issue health plan. The commissioner shall determine whether the adjusted composite rate filed by each carrier exceeds the average adjusted composite rate for that type of guaranteed issue health plan by more than two standard deviations.

SECTION 28. Said subsection (b) of said section 5 of said chapter 176M, as so appearing, is hereby further amended by striking out the fifth and sixth sentences and inserting in place thereof the following two sentences:- The commissioner shall also examine the design of the benefits of each guaranteed issue health plan to determine if it complies with applicable laws and regulations and to determine whether its design may have the effect of minimizing the number of eligible individuals who will enroll in said plan. The commissioner shall also determine the average rate of closed plans in effect as of August fifteenth, nineteen hundred and ninety-six.

SECTION 29. Subsection (e) of said section 5 of said chapter 176M, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The case mix adjustment shall be based upon the diagnosis related group grouper selected by the division of health care finance and policy established under chapter one hundred and eighteen G and associated diagnosis related group weights calculated from Massachusetts data, and shall measure the differential case mix compared to the case mix of all privately insured persons discharged from hospitals from the commonwealth, as determined by said division of health care finance and policy.

SECTION 30. Section 6 of said chapter 176M, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Any carrier issuing guaranteed issue health plans may be a member of said plan; provided, however, that no carrier shall be required to be a member of said plan.

SECTION 31. The definition of "Health plan" in section 1 of chapter 176N of the General Laws, as appearing in section 30 of said chapter 297, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- This definition shall not include accident only, credit or dental insurance, hospital indemnity insurance policies which for the purposes of this chapter shall mean policies issued pursuant to chapter one hundred and seventy-five which provide a benefit not to exceed two hundred and fifty dollars per day, as adjusted on an annual basis by the amount of increase in the average weekly wage in the commonwealth as defined in chapter one hundred and fifty-two, to be paid to an insured or a dependent, including the spouse of an insured, on the basis of a hospitalization of the insured or a dependent disability income insurance, coverage issued as a supplement to liability insurance, insurance arising out of a worker's compensation or similar law, automobile medical payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in a liability insurance policy or equivalent self-insurance, long term care only insurance, or any group blanket or general policy which provides supplemental coverage to Medicare or other governmental programs.

SECTION 32. Said section 1 of said chapter 176N, as so appearing, is hereby amended by striking out the definition of "Out of state health plan" and inserting in place thereof the following definition:-

"Out of state health plan", any general, blanket, group or nongroup policy of health, accident and sickness insurance issued by an insurer meeting the requirements for licensure under chapter one hundred and seventy-five or the laws of any other jurisdiction; a group

hospital service plan issued by a nonprofit hospital service corporation under chapter one hundred and seventy-six A or the laws of any other jurisdiction; a group medical service plan issued by a nonprofit hospital service corporation under chapter one hundred and seventy-six B or the laws of any other jurisdiction; a group health maintenance contract issued by a health maintenance organization meeting the requirements for licensure under chapter one hundred and seventy-six G or the laws of any other jurisdiction; or a preferred provider arrangement meeting the requirements for licensing under chapter one hundred and seventy-six I or the laws of any other jurisdiction which (i) is delivered or issued for delivery outside the commonwealth and (ii) covers any resident of the commonwealth.

SECTION 33. Section 2 of said chapter 176N, as so appearing, is hereby amended by striking out clause (a) and inserting in place thereof the following clause:-

(a) exclude any eligible insured on the basis of age, occupation, actual or expected health condition, claims experience, duration of coverage, or medical condition of such person.

SECTION 34. Subsection (c) of said section 2 of said chapter 176N, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- The waiting period may only apply to services which the new plan covers, but which were not covered under the old plan.

SECTION 35. Section 31 of chapter 297 of the acts of 1996 is hereby amended by adding the following two paragraphs:-

Between June fifteenth, nineteen hundred and ninety-nine and December thirtieth, nineteen hundred and ninety-nine, said board established under this section shall review whether the hearing and review process prescribed by chapter one hundred and seventy-six M of the General Laws to determine whether said hearing and review process has served the public interest and constituted an efficient and effective use of public and private resources. The board shall submit to the general court a report containing its findings.

Between January first, two thousand and one and April first, two thousand and one, said board established under this section shall undertake a study of premium rates for nongroup health insurance as of August fifteenth, nineteen hundred and ninety-six in reference to the indicators it establishes pursuant to this section which may include the average premium reported by the commissioner pursuant to section five of chapter one hundred and seventy-six M, adjusted for Massachusetts specific medical inflation as determined by DRI-McGraw Hill, Inc. The board shall issue a report of its findings and the overall status of the nongroup health insurance market and shall make pertinent recommendations to the joint committee on insurance.

Approved January 9, 1997.

Chapter 468. AN ACT RELATIVE TO DISTINCTIVE LICENSE PLATES.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the joint committee on public safety and the registrar of motor vehicles are hereby authorized and directed to make an investigation and study relative to establishing criteria for the creation and issuance of distinctive collegiate motor vehicle license plates and other distinctive license plates for the commonwealth. The joint committee on public safety and the registrar of motor vehicles shall report to the General Court the results of their investigation and study on or before April first, nineteen hundred and ninety-seven.

Approved January 9, 1997.

Chapter 469. AN ACT RELATIVE TO DISTINCTIVE LICENSE PLATES.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 35 O of chapter 10 of the General Laws, as appearing in section 1 of chapter 246 of the acts of 1995, is hereby amended by striking out the words "olympic team participating in the olympics" and inserting in place thereof the following words:- Olympic team participating in the Olympics and the United States Paralympic team participating in the Paralympics.

SECTION 2. Section 2 of chapter 90 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 169 and 170, the words ", fails to renew such registration or does not wish to retain usage thereof" and inserting in place thereof the following words:- or fails to renew or cancels such registration.

SECTION 3. The seventh paragraph of said section 2 of said chapter 90, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- The registrar may issue, without charge, to a member of the Legion of Valor of the United States of America, Inc., upon presentation of satisfactory evidence of such membership as determined by the registrar, distinctive registration plates for one private passenger motor vehicle owned and principally used by such member; provided, however, that the surviving spouse of a deceased member of said Legion of Valor of the United States of America, Inc. may elect to retain such distinctive registration plates for personal use upon payment of the established registration fee for private passenger motor vehicles and an additional annual twenty dollar fee for personal use until such time as such spouse remarries or fails to renew or cancels such registration.

SECTION 4. Said section 2 of said chapter 90, as so appearing, is hereby further amended by striking out the eleventh paragraph and inserting in place thereof the following paragraph:-

The registrar shall furnish, at no cost to residents of the commonwealth who have been awarded the Congressional Medal of Honor, distinctive registration plates bearing up to three letters designating the recipient's initials followed by the letters CMH signifying the

Congressional Medal of Honor suitable for attachment to a motor vehicle owned and principally used by such recipient; provided, however, that the surviving spouse of a deceased Congressional Medal of Honor recipient may elect to retain such distinctive registration plates for personal use upon payment of the established registration fee for private passenger motor vehicles and an additional annual twenty dollar fee until such time as such spouse remarries or fails to renew or cancels such registration.

SECTION 5. Said section 2 of said chapter 90, as so appearing, is hereby further amended by striking out the fourteenth paragraph and inserting in place thereof the following five paragraphs:-

The registrar shall furnish, upon application, to owners of private passenger motor vehicles who are veterans, as defined in clause Forty-third of section seven of chapter four and upon presentation of evidence deemed satisfactory by the registrar, distinctive registration plates bearing on the left side the word "VETERAN". There shall be an annual twenty dollar fee for such "VETERAN" plates in addition to the established registration fee for private passenger motor vehicles.

The registrar shall furnish without charge to owners of private passenger motor vehicles who are veterans as defined in said clause Forty-third of said section seven of said chapter four who have been awarded the Order of the Purple Heart and upon evidence deemed satisfactory by the registrar, distinctive registration plates bearing the words, "ORDER OF THE PURPLE HEART RECIPIENT" for one private passenger motor vehicle owned and principally used by such Purple Heart recipient; provided, however, that the surviving spouse of a deceased recipient of the Purple Heart may elect to retain such distinctive registration plates for personal use upon payment of the established registration fee for private passenger motor vehicles and an additional annual twenty dollar fee until such time as such spouse remarries or fails to renew or cancels such registration.

The registrar shall furnish without charge to owners of private passenger motor vehicles who are survivors of the attack on Pearl Harbor, upon presentation of satisfactory evidence of such status as determined by the registrar, distinctive registration plates for one private passenger motor vehicle owned and principally used by such survivor; provided, however, that the surviving spouse of a deceased survivor may elect to retain such distinctive registration plates for personal use upon payment of the established registration fee for private passenger motor vehicles and an additional annual twenty dollar fee until such time as such spouse remarries or fails to renew or cancels such registration.

The registrar shall furnish, at the request of an owner of a motor vehicle who has been issued "VETERAN" plates pursuant to this section, a distinctive emblem to be affixed to the left side of such plates which identifies the branch of the armed services in which such owner served, the receipt of the Silver or Bronze Star by such owner or the wartime service in which such owner served as defined in clause Forty-third of section seven of chapter four. The registrar may charge a fee directly attributable to the cost of issuance of such emblem, provided, however, that the registrar shall furnish without charge to owners of private passenger motor vehicles who received the Silver or Bronze star a "VETERAN" plate and an emblem representing the awarding of said Silver or Bronze star for one private passenger

motor vehicle owned and principally used by such recipient.

The registrar is hereby authorized and directed to conduct a lottery of any unissued or returned registration plates of not more than four characters which shall be issued to the winners of such lottery at no extra charge. A resident of the commonwealth who is the registered owner of a private passenger motor vehicle registered in the commonwealth may participate in such lottery which shall be held once in each calendar year prior to September fifteenth. The registrar shall promulgate rules and regulations necessary to effectuate the purposes of this paragraph.

SECTION 6. Said chapter 90 is hereby amended by striking out section 2E, inserted by section 2 of chapter 413 of the acts of 1996, and inserting in place thereof the following section:-

Section 2E. (a) The registrar shall furnish, upon application, to the owners of private passenger motor vehicles three distinctive registration plates, one of which shall be on the theme of the right whale, one of which shall be on the theme of the Blackstone Valley of the central part of the commonwealth, and the other on a theme representative of the environmental and natural resources of the western part of the commonwealth; provided, however, that the design of the plate themes shall be determined by the trustees of the Environmental Trust Fund, established by section seven of chapter two hundred and thirty-six of the acts of nineteen hundred and eighty-eight, in consultation with and subject to the approval of said registrar and, in the case of the Blackstone Valley plate, in consultation with the Blackstone Valley National Heritage Corridor Commission. There shall be a fee of not less than twenty dollars for such plates in addition to the established registration fee for private passenger motor vehicles, such fee being payable at the time of registration of such vehicle and at each renewal thereof. The portion of the total fee remaining after the deduction of costs directly attributable to the issuance of such plates shall be deposited in said Environmental Trust Fund.

(b) The registrar shall furnish, upon application, to the owners of private passenger motor vehicles distinctive registration plates which shall display on their face a design indicating support for the children of the commonwealth and the words "Invest in Children". There shall be a fee of not less than twenty dollars for such plates in addition to the established registration fee for private passenger motor vehicles, such fee being payable at the time of registration of such vehicle and at each renewal thereof. The portion of the total fee remaining after the deduction of costs directly attributable to the issuance of such plates shall be deposited within ninety days of receipt thereof in the Child Care Quality Fund established by section 2GG of chapter twenty-nine.

SECTION 7. Section two hundred and eighty-seven of chapter one hundred and ten of the acts of nineteen hundred and ninety-three is hereby repealed.

SECTION 8. Subsection (a) of section 7 of chapter 236 of the acts of 1988, as appearing in section 40 of chapter 15 of the acts of 1996, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The board shall also develop criteria for project grants to be made to qualifying not-for-profit organizations including, but not limited to, the Blackstone Valley National Heritage Corridor Commission,

community associations, civic groups, schools, cities or towns, regional planning agencies or public agencies for projects consistent with the purposes of the trust fund.

SECTION 9. Any and all marketing, advertising, distribution and special promotions including, but not limited to, license plate replicas, toys, clothing, jewelry, memorabilia and other items bearing the image or likeness of the Cape and Islands registration plate as issued by the registry of motor vehicles shall require the prior written consent of the executive committee of the Cape and Islands Economic Development Corporation.

SECTION 10. Notwithstanding the provisions of any general or special law to the contrary, the registrar of motor vehicles shall make available the distinctive registration plates and emblems provided for in this act not later than January first, nineteen hundred and ninety-eight.

Approved January 9, 1997.

Chapter 470. AN ACT RELATIVE TO CHILD PASSENGER RESTRAINTS IN MOTOR VEHICLES.

Be it enacted, etc., as follows:

Chapter 90 of the General Laws is hereby amended by striking out section 7AA, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 7AA. No child under age five and no child weighing forty pounds or less shall ride as a passenger in a motor vehicle on any way unless such child is properly fastened and secured, according to the manufacturer's instructions, by a child passenger restraint as defined in section one.

No child who is five years of age or older, but not older than twelve years of age, shall ride as a passenger in a motor vehicle on any way unless such child is wearing a safety belt which is properly adjusted and fastened according to the manufacturer's instructions.

The provisions of this section shall not apply to any such child who is: (1) riding as a passenger in a school bus; (2) riding as a passenger in a motor vehicle made before July first, nineteen hundred and sixty-six, that is not equipped with safety belts; (3) physically unable to use either a conventional child passenger restraint or a child restraint specifically designed for children with special needs; provided, however, that such condition is duly certified in writing by a physician who shall state the nature of the disability as well as the reasons such restraints are inappropriate; provided, further, that no such certifying physician shall be subject to liability in a civil action for the issuance of or for the failure to issue such certificate. An operator of a motor vehicle who violates the provisions of this section shall be subject to a fine of not more than twenty-five dollars; provided, however, that said twenty-five dollar fine shall not apply to an operator of a motor vehicle licensed as a taxi cab not equipped with a child passenger restraint device.

A violation of this section shall not be used as evidence of contributory negligence

in any civil action.

A person who receives a citation for a violation of any of the provisions of this section may contest such citation pursuant to section three of chapter ninety C. A violation of this section shall not be deemed to be 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.

Approved January 9, 1997.

Chapter 471. AN ACT RELATIVE TO THE APPOINTMENT OF THE CITY SOLICITOR IN THE CITY OF HOLYOKE.

Be it enacted, etc., as follows:

SECTION 1. Section 34 of chapter 438 of the acts of 1896, as amended by section 29 of chapter 189 of the acts of 1992, is hereby further amended by inserting after the word "solicitor" in the first sentence the following words:- who shall be appointed by the mayor, and confirmed by the city council, for a term consistent with the appointing mayor.

SECTION 2. Said section 34 of said chapter 438, as so amended, is hereby further amended by striking out the sentence "The city solicitor and city marshall shall be appointed by the mayor annually in the month of January, and each shall hold his office for the term of one year beginning with the first Monday of January in the year of his appointment, unless sooner removed, and until his successor is appointed and qualified." and inserting in place thereof the following two sentences:- The city solicitor shall be appointed by the mayor, and confirmed by the city council, for a term consistent with the appointing mayor, unless sooner removed, and until his successor is appointed and qualified. The city marshall shall be appointed by the mayor annually in the month of January, and shall hold his office for the term of one year beginning with the first Monday of January in the year of his appointment, unless sooner removed, and until his successor is appointed and qualified.

Approved January 9, 1997.

Chapter 472. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF FREETOWN.

Be it enacted, etc., as follows:

SECTION 1. Any holder of an elected office in the town of Freetown may be recalled therefrom by the registered voters of the town as provided in this act; provided, however, that, the maximum number of members of a board that may be recalled is a majority.

SECTION 2. Any one hundred voters of the town may initiate a recall petition by filing with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The town clerk shall thereupon deliver to said voters making the affidavit copies of petition blanks demanding such recall, copies of which printed forms he shall keep available. Such blanks shall be issued by the town clerk, with his signature and official seal attached thereto. Such blanks shall be dated, shall be addressed to the board of selectmen and shall contain the names of all the persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor in said office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. Said recall petition shall be returned and filed with the town clerk within thirty days after the filing of the affidavit, and shall have been signed by at least fifteen per cent 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 five working days, certify thereon the number of signatures which are names of registered voters of the town.

SECTION 3. If the petition shall be found and certified by the town clerk to be sufficient, he shall submit the same with his certificate to the selectmen within five working days, and the board of selectmen shall, within five working days, give written notice of the receipt of the certificate to the officer sought to be recalled. If such officer does not resign within five days thereafter, the board of selectmen shall order an election to be held on a date fixed by them not less than sixty and not more than ninety days after the date of the town clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within ninety days after the date of the certificate the selectmen shall postpone the holding of the recall election to the date of such other election. No person shall be subject to recall if his term of office expires within ninety days of the certificate. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

SECTION 4. Any officer sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the town clerk shall place his name on the ballot, without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this act.

SECTION 5. The incumbent shall continue to perform the duties of his office until the recall election. If then reelected, he shall continue in office for the remainder of his unexpired term subject to recall as before, except as provided in this section. 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. Ballots used in a recall election shall submit the following proposi-

tions in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer).

Immediately at the right of each proposition, there shall be a square in which the voter, by making a cross mark (X) may vote for either of said propositions. Under the propositions shall appear the word "Candidates", the directions to the voters required by section forty-two of chapter fifty-four of the General Laws, and beneath this, the name 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 more than a majority of the votes on the question are in the negative, the ballots for candidates need not be counted.

SECTION 7. No recall petition shall be filed against an officer within ninety days after he takes office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least ninety days after the election at which his recall was submitted to the voters of the town.

SECTION 8. No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against him, shall be appointed to any town office within one year after such recall or such resignation.

Approved January 9, 1997.

Chapter 473. AN ACT RELATIVE TO THE MEMBERSHIP OF YOUTH COMMISSIONS.

Be it enacted, etc., as follows:

SECTION 1. Section 8E of chapter 40 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 11, the word "seven" and inserting in place thereof the following word:- twenty-one.

SECTION 2. This act shall apply to a city or town that accepted section eight E of chapter forty of the General Laws before the effective date of this act, and to a city or town that accepts said section eight E after said effective date.

Approved January 9, 1997.

Chapter 474. AN ACT DESIGNATING CERTAIN BRIDGES IN THE TOWNS OF SAUGUS, ANDOVER AND SOUTHBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. The bridge located on Walnut street and spanning U.S. Highway 1 in the town of Saugus shall be designated and known as the Saugus Disabled American Veter-

ans Bridge. 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.

SECTION 2. The bridge located on Main street and spanning U.S. Highway 1 in the town of Saugus shall be designated and known as the Saugus Veterans of Foreign Wars Bridge. 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.

SECTION 3. The bridge located on Essex street and spanning U.S. Highway 1 in the town of Saugus shall be designated and known as the Saugus American Legion Post 210 Bridge. 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.

SECTION 4. The bridge located on Harding Street in the town of Andover shall be designated and known as the Andover Persian Gulf War Veterans Bridge. The department of highways shall erect and maintain a suitable marker bearing said designation in compliance with the standards of said department.

SECTION 5. The bridge in Southborough on state highway route number eighty-five, spanning the Conrail tracks, shall be designated and known as the Robert R. Foley, Jr. Memorial Bridge, in honor of Robert R. Foley, Jr., in recognition of his service to his country and his ultimate sacrifice in the Vietnam War. The department of highways shall erect suitable markers bearing such designation in compliance with the standards of said department.

Approved January 9, 1997.

Chapter 475. AN ACT RELATIVE TO QUARTERLY TAX BILLS IN CITIES AND TOWNS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize cities and towns to send out third quarter tax bills on a timely bases, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section fifty-seven C of chapter fifty-nine of the General Laws or any other general or special law to the contrary, cities and towns that have accepted provisions of said section fifty-seven C of said chapter fifty-nine are hereby authorized with respect to fiscal year nineteen hundred and ninety-seven to issue notices of preliminary tax in addition to such notice of preliminary tax as provided in said section; provided, however, that no additional notice of preliminary tax may issue, 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 real and personal property subject to taxation for the current fiscal year.

In the event that the issuance of 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-seven, such notice shall be sent on or before December thirty-first, nineteen hundred and ninety-six 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-seven 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 year nineteen hundred and ninety-seven as provided for by section fifty-seven C of said chapter fifty-nine.

If any installment payment as provided for herein is not timely paid, it shall be delinquent and interest at the rate of fourteen percent per annum computed from the due date shall be paid. For purposes of this section, amounts not timely received shall be deemed unpaid.

In the event the actual bills for fiscal year nineteen hundred and ninety-seven are not mailed by December thirty-first, nineteen hundred and ninety-six, 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-seven, 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.

Approved January 9, 1997.

Chapter 476. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF LOWELL AS THE LOUIS CENTORE MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge on Hale street spanning the Boston and Maine railroad tracks in the city of Lowell shall be designated and known as the Louis Centore Memorial Bridge, in memory of Louis Centore. The department of highways shall erect suitable markers thereon bearing such designation in compliance with the standards of said department.

Approved January 9, 1997.

Chapter 477. AN ACT DESIGNATING A CERTAIN INTERCHANGE IN THE CITY OF MARLBOROUGH AS THE HARRY P. LOFTUS INTERCHANGE.

Be it enacted, etc., as follows:

The interchange on interstate highway route 495 in the city of Marlborough, to be constructed between the exits numbered 23 and 24 of said interstate highway route 495, shall be designated and known as the Harry P. Loftus interchange, in honor of Harry P. Loftus, in recognition of his service to his community and country. The department of highways shall erect suitable markers bearing said designation in compliance with the standards of said department.

Approved January 9, 1997.

Chapter 478. AN ACT CLARIFYING A CERTAIN CONVEYANCE OF LAND TO THE COMMONWEALTH.

Be it enacted, etc., as follows:

Section 18 of chapter 12 of the acts of 1996 is hereby amended by striking out the words "said parcel to be more particularly described in a plan to be prepared by said division and" and inserting in place thereof the following words:- which shall include, as determined by said division, Parcel A and Parcel B as shown on a Plan of Land in Dedham, Massachusetts dated August 24, 1992, being plan number 633 of 1992 in plan book 408 on file and recorded in the Norfolk county registry of deeds.

Approved January 9, 1997.

Chapter 479. AN ACT RELATIVE TO THE MASHPEE WATER DISTRICT.

Be it enacted, etc., as follows:

Section 2 of chapter 136 of the acts of 1987 is hereby amended by striking out clause (*b*), as amended by chapter 73 of the acts of 1991, and inserting in place thereof the following clause:-

(*b*) may take by eminent domain under the provisions of chapter seventy-nine or chapter eighty A of the General Laws, or acquire, by lease, purchase, gift, or otherwise, and hold, the waters, or any portion thereof, of any pond, spring or stream, or of any groundwater sources of supply by means of driven, artesian or other wells, within the territorial limits of the town of Mashpee, or towns adjoining thereto, not already appropriated for the purpose of a public water supply by another governmental body, and the water and flowage rights connected with any such water sources; may take as aforesaid, or acquire by purchase or otherwise, and hold, all lands, rights-of-way and other easements necessary for collecting,

storing, holding, purifying and preserving the purity of the water and for conveying the same to any part of the district; provided, however, that the location and arrangement of dams, reservoirs, springs, wells, pumping, purification and filtration plants and such other works as may be necessary in carrying out the provisions of this act shall be subject to the approval of the department of environmental protection or any successor state agency; provided, however, that the provisions of section five C of said chapter seventy-nine shall not apply to the Mashpee Water District with respect to the taking of easements in private roads for purposes of laying and maintaining water pipes, but shall be applicable to any and all land takings.

Approved January 9, 1997.

Chapter 480. AN ACT FURTHER REGULATING THE DISCHARGE OF REAL ESTATE MORTGAGES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 183 of the General Laws is hereby amended by striking out section 54, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 54. For the purposes of sections fifty-four to fifty-five, inclusive, the following words, unless the context otherwise requires, shall have the following meanings:-

"Discharge", a deed of release or written acknowledgement of payment or satisfaction of the debt or obligation secured by a mortgage or the conditions therein contained, or, in the case of a partial release issued by a mortgage servicer or noteholder pursuant to this section or section fifty-four C, a partial release evidencing that a payment has been made pursuant to the debt or obligation secured by such mortgage or the conditions therein contained.

"Federally related mortgage loan", a federally related mortgage loan as defined in the Real Estate Settlement Procedures Act of 1974, 12 USC section 2602.

"Mortgagee" or "mortgage holder", the holder of record of a mortgage deed; provided, however, that if the mortgage deed has been assigned of record, mortgagee or mortgage holder shall mean the last person to whom such mortgage deed has been assigned of record.

"Mortgage servicer", the last person servicing a federally related mortgage loan who has provided a payoff statement with respect to said federally related mortgage loan, whether or not appearing of record as the mortgagee or the mortgage holder.

"Note holder", the holder of a note evidencing a debt or any other obligation secured by a mortgage; provided, however, that if the note holder is not the holder of record of the mortgage deed, said note shall contain the appropriate endorsements evidencing the transfer of ownership thereof to said holder.

"Payoff statement", a statement, oral or in writing, issued at the request of the mort-

gagor or an authorized person on his behalf by a mortgagee, mortgage holder, mortgage servicer or note holder indicating the amount of the unpaid balance of the mortgage loan, including principal, interest and other charges assessed pursuant to such mortgage loan which may include the interest on a per diem basis with respect to the unpaid principal balance of the mortgage.

"Person", an individual, corporation, business trust, testamentary trust, partnership, association, joint venture, government, governmental subdivision or agency or other legal or commercial entity.

"Recordation" or "recorded", a recording with the registry of deeds in accordance with chapter one hundred and eighty-three, or registration with the registry district of the land court in accordance with chapter one hundred and eighty-five.

"Servicing", the receipt by a mortgage servicer of scheduled periodic payments and payoff monies from a mortgagor on a federally related mortgage loan, and the allocation of such payments to principal, interest, municipal real estate taxes and other appropriate assessments and charges, all pursuant to the terms of the loan.

One of two or more joint holders of a mortgage may discharge it by a deed of release duly acknowledged and recorded. A mortgage may also be discharged by a written acknowledgement of payment or satisfaction of the debt thereby secured, or of the conditions therein contained, signed and sealed by the mortgagee, mortgage holder, mortgage servicer or note holder, his executor, administrator, successor or assignee. Such instrument shall have the same effect as a deed of release, shall be valid if executed by one of two or more joint holders of a mortgage, and may be recorded when duly acknowledged or on proof of its execution in accordance with sections thirty-four to forty-one, inclusive. The recordation of a duly executed and acknowledged deed of release or written acknowledgement of payment or satisfaction as provided herein shall be conclusive evidence that the mortgage has been discharged notwithstanding the fact that the party signing such instrument may have assigned the note or other evidence of debt to another party, unless such assignment had been duly recorded prior to the instrument discharging the mortgage. Such deed of release or written acknowledgement of payment or satisfaction shall contain the street address of the mortgaged property, the volume and page number or document number of the mortgage and the name of the mortgagor; provided, however, that the failure to include such information shall not affect the validity of the instrument. The provisions of this section apply notwithstanding the provisions of section three-one hundred and sixteen of chapter one hundred and six.

SECTION 2. Said chapter 183 is hereby further amended by inserting after section 54B the following section:-

Section 54C. The recordation of a discharge duly executed and acknowledged by a mortgagee, mortgage holder, mortgage servicer or note holder shall constitute a discharge of the mortgage and a release of the lien created by such mortgage on the mortgaged premises; provided, however, that a discharge executed by a mortgage servicer or note holder who is not the holder of record of such mortgage deed will operate as a discharge and release of lien as aforesaid only as to a federally related mortgage securing a one-to-four

family residence and only where such a discharge is accompanied by the following:

(A) In the case of a mortgage servicer:

(1) an original or photostatic copy of the servicing agreement, power of attorney or other document evidencing the authority of the mortgage servicer to service the mortgage, which shall be duly recorded and referenced on said discharge. Such copy shall contain a certification by the mortgagee, mortgage holder or mortgage servicer that it is a true copy of the original document.

(2) In the absence of such documents, said discharge may be effected by the recording of:-

(i)(a) an affidavit executed under the pains and penalties of perjury by the mortgagor affirming the inability to obtain any of said documents, the payments made and the reasons why such payments were made to such mortgage servicer, and attaching thereto evidence of such payments in the form of cancelled checks or otherwise, or,

(b) in the event the mortgagor is no longer the record owner of the premises and cannot be located, an affidavit executed under the pains and penalties of perjury by an owner of record for more than three years other than the mortgagor, who purchased the premises subsequent to the recording of the mortgage, and whose recorded deed made no reference to the mortgage remaining outstanding, stating as follows: that said owner purchased the premises in good faith and for value in the belief that the premises were not encumbered by the mortgage; that said owner has not made any payments on account of the mortgage; and that no claims have been made under the mortgage subsequent to said purchase against said owner, and

(ii) an affidavit executed by the attorney who, pursuant to a payoff statement from said mortgage servicer, transmitted funds to said mortgage servicer sufficient to satisfy in full the outstanding balance of the loan secured by such mortgage, affirming the inability to obtain any of said documents despite sending a demand by registered or certified mail to the servicer and the holder of record at their last known addresses at least thirty days prior, the payment in full of said outstanding balance of the mortgage loan, and the acceptance thereof by said mortgage servicer. Evidence of such acceptance in the form of a cancelled check or otherwise shall be attached to said affidavit.

(B) In the case of a note holder who is not the holder of record of the mortgage deed: an original or photostatic copy of the note, with the endorsements thereon evidencing the transfer of ownership of such note to said holder, shall be duly recorded with or referenced in such discharge. Such copy shall contain a certificate by the note holder that it is a true copy of the original document.

The provisions of this section shall apply to discharges executed on and after the effective date of this act relative to mortgages recorded prior to, on and after said effective date.

SECTION 3. Said chapter 183 is hereby further amended by striking out section 55, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 55. A mortgagee, mortgage holder, mortgage servicer, or note holder, who

has accepted full payment and satisfaction of the conditions of a mortgage in accordance with a payoff statement issued by such mortgagee, mortgage holder, mortgage servicer or note holder, as the case may be, and who refuses or neglects to provide a duly executed deed of release or written acknowledgement of payment or satisfaction of the debt thereby secured, or of the conditions therein contained, or to provide such supporting documents as may be required by section fifty-four C, relative to such mortgage within forty-five days after such acceptance shall be liable in damages to the owner of the equity of redemption or his successors in an amount equal to the actual damages sustained by said owner or his successors as the result of such refusal or neglect in addition to all other remedies available at law.

Notwithstanding the foregoing, if such mortgagee, mortgage holder, mortgage servicer, or note holder fails to provide a duly executed deed of release or written acknowledgement of payment or satisfaction of the debt secured by the mortgage, or of the conditions therein contained, within thirty days from receipt and acceptance of payment in accordance with a written payoff statement furnished to the mortgagor by such mortgagee, mortgage holder, mortgage servicer or note holder, as the case may be, an attorney-at-law licensed to practice in the commonwealth may, on behalf of the mortgagor, his executor, administrator, successor, assignee, transferee, or his transferee's mortgagee, execute and cause to be recorded in the registry of deeds in which the mortgage is recorded, an affidavit which states that:-

(1) the affiant is an attorney-at-law in good standing and licensed to practice in the commonwealth;

(2) the affidavit is made on behalf of and at the request of the mortgagor, his executor, administrator, successor, assignee or transferee, or his transferee's mortgagee;

(3) the mortgagee, mortgage holder, mortgage servicer, or note holder, has provided a written payoff statement with respect to the loan secured by the mortgage;

(4) the affiant has ascertained that the mortgagee, mortgage holder, mortgage servicer, or note holder, has received payment of the loan secured by the mortgage in accordance with the payoff statement, as evidenced by a bank check, certified check or attorney's clients' funds account check which has been negotiated by the mortgagee, mortgage holder, mortgage servicer, or note holder, or by other documentary evidence of such receipt of payment;

(5) more than thirty days have lapsed since such payment was received by the mortgagee, mortgage holder, mortgage servicer, or note holder;

(6) the affiant has given the mortgagee, mortgage holder, mortgage servicer, or note holder at least fifteen days notice in writing by certified mail of his intention to execute and cause to be recorded an affidavit in accordance with this section, together with a copy of the proposed affidavit; and that the mortgagee, mortgage holder, mortgage servicer, or note holder has not delivered a discharge or deed of release in response to such notification and that the mortgagor has complied with any request made by the mortgagee, mortgage holder, mortgage servicer, or note holder for additional payment at least fifteen days prior to the date of the affidavit.

If the payoff was made to a note holder who was not a mortgagee or mortgage holder, an original or photostatic copy of the note, with the endorsements thereon evidencing the transfer of ownership of such note to said holder, shall be duly recorded and referenced in such affidavit, and such affidavit will operate as a discharge and release of lien as aforesaid only as to a federally related mortgage. Such copy shall contain a certificate by the note holder that it is a true copy of the original document.

If the payoff was made to a mortgage servicer who was not a mortgagee or mortgage holder, such affidavit shall operate as a discharge and release of lien as aforesaid only as to a federally related mortgage and only so long as, in addition to such affidavit, one or more of the following are also duly recorded and referenced in such affidavit: an original or photostatic copy of the servicing agreement, power of attorney or other document evidencing the authority of the mortgage servicer to service the mortgage, with said copy containing a certification by the mortgage servicer or the party giving servicing authority that it is a true copy of the original instrument; or an affidavit of the mortgagor or an owner of record pursuant to clause (i) of subparagraph (2) of paragraph (A) of section fifty-four C.

The affidavit shall also include the names and addresses of both the mortgagor and the mortgagee, mortgage holder, mortgage servicer or note holder, as the case may be, the date of the mortgage and the title reference. Similar information shall be included with respect to any recorded assignment of the mortgage.

The affiant shall attach to the affidavit (a) photostatic copies of the documentary evidence that payment has been received by the mortgagee, mortgage holder, mortgage servicer, or note holder, including endorsement of any bank check, certified check or attorney's client funds account check, and (b) a photostatic copy of the payoff statement, and shall certify on each that it is a true copy of the original document.

The affidavit, when so recorded, shall constitute a discharge of the mortgage and a release of the lien created by such mortgage on the mortgaged premises.

Any person who causes any such affidavit to be recorded in accordance with this section, knowing information and statements contained therein to be false, shall be punished by a fine of not more than five thousand dollars in addition to all other remedies at law.

Approved January 9, 1997.

Chapter 481. AN ACT ELIMINATING OWNER'S DUPLICATE CERTIFICATE OF TITLE.

Be it enacted, etc., as follows:

SECTION 1. Chapter 185 of the General Laws is hereby amended by striking out section 48, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

Section 48. Immediately upon the entry of the judgement of registration, the recorder shall send a certified copy thereof, under the seal of the court, to the register of deeds for the

district or districts where the land lies, and the register, as assistant recorder, shall transcribe the judgement in a book to be called the registration book, in which a leaf or leaves in consecutive order shall be devoted exclusively to each title, and note therein the day, hour and minute when said judgement is transcribed. The entry made by the assistant recorder in this book in each case shall be the original certificate of title, shall be signed by him and sealed with the seal of the court. All certificates of title shall be numbered consecutively, beginning with number one. A certified copy of the judgement of registration shall be filed and numbered by the assistant recorder, with a reference noted on it to the place of record of the original certificate of title. If, however, a complaint includes land lying in more than one district, the court shall cause the part lying in each district to be described separately by metes and bounds in the judgement or judgements of registration, the recorder shall send to the assistant recorder for each registry district a copy of the judgement containing a description of the land within that district, and the assistant recorder shall register the same; and thereafter, for all matters pertaining to registration, the portion in each district shall be treated as a separate parcel of land.

SECTION 2. Section fifty of said chapter one hundred and eighty-five is hereby repealed.

SECTION 3. Section 51 of said chapter 185, as appearing in the 1994 Official Edition, is hereby amended by striking out the first sentence.

SECTION 4. Said chapter 185 is hereby further amended by striking out sections 54 and 55, as so appearing, and inserting in place thereof the following two sections:-

Section 54. The original certificate in the registration book and any copy thereof duly certified under the signature of the recorder or an assistant recorder and the seal of the court shall be received as evidence in all courts of the commonwealth, and shall be conclusive as to all matters contained therein, except as otherwise provided in this chapter.

Section 55. Every certificate of title shall set forth the names of all the persons whose estates make up the estate in fee simple in the whole land.

SECTION 5. The first paragraph of section 59 of said chapter 185, as so appearing, is hereby amended by striking out the third sentence.

SECTION 6. Said chapter 185 is hereby further amended by striking out section 62, as so appearing, and inserting in place thereof the following section:-

Section 62. In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud, without prejudice however to the rights of any innocent holder for value of a certificate of title. After the transcription of the judgement of registration on the original complaint, any subsequent registration procured by the presentation of a forged deed or other instrument shall be null and void.

SECTION 7. Said chapter 185 is hereby further amended by striking out section 64, as so appearing, and inserting in place thereof the following section:-

Section 64. An owner desiring to convey his registered land or any portion thereof in fee shall execute a deed of conveyance, which the grantor or grantee may present to the assistant recorder in the district where the land lies. The assistant recorder shall thereupon, in accordance with the rules and instructions of the court, make out in the registration book

a new certificate of title to the grantee. The assistant recorder shall note upon the new certificate the date of transfer, the volume and page of the registration book in which the new certificate is registered and a reference by number to the last preceding certificate. The last preceding certificate and any owner's duplicate certificate which is surrendered by the grantor, shall be stamped "canceled". The deed of conveyance shall be filed and endorsed with the number and place of registration of the new certificate of title of the land conveyed.

SECTION 8. Said chapter 185 is hereby further amended by striking out section 65, as so appearing, and inserting in place thereof the following section:-

Section 65. If a deed in fee is for a part only of the land described in a certificate of title, the assistant recorder shall also, in accordance with the rules and instructions of the court, enter a new certificate for the part of the land not included in the deed. In every case of transfer, the new certificate or certificates shall include all the land described in the old certificate; but no new certificate to a grantee of a part only of the land shall be invalid by reason of the failure of the assistant recorder to enter a new certificate to the grantor for the remaining unconveyed portion. If the land described in a certificate of title is divided into lots, designated by numbers or letters, with measurements of all the bonds, and a plan of said land has been filed with the recorder and verified pursuant to section fifty-one, and a certified copy thereof is recorded in the registration book with the original certificate when the registered owner makes a deed of transfer in fee of one or more of such lots, the assistant recorder may, instead of canceling such certificate and entering a new certificate to the grantor for the part of the land not included in the deed of transfer, enter on the original certificate a memorandum of such deed of transfer, with a reference to the lot or lots thereby conveyed, as designated on said plan, and stating that the certificate is canceled as to such lot or lots. Every certificate with such memorandum shall be as effectual for the purpose of showing the grantor's title to the remainder of the land not conveyed as if the old certificate had been canceled and a new certificate of such land entered; and such process may be repeated so long as there is convenient space upon the original certificate for making such memorandum of sale of lots.

SECTION 9. Said chapter 185 is hereby further amended by striking out section 68, as so appearing, and inserting in place thereof the following section:-

Section 68. Registration of a mortgage shall be made in the following manner: the assistant recorder shall enter upon the certificate of title a memorandum of the purport of the mortgage deed, the time of filing and the file number of the deed, and shall sign the memorandum. He shall also note upon the mortgage deed the time of filing and a reference to the volume and page of the registration book in which it is registered.

SECTION 10. Section 70 of said chapter 185, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

In case of foreclosure by exercising the power of sale without a previous judgement of court, the affidavit required by section fifteen of chapter two hundred and forty-four shall be filed and registered with the assistant recorder, in lieu of recording. The purchaser at the foreclosure sale or his assigns may thereupon at any time present the deed under the power of sale to the assistant recorder for filing and registration, and obtain a new certificate; but

this chapter shall not prevent the mortgagor or other person in interest, prior to the entry of a new certificate of title, from directly impeaching, by bill in equity or otherwise, any foreclosure proceedings affecting registered land.

SECTION 11. Section 72 of said chapter 185, as so appearing, is hereby amended by striking out the second sentence.

SECTION 12. Section 74 of said chapter 185, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "and the surrender of the duplicate certificate".

SECTION 13. Section seventy-nine of said chapter one hundred and eighty-five is hereby repealed.

SECTION 14. Section 91 of said chapter 185, as appearing in the 1994 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- But every court making such a decree shall, upon application of the plaintiff or petitioner, order any parties before it to execute for registration any deed or instrument necessary to give effect to its decree.

SECTION 15. Section 92 of said chapter 185, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words ", and to receive an owner's duplicate therefor".

SECTION 16. Said chapter 185 is hereby further amended by striking out section 93, as so appearing, and inserting in place thereof the following section:-

Section 93. If a certified copy of a decree for partition and of the return of the commissioners is presented for registration, and if a mortgage or lease affecting a specific portion or an undivided share of the premises had previously been registered, the tenant claiming under the mortgagor or lessor shall cause the mortgage or lease to be again presented for registration, and the assistant recorder shall endorse thereon a memorandum of such partition and a description of the land set off in severalty on which such mortgage or lease remains in force.

SECTION 17. Section 94 of said chapter 185, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words "with the insolvent's or bankrupt's duplicate certificate of title".

SECTION 18. Section one hundred and eleven of said chapter one hundred and eighty-five is hereby repealed.

SECTION 19. Section one hundred and thirteen of said chapter one hundred and eighty-five is hereby repealed.

SECTION 20. Section 114 of said chapter 185, as appearing in the 1994 Official Edition, is hereby amended by striking out, in line 10, the words ", or on any duplicate certificate".

SECTION 21. Section 118 of said chapter 185, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "not noted by memorandum on the duplicate certificate of title".

Approved January 9, 1997.

Chapter 482. AN ACT EXTENDING THE TIME FOR GROUP MARKETING PLANS FOR AUTOMOBILE AND HOMEOWNER INSURANCES TO SECURE THIRTY-FIVE PERCENT OF THE MEMBERSHIP OF THE GROUP.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately extend the time for group marketing plans for automobile and homeowners insurance policies, 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 fourth paragraph of section 193R of chapter 175 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out clause (7) and inserting in place thereof the following clause:- (7) that such employer, trade union association or organization shall consist of no less than twenty-five members, at least fifteen of whom are residents of the commonwealth and that at least thirty-five percent are insured within two years of the effective date of the plan, such percentage to continue so insured at all times thereafter.

Approved January 9, 1997.

Chapter 483. AN ACT ALLOWING ACCESS TO CRIMINAL RECORDS OF APPLICANTS FOR POSITIONS IN SCHOOLS.

Be it enacted, etc., as follows:

Chapter 71 of the General Laws is hereby amended by inserting after section 38Q the following section:-

Section 38R. The school committee and superintendent of any city, town or regional school district and the principal, by whatever title the position be known, of a public school of any city, town or regional school district shall have access to criminal offender record information of any applicant for any position in the school department, including any subcontractor or laborer commissioned by the school committee of any city, town or regional school district to perform work on school grounds during any time where there may be direct contact with school children, where applicable for hiring purposes. Such access shall be exercised in accordance with sections one hundred and sixty-seven to one hundred and seventy-eight, inclusive, of chapter six.

Approved January 9, 1997.

Chapter 484. AN ACT RELATIVE TO THE SCHOOL COMMITTEE OF THE CITY OF CHICOPEE.

Be it enacted, etc., as follows:

Section 33 of chapter 239 of the acts of 1897 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The school committee shall meet on the first Wednesday after the first Monday in January in each even numbered year and shall at such meeting, or as soon thereafter as may be, choose by ballot a chairman from among its members, and the votes of a majority of all the members of the school committee shall be required to elect.

Approved January 9, 1997.

Chapter 485. AN ACT EXTENDING THE FILING TIME FOR A REPORT RELATIVE TO THE UNIFIED TRANSPORTATION SYSTEM.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately extend the filing time for a report relative to the unified transportation system, 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 23 of chapter 102 of the acts of 1995 is hereby amended by striking out the seventh paragraph, as amended by section 54 of chapter 205 of the acts of 1996, and inserting in place thereof the following paragraph:-

Said Boston Redevelopment Authority, said Boston transportation department and said authority shall submit a copy of a final report to the chairmen of the house and senate committees on ways and means and the chairmen of the joint committee on transportation on or before April thirtieth, nineteen hundred and ninety-seven, and shall file said report with the clerk of the house of representatives.

Approved January 9, 1997.

Chapter 486. AN ACT AUTHORIZING THE TOWN OF PEMBROKE TO DEPOSIT THE PROCEEDS OF CERTAIN TAX FORECLOSURE SALES INTO CERTAIN ACCOUNTS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Pembroke is hereby authorized to deposit the proceeds of all sales of tax foreclosed properties made on or after June twenty-ninth, nineteen hundred and ninety-

six pursuant to section seventy-seven B of chapter sixty of the General Laws into the account or accounts established pursuant to paragraph (6) of subsection (c) of section two C of said chapter sixty which shall be appropriated in the manner and for the purposes stated in said paragraph (6).

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

Approved January 9, 1997.

Chapter 487. AN ACT RELATIVE TO THE DEPARTMENT OF PUBLIC WORKS OF THE TOWN OF BROOKLINE.

Be it enacted, etc., as follows:

SECTION 1. Chapter 317 of the acts of 1974 is hereby amended by striking out sections 1, 3, and 5 and inserting in place thereof the following three sections:-

Section 1. There is hereby established in the town of Brookline, hereinafter referred to as the town, a division of transportation, to be a part of the department of public works, with the division to consist of a transportation board, hereinafter referred to as the board, a director of transportation, hereinafter referred to as the director, and such staff as may be authorized by the board of selectmen, hereinafter referred to as the selectmen. All statutes and by-laws applicable generally to transportation, vehicular licensing and traffic rules, regulations and orders shall apply to the division of transportation.

Section 3. The director shall be an engineer or the equivalent who shall be especially fitted by education, training and experience to perform the duties of the position. The qualifications for the position shall be determined by the commissioner with the approval of the town administrator. The director shall not be subject to civil service law and rules. The commissioner of public works of Brookline, hereinafter referred to as the commissioner, shall have the authority to create or eliminate staff positions in the division.

Section 5. The director shall be the administrative head of the transportation division, and as such shall have full charge and supervision of the work of the division and its personnel. He shall provide full staff services to the board, and to the extent authorized by the board shall act on its behalf, in the exercise of its powers and responsibilities under this act. He shall act as technical advisor to the board of selectmen, the transportation board, and other town agencies or officials in connection with transportation matters.

SECTION 2. Chapter 12 of the acts of 1963 is hereby amended by striking out sections 1 and 2, as amended by sections 1 and 2 of chapter 32 of the acts of 1981, and inserting in place thereof the following two sections:-

Section 1. Notwithstanding the provisions of any general or special law or by-law to the contrary, there shall be established in the town of Brookline a department of public works, hereinafter called the department, which shall be under the supervision, management and control of a commissioner of public works, hereinafter called the commissioner. The selectmen shall appoint, subject to the provisions of chapter two hundred and seventy of the

acts of nineteen hundred and eighty-five, as amended, may remove, when in their judgment the public interest so requires, and may fix the compensation of the commissioner who shall be specially fitted by education, training and experience to perform the duties of his office. He shall be appointed in May of each year for a term of one year from the first day of July following and until the qualification of his successor. He shall not be subject to the civil service law. During his tenure he shall hold no elective office nor shall he engage in any other business or occupation. Any vacancy in such office shall be filled by appointment by the selectmen for the remainder of the unexpired term. The commissioner may appoint such employees as the exercise and performance of his powers, rights and duties may require, subject to available appropriations.

He shall establish and from time to time reorganize or abolish within the department, with the approval of the town administrator, operating divisions such as highway, engineering, sewer, sanitation, transportation, water and the division of parks, forestry and cemeteries.

Section 2. The commissioner shall appoint, with the approval of the town administrator, the directors of such divisions of the department as the selectmen determine require directors of divisions. The selectmen shall fix the compensation of the directors of such divisions. The directors shall serve under the direction of the commissioner. Directors shall be appointed annually for the term of one year and until the qualification of their respective successors and shall not be subject to the civil service law. A director may be removed by the commissioner, with the approval of the town administrator, when in their judgment the public interest so requires. Any vacancy in such office may be filled by appointment by the commissioner, with the approval of the town administrator, for the remainder of the unexpired term.

Approved January 9, 1997.

Chapter 488. AN ACT AUTHORIZING THE CITY OF BOSTON TO PAY CERTAIN MEDICAL EXPENSES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section one hundred B of chapter forty-one of the General Laws or any other general or special law to the contrary, the city of Boston is hereby authorized to pay to Beth Israel Hospital a sum not to exceed forty thousand eight hundred dollars and ninety-five cents for medical bills incurred through May sixteenth, nineteen hundred and ninety-two by Charles Miller, Jr., a retired member of the Boston police department.

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

Approved January 9, 1997.

Chapter 489. AN ACT RELATIVE TO THE CONSTRUCTION OF A FIELD HOUSE AND AQUATICS CENTER AT HOLYOKE COMMUNITY 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 chapter seven of the General Laws but subject to this act, to acquire by deed in fee simple absolute on behalf of the commonwealth, as a gift from the Holyoke Community College Foundation, thirty acres of land, more or less, together with any improvements, utilities and appurtenant rights and easements related thereto, which land is located in the city of Holyoke, as all the property described in a deed recorded in the Hampden county registry of deeds in Book 6586, Page 309, except for the portion thereof which is shown as lots one through nine, and the land owned in common by the owners of lots one through nine, on a Plan of Land for Space Realty Trust prepared by Palmer Engineering Corporation, dated July 30, 1996, and recorded in said registry of deeds in Plan Book 250, Page 123. The property shall be acquired for use by the college as the new gymnasium/athletic and fitness facility funded pursuant to item 7506-7962 in section two of chapter two hundred and sixty-seven of the acts of nineteen hundred and ninety-five, including, but not limited to, the planning, design and construction of a field house and aquatics center at said facility.

SECTION 2. Said commissioner is hereby authorized to plan, design and construct the new gymnasium/athletic and fitness facility on the property described in section one and is hereby authorized to receive and expend such sums from the college or other entities as they may make available to the division for such purpose.

SECTION 3. Said commissioner shall develop alternative methods of procurement of design and construction services, including design/build services, for said new gymnasium/athletic and fitness facility, hereinafter called the project:

(*a*) Notwithstanding the provisions of sections thirty-eight A½ to thirty-eight O, inclusive, of chapter seven of the General Laws, sections thirty-nine M of chapter thirty of the General Laws, and section forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine of the General Laws or any other general or special law regulating the design, construction, advertising or bidding of design and of construction contracts, or any other general or special law to the contrary, said commissioner may select and contract with a single contractor to provide design/build services for the design and construction of the project; provided, however that the design/build contractor shall be certified by said commissioner to perform the work required and shall be selected through a competitive process conducted in conformance with subsection (*b*).

(*b*) Said commissioner may develop procedures for the procurement of design/build services in consultation with the office of the inspector general. Said procedures shall include but shall not be limited to the following provisions:

(1) Said commissioner shall obtain design/build services utilizing sealed competitive proposals. Said commissioner shall solicit proposals through a request for proposals which shall include: the time and date for receipt of proposals; the address of the office to which

the proposal shall be delivered; proposed contractual terms and conditions, some of which may be deemed mandatory or nonnegotiable; standards by which acceptability will be determined as to quality, workmanship results of inspections and tests and suitability for a particular purpose; all evaluation criteria that will be utilized by said commissioner and such other matters as may be determined by said commissioner. The request for proposals for design/build services shall also describe the scope of the design/build project and identify all quality and performance requirements for said project.

(2) Public notice of each request for proposals shall be published at least three weeks prior to the time specified in such notice for the receipt of proposals, in the central register published by the state secretary and in a daily newspaper of general circulation in Hampden county. The request for proposals for design/build services shall also be published in at least one trade journal of national distribution.

(3) Each request for proposals may incorporate documents by reference; provided, however, that the request for proposals shall specify where offerors may obtain such documents. The request for proposals for design/build services may provide for the separate submission of price, and so provided, shall indicate when and how offerors shall submit the price, and shall specify that bid security in a form specified by said commissioner and in an amount equal to five percent of the proposed contract price shall accompany such proposal. Said commissioner shall make copies of each request for proposals available to all offerors on an equal basis. Said commissioner may conduct pre-proposal conferences and interviews with interested parties prior to receiving proposals. An offeror's proposal shall be unconditional except as provided in this paragraph. An offeror may correct, modify or withdraw a proposal by written notice received in the office designated in the request for proposals prior to the time and date set for the opening of proposals.

(4) At the opening of the proposals, said commissioner shall prepare a register of proposals which shall include the name of each offeror and the number of modifications, if any, received. The register of proposals shall be open for public inspection. After opening of the proposals, an offeror may not correct, modify or withdraw the price or any other provisions of its proposal in a manner prejudicial to the interests of the commonwealth or fair competition. Said commissioner may waive minor informalities or allow the offeror to correct them.

(5) Said commissioner shall not open the proposals publicly, but shall open them in the presence of one or more witnesses at the time specified in the request for proposals. Notwithstanding the provisions of any general or special law to the contrary, until the completion of the selection process, the contents of the proposals and the selection process shall not be disclosed to competing offerors and shall not be public documents.

(6) Said commissioner shall appoint a design/build selection committee which shall be composed of experts in design, construction and administration, of gymnasium/athletic and fitness facilities. The committee shall evaluate the proposals received by said commissioner. Said committee shall conduct its evaluations of the proposals based solely on the criteria set forth in the request for proposals. In the event that price proposals are to be submitted separately from proposals for design/build services, said committee shall not

evaluate these and the commissioner shall not disclose such price proposals to the committee until said committee has completed its evaluation of the proposals for design/build services.

(7) For each proposal, said committee shall specify in writing on each evaluation criterion a rating of highly advantageous, not advantageous or such additional rating as the committee finds reasonable, and shall specify in writing a composite rating for each proposal and the reasons for such composite rating.

(8) Said commissioner shall make a determination of the most advantageous proposal for the site and for design/build services from a responsible and responsive offeror based upon the ratings given to the proposals by the appropriate selection committees. If price proposals have been submitted separately for design/build services, said commissioner shall also base such determination on an evaluation of such price proposals. The commissioner may negotiate all contract terms not deemed mandatory or nonnegotiable with such offerors. If, after negotiation with such offerors, said commissioner is unable to finalize a contract for either acquisition of the site or for design/build services, or both, that is in the commonwealth's best interests, the commissioner may negotiate with the offeror of the next most advantageous proposal submitted by a responsible and responsive offeror based upon the ratings of the appropriate selection committee and upon an evaluation of the relevant price proposal if separately submitted.

(9) The contract for design/build services shall be awarded by said commissioner to the responsible and responsive offerors submitting the most advantageous proposals based upon the evaluation criteria set forth in the request for proposals and the terms of the negotiated contract. Said commissioner shall complete the selection process by written notice to the selected offeror or by notice of rejection to all proposers, as specified below. Said commissioner may reserve the right to reject any or all proposals if it is in the public interest to do so.

(10) For the purposes of this section, the term responsible offeror shall mean a person, corporation or other organization or entity which has the capability to perform fully the contract requirements, and the integrity and reliability which assures good faith performance, and the term "responsive offeror" shall mean a person, corporation or other organization or entity which has submitted a proposal which conforms in all respects to the request for proposals.

(11) If said commissioner awards the contract for design/build services to an offeror which did not submit the lowest price proposal, said commissioner shall explain the reasons for such award in writing, which shall be available for public inspection.

(12) Prior to execution of a design/build contract, the selected offeror shall furnish to said commissioner a performance bond and payment bond, each in the sum of the contract price and issued by a surety company qualified to issue bonds in the commonwealth and satisfactory to said commissioner. If the selected offeror fails to execute a contract or to furnish the necessary bonds within the time period specified in the request for proposals, said commissioner may award the design/build contract to the offeror of the next most advantageous proposal.

(13) Said commissioner shall return bid security to all design/build offerors which

are not selected. The design/build selection committee shall have conferences describing relative strengths and weaknesses of each proposal with the other qualified offerors which were not selected if the offerors request to have such conferences.

(14) Said commissioner shall prepare a written report of the reasons for its selection determinations and any subsequent determinations to negotiate with additional proposers, including the recorded votes, if any that were taken which shall be available to the public.

Said commissioner shall submit final procedures for site selection or procurement of design/build services to the inspector general for comment at least thirty days prior to the publication of notice of request for proposals. Such procedures and the inspector general's comments shall be submitted to the governor, the senate president, the speaker of the house and the members of the general court at least forty-five days before the execution of any contract for site selection or procurement of design/build services.

Approved January 9, 1997.

Chapter 490. AN ACT PROTECTING CONSUMERS IN THE LEASING OF CERTAIN MOTOR VEHICLES.

Be it enacted, etc., as follows:

SECTION 1. Subsection (1) of section 7N½ of chapter 90 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "buyer", in line 6, the following words:- or lessee.

SECTION 2. Said subsection (1) of said section 7N½ of said chapter 90, as so appearing, is hereby further amended by inserting after the definition of "Dealer" the following definition:-

"Lessee", any person who acquires the right to possession of and use of a motor vehicle under a lease agreement for a term of not less than one year.

SECTION 3. Said subsection (1) of said section 7N½ of said chapter 90, as so appearing, is hereby further amended by inserting after the word "sold", in line 18, the following word:- , leased.

SECTION 4. Subsection (3) of said section 7N½ of said chapter 90, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

If the manufacturer, its agent or authorized dealer does not conform the motor vehicle to any such applicable express or implied warranty by curing any nonconformity after a reasonable number of attempts, the manufacturer shall accept return of the vehicle from the consumer. In instances in which a vehicle is sold and subsequently returned, the manufacturer shall refund the full contract price of the vehicle including all credits and allowances for any trade-in vehicle, less any cash award that was made by the manufacturer in an attempt to resolve the dispute and was accepted by the consumer, and a reasonable allowance for use, or shall offer to replace the vehicle. In instances in which a vehicle is

leased and subsequently returned, the manufacturer shall refund all payments made by the consumer to the manufacturer under the terms of the lease agreement less any cash award that was made by the manufacturer in an attempt to resolve the dispute and was accepted by the consumer, and a reasonable allowance for use, or shall offer to replace the vehicle. The consumer shall have an unqualified right to reject a manufacturer's offer of replacement and demand a refund. In instances in which a vehicle is replaced by a manufacturer under the provisions of this section, said manufacturer shall reimburse the consumer for any fees for the transfer of registration or any sales tax incurred by the consumer as a result of such replacement. In instances in which a leased vehicle is replaced by a manufacturer under the terms of this section, an identical model vehicle shall be provided to the consumer for the remaining term of the original lease agreement. In instances in which a vehicle which was financed by the manufacturer or its subsidiary or agent is replaced under the provisions of this section, said manufacturer, subsidiary or agent shall not require the consumer to enter into any refinancing agreement which would create any financial obligations upon such consumer beyond those implied by the original financing agreement. In instances in which a vehicle which was leased from a dealer or manufacturer is replaced under the provisions of this section, said dealer or manufacturer shall not require the consumer to enter into any lease agreement which would create any financial obligations upon such consumer beyond those implied by the original lease agreement. In instances in which a refund is tendered under the provisions of this section, the manufacturer shall also reimburse the consumer for incidental costs including sales tax, registration fee, finance charges and any cost of options added by an authorized dealer. Whenever a vehicle is replaced a refund is given under the provisions of this section, in instances in which towing services and rental vehicles were not made available at no cost to the consumer, the manufacturer shall also reimburse the consumer for towing and reasonable rental costs that were a direct result of vehicle nonconformity. Refunds shall be made to the consumer and lienholder, if any, as their interests may appear. A reasonable allowance for use for all motor vehicles other than motorcycles shall be obtained by multiplying the total contract price of the vehicle, or in the case of a leased vehicle the total amount of payments made by the consumer to the manufacturer under the terms of the lease agreement, by a fraction having as its denominator one hundred thousand and having as its numerator the number of miles that vehicle traveled prior to the manufacturer's acceptance of its return. A reasonable allowance for use for motorcycles shall be obtained by multiplying the total contract price of the motorcycle by a fraction having as its denominator twenty-five thousand and having as its numerator the number of miles that the vehicle traveled prior to the manufacturer's acceptance of its return.

SECTION 5. Said section 7N½ of said chapter 90, as so appearing, is hereby further amended by inserting after the word "sale", in line 212, the words:- or lease.

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

Approved January 9, 1997.

Chapter 491. AN ACT AUTHORIZING ENVIRONMENTAL JOINT POWERS AGREEMENTS.

Be it enacted, etc., as follows:

Chapter 21A of the General Laws is hereby amended by adding the following section:-

Section 20. (a) As used in this section, the following words shall, unless the context clearly indicates otherwise, have the following meanings:-

"Public agencies", any city, town, county, district, or other political subdivision, authority, public corporation, board or commission of the commonwealth; the commonwealth or any agency or department thereof; any such agency, department, political subdivision or entity in a state adjoining the commonwealth; any interstate agency; the United States government and any department or agency thereof.

"Purposes of this section", the purposes set forth in clauses (1) to (24), inclusive, of section two, and any similar and compatible purposes related to the management, protection, and enhancement of natural resources and the environment.

"Region", any geographically-described area within which the powers and duties provided in a joint powers agreement will be exercised.

"Joint powers agreement", a document specifying the terms and conditions of the joint exercise of powers and duties entered into by participating public agencies pursuant to the laws governing any such agency, the provisions of this section, and such procedural regulations as the secretary of environmental affairs may promulgate.

(b) In order to facilitate intergovernmental action on natural resource and environmental issues and thereby to advance the objectives set forth in Article XCVII of the Articles of Amendment to the Constitution of the Commonwealth, any two or more public agencies, for any region they may elect, may apply to the secretary of environmental affairs to enter into an agreement for the joint exercise of certain of their powers and duties. The proposed joint powers agreement shall specify:

(1) the purpose and nature of the arrangement;

(2) the work to be performed, and the division or sharing of responsibility among public agencies;

(3) the estimated costs and the methods of financing;

(4) the method of administration; and

(5) the duration of the proposed agreement.

Following a public hearing in the specified region, and upon a written finding that the proposed agreement meets the requirements of this section, the secretary may approve the agreement. The secretary shall file a copy of such approval, with a copy of the agreement, with the clerks of the senate and the house of representatives and with the state secretary. Any proposed agreement not disapproved within forty-five days after said public hearing shall be deemed to have been approved. Agreements may be modified by the secretary and may be extended for additional terms, but in no event shall a joint powers agreement be in existence for more than five years without express statutory approval.

(c) A joint powers agreement established pursuant to the provisions of this section

may be administered by a board comprised of at least one member representing each participating public agency. In order to enable a combination of public agencies to act together, the board shall coordinate the activities of such participating agencies, but only to the extent of the powers otherwise granted by law to one or more of the participating public agencies.

(d) Nothing in this section shall be construed to:

(1) amend, repeal or otherwise alter the authority or jurisdiction of, or establish, any public agency;

(2) confer any management authority over funds, land, or natural resources beyond the authority exercised by the participating agencies;

(3) authorize appropriated funds to be expended for the purposes of this section, or to be transferred or have the effect of being transferred from one appropriation account to another, except as otherwise authorized by law;

(4) amend, repeal or otherwise alter the authority of the department of environmental protection to undertake or order actions pursuant to chapter twenty-one E, nor otherwise to require said department to participate in a joint powers agreement if the commissioner thereof determines that such participation would conflict with the purposes of said chapter twenty-one E; nor

(5) create liability on the part of any public agency for the act or omission of another public agency.

Approved January 9, 1997.

Chapter 492. AN ACT FURTHER REGULATING THE MOTOR VEHICLE EXCISE TAX.

Be it enacted, etc., as follows:

Section 2A of chapter 60A of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by inserting after the word "vehicle", in line 32, the following words:- nor allow an exchange of the registration of such vehicle nor issue a new registration of such vehicle to the person to whom the unpaid excise tax was assessed.

Approved January 9, 1997.

Chapter 493. AN ACT RELATIVE TO THE REVISION OF TERMS OF CERTAIN MORTGAGES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately permit mortgage lenders to revise the terms of certain existing mortgages for the purpose of preventing foreclosures, therefore it is hereby declared an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 28A of chapter 183 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any sum or sums which shall be loaned by the mortgagee to the mortgagor at any time after the recording of any mortgage of real estate, to be expended for paying for repairs, improvements, lead paint removal or replacements to, fuel for, or for taxes or other municipal liens, charges or assessments on, the mortgaged premises, shall be equally secured with and have the same priority as the original indebtedness, to the extent that the aggregate amount outstanding at any one time when added to the balance due on the original indebtedness, shall not exceed the amount originally secured by the mortgage.

SECTION 2. Section 63A of said chapter 183, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

In any such revision made, subsequent to a notice to the mortgagor of a default in the terms of a mortgage or the commencement of a foreclosure procedure against the mortgagor pursuant to the terms of said mortgage, the amount permitted in clause (i) of the preceding paragraph may be exceeded, for the purpose of curing such default or preventing such foreclosure, without loss of the validity of said mortgage and without loss of the priority thereof for the amount loaned or advanced pursuant to said clause (i). Any amount loaned or advanced in excess of the maximum amount permitted pursuant to said clause (i) shall be recorded as an encumbrance on the real estate securing the mortgage hereby revised which shall be subordinate to all junior encumbrances of record on said real estate at the time any such excess amount has been loaned or advanced, except as to the holder of any such junior encumbrance which has consented, in writing, to be subordinated to said encumbrance and such written consent has been recorded.

Approved January 9, 1997.

Chapter 494. AN ACT RELATIVE TO THE CONSERVATION COMMISSION OF THE CITY OF HOLYOKE.

Be it enacted, etc., as follows:

Section 34 of chapter 435 of the acts of 1896, as most recently amended by chapter 189 of the acts of 1992, is hereby further amended by adding the following paragraph:-

There shall be a conservation commission consisting of seven members, who shall be residents of the city of Holyoke, appointed by the mayor subject to confirmation by the city council. The members shall be appointed for three year terms commencing on the first Tuesday in February. Any vacancy shall be filled for the unexpired term in the same manner as an original appointment. A member may be removed for cause in the manner provided

by section eight C of chapter forty of the General Laws.

Approved January 9, 1997.

Chapter 495. 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 1994 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	$40.00
for vessels over 3500 to 7000 Gross Tons	$47.50
for vessels over 7000 to 15000 Gross Tons	$54.00
for vessels over 15000 to 25000 Gross Tons	$56.45
for vessels over 25000 to 35000 Gross Tons	$57.80
for vessels over 35000 to 45000 Gross Tons	$59.40
for vessels over 45000 Gross Tons	$63.75

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 three hundred dollars;

(2) any inbound vessel from sea subject to pilotage that anchors in anchorage number one, two or five shall pay full pilotage;

(3) any outbound vessel subject to pilotage that anchors in anchorage number one, two or five 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 and 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, three 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; provided, however, that if a vessel proceeds to anchorage number two at the request of the master or agent, an additional one and one-half full pilotage; and

(10) shifting a ship in anchorage number two, three 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 fifty dollars. Detention time shall begin at the ordered sailing time;

(2) cancellation rate, one hundred dollars;

(3) compass adjusting, one hundred dollars;

(4) calibration rate, one hundred 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 and fifty dollars; provided, however, that 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 anchorage number five;

(6) no charge shall be made for a vessel detained because of fog or stress of weather;

(7) pilot carried away, the vessel shall pay his return expenses plus one hundred dollars per day;

(8) notifying a vessel of his diversion orders, a charge of one hundred dollars may be levied plus any regular charges;

(9) assisting the master in docking and undocking, one hundred dollars;

(10) all inbound vessels shall notify the pilot office eight hours before arrival time if such time varies more than two hours from their latest estimated time of arrival report; and

(11) 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 three thousand five hundred gross tons and under and fifty dollars per full pilotage for all vessels over three thousand five hundred gross tons. Any such surcharge funds collected shall be placed in an escrow fund which shall 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 shall be made available to industry representatives on a quarterly basis.

SECTION 2. Said section 31 of said chapter 103 is hereby further amended by striking out the first paragraph, as appearing in section one 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	$42.50
for vessels over 3500 to 7000 Gross Tons	$50.80
for vessels over 7000 to 15000 Gross Tons	$57.80
for vessels over 15000 to 25000 Gross Tons	$60.45
for vessels over 25000 to 35000 Gross Tons	$61.80
for vessels over 35000 to 45000 Gross Tons	$63.55
for vessels over 45000 Gross Tons	$68.25

SECTION 3. Section two shall take effect on June first, nineteen hundred and ninety-seven.

Approved January 9, 1997.

Chapter 496. AN ACT RELATIVE TO THE REIMBURSEMENT CHARGE FOR REIMBURSEMENT CONTAINERS ON DOUBLE STACK TRAINS.

Be it enacted, etc., as follows:

SECTION 1. Subsection (A) of section 29 of chapter 28 of the acts of 1996 is hereby amended by striking out the definition of "Reimbursement container" and inserting in place thereof the following definition:-

"Reimbursement container", a container transported by a double stack track over a fully funded line subject to a reimbursement charge pursuant to the provisions of subsection (G).

SECTION 2. Said section 29 of said chapter 28 is hereby further amended by striking out subsection (G) and inserting in place thereof the following subsection:-

(G) To accomplish the objectives of public investment in fully funded lines, the secretary shall require payment by a participating railroad of a reimbursement charge. Such reimbursement charge shall apply to intermodal containers, loaded or empty, carried by the participating railroads and meeting all of the following criteria:

(*i*) transported by a double stack train over all or a portion of a fully funded line, whether or not such containers are actually double stacked;

(*ii*) handled for the account of either (*a*) a steamship line or (*b*) a steamship line's agents or subsidiaries moving in equipment of a type accepted by the steamship line for movement in its ocean vessel; and

(*iii*) with no immediately prior or subsequent movement via a maritime port facility located in the commonwealth.

The reimbursement charge shall be adjusted annually by increases or decreases in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for all urban consumers and shall apply to all containers meeting the criteria set forth in this subsection whether or not such containers are actually double stacked.

Reimbursement charges shall be paid by the railroad handling reimbursement containers and shall be in effect for a period of fifteen years from the date of completion of vertical clearance improvement on the particular route, segment or line or until fifty percent of the commonwealth's investment in fully funded lines has been recovered by the payment of reimbursement charges by the appropriate participating railroad; provided, however, that reimbursement charges shall not be charged to a railroad for that number of container movements, loaded or empty, to Beacon Park or Fort Devens, as the case may be, equal to the number of such containers handled by such railroad in nineteen hundred and ninety-three, plus five percent, that would have been subjected to the reimbursement charge had they moved in a double stack train. This number shall be adjusted annually by an appropriate index reflecting economic growth in New England and as set forth in the master agreement.

Approved January 9, 1997.

SUMMARY 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 THE AUTHORITY OF THE CONSTITUTION AND LAWS ENACTED BY THE PEOPLE AT THE NOVEMBER 5, 1996 STATE ELECTION

During the second session of the General Court held in 1996, 496 Acts were enacted of which 487 received the Governor's approval.

Chapters 1 through 6 and Chapter 8 were enacted during the 1995 legislative session and were approved by the Governor in 1996.

Chapters 73 and 367 were not approved by the Governor within the ten days prescribed by the Constitution. Since they were not returned to either branch during the ten days with his reasons for disapproval in writing and the General Court had not prorogued during that time, these Acts have the force of law and have been so certified.

Four Acts were returned by the Governor to the branch in which each Act had originated, with his objections in writing thereto. Chapter 32 was passed by the Senate on November 15, 1995 and in concurrence by the House on February 14, 1996. Chapter 176 was passed by the House on July 10, 1996 and in the Senate on July 18, 1996. Chapter 203 was passed in both the House and Senate on July 24, 1996. Chapter 368 was passed in the House on July 30, 1996 and in the Senate on July 31, 1996 the Governors objections notwithstanding. These have the force of law and have been so certified.

This summary does not include those line item vetoes by the Governor on Appropriation Acts nor any subsequent legislative action on those vetoes.

Chapters 57 and 58 were filed by the Governor under the provisions of Article LXXXVII of the Amendments to the Constitution. Not having been disapproved in either the House or Senate and the General Court not having prorogues, these have the force of law and have been so certified.

Chapter 453, the Massachusetts Wildlife Protection Act was adopted by the people at the November 5, 1996 state election under Article XLVIII of the Amendments to the Constitution, the Initiative, Part V, Section 1 as Amended; according to the determination of the Governor and Council dated November 27, 1996.

Ten Acts were declared to be emergency laws by the Governor under Article XLVIII of the Amendments to the Constitution. These are Chapters 37, 41, 78, 80, 163, 276, 430, 452, 458, and 464.

The 1996 session of the General Court was dissolved at midnight on December 31, 1996 the session having lasted 366 days.

William Francis Galvin

William Francis Galvin,
Secretary of the Commonwealth.

January 24, 1997

OFFICE OF THE SECRETARY, BOSTON, MASSACHUSETTS September 12, 1996

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 the 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 M.G.L. c. 3, § 52.

William Francis Galvin,
Secretary of the Commonwealth.

TABLE OF CHANGES

SHOWING

TO WHAT EXTENT THE GENERAL LAWS OF THE COMMONWEALTH, AS APPEARING IN THE 1994 OFFICIAL EDITION, HAVE BEEN AFFECTED BY THE LEGISLATION PASSED BY THE GENERAL COURT SINCE JANUARY 1, 1995

CHAPTER 1 - Jurisdiction of the Commonwealth and of the United States.

CHAPTER 2 - Arms, Great Seal and Other Emblems of the Commonwealth.

§ 40 added, 1996, 225.
§ 41 added, 1996, 434.

CHAPTER 3 - The General Court.

CHAPTER 4 - Statutes.

§ 7, clause Twenty-sixth, subclause (1) revised, 1996, 204 § 3; **section amended,** 1996, 450 §§ 1, 2 , 3; clause Twenty-sixth, subclause (1) revised, 1996, 450 § 4.
§ 10A, second sentence revised, 1995, 39 § 3. (See 1995, 39 § 62.)
§ 39 revised, 1995, 80 § 1. (1995, 80 § 4.)
§ 40 revised, 1995, 80 § 1. (1995, 80 § 4.)
§ 41 revised, 1995, 80 § 1. (1995, 80 § 4.)
§ 42 revised, 1995, 80 § 1. (1995, 80 § 4.)
§ 43 revised, 1995, 80 § 1. (1995, 80 § 4.)
§ 44 revised, 1995, 80 § 1. (1995, 80 § 4.)
§ 47 revised, 1995, 80 § 2. (1995, 80 § 4.)

CHAPTER 5 - Printing and Distribution of Laws and Public Documents.

CHAPTER 6 - The Governor, Lieutenant Governor and Council, Certain Officers under the Governor and Council, and State Library.

§ 3, first paragraph revised, 1996, 151 § 9. (See 1996, 151 § 690.)
§ 6 amended, 1996, 58 § 1. (See 1996, 58 § 105.)
§ 6A, second paragraph stricken out, 1996, 58 § 2. (See 1996, 58 § 105.)
§ 12WW added, 1996, 78.
§ 15TTT added, 1995, 28.
§ 15UUU added, 1995, 144
§ 15VVV added, 1996, 214.
§ 15WWW added, 1996, 432.
§ 17 amended, 1996, 58 §§ 3, 4. (See 1996, 58 § 105.)
§ 17A revised, 1996, 57 § 1; second sentence revised, 1996, 151 § 10. (See 1996, 57 § 10; 151 § 690.)
§ 18 amended, 1996, 226 §§ 1, 2.

§ 18A **repealed**, 1996, 151 § 11. (See 1996, 151 § 690.)
§ 21, caption stricken out, 1996, 450 § 5.
§ 22, caption stricken out, 1996, 450 § 6.
§ 108 amended, 1996, 151 § 13. (See 1996, 151 § 690.)
§ 115 **repealed**, 1996, 58 § 5. (See 1996, 58 § 105.)
§ 116C added, 1996, 294 § 12.
§ 125 amended, 1995, 5 § 3. (See 1995, 5 § 143.)
§ 126 amended, 1995, 5 § 4. (See 1995, 5 § 143.)
§ 133G added, 1996, 374 § 1.
§ 151 **repealed**, 1996, 58 § 6. (See 1996, 58 § 105.)
§ 152 **repealed**, 1996, 58 § 6. (See 1996, 58 § 105.)
§ 153 **repealed**, 1996, 58 § 6. (See 1996, 58 § 105.)
§ 164 amended, 1995, 285 § 1; first paragraph amended, 1996, 151§ 14; **section amended**, 1996, 245 § 1. (See 1996, 151 § 690.)
§ 165A amended, 1996, 151 § 15. (See 1996, 151 § 690.)
§ 165B added, 1996, 151§ 16. (See 1996, 151 § 690.)
§ 166A **repealed**, 1996, 58 § 7. (See 1996, 58 § 105.)
§ 168 amended, 1996, 151 § 17. (See 1996, 151 § 690.)
§ 168B added, 1996, 151 § 18. (See 1996, 151 § 690.)
§ 168C added, 1996, 151 § 18. (See 1996, 151 § 690.)
§ 172C added, 1996, 444 § 1.
§ 178C added, 1996, 239 § 1. (See 1996, 239 § 4.)
§ 178D added, 1996, 239 § 1. (See 1996, 239 § 4.)
§ 178E added, 1996, 239 § 1. (See 1996, 239 § 4.)
§ 178F added, 1996, 239 § 1. (See 1996, 239 § 4.)
§ 178G added, 1996, 239 § 1. (See 1996, 239 § 4.)
§ 178H added, 1996, 239 § 1. (See 1996, 239 § 4.)
§ 178I added, 1996, 239 § 1. (See 1996, 239 § 4.)
§ 178J added, 1996, 239 § 1. (See 1996, 239 § 4.)
§ 178K added, 1996, 239 § 1. (See 1996, 239 § 4.)
§ 178M added, 1996, 239 § 1. (See 1996, 239 § 4.)
§ 178N added, 1996, 239 § 1. (See 1996, 239 § 4.)
§ 178O added, 1996, 239 § 1. (See 1996, 239 § 4.)
§ 180 amended, 1995, 38 § 12; fifth paragraph, clause 4 revised, 1996, 151 § 19. (See 1995, 38 § 358; 1996, 151 § 690.)
§ 192, second paragraph revised, 1995, 38 § 15. (See 1995, 38 § 358.)
§ 196, second paragraph revised, 1995, 38 § 16. (See 1995, 38 § 358.)
§ 204 amended, 1996, 151 § 20. (See 1996, 151 § 690.)
§ 207 amended, 1996, 450 § 7.

CHAPTER 6A - Executive Offices.

§ 2 revised, 1996, 57 § 2; **revised**, 1996, 151 § 21. (See 1996, 57 § 10; 151 § 690.)
§ 8 **repealed**, 1996, 57 § 3. (See 1996, 57 § 10.)
§ 8A amended, 1996, 450 § 8.
§ 9 **repealed**, 1996, 57 § 4. (See 1996, 57 § 10.)

TABLE OF CHANGES

§ 9A **repealed**, 1996, 151 § 22. (See 1996, 151 § 690.)
§ 9B **repealed**, 1996, 151 § 22. (See 1996, 151 § 690.)
§ 10 **repealed**, 1996, 151 § 22. (See 1996, 151 § 690.)
§ 11 **repealed**, 1996, 151 § 22. (See 1996, 151 § 690.)
§ 12 **repealed**, 1996, 151 § 22. (See 1996, 151 § 690.)
§ 13 **repealed**, 1996, 151 § 22. (See 1996, 151 § 690.)
§ 16 amended, 1995, 5 § 5; **section amended**, 1996, 57 § 5; caption "EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES" inserted, 1996, 151 § 23; **section amended**, 1996, 151 § 24; **section amended**, 1996, 450 § 9. (See 1995, 5 § 143; 1996, 57 § 10; 151 § 690.)
§ 16B added, 1996, 450 § 10; **section amended**, 1996, 450 § 11.
§ 17 **repealed**, 1996, 57 § 6. (See 1996, 57 § 10.)
§ 17B **repealed**. 1996, 57 § 7. (See 1996, 57 § 10.)
§ 17C revised, 1996, 151 § 25. (See 1996, 151 § 690.)
§ 17D amended, 1996, 151 §§ 26, 27. (See 1996, 151 § 690.)
§ 17E amended, 1996, 151 § 28. (See 1996, 151 § 690.)
§ 18 amended, 1996, 151 § 29. (See 1996, 151 § 690.)
§ 18 ¼, paragraph (8) added, 1997, 93 § 1.
§ 18B amended, 1996, 151 § 30. (See 1996, 151 § 690.)
§ 18G added, 1996, 204 § 4.
§ 19 amended, 1996, 57 § 8. (See 1996, 57 § 10.)
§ 31 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 32 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 32A **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 32B **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 32D **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 33 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 34 amended, 1995, 5 § 6. (See 1995, 5 § 143.)
§ 34 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 35, first paragraph revised, 1995, 120 § 3. (See 1995, 120 § 88.)
§ 35 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 36 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 37 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 37A **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 37B **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 38 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 39 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 40 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 41 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 42 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 43 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 44 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 45 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 46 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 47 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 48 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)

§ 49 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 65 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 71 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 72 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 73 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)
§ 77 **repealed**, 1996, 151 § 31. (See 1996, 151 § 690.)

CHAPTER 6B - ACUTE HOSPITAL FINANCE.
(Chapter repealed, 1996, 151 § 32.)(See 1996, 151 § 690.)

§ 1, definition of "Division" inserted, 1995, 38 § 17. (See 1995, 38 § 358.)
§ 8 **repealed**, 1996, 58 § 8. (See 1996, 58 § 105.)

CHAPTER 7 - Executive Office for Administration and Finance.
(Former title, Commission on Administration and Finance).

§ 3B amended, 1996, 151 § 33. (See 1996, 151 § 690.)
§ 4 revised, 1996, 151 § 34. (See 1996, 151 § 690.)
§ 4A revised, 1996, 151 § 35; paragraph (a), fifth sentence amended, 1996, 365 § 1. (See 1996, 151 § 690.)
§ 4L amended, 1996 151 § 36. (See 1996, 151 § 690.)
§ 4P added, 1995, 97 § 1.
§ 22G inserted, 1996, 130 § 1.
§ 22H inserted, 1996, 130 § 1.
§ 22I inserted, 1996, 130 § 1.
§ 22J inserted, 1996, 130 § 1.
§ 22K inserted, 1996, 130 § 1.
§ 22L inserted, 1996, 130 § 1.
§ 22M inserted, 1996, 130 § 1.
§ 28 amended, 1996, 450 § 12
§ 38A **repealed**, 1996, 58 § 9. (See 1996, 58 § 105.)
§ 38B amended, 1996, 450 § 13.
§ 40F amended, 1995, 243 § 4A. (See 1995, 243 § 11.)
§ 49F ½, subsection (a), paragraph added, 1996, 130 § 2.
§ 40J, first paragraph, sentence added, 1996, 204 § 5.
§ 41B amended, 1996, 450 §§ 14, 15.
§ 42E amended, 1996, 450 § 16.
§ 43C amended, 1996, 151 § 37. (See 1996, 151 § 690.)
§ 43F ½ amended, 1996, 450 § 17.
§ 43J **repealed**, 1995, 38 § 18. (See 1995, 35 § 358.)
§ 43K **repealed**, 1995, 38 § 18. (See 1995, 35 § 358.)
§ 49 revised, 1996, 306 § 1.
§ 50 amended, 1996, 306 §§ 2. 3, 3A, 3B.

TABLE OF CHANGES

CHAPTER 7A - OFFICE OF THE COMPTROLLER.

§ 17 added, 1995, 38 § 19. (See 1995, 38 § 358.)

CHAPTER 7B - ASSET MANAGEMENT BOARD.
(New chapter added, 1990, 150 § 220A.)
(Chapter repealed, 1993, 151 § 4.)

CHAPTER 8 - State Superintendent of Buildings, and State House.

§ 9A added, 1995, 38 § 20; amended, 1996, 365 § 2. (See 1995, 38 § 358.)
§ 13 **repealed**, 1996, 365 § 3.
§ 18A added, 1996, 222.
§ 18B added, 1996, 222.
§ 20 revised, 1995, 38 § 21. (See 1995, 38 § 358.)

CHAPTER 9 - Department of the State Secretary.

§ 2, second sentence stricken out, 1996, 450 § 18.

CHAPTER 10 - Department of the State Treasurer.

§ 5C, first paragraph revised, 1996, 315 § 1.
§ 18 revised, 1996, 306 § 4.
§ 22 revised, 1996, 350 § 1.
§ 24A added, 1996, 350 § 2.
§ 27A added, 1996, 94 § 3; subsection (c), paragraph added, 1996, 350 § 3. (See 1996, 94 § 4.)
§ 28B added, 1996, 151 § 38. (See 1996, 151 § 690.)
§ 35 amended, 1996, 450 §§ 19, 20.
§ 35D amended, 1996, 450 §§ 21, 22.
§ 35M amended, 1996, 204 § 6; sentence added, 1996, 204 § 7.
§ 35O added, 1995, 246 § 1; first paragraph amended, 1996, 469 § 1.
§ 35P added, 1996, 163 § 1.
§ 37 amended, 1996, 450 § 23.
§ 39 amended, 1996, 450 § 24.
§ 50, first two paragraphs revised, 1996, 450 § 25.
§ 56 amended, 1996, 450 § 26.
§ 57 amended, 1996, 450 § 27.
§ 60, fourth sentence revised ,1995, 38 § 22. (See 1995, 38 § 358.)

CHAPTER 11 - Department of the State Auditor.

CHAPTER 12 - Department of the Attorney General, and the District Attorneys.

§ 15 amended, 1995, 38 §§ 23, 24. (See 1995, 38 § 358.)

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CHAPTER 12A - OFFICE OF THE INSPECTOR GENERAL.

CHAPTER 12B - STATE GAMBLING ADVISORY COMMISSION.
(New chapter inserted, 1994, 60 § 39.) (See 1994, 60 § 315.)

CHAPTER 13 - Department of Civil Service and Registration.

§ 42 amended, 1996, 450 § 28.
§ 92 amended, 1996, 204 § 8.

CHAPTER 14 - Department of Revenue.

CHAPTER 14A - OFFICE OF LABOR, EDUCATION AND ECONOMIC DEVELOPMENT.
(New chapter inserted, 1996, 151 § 39.) (See 1996, 151 § 690.)

CHAPTER 15 - Department of Education.

§ 1E, first paragraph, two sentences added, 1996, 45 § 3; first three sentences stricken out and two sentences inserted, 1996, 151 § 40; fourth paragraph revised, 1996, 151 § 41. (See 1996, 45 § 15; 151 § 690.)
§ 1F, last sentence revised, 1996, 151 § 42. (See 1996, 151 § 690.)
§ 1G amended, 1996, 450 § 29.
§ 18 revised, 1996, 306 § 5; 315 § 2; first and second sentences revised, 1996, 427 § 1. (See 1996, 427 § 16.)
§ 54 revised, 1995, 38 § 26. (See 1995, 38 § 358.)
§ 59 **repealed**, 1996, 58 § 10. (See 1996, 58 § 105.)

CHAPTER 15A - PUBLIC EDUCATION

§ 1, first sentence revised, 1996, 151 § 43; amended, 1996, 151 §§ 44, 45; 365 § 4. (See 1996, 151 § 690.)
§ 2 revised, 1996, 151 § 46. (See 1996, 151 § 690.)
§ 3 **repealed**, 1996, 57 § 9. (See 1996, 57 § 10.)
§ 4, first paragraph, first four sentences stricken out and three sentences inserted, 1996, 151 § 47. (See 1996, 151 § 690.)
§ 9 amended, 1995, 38 §§ 27, 28; 1996, 151 § 48; first paragraph, clause (f) amended, 1996, 151 § 49; clause (i), last sentence amended, 1996, 151 § 50; clause (cc), sentence inserted after third sentence, 1996, 151 § 51; fourth sentence amended, 1996, 204 § 9. (See 1995, 38 § 358; 1996, 151 § 690.)
§ 9B added, 1995, 38 § 29. (See 1995, 38 § 358.)
§ 15E added, 1996, 151 § 52. (See 1996, 151 § 690.)
§ 16 amended, 1995, 38 § 30. (See 1995, 38 § 358.)
§ 17 amended, 1996, 450 § 30.
§ 19 amended, 1996, 450 § 31.

TABLE OF CHANGES

§ 19A amended, 1996, 151 §§ 53, 54. (See 1996, 151 § 690.)
§ 29, subsection (a), definition of "Waivable fee" revised, 1995, 38 § 31; 120 § 4. (See 1995, 38 § 358; 120 § 88.)
§ 32 amended, 1996, 450 § 32.
§ 34 amended, 1996, 151 §§ 55, 56, 57, 58. (See 1996, 151 § 690.)
§ 37 amended, 1996, 151 § 59. (See 1996, 151 § 690.)
§ 39, sentence added, 1995, 38 § 32. (See 1995, 38 § 358.)
§ 40, subsection (2), paragraph (a), sentence added, 1996, 151 § 60. (See 1996, 151 § 690.)

CHAPTER 15B - THE NEW ENGLAND EDUCATIONAL LOAN MARKETING CORPORATION ACT.
(Chapter repealed, 1982, 356 § 2.)

CHAPTER 15C - MASSACHUSETTS COLLEGE STUDENT LOAN AUTHORITY.

CHAPTER 16 - DEPARTMENT OF HIGHWAYS.
(New title inserted, 1992, 286 § 59.)
(Formerly, DEPARTMENT OF PUBLIC WORKS.)

CHAPTER 17 - Department of Public Health.

CHAPTER 18 - Department of Transitional Assistance. (Title revised, 1995, 5 § 7. Former Title, Department of Public Welfare.) (See 1995, 5 § 143.)

§ 1 amended, 1995, 5 §§ 7, 8. (See 1995, 5 § 143.)
§ 2 amended, 1995, 5 §§ 9, 10; subsection (1), last paragraph amended, 1995, 5 § 11; clauses (e) and (f) added, 1995, 5 § 11. (See 1995, 5 § 143.)
§ 3 amended, 1995, 5 § 12. (See 1995, 5 § 143.)
§ 5 amended, 1995, 5 § 13. (See 1995, 5 § 143.)
§ 5F revised, 1995, 5 § 14. (See 1995, 5 § 143.)
§ 5G amended, 1995, 38 § 33. (See 1995, 38 § 358.)
§ 6 amended, 1995, 5 § 15; **section repealed**, 1997, 58 § 11. (See 1995, 5 § 143; 1996, 58 § 105.)
§ 7 amended, 1995, 5 § 16. (See 1995, 5 § 143.)
§ 10 amended, 1996, 450 § 33.
§ 11 amended, 1995, 5 § 17. (See 1995, 5 § 143.)
§ 15 amended, 1995, 5 § 18. (See 1995, 5 § 143.)
§ 17 amended, 1995, 5 § 19. (See 1995, 5 § 143.)
§ 18A added, 1995, 5 § 20; second paragraph stricken out and two paragraphs inserted, 1996, 151 § 61. (See 1995, 5 § 143; 1996, 151 § 690.)
§ 21, fourth paragraph stricken out, 1995, 5 § 21. (See 1995, 5 § 143.)
§ 28 amended, 1995, 5 § 22. (See 1995, 5 § 143.)
§ 29 added, 1995, 5 § 23. (See 1995, 5 § 143.)
§ 30 added, 1995, 5 § 23. (See 1995, 5 § 143.)

CHAPTER 18A - Department of Youth Services.

TABLE OF CHANGES

CHAPTER 18B - Department of Social Services.

§ 2 amended, 1996. 450 § 34.
§ 11 amended, 1996, 151 §§ 62, 63. (See 1996, 151 § 690.)
§ 13 amended, 1996, 151 §§ 64, 65, 66, 67, 68, 69. (See 1996, 151 § 690.)
§ 14 amended, 1996, 151 §§ 70, 71; last sentence stricken out, 1996, 151 § 72. (See 1996, 151 § 690.)
§ 15 amended, 1996, 151 §§ 73, 74, 75, 76, 77, 78, 79; paragraph added, 1996, 151 § 80. (See 1996, 151 § 690.)
§ 15A added, 1996, 151 § 81. (See 1996, 151 § 690.)

CHAPTER 19 - DEPARTMENT OF MENTAL HEALTH.

§ 9 **repealed**, 1996, 58 § 12. (See 1996, 58 § 105.)

CHAPTER 19A - Department of Elder Affairs.

§ 4B added, 1996, 67 § 1.

CHAPTER 19B - Department of Mental Health.
(Former title, Department of Mental Diseases.)

§ 9 **repealed**, 1996, 58 § 13. (See 1996, 58 § 105.)
§ 11 **repealed** 1996, 58 § 14. (See 1996, 58 § 105.)

CHAPTER 19C - DISABLED PERSONS PROTECTION COMMISSION.
(New chapter inserted, 1987, 465 § 11.)

§ 1, definition of "Recommendations" inserted, 1996. 259.
§ 2 revised, 1996. 151 § 82. 1996, 151 § 690.)
§ 5, two paragraphs added, 1996, 220; **section amended**, 1996, 450 § 35.
§ 13 added, 1995, 38 § 34. (See 1995, 38 § 358.)

CHAPTER 19D - ASSISTED LIVING.
(New chapter inserted, 1994, 354 § 3.)

CHAPTER 20 - DEPARTMENT OF FOOD AND AGRICULTURE.

§ 6B added, 1995, 38 § 35. (See 1995, 38 § 358.)
§ 21 paragraph added, 1996, 458.

CHAPTER 21 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.

§ 2 revised, 1995, 38 § 36. (See 1995, 38 § 358.)
§ 2A stricken out, 1995, 38 § 36. (See 1995, 38 § 358.)
§ 2F amended, 1996, 15 § 13.
§ 4B, first sentence revised, 1995, 38 § 37. (See 1995, 38 § 358.)

TABLE OF CHANGES

§ 4C repealed, 1995, 38 § 38. (See 1995, 38 § 358.)
§ 4F amended, 1995, 38 §§ 39, 40. (See 1995, 38 § 358.)
§ 7 amended, 1996, 453 § 3.
§ 7I added, 1995, 38 § 41. (See 1995, 38 § 358.)
§ 37B added, 1996, 12 § 14.
§ 37C added, 1996, 12 § 14.
§ 37D added, 1996, 12 § 14.
§ 38, sentence inserted after third sentence, 1996, 151 § 83. (See 1996, 151 § 690.)

CHAPTER 21A - Executive Office of Environmental Affairs.

§ 8, paragraph inserted after sixth paragraph, 1996, 12 § 15.
§ 18A, subsection (c) revised, 1996, 151 § 84; 204 § 10. (See 1996, 151 § 690.)
§ 19 amended, 1996, 450 § 36.
§ 19G, subsection (1), paragraph (c), clause (iii) revised, 1996, 450 § 37.
§ 19I amended, 1996, 450 §§ 38, 39
§ 19J amended, 1996, 450 § 40.
§ 20 added, 1996, 491.

CHAPTER 21B - MINING REGULATION AND RECLAMATION.

CHAPTER 21C - Massachusetts Hazardous Waste Management Act.

§ 16 **repealed,** 1996, 58 § 15. (See 1996, 58 § 105.)
§ 17 **repealed,** 1996, 58 § 15. (See 1996, 58 § 105.)

CHAPTER 21D - Massachusetts Hazardous Waste Facility Citing Act.

§ 4 **repealed,** 1996, 58 § 16. (See 1996, 58 § 105.)

CHAPTER 21E - MASSACHUSETTS OIL AND HAZARDOUS MATERIAL RELEASE PREVENTION AND RESPONSE ACT.

§ 3 amended, 1996, 450 § 41.
§ 3B amended, 1996, 450 § 42.
§ 5 amended, 1996, 450 § 43.
§ 5B amended, 1996, 450 § 44.
§ 13 amended, 1996, 450 § 45.

CHAPTER 21F - Coastal Facilities Improvement.

CHAPTER 21G - MASSACHUSETTS WATER MANAGEMENT ACT.

CHAPTER 21H - SOLID WASTE FACILITIES.
(New chapter inserted, 1987, 584 § 3.)

§ 3, subsection (b), paragraph added, 1996, 15 § 16.
§ 6 amended, 1996, 450 § 46.

CHAPTER 21I - MASSACHUSETTS TOXICS USE REDUCTION ACT.
(New chapter inserted, 1989, 265 § 3.)

CHAPTER 21J - UNDERGROUND STORAGE TANK PETROLEUM PRODUCT CLEANUP FUND.
(New chapter inserted, 1990, 524 § 1).

§ 1 amended, 1996, 450 §§ 47, 48; 151 § 85. (See 1996, 151 § 690.)
§ 4 amended, 1996, 450 §§ 49, 50.
§ 8, first paragraph, last sentence stricken out, 1995, 38 § 42; fourth sentence revised, 1996, 151 § 86; first paragraph amended, 1996, 152 § 87. (See 1995, 38 § 358; 1996, 151 § 690.)

CHAPTER 22 - Department of Public Safety.

§ 3, second sentence revised, 1996, 151 § 88. (See 1996, 151 § 690.)
§ 4 **repealed**, 1996, 151 § 89. (See 1996, 151 § 690.)
§ 6 amended, 1996, 151 § 90; first paragraph stricken out, 1996, 151 § 91. (See 1996, 151 § 690.)
§ 14 amended, 1995, 285 § 2; **section repealed**, 1996, 151 § 92; **section amended**, 1996, 245 § 2. (See 1996, 151 § 690.).
§ 15 **repealed**, 1996, 151 § 93. (See 1996, 151 § 690.)
§ 15A **repealed**, 1996, 151 § 94. (See 1996, 151 § 690.)
§ 15D, clause (5) stricken out and clauses (5), (5A) and (5B) inserted, 1995, 5 § 24. (See 1995, 5 § 143.)

CHAPTER 22A - CENTRAL REGISTER FOR MISSING CHILDREN.

§ 1, definition of "Director" inserted, 1996, 151 § 95; definition of "Board" inserted, 1996, 151 § 96. (See 1996, 151 § 690.)
§ 2 amended, 1996, 151 §§ 97, 98; second sentence revised, 1996, 450 § 51. (See 1996, 151 § 690.)
§ 3 amended, 1996, 151 §§ 99, 100. (See 1996, 151 § 690.)
§ 4 amended, 1996, 151 § 101. (See 1996, 151 § 690.)
§ 5 amended, 1996, 151 §§ 102, 103, 104, 105, 106, 107.(See 1996, 151 § 690.)
§ 6 amended, 1996, 151§ 108. (See 1996, 151 § 690.)

CHAPTER 22B - CAPITOL POLICE.
(Chapter repealed, 1991, 412 § 21.) (See 1991, 412 § 139.)

CHAPTER 22C - THE DEPARTMENT OF STATE POLICE.
(New chapter inserted, 1991, 412 § 22.) (See 1991, 412 § 139.)

§ 15 amended, 1996, 198.

§ 10 amended, 1996, 204 § 11; fourth paragraph revised, 1996, 204 § 12.
§ 19 amended, 1996, 450 § 52.
§ 22 amended, 1996, 204 § 13.
§ 26, clause (1) revised, 1996, 324 § 1; second and third paragraphs revised, 1996, 324 § 2; **section amended**, 1996, 450 § 53.
§ 40 amended, 1996, 450 § 54.
§ 60 amended, 1996, 450 § 55.
§ 68 amended, 1996, 450 § 56.

CHAPTER 22D - DEPARTMENT OF FIRE SERVICES.
(New chapter inserted, 1996, 151 § 109.) (See 1996, 151 § 690.)

CHAPTER 23 - DEPARTMENT OF LABOR AND WORK FORCE DEVELOPMENT.
(New title inserted, 1996, 1996, 151 § 110, Former title, Department of Labor and Industries.) (See 1996, 151 § 690.)

§ 1 revised, 1996, 151 § 111. (See 1996, 151 § 690.)
§ 2 revised, 1996, 151 § 111. (See 1996, 151 § 690.)
§ 3, third to sixth sentences, inclusive, stricken out and one sentence inserted, 1996, 151 § 112. (See 1996, 151 § 690.)
§ 4 revised, 1996, 151 § 113. (See 1996, 151 § 690.)
§ 5 revised, 1996, 151 § 113. (See 1996, 151 § 690.)
§ 6 revised, 1996, 151 § 113. (See 1996, 151 § 690.)
§ 9H amended, 1996, 151 § 114. (See 1996, 151 § 690.)
§ 9I **repealed**, 1996, 151 § 115. (See 1996, 151 § 690.)
§ 9J amended, 1996, 151 § 116. (See 1996, 151 § 690.)
§ 9O amended, 1996, 151 § 117. (See 1996, 151 § 690.)
§ 10A, caption preceding section stricken out, 1996, 151 § 115. (See 1996, 151 § 690.)
§ 10D **repealed**, 1996, 151 § 115. (See 1996, 151 § 690.)
§ 10E **repealed**, 1996, 151 § 115. (See 1996, 151 § 690.)
§ 10F **repealed**, 1996, 151 § 115. (See 1996, 151 § 690.)
§ 11E **repealed**, 1996, 58 § 17; section revised, 1996, 151 § 118. (See 1996, 58 § 105; 151 § 690.)
§ 11F amended, 1996, 151 § 119. (See 1996, 151 § 690.)
§ 11G amended, 1996, 58 § 18; section revised, 1996, 151 § 120. (See 1996, 58 § 105; 151 § 690.)
§ 12 **repealed**, 1996, 151 § 115. (See 1996, 151 § 690.)
§ 13 **repealed**, 1996, 151 § 115. (See 1996, 151 § 690.)
§ 13A **repealed**, 1996, 151 § 115. (See 1996, 151 § 690.)

CHAPTER 23A - DEPARTMENT OF ECONOMIC DEVELOPMENT.
(New title inserted, Former title, Department of Commerce and Development.)

§ 1 revised, 1996, 151 § 122. (See 1996, 151 § 690.)
§ 2, sentence added, 1996, 264 § 1.
§ 3D amended, 1996, 450 § 57.
§ 3F, paragraph added, 1996, 302.

§ 13C, second paragraph stricken out and two paragraphs inserted, 1996, 151 123; third paragraph revised, 1996, 204 § 14. (See 1996, 151 § 690.)
§ 59 added, 1995, 195.

CHAPTER 23B - DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.
(Title changed, 1996, 204 § 15, former title, DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT.)

§ 1 revised, 1996, 365 § 7; 151 § 125. (See 1996, 151 § 690.).
§ 2 revised, 1996, 365 § 7; 151 § 125. (See 1996, 151 § 690.)
§ 4 revised, 1996, 151 § 126. (See 1996, 151 § 690.)
§ 10 amended, 1996, 450 § 58.
§ 24B revised, 1996, 151 § 127. (See 1996, 151 § 690.)
§ 29 added, 1996 449 § 1.

CHAPTER 23C - BOARD OF CONCILIATION AND ARBITRATION.

CHAPTER 23D - MASSACHUSETTS INDUSTRIAL SERVICE PROGRAM.

§ 1 amended, 1996, 151 § 128; definition of "Business and industry" inserted, 1996, 141 § 129; definition of "Educational institution" inserted, 1996, 151 § 130; definition of "Equipment" inserted, 1996, 151 § 131; definitions of "Financial support" and "Grant-in-aid" inserted, 1996, 151 § 132; definition of "Program" revised, 1996, 151 § 133; definitions of "Severe economic dislocation", "Targeted individuals" and "Technical assistance inserted, 1996, 151 § 133. (See 1996, 151 § 690.)
§ 1A added, 1996, 151 § 134. (See 1996, 151 § 690.)
§ 2, first paragraph revised, 1996, 151 § 135; **section amended**, 1996, 151 §§ 136, 137. (See 1996, 151 § 690.)
§ 3 amended, 1996, 151 §§ 138, 139, 140. (See 1996, 151 § 690.)
§ 4 amended, 1996, 151 §§ 141, 142. (See 1996, 151 § 690.)
§ 8, first sentence revised, 1996, 151 § 143. (See 1996, 151 § 690.)
§ 9 amended, 1996, 151 § 144. (See 1996, 151 § 690.)
§ 10 amended, 1996, 151 § 145. (See 1996, 151 § 690.)
§ 24 added, 1996, 151 § 146. (See 1996, 151 § 690.)
§ 25 added, 1996, 151 § 146. (See 1996, 151 § 690.)
§ 26 added, 1996, 151 § 146. (See 1996, 151 § 690.)
§ 27 added, 1996, 151 § 146. (See 1996, 151 § 690.)
§ 28 added, 1996, 151 § 146. (See 1996, 151 § 690.)
§ 29 added, 1996, 151 § 146. (See 1996, 151 § 690.)
§ 30 added, 1996, 151 § 146. (See 1996, 151 § 690.)
§ 31 added, 1996, 151 § 146. (See 1996, 151 § 690.)
§ 32 added, 1996, 151 § 146. (See 1996, 151 § 690.)
§ 33 added, 1996, 151 § 146. (See 1996, 151 § 690.)

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CHAPTER 23E - DEPARTMENT OF INDUSTRIAL ACCIDENTS.

§ 1 amended, 1996, 151 § 147. (See 1996, 151 § 690.)
§ 9, first paragraph, first and second sentences revised, 1996, 424.

CHAPTER 23F - THE ECONOMIC DIVERSIFICATION PROGRAM.
(New chapter inserted, 1990, 525.)

CHAPTER 24 - Department of Industrial Accidents.
(Chapter repealed, 1953, 314 § 14.)

CHAPTER 24A - OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION.
(New chapter inserted, 1996, 151 § 148.) (See 1996, 151 § 690.)

CHAPTER 25 - Department of Public Utilities.

§ 2A amended, 1996, 151 § 149. (See 1996, 151 § 690.)
§ 12M amended, 1996, 151 § 150. (See 1996, 151 § 690.)

CHAPTER 25A - DIVISION OF ENERGY RESOURCES.
(Formerly, Executive Office of Energy Resources.)

CHAPTER 25B - MASSACHUSETTS APPLIANCE EFFICIENCY STANDARDS ACT.

CHAPTER 26 - Department of Banking and Insurance.

§ 8B amended, 1996, 151 §§ 151, 152. (See 1996, 151 § 690.)
§ 8E, seventh paragraph, sentence added, 1995, 63 § 1.
§ 8I, last paragraph, sentence added, 1995, 63 § 2.

CHAPTER 27 - Department of Correction.

§ 3 **repealed**, 1996, 58 § 20. (See 1996, 58 § 105.)

CHAPTER 28 - Metropolitan District Commission.

CHAPTER 28A - Office For Children.

§ 2 amended, 1996, 256 § 1.
§ 4 amended, 1996, 151 § 153; 256 §§ 2,3. (See 1996, 151 § 690.)
§ 6A **repealed**, 1996, 58 § 21. (See 1996, 58 § 105.)
§ 8 amended, 1996, 151 § 154. (See 1996, 151 § 690.)
§ 9 amended, 1996, 256 § 5.
§ 10 amended, 1996, 151 § 155; 256 §§ 6, 7; paragraph (c), sentence inserted, 1996, 256 § 8; **section amended**, 1996, 256 §§ 9, 10. (See 1996, 151 § 690.)
§ 10B added, 1996, 256 § 10A.
§ 11 amended, 1996, 256 §§ 11, 12.

§ 12 amended, 1996, 256 § 13.
§ 14 amended, 1996, 256 §§ 14, 15.

CHAPTER 29 - State Finance.

§ 2G amended, 1996, 151 § 156. (See 1996, 151 § 690.)
§ 2P ½ added, 1996, 151 § 157. (See 1996, 151 § 690.)
§ 2P ½ added, 1996, 204 § 17. (See 1996, 204 § 168.)
§ 2T, clause (e) stricken out, 1996, 203 § 1.
§ 2T stricken out, 1996, 450 § 59. (See 1992, 254 § 2.)
§ 2U amended, 1996, 151 § 158. (See 1996, 151 § 690.)
§ 2X stricken out, 1996, 450 § 60.
§ 2Y amended, 1996, 151 § 159; **section stricken out**, 1996, 450 § 61.. (See 1996, 151 § 690.)
§ 2AA revised, 1995, 38 § 44. (See 1995, 38 § 358.)
§ 2BB added, 1995, 38 § 45. (See 1995, 38 § 358.)
§ 2DD added, 1995, 102 § 1.
§ 2EE added, 1996, 151 § 160. (See 1996, 151 § 690.)
§ 2FF added, 1996, 203 § 2.
§ 2GG added, 1996, 413 § 1.
§ 2GG added, 1996, 450 § 62.
§ 2HH added, 1996, 450 § 62. (See 1996, 450 § 267.)
§ 2II added, 1996, 450 § 62.
§ 3B added, 1996, 205 § 25.
§ 4 amended, 1996, 450 § 63.
§ 7C amended, 1996, 450 §§ 64, 65.
§ 7D amended, 1996, 151 § 161. (See 1996, 151 § 690.)
§ 7E amended, 1996, 450 § 66.
§ 7G amended, 1996, 450 §§ 67, 68, 69.
§ 7H amended, 1995, 38 § 49; 1996, 450 §§ 70, 71. (See 1995, 38 § 358.)
§ 7I amended, 1996, 450 § 72.
§ 7J amended, 1996, 450 § 73.
§ 7N added, 1996, 151 § 162. (See 1996, 151 § 690.)
§ 7O added, 1996, 151 § 162. (See 1996, 151 § 690.)
§ 13, first paragraph revised, 1995, 38 § 50. (See 1995, 38 § 358.)
§ 20B **repealed**, 365 § 1.
§ 29 amended, 1996, 151 § 163; first paragraph, sentence inserted, 1996, 151 § 166.. (See 1996, 151 § 690.)
§ 31A amended, 1996, 450 § 74.
§ 49B, last paragraph revised, 1996, 365 § 9.
§ 66, sentence added, 1996, 151 § 165. (See 1996, 151 § 690.)

CHAPTER 29A - Financing the Judicial System.

§ 6 amended, 1996, 151 § 166. (See 1996, 151 § 690.)
§ 9, definition of "Large family day care home" inserted, 1996, 256 § 4.

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CHAPTER 29B - STATE REVENUE GROWTH CONTROL.

CHAPTER 29C - WATER POLLUTION ABATEMENT REVOLVING LOAN PROGRAM.
(New chapter inserted, 1989, 275 § 8).

§ 1 amended, 1996, 12 § 17.
§ 6, paragraph added, 1996, 204 § 18. (See 1996, 204 § 168.)
§ 6A amended, 1995, 120 § 6; first paragraph revised, 1996, 12 § 18; second paragraph revised, 1996. 12 § 19. (See 1995, 120 § 88.)

CHAPTER 30 - General Provisions Relative to State Departments, Commissions, Officers and Employees.

§ 1 amended, 1996, 304 § 1.
§ 7B amended, 1996, 450 § 75.
§ 33 revised, 1995, 165.
§ 39F amended, 1996, 450 § 76.
§ 39M amended, 1996, 450 § 77.
§ 39Q amended, 1996, 450 § 78.
§ 44B amended, 1996, 151 § 167. (See 1996, 151 § 690.)
§ 51 revised, 1996, 151 § 168; first sentence amended, 1996, 365 § 10. (See 1996, 151 § 690.)
§ 52 amended, 1996, 151 § 169; 365 § 11. (See 1996, 151 § 690.)
§ 62H amended, 1996, 450 § 79.

CHAPTER 30A - State Administrative Procedure.

CHAPTER 30B - UNIFORM PROCUREMENT ACT.
(New chapter inserted, 1989, 687 § 3.)

§ 1 amended, 1995, 131 § 1; 1996, 450 §§ 80, 81.
§ 5 amended, 1996, 450 § 82.
§ 10 amended, 1996, 450 § 83.
§ 12 amended, 1996, 450 §§ 84, 85.
§ 16 amended, 1995, 131 § 2; 1996, 450 § 86.

CHAPTER 31 - Civil Service.

§ 18 amended, 1996, 450 § 87.
§ 48 amended, 1996, 151 § 170. (See 1996, 151 § 690.)
§ 61A, third paragraph, first sentence revised, 1995, 206 § 1; 1996, 151 § 171; **section amended,** 1996, 151 § 172. (See 1996, 151 § 690.)

CHAPTER 31A - MUNICIPAL PERSONNEL SYSTEMS.

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CHAPTER 32 - Retirement Systems and Pensions.

§ 1 amended, 1996, 306 §§ 6, 6A, 6B; definitions of "PRIM board" and "PRIT Fund" revised, 1996, 315 § 3.

§ 3, Group 4, paragraph (g), subdivision (2) amended, 1995, 38 § 52; **section amended**, 1996, 306 § 7; subdivision (2), paragraph (g), Group 4 revised, 1996, 71 § 1. (See 1995, 38 § 358.)

§ 4, subdivision (1), paragraph (h), paragraph added, 1996, 71 § 2; last paragraph amended, 1996, 204 § 19;; subdivision (2), pargraph (b½) inserted, 1995, 171 § 1; **section amended**, 1996, 306 § 8.

§ 5, aubdivision (3), paragraph (e) amended, 1996, 1996, 151 § 173; **section amended**, 1996, 306 § 9.. (See 1996, 151 § 690.)

§ 5B added, 1996, 306 § 10.

§ 6, subsection (2), paragraph (d) inserted, 1996, 151 § 174; **section amended**, 1996, 306 §§ 11, 11A, 12; subdivision (3), paragraph (d) stricken out, 1996, 306 § 13. (See 1996, 151 § 690.)

§ 7, subsection (2), paragraph (d) inserted, 1996, 151, § 175; **section amended**, 1996, 306 §§ 14, 15. (See 1996, 151 § 690.)

§ 8 revised, 1996, 306 § 16; subdivision (1), paragraph (a), first sentence revised, 1996, 427 § 2; third sentence revised, 1996, 427 § 3; last paragraph, last sentence revised, 1996, 427 § 4; paragraph (b) revised, 1996, 427 § 5; subdivision (2), paragraph (a), first sentence revised, 1996, 427 § 6. (See 1996, 427 § 16.)

§ 12, subdivision (1), paragraph added, 1996, 204 § 20; second sentence revised, 1996, 306 § 17; paragraph added, 1996, 306 § 18.

§ 16, subdivision (2) stricken out, 1996, 306 § 19; **section amended**, 1996, 306 §§ 20, 21, 21A.

§ 18 amended, 1996, 306 § 22.

§ 20, subdivision (6) added, 1995, 38 § 53; **section amended**, 1996, 306 § 23; subdivision (3), paragraph (b), first two paragraphs revised, 1996, 306 § 24; first two paragraphs stricken out and one paragraph inserted, 1996, 427 § 6A; subdivision (4), paragraph (b) revised, 1996, 306 § 26; second sentence revised, 1996, 427 § 7; subdivision (4 ¼), paragraph (b) revised, 1996, 306 § 27; subdivision (4 ½), paragraph (b) revised, 1996, 306 § 28; subdivision (4 ¾), paragraph (b) revised, 1996, 306 ¾ 29; subdivision (4 7/8), paragraph (b) revised, 1996, 306 ¾ 30; subdivision (4 7/8A), paragraph (b) revised, 1996, 306 § 31; subdivision (4 7/8B), pargraph (b) revised, 1996, 306 § 32; subdivision (4 7/8C), paragraph (b) revised, 1996, 306 § 33; subdivision (5), paragraph (d) revised, 1996, 306 § 25. (See 1995, 38 § 358; 1996, 427 § 16.)

§ 21 amended, 1996, 306 §§ 34, 35, 36; 151 § 176. (See 1996, 171 § 690.)

§ 22, first paragraph, second sentence revised, 1996, 315 § 4; subdivision (3), paragraph (c), first paragraph revised, 1996, 340; subdivision (6), paragraph (a), clause (iii), second sentence stricken out, 1996, 315 § 5; subdivision (7), paragraph (a), second sentence revised, 1996, 427 § 8; subdivision (8), paragraphs (a) and (b) revised, 1996, 315 § 6; paragraph (c), fourth subparagraph amended, 1996, 315 § 7; paragraph (e) revised, 1996, 315 § 8; **section amended**, 1996, 450 § 88. (See 1996, 427 § 16.)

§ 22D amended, 1996, 306 § 37.

§ 23 amended, 1996, 306 §§ 38, 38A, 38B; subsection (1), paragraph (d), clause (ii) revised, 1996, 151 § 177; subdivision (1) revised, 1996, 315 § 9; subdivision (2), paragraph (b), introductory paragraph revised, 1996, 315 § 10; paragraph (b) revised, 1996, 84; subdivision (2A), paragraph (a), second subparagraph revised, 1996, 315 § 11; paragraph (c) inserted, 1996, 315 § 12; **section amended**, 1996, 450 § 89. (See 1996, 151 § 690.)

§ 23A **repealed**, 1996, 315 § 13.

§ 24 amended, 1996, 306 § 39.
§ 25 amended, 1996, 306 § 40.
§ 26 amended, 1996, 306 § 40A; 450 § 90.
§ 28 amended, 1996, 306 § 41.
§ 40 amended, 1996, 306 § 42.
§ 44B amended, 1996, 306 § 46.
§ 58B amended, 1996, 306 § 44.
§ 65C amended, 1996, 306 § 45.
§ 65J added, 1996, 151 § 178. (See 1996, 151 § 690.)
§ 77A amended, 1996, 306 § 46.
§ 85J amended, 1996, 306 § 47.
§ 85½ added, 1995, 171 § 2.
§ 90G ½ amended, 1996, 306 §§ 48, 49.
§ 91 amended, 1996, 450 § 91.
§ 91A amended, 1996, 151 § 179; **section revised**, 1996, 306 § 50. (See 1996, 151 § 690.)
§ 91B revised, 1996, 306 § 51.
§ 91C added, 1996, 306 § 52.
§ 101 amended, 1995, 171 § 3.
§ 100A amended, 1995, 220 §§ 2, 3; subsection (q) added, 1995, 220 § 4.
§ 102 amended, 1996, 306 § 53.

CHAPTER 32A - Contributory Group General or Blanket Insurance for Persons in the Service of the Commonwealth.

§ 3 amended, 1996, 151 § 180; first three sentences revised, 1996, 151 § 181; **section amended**, 1996, 151 § 182. (See 1996, 151 § 690.)
§ 4, second paragraph, last sentence revised, 1995, 38 § 54; sentence inserted, 1996, 151
§ 183; **section amended**, 1996, 151 § 184; first paragraph, second and third sentences stricken out, 1996, 366 § 2; sentence added, 1996, 151 § 185. (See 1995, 38 § 358; 1996, 151 § 690.)
§ 4B added, 1996, 151 § 186. (See 1996, 151 § 690.)
§ 8A added, 1995, 38 § 55. (See 1995, 38 § 358.)
§ 10B, first paragraph, second and third sentences stricken out, 1996, 366 § 3.
§ 10C, first paragraph, second and third sentences stricken out, 1996, 366 § 4.
§ 12, first paragraph, second and third sentences stricken out, 1996, 366 § 5.
§ 14, fourth paragraph, second and third sentences stricken out, 1996, 366 § 6.
§ 17A stricken out, 1996, 450 § 92.
§ 17C added, 1995, 218 § 1.
§ 17D added, 1996, 450 § 93.
§ 20 added, 1996, 80.
§ 20 added, 1996, 151 § 187. (See 1996, 151 § 690.)

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, second and third sentences stricken out, 366 § 7.
§ 3A, first paragraph, third and fourth sentences stricken out, 1996, 366 § 8.
§ 11C, first paragraph, second and third sentences stricken out, 1996, 366 § 9.

§ 15 revised, 1996, 288 § 1.
§ 16, first paragraph, clause (3) stricken out, 1996, 366 § 10.
§ 19 amended, 1996, 450 § 94.

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.

§ 38B added, 1995, 29.

CHAPTER 36 - Registers of Deeds.

CHAPTER 37 - Sheriffs.

CHAPTER 38 - Medical Examiners.

§ 1 amended, 1996, 450 § 95.
§ 2, last paragraph revised, 1995, 38 § 56. (See 1995, 38 § 358.)
§ 5 amended, 1996, 151 § 188. (See 1996, 151 § 690.)

CHAPTER 39 - Municipal Government.

§ 9, sentence inserted after first sentence, 1996, 448 § 1.
§ 15 amended, 1996, 448 § 2.

CHAPTER 40 - Powers and Duties of Cities and Towns.

§ 4A amended, 38 § 57. (See 1995, 38 § 358.)
§ 4E, tenth and eleventh paragraphs stricken out and one paragraph inserted, 1995, 98.
§ 8C, sentence inserted before penultimate sentence, 1996, 258 § 15.
§ 22F amended, 1995, 42; sentence inserted after first sentence, 1996, 454 § 1.
§ 36A amended, 1996, 151 § 189. (See 1996, 151 § 690.)
§ 39H amended, 38 § 58. (See 1995, 38 § 358.)
§ 43A amended, 1996, 151 § 190. (See 1996, 151 § 690.)
§ 57, amended, 1996, 74 §§ 1, 2.
§ 59 amended, 1996, 450 § 96.

CHAPTER 40A - Zoning Regulations.

§ 3, paragraph added, 1995, 225 § 1.
§ 6, first paragraph amended, 1996, 345 § 1.

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§ 9A amended, 1996, 345 § 2; definition of "Establishment which displays live nudity for its patrons" inserted, 1996, 345 § 3; **section amended**, 1996, 345 § 4; paragraph added, 1996, 345 § 5.

CHAPTER 40B - Regional Planning.

§ 24 amended, 1996, 151 § 191. (See 1996, 151 § 690.)

CHAPTER 40C - Historic Districts.

CHAPTER 40D - Industrial Development of Cities and Towns.

CHAPTER 40E - Massachusetts Industrial Development Authority.

§ 3 amended, 1996, 151 § 192; section repealed, 1996, 58 § 22. (See 1996, 151 § 690.)
§ 4 **repealed**, 1996, 58 § 22.

CHAPTER 40F - The Massachusetts Community Development Finance Corporation.

§ 2, second paragraph revised, 1996, 151 § 193; 204 § 21; third paragraph, first aentence revised, 1996, 151 § 194; 204 § 22. (See 1996, 151 § 690.)

CHAPTER 40G - Massachusetts Technology Development Corporation.

CHAPTER 40H - Community Economic Development Assistance Corporation.

§ 3, subsection (a), second paragraph revised, 1996, 151 § 195; 204 § 23. (See 1996, 151 § 690.)

CHAPTER 40I - THE BAY STATE SKILLS CORPORATION ACT.
(Chapter repealed, 1996, 151 § 196.) (See 1996, 151 § 690.)

CHAPTER 40J - Massachusetts Technology Park Corporation.

CHAPTER 40K - MASSACHUSETTS PRODUCT DEVELOPMENT CORPORA-TION.
(Chapter repealed, 1996, 58 § 23.) (See 1996, 58 § 105.)

CHAPTER 40L - AGRICULTURAL INCENTIVE AREAS.

CHAPTER 40M - GOVERNMENTAL UNITS POOLED INSURANCE.

CHAPTER 40N - MODEL WATER AND SEWER COMMISSION.
(New chapter inserted, 1992, 343 § 2.)

§ 8 amended, 1995,38 § 59. (See 1995, 38 § 358.)
§ 9 amended, 1996, 151 § 197; fourth sentence revised, 1996, 151 § 198; **section amended**, 1996, 450 § 97. (See 1996, 151 § 690.)

CHAPTER 40O - BUSINESS IMPROVEMENT DISTRICTS.
(New chapter inserted, 1994, 173.)

CHAPTER 40O - The Massachusetts Rent Control Prohibition Act.
(New chapter inserted, 1994, 368 § 1.) (See 1994, 368 § 2.) (Voted by the people under Art. 48)

CHAPTER 41 - Officers and Employees of Cities, Towns and Districts.

§ 7 amended, 1996, 454 § 2.
§ 14, sentence added, 1996, 454 § 3.
§ 19, sentence added, 1996, 454 § 4.
§ 23, first sentence amended, 1996, 454 § 5.
§ 23A amended, 1996, 219.
§ 81Q amended, 1996, 450 § 98.
§ 98 amended, 1996, 151 § 199. (See 1996, 151 § 690.)
§ 106 revised, 1996, 395.
§ 109N amended, 1996, 182.
§ 108O added, 1995, 289.
§ 133 added, 1995, 283.

CHAPTER 42 - Boundaries of Cities and Towns.

CHAPTER 43 - City Charters.

§ 48 revised, 1996, 37.

CHAPTER 43A - Standard Form of Representative Town Meeting Government.

CHAPTER 43B - Home Rule Procedures.

§ 5 amended, 1996, 454 § 6.

CHAPTER 43C - OPTIONAL FORMS OF MUNICIPAL ADMINISTRATION ACT.
(New chapter inserted, 1987, 756.)

CHAPTER 44 - Municipal Finance.

§ 7, clauses (21) and (22) revised, 1996, 142.
§ 8, clause (22) revised, 1995, 38 § 60; clause (24) revised, 1996, 12 § 21. (See 1995, 38 § 358.)
§ 19, last sentence stricken out, 1996, 419.
§ 21A last sentence revised, 1995, 38 § 61. (See 1995, 38 § 358.)
§ 31D, paragraph added, 1996, 45 § 4. 1996, 45 § 15.)
§ 32 amended, 1995, 20 § 1; fourth paragraph revised, 1995, 20 § 2; paragraph inserted after sixth paragraph, 1995, 20 § 3.
§ 55, fourth sentence revised, 1996, 314.
§ 69, first paragraph revised, 1996, 273; 450 § 99.

§ 70 amended, 1996, 450 § 100.
§ 72, revised, 1995, 38 § 62; last sentence revised, 1996, 151 § 200. (See 1995, 38 § 358; 1996, 151 § 690.)

CHAPTER 44A - QUALIFIED BOND ACT.

CHAPTER 45 - Public Parks, Playgrounds and the Public Domain.

CHAPTER 46 - Return and Registry of Births, Marriages and Death.

§ 9, paragraph added, 1996, 70 § 1.

CHAPTER 47 - Infirmaries.

CHAPTER 48 - Fires, Fire Departments and Fire Districts.

§ 16 amended, 1996, 450 § 101.
§ 87 amended, 1996, 151 §§ 201, 202. (See 1996, 151 § 690.)

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.

CHAPTER 51 - Voters

§ 1F amended, 1996, 454 § 7.
§ 4, first paragraph amended, 1995, 187 § 1.
§ 37 amended, 1995, 187 § 2; 1996, 454 § 8.
§ 38, last sentence stricken out and two sentences inserted, 1996, 454 § 9.
§ 41 amended, 1996, 454 § 10.
§ 42A, last sentence revised, 1996, 454 § 11.
§ 42G, second sentence revised, 1996, 454 § 12.
§ 42H amended, 1996, 454 § 13.
§ 47C revised, 1996, 454 § 14.
§ 44, sentence added, 1995, 187 § 3.
§ 51A added, 1995, 187 § 4.
§ 55, first two sentences stricken out, 1996, 454 § 15.
§ 59, second paragraph, first sentence revised, 1996, 454 § 16.

CHAPTER 52 - Political Committees.

§ 1, second paragraph revised, 1995, 127.

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CHAPTER 53 - Nominations, Questions to be Submitted to the Voters, Primaries and Caucuses.

§ 9 amended, 1996, 454 § 17.
§ 28 amended, 1995, 40.
§ 31 amended, 1996, 336 § 1. (See 1996, 336 § 2.)
§ 48 amended, 1996, 450 § 102.

CHAPTER 54 - Elections.

§ 1, paragraph added, 1996, 454 § 18.
§ 6 amended, 1996, 450 § 103; 454 §§ 19, 20; paragraph added, 1996, 454 § 21
§ 42A amended, 1996, 389 § 1.
§ 42C sentence added, 1996, 454 § 22.
§ 53, first paragraph, second sentence stricken out and four sentences inserted, 1996, 389 § 2; second paragraph, second sentence revised, 1996, 389 § 3.
§ 62 revised, 1996, 450 § 104.

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.

§ 9 amended, 1996, 44 § 1.
§ 9A added, 1996, 44 § 2.
§ 15, second paragraph revised, 1996, 349.
§ 18, eleventh paragraph amended, 1996, 44 § 3; **section amended**, 1996, 450 § 105.
§ 19, subsection (a) revised, 1996, 409.

CHAPTER 55A - Limited Public Financing of Campaigns for Statewide Elective Office.

CHAPTER 55B - The State Ballot Law Commission.

§ 3 amended, 1996, 151 § 203. (See 1996, 151 § 690.)

CHAPTER 56 - Violations of Elections Laws.

§ 14, sentence added, 1995, 187 § 5.
§ 27 revised, 1996, 454 § 23.
§ 27A revised, 1996, 454 § 24.
§ 60 amended, 1996, 454 § 25.

CHAPTER 57 - Congressional, Councilor and Senatorial Districts, and Apportion-ment of Representatives.

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CHAPTER 58 - General Provisions relative to Taxation.

§ 18C revised, 1996, 450 § 106.

CHAPTER 58A - Appellate Tax Board.
(Former title, Board of Tax Appeals.)

CHAPTER 59 - Assessment of Local Taxes.

§ 2A amended, 1996, 299.
§ 5, clause Sixteenth A inserted, 1996, 373 § 1; subclause (c) revised, 1996, 426 § 1; clause Fifty-third added, 1995, 38 § 63; paragraph added, 1995, 181 § 1. (See 1995, 38 § 358; 1996, 373 § 4.)
§ 5J added, 1996, 191 § 1. (See 1996, 191 § 6.)
§ 21C, paragraph (m), clause (3) revised, 1996, 424 § 26.
§ 23D amended, 1996, 284 §§ 1, 2, 3, 4.
§ 57C, third sentence revised, 1996, 284 § 5; first paragraph revised, 1996, 284 § 6; third paragraph, first sentence revised, 1996, 284 § 7; paragraph inserted after third paragraph, 1996, 284 § 8.
§ 57D added, 1995, 126.
§ 58 revised, 1995, 181 § 2.
§ 59, first sentence revised, 1996, 426 § 2; **section amended**, 1996, 450 § 107. (See 1996, 426 § 6.)

CHAPTER 59A - Classification of Real Property.

CHAPTER 60 - Collection of Local Taxes.

§ 2C added, 1996, 375 § 1.
§ 3A, first paragraph, first sentence stricken out and four sentences inserted, 1996, 426 § 3. (See 1996, 426 § 6.)
§ 15 amended, 1996, 450 § 108.
§ 37, second sentence revised, 1996, 375 § 2.

CHAPTER 60A - Excise Tax on Registered Motor Vehicles in Lieu of Local Property Tax.

§ 2A amended, 1996, 492.

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.

§ 1, paragraph (f) revised, 1995, 38 § 65. (See 1995, 38 § 358.)
§ 2 amended, 1996, 450 §§ 109, 110
§ 3, part B, paragraph (a), subparagraph (11) added, 1996, 151 § 204. (See 1996, 151 § 690.).
§ 6H added, 1995, 246 § 2.
§ 17, first paragraph, sentence added, 1995, 281 § 1. (See 1995, 281 § 2.)

CHAPTER 62A - Simplified Method of Computing Individual Income Taxes.

CHAPTER 62B - Withholding of Taxes on Wages and Declaration of Estimated Income Tax.

§ 2, paragraph added, 1996, 151 § 205. (See 1996, 151 § 687.)

CHAPTER 62C - Administrative Provisions Relative to State Taxation.

§ 5A added, 1995, 38 § 66. (See 1995, 38 § 358.)
§ 16, subsection (f) revised, 1995, 38 § 67. (See 1995, 38 § 358.)
§ 21, subsection (b), clause (15) inserted, 1996, 151 § 206;, clause (16) added, 1995, 38 § 68. (See 1995, 38 § 358; see 1996, 151 § 690.)
§ 33A, first and second paragraphs revised, 1995, 129.
§ 40 amended, 1996, 450 § 111.
§ 78 stricken out, 1996, 450 § 112.
§ 84 amended, 1996, 450 § 113.
§ 85 added, 1996, 450 § 114.

CHAPTER 62D - SET-OFF DEBT COLLECTION.

§ 1 amended, 1995, 5 §§ 25, 26; definition of "Debtor" amended, 1995, 5 § 27; definition of "Claimant agency" revised, 1995, 38 § 69; definition of "Debt" revised, 1995, 38 § 70; definition of "Debtor" revised, 1995, 38 § 71. (See 1995, 5 § 143.)
§ 3 amended, 1995, 5 § 28; second paragraph, first sentence revised, 1995, 38 § 72. (See 1995, 5 § 143.)
§ 5, second paragraph, sentence added, 1995, 38 § 73. (See 1995, 38 § 358.)
§ 6 amended, 1995, 38 §§ 74, 75, 76. (See 1995, 38 § 358.)
§ 7 amended, 1995, 38 § 77.
§ 10 amended, 1995, 5 § 29; 38 § 78. (See 1995, 5 § 143; 38 § 358.)
§ 13, clauses (v) and (vi) stricken out and clauses (v), (vi) and (vii) inserted, 1995, 5 § 30. (See 1995, 5, § 143.)

CHAPTER 62E - WAGE REPORTING SYSTEM.

§ 3, first sentence amended, 1995, 38 § 79. (See 1995, 38 § 358.)
§ 5 amended, 1995, 5 § 31. (See 1995, 5 § 143.)

CHAPTER 62F - LIMITATION ON THE GROWTH OF STATE TAX REVENUES.

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CHAPTER 63 - Taxation of Corporations.

§ 1 revised, 1995, 81 § 1.
§ 2 revised, 1995, 81 § 1.
§ 2A added, 1995, 81 § 1.
§ 30 amended, 1995, 81 §§ 2, 3, 4, 5; 281 §§ 2, 3. (See 1995, 281 § 22.)
§ 31A, paragraphs (k) and (l) revised, 1996, 151 § 207. (See 1996, 151 § 690.)
§ 38, subsection (c) revised, 1995, 280 § 1; 264 § 2; subsection (f), paragraph added, 1996, 264 § 3; subsections (k) and (l) added, 1995, 280 § 2; subsection (k), paragraph (5) revised, 1996, 151 § 208; subsection (l), paragraph (3) revised, 1996, 151 § 209; subsection (m) added, 1996, 264 § 4. (See 1996, 151 § 690; 264 § 6.)
§ 38B added, 1995, 81 § 6.
§ 38M, subsection (i) added, 1995, 280 § 3.
§ 38P added, 1996, 339 § 1.

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 63C - Taxation 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.)

§ 13, subsection (a) revised, 1995, 39 § 5; subsection (b) inserted, 1995, 39 § 5. (See 1995, 39 § 61.)

CHAPTER 64B - Excise upon Charges for Meals served to the Public.

CHAPTER 64C - Cigarette Excise.

§ 7 stricken out, 450 § 115.
§ 7A added, 1996, 203 § 3. (See 1996, 203 § 35.)
§ 7B added, 1996, 203 § 3. (See 1996, 203 § 35.)
§ 7C added, 1996, 450 § 116.
§ 13, amended, 1995, 69; subdivision (c), first paragraph stricken out and paragraph (c) inserted, 245 § 1.

CHAPTER 64D - Excise on Deeds, Instruments and Writings.

§ 13 amended, 1996, 450 § 117.

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CHAPTER 64E - Taxation of Special Fuels Used in the Propulsion of Motor Vehicles.

CHAPTER 64F - Taxation of Fuel and Special Fuels Acquired Outside and used within the Commonwealth.

§ 3 amended, 1995, 38 § 80. (See 1995, 38 § 358.)
§ 5A added, 1995, 38 § 81. (See 1995, 38 § 358.)
§ 6 amended, 1995, 38 §§ 82, 83. (See 1995, 38 § 358.)

CHAPTER 64G - Room Occupancy Excise.

CHAPTER 64H - Tax on Retail Sales of Certain Tangible Personal Property.

§ 1 amended, 1996, 450 § 118.
§ 6 amended, 1995, 38 §§ 84, 85; paragraph (ff) revised, 1995, 38 § 86; **section amended**, 1996, 450 § 119. (See 1995, 38 § 358.)
§ 25, third paragraph revised, 1996, 394 § 1.

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
(New Chapter inserted, 1993, 110 § 127.) (See 1993, 110 § 390.)

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.

§ 3A amended, 1996, 450 § 120.

CHAPTER 66 - Public Records.

§ 10, paragraph added, 1996, 39 § 1; **section amended**, 1996, 151 § 210. (See 1996, 151 § 690.).
§ 17A amended, 1995, 5 §§ 32, 33. (See 1995, 5 § 143.)

CHAPTER 66A - Fair Information Practices.

§ 2 amended, 1995, 5 § 34. (See 1995, 5 § 143.)

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.

CHAPTER 69 - Powers and Duties of the Department of Education.

§ 1A added, 1995, 38 § 87; amended, 1996, 151 § 211. (See 1995, 38 § 358; 1996, 151 § 690.)
§ 1B amended, 1996, 151 § 212; twenty-second paragraph, sentence added, 1996, 151 § 213; paragraph added after twenty-first paragraph, 1996, 374 § 2. (See 1996, 151 § 690.)
§ 1F, paragraph added, 1996, 151 § 214. (See 1996, 151 § 690.)
§ 1I amended, 1996, 450 § 121.

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" revised, 1995, 120 § 8; 267 § 6; 1996, 151 § 215; definition of "Foundation gap" revised, 1995, 120 § 9; 267 § 7; 1996, 151 § 216;definition of "Preliminary local contribution" revised, 1995, 38 § 92; definition of "Standard of effort" revised, 1995, 120 § 10; 267 § 8; 1996, 151 § 217; definition of "Minimum required local contribution" amended, 1996, 151 § 218; definition of "Municipal revenue growth factor" revised, 1996, 151 § 219; 204 § 24. (See 1996, 151 § 690; 204 § 167.)
§ 3, third paragraph, second sentence stricken out and two sentences inserted, 1995, 38 § 94. (See 1995, 38 § 358.)
§ 3A added, 1995, 38 § 95. (See 1995, 38 § 358.)
§ 4 amended, 1996, 191 § 2. (See 1996, 191 § 6.)
§ 12, subsection (b), first sentence amended, 1995, 38 § 96; subsection (c), second sentence revised, 1995, 38 § 97. (See 1995, 38 § 358.)

CHAPTER 70A - EQUAL EDUCATIONAL OPPORTUNITY GRANTS. (Chapter repealed, 1993, 71 § 33.)

CHAPTER 71 - Public Schools.

§ 14A revised, 1995, 38 § 98. (See 1995, 38 § 358.)
§ 14D, last sentence revised, 1995, 38 § 99. (See 1995, 38 § 358.)
§ 15, first paragraph revised, 1996, 454 § 27.
§ 16 amended, 1996, 140.
§ 16B, paragraph inserted after third paragraph, 1996, 151 § 220. (See 1996, 151 § 690.)
§ 32A added, 1996, 291.
§ 34 amended, 1996, 450 § 122.
§ 37M amended, 1996, 450 § 123.
§ 38G, fourteenth paragraph, first sentence revised, 1995, 38 § 100;paragraph inserted after eighteenth paragraph, 1996, 275; nineteenth paragraph amended, 1995, 209 § 1; paragraph

added, 1996, 374 § 3; **section amended**, 1996, 450 §§ 124, 125, 126. (See 1995, 38 § 358.)
§ 38J **repealed**, 1995, 209 § 2
§ 38Q amended, 1996, 151 § 221. (See 1996, 151 § 690.)
§ 38R added, 1996, 483.
§ 41 amended, 1995, 209 § 3; first sentence stricken out and one sentence inserted, 1996, 99; first paragraph revised, 1996, 450 § 127. (See 1996, 450 § 268.)
§ 46G **repealed**, 1995, 209 § 4.
§ 47, three paragraphs added, 1996, 66.
§ 47A, first sentence revised, 1996, 134 § 1.
§ 55C amended, 1996, 151 § 222. (See 1996, 151 § 690.)
§ 59B amended, 1996, 134 § 2.
§ 70, second paragraph, first sentence amended, 1995, 262 § 1; second sentence amended, 1995, 262 § 2; third sentence stricken out, 1995, 262 § 3; last sentence amended, 1995, 262 § 4.
§ 84, first paragraph, sentence inserted after first sentence, 1996, 323 § 1; second sentence revised, 1996, 323 § 2; second paragraph, first sentence revised, 1996, 323 § 3.
§ 89, first paragraph amended, 1996, 151 § 223; last paragraph revised, 1995, 38 § 102; paragraph added, 1995, 38 § 103; 120 § 11; ninth paragraph, sentence inserted after fourth sentence, 1996 72; **section amended**, 1996, 151 § 224; ninth paragraph, fifth sentence amended, 1996, 151 § 225. (See 1995, 38 § 358; 1996, 151 § 690.)

CHAPTER 71A - TRANSITIONAL BILINGUAL EDUCATION.

CHAPTER 71B - CHILDREN WITH SPECIAL NEEDS.

§ 1 revised, 1996, 450 § 128.
§ 3 amended, 1996, 151 § 226; fifth paragraph, three sentences added, 1996, 374 § 4. (See 1996, 151 § 690.)
§ 10 amended, 1996, 151 § 227. (See 1996, 151 § 690.)
§ 12B amended, 1995, 5 § 35. (See 1995, 38 § 143.)

CHAPTER 72 - School Registers and Returns.

§ 9 added, 1995, 38 § 104. (See 1995, 38 § 358.)

CHAPTER 73 - State Colleges and Community Colleges.
(Former title, State Teachers Colleges and Community Colleges.)

§ 10 amended, 1995, 38 § 105. (See 1995, 38 § 358.)
§ 17 amended, 1996, 450 § 129.

CHAPTER 74 - Vocational Education.

§ 7C, first paragraph, sentence added, 1996, 151 § 228. (See 1996, 151 § 690.)

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CHAPTER 75 - University of Massachusetts.
(Former title, Massachusetts State College.)

§1A amended, 1996, 151 § 229; first paragraph, last sentence stricken out, 1996, 151 § 230. (See 1996, 151 § 690.)
§ 11A amended, 1996. 450 § 130.
§ 36C amended, 1996, 151 § 231. (See 1996, 151 § 690.)
§ 36D added, 1995, 38 § 106. (See 1995, 38 § 358.)
§ 40 amended, 1996, 450 § 131.
§ 42 revised, 1995, 38 § 107. (See 1995, 38 § 358.)
§ 43 added, 1996, 334 § 1.

CHAPTER 75A - University of Lowell.
(Former title, Lowell Technological Institute of Massachusetts.)
(Chapter repealed, 1991, 142 § 23.) (See 1991, 142 §§ 4, 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 §§ 19, 50.)

CHAPTER 75C - Private Correspondence Schools.

CHAPTER 75D - Private Business Schools.

CHAPTER 76 - School Attendence.

§ 7, paragraph added, 1995, 5 § 36. (See 1995, 5 § 143.)
§ 12B, subsection (a), clause (ii) revised, 1995, 38 § 108; clause (iii) stricken out, 1995, 38 § 108. (See 1995, 38 § 358.)

CHAPTER 77 - School Offenders and County Training Schools.

CHAPTER 78 - Libraries.

§ 19B, clause (4) revised, 1996, 191 § 3. (See 1996, 191 § 6.)

CHAPTER 78A - YOUTH CONSERVATION AND SERVICE CORPS.
(Chapter inserted 1993, 19 § 19.)

CHAPTER 79 - Eminent Domain.

CHAPTER 79A - Relocation Assistance.

CHAPTER 80 - Betterments.

CHAPTER 80A - Eminent Domain Takings and Betterment Assessments by Judicial Proceedings.

CHAPTER 81 - State Highways.

CHAPTER 82 - The Laying Out, Alteration, Relocation and Discontinuance of Public Ways, and Specific Repairs Thereon.

CHAPTER 83 - Sewers Drains and Sidewalks.

§ 15 amended, 1996, 450 § 132.

CHAPTER 84 - Repair of Ways and Bridges.

CHAPTER 85 - Regulations and By Laws to Ways and Bridges.

§ 11A amended, 1996, 151 § 232. (See 1996, 151 § 690.)
§ 30A amended, 1996, 450 § 133.

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.

§ 1 amended, 1996, 450 § 134.
§ 7, second sentence revised, 1996, 241.

CHAPTER 90 - Motor Vehicles and Aircraft.

§ 1, definition of "Farmer" revised, 1996, 109; **section amended**, 1996, 151 § 233. (See 1996, 151 § 690.).
§ 2, paragraph added, 1995, 246 § 3; eighth paragraph, fifth sentence stricken out and two sentences inserted, 1996, 151 § 234; **section amended**, 1996, 469 § 2; seventh paragraph, fourth sentence revised, 1996, 469 § 3; eleventh paragraph revised, 1996, 469 § 4; fourteenth paragraph stricken out anf five paragraphs inserted, 1996, 469 § 5. (See 1996, 151 § 690.)
§ 2E added, 1996, 413 § 2; **section revised**, 1996, 469 § 6.
§ 7AA revised, 1996, 470.
§ 7B, clause (7), sixth sentence inserted, 1996, 144; first paragraph, clause (2) revised, 1996, 247 § 1. (See 1996, 247 § 2.)
§ 7D, last paragraph revised, 1996, 151 § 235. (See 1996, 151 § 690.)
§ 7N ½, subsection (1) amended, 1996, 490 § 1; definition of "Lessee" inserted, 1996, 490 § 2; **section amended**, 1996, 490 § 3; subsection (3), first paragraph revised, 1996, 490 § 4; **section amended**, 1996, 490 § 5. (See 1996, 490 § 6.)

§ 8, paragraph inserted after second paragraph, 1996, 335.
§ 8G amended, 1996, 450 § 135.
§ 9, *third sentence* revised, 1995, 241 § 1; 1996, 15 § 22.
§ 17B added, 1995, 140.
§ 19, second paragraph, eighth sentence revised, 1995, 241 § 2; last paragraph, eighth sentence revised, 1996, 15 § 23; **section amended**, 1996, 450 § 136.
§ 24, subdivision (1), paragraph (e), last sentence amended, 1995, 38 § 110; paragraph (f), subparagraph (1), clause (ii) amended, 1995, 38 § 111; clause (iii), sentence added, 1995, 38 § 112; second paragraph revised, 1995, 38 § 114; subparagraph (2), clause (ii) amended, 1995, 38 § 115; clause (iii), sentence added, 1995, 38 § 113; clause (iv) revised, 1995, 38 § 116; amended, 1996, 151 § 236; 450 § 136; subdivision (1), paragraph (f), subparagraph (2), clause (iii) revised, 1996, 450 § 138. (See 1995, 38 § 358.)
§ 29 amended, 1995, 38 § 117. (See 1995, 38 § 358.)
§ 33, twenty-sixth paragraph, second and third sentences revised, 1996, 394 § 2.
§ 34, first paragraph stricken out, 1996, 205 § 26; clause (1)(a) amended, 1995, 39 § 6; clause (1)(a) stricken out, 1995, 102 § 2; second paragraph, clause (2), subclause (a), first and second sentences revised, 1996, 113 § 10; **section amended**, 1996, 205 §§ 27, 28. (See 1995, 39 § 61.)
§ 34 ½ added, 1995, 102 § 3; paragraph (b), first sentence revised, 1996, 205 § 29.
§ 34P amended, 1995, 275 §§ 1, 2.

CHAPTER 90A - The Highway Safety Act.

CHAPTER 90B - Motorboats and Other Vessels.

§ 1, definition of "Personal floatation devices, last sentence revised, 1995, 38 § 118. (See 1995, 38 § 358.)
§ 3, subsection (j), four sentences added, 1996, 151 § 237. (See 1996, 151 § 690.)
§ 5, subsection (g), first sentence stricken out and two sentences inserted, 1995, 38 § 119. (See 1995, 38 § 358.)
§ 5A amended, 1995, 38 § 120. (See 1995, 38 § 358.)
§ 8, subsection (a), paragraph (2), subparagraph (A) revised, 1996, 151 § 238; **section amended**, 1996, 151 § 239, 240, 241, 242, 243, 244; 204 §§ 25, 26. (See 1996, 151 § 690.)
§ 9, subsection (a), two sentences added, 1995, 38 § 121. (See 1995, 38 § 358.)
§ 24 amended, 1996, 181.

CHAPTER 90C - Procedure against Violators of Motor Vehicle Laws.

§ 3, subsection (A), paragraph (6), subparagraph (b), first sentence revised, 1996, 119 § 5.

CHAPTER 90D - Motor Vehicle Certificate of Title.

§ 11A added, 1996, 394 § 4.
§ 20D, subsection (a), second paragraph revised, 1996, 119 § 5.
§ 21A added, 1996, 51 § 1.

CHAPTER 90E - Bikeways.

§ 2A added, 1996, 87.

CHAPTER 90F - UNIFORM OPERATION OF COMMERCIAL MOTOR VEHICLES ACT.
(New chapter inserted, 1990, 246 § 2.)

§ 1, sentence added, 1996, 394 § 5; definition of "Out-off service order" revised, 1996, 394 § 6. (See 1996, 394 § 9.)
§ 4, paragraph (C) added, 1996, 394 § 7. (See 1996, 394 § 9.)
§ 7, first paragraph revised, 1996, 450 § 139.
§ 9, paragraph (e ½) inserted, 1996, 394 § 8. (See 1996, 394 § 9.)

CHAPTER 90G - CIVIL INFRACTIONS.
(New chapter inserted, 1992, 133 § 452.) (See 1992, 133 § 598.)
(Chapter repealed, 1993, 182 § 8.)

CHAPTER 90H - GATEWAY ROADS PROGRAM.
(New chapter inserted, 1994, 273 § 26.)

CHAPTER 91 - Waterways.

§ 43, first sentence revised, 1996, 88.
§ 49 amended, 1996, 151 § 245. (See 1996, 151 § 690.)
§ 59 amended, 1996, 151 § 246. (See 1996, 151 § 690.)
§ 63 amended, 1995, 38 § 122; seventh paragraph added, 1995, 38 § 123. (See 1995, 38 § 358.)

CHAPTER 91A - Port of Boston Commission.
(Former title, Port of Boston Authority.)

CHAPTER 92 - Metropolitan Sewers, Water and Parks.

§ 34B, added, 1995, 38 § 124. (See 1995, 38 § 358.).
§ 104, definition of "Ware river watershed advisory committee" inserted, 1995, 242 § 1.
§ 114 amended, 1995, 242 § 2.
§ 114A added, 1995, 242 § 3.

CHAPTER 92A - Commonwealth Zoological Corporation
(New chapter inserted, 1991, 6 § 24.) (See 1991, 6 § 58.)

CHAPTER 92B - COMMONWEALTH ZOOLOGICAL CORPORATION.
(New chapter inserted, 1992, 286 § 165.)

§ 2, fourth paragraph revised, 1995, 38 § 125. (See 1995, 38 § 358.)
§ 6 amended, 1996, 450 § 140.

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CHAPTER 93 - Regulation of Trade and Certain Enterprises.

§ 48B added, 1996, 103.
§ 50, definition of "Firm offer of credit" inserted, 1995, 125 § 1; definition of "Prescreening" inserted, 1995, 125 § 2. (See 1995, 125 § 14.)
§ 51 revised, 1995, 1995, 125 § 3. (See 1995, 125 § 14.)
§ 51A added, 1995, 125 § 3. (See 1995, 125 § 14.)
§ 52A amended, 1995, 5 § 37. (See 1995, 5 § 143.)
§ 53 revised, 1995, 125 § 4. (See 1995, 125 § 14.)
§ 54A added, 1995, 125 § 5. (See 1995, 125 § 14.)
§ 56 revised, 1995, 125 § 6. (See 1995, 125 § 14.)
§ 57 amended, 1995, 125 § 7. (See 1995, 125 § 14.)
§ 58 revised, 1995, 125 § 8. (See 1995, 125 § 14.)
§ 59 revised, 1995, 125 § 8. (See 1995, 125 § 14.)
§ 60, paragraph added, 1995, 125 § 9. (See 1995, 125 § 14.)
§ 60A added, 1995, 125 § 10. (See 1995, 125 § 14.)
§ 62, subsection (a) revised, 1995, 125 § 11. (See 1995, 125 § 14.)
§ 63 amended, 1995, 125 § 12. (See 1995, 125 § 14.)
§ 64 amended, 1995, 125 § 13. (See 1995, 125 § 14.)
§ 76, definition of "Long term care services" inserted, 1996, 230 § 1; subsections (d) and (e) inserted, 1996, 230 § 2.
§ 107 added, 1996, 267..

CHAPTER 93A - Regulation of Business Practices for Consumers Protection.

CHAPTER 93B - Regulation of Business Practices Between Motor Vehicle Manufactures, Distributors and Dealers.

§ 6 amended, 1996, 153 §§ 1, 2.

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 93G - EQUIPMENT DEALERS.
(New chapter inserted, 1996, 265.)

CHAPTER 94 - Inspection and Sale of Food, Drugs and Various Articles.

§ 109 amended, 1996, 85 § 2.
§ 122 **repealed**, 1996, 58 § 24. (See 1996, 58 § 105.)

§ 123 **repealed**, 1996, 58 § 25; **section amended**, 1996, 151 § 247. (See 1996, 58 § 105; 1996, 151 § 690.)
§ 156 amended, 1996, 450 § 141.
§ 307A added, 1996, 203 § 4.
§ 307A added, 1996, 234 § 1.
§ 307B added, 1996, 450 § 142. (See 1996, 450 § 269.)

CHAPTER 94A - MILK CONTROL.

CHAPTER 94B - Hazardous Substances.

CHAPTER 94C - Controlled Substances Act.

§ 23 amended, 1996, 450 §§ 143, 144.
§ 34, paragraph added, 1996, 271 § 1.
§ 47, subsection (d), third paragraph, one last sentence stricken out and two sentences inserted, 1996, 151 § 248; fourth paragraph, two sentences added, 1996, 151 § 249; **section amended**, 1996, 450 § 145. (See 1996, 151 § 690.)
§ 47A amended, 1996, 151 § 250. (See 1996, 151 § 690.)

CHAPTER 94D - Controlled Substances Therapeutic Research Act. (New chapter inserted, 1991, 480 § 1.)

§ 2 amended, 1996, 450 § 146.

CHAPTER 95 - Measuring of Leather.

CHAPTER 96 - Measurement of Lumber.

CHAPTER 97 - Surveying of Land.

CHAPTER 98 - Weights and Measures.

§ 29, last sentence revised, 1996, 416 § 1.
§ 34 amended, 1996, 416 § 2.
§ 42, last sentence revised, 1996, 416 § 3.
§ 45 amended, 1996, 416 § 4.
§ 52 amended, 1996, 416 § 5.
§ 53 amended, 1996, 416 § 6.
§ 55 amended, 1996, 416 § 7.

CHAPTER 99 - The Metric System of Weights and Measures.

CHAPTER 100 - Auctioneers.

§ 1 amended, 1996, 450 § 147.
§ 3 amended, 1996, 151 §§ 251, 252. (See 1996, 151 § 690.)

§ 3A amended, 1996, 151 § 252; 204 § 27. (See 1996, 151 § 690.)
§ 3C, first sentence revised, 1996, 151 § 253. (See 1996, 151 § 690.)
§ 3D added,1996, 151 § 254. (See 1996, 151 § 690.)
§ 9 amended, 1996, 450 § 149.

CHAPTER 100A - MOTOR VEHICLE DAMAGE REPAIR SHOPS. (New chapter inserted, 1988, 273 § 32.) (See 1988, 273 § 77.)

§ 2 amended, 1996, 119 § 1.
§ 4 amended, 1996, 119 § 2.
§ 10, paragraph added, 1996, 119 § 3.

CHAPTER 101 - Transient Vendors, Hawkers and Peddlers.

§ 34 amended, 1996, 151 §§ 255, 256. (See 1996, 151 § 690.)

CHAPTER 102 - Shipping and Seamen, Harbors and Harbor Masters.

CHAPTER 103 - Pilots.

§ 31 revised, 1996, 495 § 1; first paragraph revised, 1996, 495 § 2. (See 1996, 495 § 3.)

CHAPTER 104 - Agents, Consignees and Factors.

§ 7 amended, 1996, 120 §§ 1, 2, 3.
§ 8 revised, 1996, 120 § 4.
§ 9 revised, 1996, 120 § 4.

CHAPTER 104A - Consignment of Fine Art.

CHAPTER 105 - Public Warehouses.

CHAPTER 105A - SELF-STORAGE FACILITIES.

CHAPTER 106 - Uniform Commercial Code.

§ 1-105, paragraph (2) amended, 1996, 160 § 1; 377 § 1; **section amended**, 1996, 170 § 1.
§ 1-201, subsection (37) amended, 1996, 51 § 2.
§ 1-206 amended, 1996, 170 § 2.
§ 2-316A revised, 1996, 377 § 5.
ARTICLE 2A inserted, 1996, 377 § 2.
§ 2-403, paragraph 4 amended, 1996, 160 § 2.
§ 5-114 amended, 1996, 170 § 3.
ARTICLE 6 repealed, 1996, 160 § 3.
ARTICLE 8, revised, 1996, 170 § 4.
§ 9-111 **repealed**. 1996, 160 § 4.
§ 9-113 revised, 1996, 377 § 3.

§ 9-103, subsection (6) revised, 1996, 170 § 5.
§ 9-105 amended, 1996, 170 §§ 6, 7; subsection (2), definitions of "Commodity contract", "Commodity customer", and "Commodity intermediary" inserted, 1996, 170 § 8; definition of "Control" inserted, 1996, 170 § 9; definition of "Investment property" inserted, 1996, 170 § 10; subsection (3), definitions of "Broker", "Certificated authority" and "Clearing corporations" inserted, 1996, 170 § 11; definitons of "Control", "Delivery", "Entitlement holder" and "Financial asset" inserted, 1996, 170 § 12; definitons of "Securities intermediary", "Security", "Security certificate", "Security entitlement" and "Uncertificated security" inserted, 1996, 170 § 13.
§ 9-106 amended, 1996, 170 § 14.
§ 9-115 added, 1996, 170 § 15.
§ 9-116 added, 1996, 170 § 15.
§ 9-203 amended, 1996, 170 §§ 16, 17.
§ 9-301 amended, 1996, 170 § 18.
§ 9-302 amended, 1996, 170 §§ 19, 20, 21.
§ 9-304 amended, 1996, §§ 22, 23, 24, 25.
§ 9-305 amended, 1996, 170 § 26.
§ 9-306, subsection (1), sentence inserted, 1996, 170 § 27; clause (c) stricken out and clauses (c) and (d) inserted, 1996, 170 § 28.
§ 9-309 amended, 1996, 170 § 29.
§ 9-312 amended, 1996, 170 §§ 30, 31.
§ 9-318, paragraph (4) revised, 1996, 377 § 4.

CHAPTER 107 - Money and Registration, Issuance and Redemption of Bonds and other Securities, Facsimile Signatures. (Former title, Money and Negotiable Instruments.)

CHAPTER 107A - Assignments of Accounts Receivable.

CHAPTER 108 - Criminal Offences Relative to Bills of Lading. (Former title, Bills of Lading.)

CHAPTER 108A - Partnerships.

§ 1, definition of "Real property" stricken out and three definitions inserted, 1995, 281 § 4. (See 1995, 281 § 22.)
§ 6 amended, 1995, 281 § 5. (See 1995, 281 § 22.)
§ 15 amended, 1995, 281 § 6; three paragraphs added, 1995, 281 § 7. (See 1995, 281 § 22.)
§ 18 amended, 1995, 281 § 8. (See 1995, 281 § 22.)
§ 34, clause (c) added, 1995, 281 § 9. (See 1995, 281 § 22.)
§ 36 amended, 1995, 281 § 10. (See 1995, 281 § 22.)
§ 40 amended, 1995, 281 §§ 11, 12. (See 1995, 281 § 22.)
§ 45 added, 1995, 281 § 13. (See 1995, 281 § 22.)
§ 46 added, 1995, 281 § 13. (See 1995, 281 § 22.)
§ 47 added, 1995, 281 § 13. (See 1995, 281 § 22.)
§ 48 added, 1995, 281 § 13. (See 1995, 281 § 22.)
§ 49 added, 1995, 281 § 13. (See 1995, 281 § 22.)

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CHAPTER 109 - Limited Partnerships.

§ 16A added, 1995, 281 § 14. (See 1995, 281 § 22.)

CHAPTER 109A - UNIFORM FRAUDULENT TRANSFER ACT. (Chapter revised, 1996, 157.)

CHAPTER 110 - Labels, Trade Marks, Names and Registration thereof.

CHAPTER 110A - Uniform Securities Act.

§ 202 amended, 1996, 450 § 150.
§ 204 amended, 1996, 450 § 151.

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.)

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, definition of "Farming or agriculture" revised, 1995, 38 § 127. (See 1995, 38 § 358.)
§ 24F amended, 1996, 151 § 257; clauses (i) and (ii) revised, 1996, 203 § 5. (See 1996, 151 § 690.)
§ 24G amended, 1996, 151 § 257; first sentence revised, 1996, 203 § 6. (See 1996, 151 § 690.)
§ 25C, paragraph added, 1996, 151 § 258. (See 1996, 151 § 684.)
§ 51, two paragraphs added, 1995, 218 § 2.
§ 53B amended, 1996, 307 §§ 2, 3.
§ 69F amended, 1995, 5 § 38. (See 1995, 5 § 143.)
§ 69G amended, 1995, 5 § 39. (See 1995, 5 § 143.)
§ 69I amended, 1995, 5 § 40. (See 1995, 5 § 143.)
§ 70E, paragraph inserted after eighth paragraph, 1996, 445.
§ 127B ½, first paragraph revised, 1996, 151 § 259. (See 1996, 259 § 690.)
§ 142A revised, 1995, 39 § 7. (See 1995, 39 § 62.)
§ 142B, second paragraph, last sentence stricken out, 1995, 39 § 8; fifth paragraph, sentence inserted after fourth sentence, 1995, 39 § 9. (See 1995, 39 § 62.)
§ 142M amended, 1995, 302 §§ 2, 3; 1996, 451 §§ 1,2. (See 1995, 302 § 4.)
§ 197A, subsection (b), paragraph (3) inserted, 1996, 151 § 260. (See 1996, 151 § 690.)

§ 197B amended, 1996, 151 § 261; 450 § 152. (See 1996, 151 § 690.)
§ 203, paragraph (c) revised, 1996, 348 § 1.
§ 205 amended, 1996, 348 §2.
§ 215 revised, 1995, 38 § 128. (See 1995, 38 § 358.)
§ 216 added, 1996, 104.

CHAPTER 111A - Drug Addiction Rehabilitation. (Chapter repealed, 1969, 889 § 23A.)

CHAPTER 111B - Alcoholism.

CHAPTER 111C - Emergency Medical Care.

§ 3, paragraph added, 1995, 70 § 1.
§ 7 amended, 1996, 151 § 262. (See 1996, 151 § 690.)

CHAPTER 111D - Clinical Laboratories.

CHAPTER 111E - DRUG REHABILITATION.

CHAPTER 111F - HAZARDOUS SUBSTANCES DISCLOSURE BY EMPLOYERS.

§ 1, definition of "DLI" stricken out and definition of "DOL" inserted, 1996, 151 § 263. (See 1996, 151 § 690.)
§ 2 amended, 1996, 151 § 264. (See 1996, 151 § 690.)
§ 4 amended, 1996, 151 § 265. (See 1996, 151 § 690.)
§ 13 amended, 1996, 151 § 266. (See 1996, 151 § 690.)
§ 17 amended, 1996, 151 § 267. (See 1996, 151 § 690.)

CHAPTER 111G - EARLY CHILDHOOD INTERVENTION SERVICES.

CHAPTER 111H - MASSACHUSETTS LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT ACT.

CHAPTER 111I - WOMEN'S, INFANTS AND CHILDREN PROGRAM (New chapter inserted, 1992, 414 § 3.)

CHAPTER 112 - Registration of Certain Professions and Occupations.

§ 5, paragraph inserted after second paragraph, 1996, 307 § 4; two paragraphs inserted after fourth paragraph, 1996, 307 § 5.
§ 7 revised, 1996, 304 § 2.
§ 12A amended, 1996, 151 §§ 268, 269. (See 1996, 151 § 690.)
§ 12A½ amended, 1996, 151 § 270. (See 1996, 151 § 690.)
§ 12CC amended, 1996, 450 § 153.
§ 23E amended, 1996, 450 § 154.
§ 61 amended, 1996, 304 § 3.

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§ 68 amended, 1996, 450 § 155.
§ 84, fourth paragraph, clause (i) revised, 1996, 117.
§ 87A, definition of "Firm" revised, 1996, 285 § 1. (See 1996, 285 § 15.)
§ 87B½ amended, 1996, 285 §§ 2, 3, 4, 5; paragraphs (g) and (h) revised, 1996, 285 § 6; paragraphs (i) and (j) inserted, 1996, 285 § 6. (See 1996, 285 § 15.)
§ 87C amended, 1996, 285 § 7; 1996, 285 § 8; two paragraphs added, 1996, 285 § 9. (See 1996, 285 § 15.)
§ 87C½ amended, 1996, 285 §10. (See 1996, 285 § 15.)
§ 87D amended, 1996, 285 §§ 11, 12, 13. (See 1996, 285 § 15.)
§ 87E amended, 1996, 285 § 14. (See 1996, 285 § 15.)
§ 87H amended, 1996, 250 § 1; 1996, 250, § 2.
§ 87TT amended, 1996, 369 § 1.
§ 87XX½ added, 1996, 369 § 2.
§ 122 amended, 1996, 270 § 1.
§ 123 revised, 1996, 270 § 2.
§ 165, clause (5) revised, 1995, 149 § 1.

CHAPTER 113 - Promotion of Anatomical Science.

§ 5A inserted, 1996, 367.

CHAPTER 114 - Cemeteries and Burials.

CHAPTER 115 - Veteran's Benefits.
(Former title, State and Military Aid, Soldier's Relief, etc.)

§ 6B amended, 1995, 38 § 129. (See 1995, 38 § 358.)
§ 9, first sentence revised, 1996, 279.

CHAPTER 115A - Soldier's Homes.

§ 4 amended, 1996, 450 § 156.

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.)

§ 1 amended, 1995, 5 § 41. (See 1995, 5 § 143.)
§ 4B amended, 1995, 5 § 42. (See 1995, 5 § 143.)

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CHAPTER 118A - Assistance to the Aged and Disabled.
(Former title, Old Age Assistance and Medical Assistance for the Aged.)

§ 1 amended, 1995, 5 § 43. (See 1995, 5 § 143.)
§ 3 amended, 1995, 5 § 44. (See 1995, 5 § 143.)

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.

CHAPTER 118E - Medical Care and Assistance.
(Chapter revised, 1993, 161 § 17.)

§ 1 amended, 203 §8.
§ 2 amended, 1995, 5 § 45. (See 1995, 5 § 143.)
§ 4 amended, 1995, 5 § 46. (See 1995, 5 § 143.)
§ 4B amended, 1995, 5 § 47. (See 1995, 5 § 143.)
§ 5 amended, 1996, 203 § 9.
§ 7 amended, 1995, 5 § 48. (See 1995, 5 § 143.)
§ 8 amended, 1996, 203 § 10; paragraph D1/2 inserted, 1996, 203 § 11; paragraph f amended, 1996, 203 § 12; paragraph j amended, 1996 203 § 13.
§ 9A inserted, 1996, 203 § 14.
§ 9B inserted, 1996, 203 § 14.
§ 10A added, 1995, 218 § 3.
§ 13 revised, 1996, 151 § 271. (See 1996, 151 § 690.)
§ 13A inserted, 1996, 151 § 272; first paragraph, second sentence amended, 1996, § 365 §12. (See 1996, 151 § 690.)
§ 16B inserted, 1996, 203 § 15; **repealed, 203 § 16.** (See 1996, 203 § 34.)
§ 21A, subsection (c) added, 1995, 38 § 130. (See 1995, 38 § 358.)
§ 22 amended, 1995, 5 § 49; **section revised**, 1995, 38 § 131. (See 1995, 38 § 358.)
§ 23, paragraph added, 1995, 38 § 132. (See 1995, 38 § 358.)
§ 23A added, 1996, 450 § 157.
§ 24 stricken out, 1996, 450 § 157.
§ 27 amended, 1995, 5 § 50. (See 1995, 5 § 143.)
§ 31 revised, 1995, 38 § 133; subsection (a), clause (2) revised, 1996, 450 § 158. (See 1995, 38 § 358.)
§ 32, subsection (a), second paragraph revised, 1995, 38 § 135. (See 1995, 38 § 358.)
§ 36 added, 1995, 38 § 136; clause (5) revised, 1996, 151 § 273. (See 1995, 38 § 358; 1996, 151§ 690.)

CHAPTER 118F - DEPARTMENT OF MEDICAL SECURITY.
(New chapter added, 1988, 23 § 45.) (See 1988, 23 § 45.)
(Chapter repealed, 1996, 151 § 274.) (See 1996, 151 § 690.)

§ 9A, second paragraph revised, 1995, 38 § 137. (See 1995, 38 § 358.)

§ 14 amended, 1995, 5 § 51. (See 1995, 5 § 143.)
§ 14A amended, 1995, 5 § 52. (See 1995, 5 § 143.)
§ 15 amended, 1995, 5 § 53. (See 1995, 5 § 143.)
§ 17A amended, 1995, 5 § 54. (See 1995, 5 § 143.)
§ 19 amended, 1995, 239 §§ 1, 2, 3.

CHAPTER 118G - HEALTH CARE FINANCE AND POLICY.
(New chapter added, 1996, 151 § 275.) (See 1996, 151 § 690).

§ 3, clause (g) added, 1996, 203 § 17.
§ 6, paragraph added, 1996, 307 § 1.
§ 7, second paragraph, second sentence revised, 1996, 204 § 28; last paragraph revised, 1996, 204 § 29.
§ 8, first paragraph revised, 1996, 204 § 30.
§ 10, first paragraph revised, 1996, 204 § 31.
§ 18, tenth paragraph, two sentences inserted, 1996, 203 § 18.
§ 19 **repealed**, 1996, 203 § 19.
§ 20 **repealed**, 1996, 203 § 7.
§ 21, clause (5) revised, 1996, 203 § 20; clause (6) inserted, 1996, 203 § 20.

CHAPTER 119 - Protection and Care of Children, and Proceedings against Them.

§ 21, sentence added, 1996, § 151 § 276. (See 1996, 151 § 690.)
§ 24 amended, 1996, 450 § 159.
§ 28 amended, 1995, 5 § 55. (See 1995, 5 § 143.)
§ 33B added, 1996, 151 § 277. (See 1996, 151 § 690.)
§ 39G amended, 1995, 38 § 138. (See 1995, 38 § 358.)
§ 51B, paragraph added, 1996, 151 § 278; clause (4) revised, 1996, 215; amended, 1996, 450 §§ 160, 161. (See 1996, 151 § 690.)
§ 52, definitions of "Punishment as is provided by law" and "Youthful offender" added, 1996, 200 § 1. (See 1996, 200 § 39.)
§ 54, paragraph added, 1996, 200 § 2. (See 1996, 200 § 39.)
§ 55A revised, 1996, 200 § 3. (See 1996, 200 § 39.)
§ 56 revised, 1996, 200 § 4. (See 1996, 200 § 39.)
§ 58, two paragraphs inserted after second paragraph, 1995, 278 § 1; **section revised**, 1996, 200 § 5. (See 1996, 200 § 39.)
§ 60A, first paragraph revised, 1996, 200 § 6. (See 1996, 200 § 39.)
§ 61 **repealed**, 1996, 200 § 7. (See 1996, 200 § 39.)
§ 63, third sentence revised, 1996, 200 § 8; amended, 1996, 450 § 162 . (See 1996, 200 § 39.)
§ 64 amended, 1996, 450 § 162 .
§ 65, third sentence revised, 1996, 200 § 9. (See 1996, 200 § 39.)
§ 66 revised, 1996, 200 § 10. (See 1996, 200 § 39.)
§ 68 revised, 1996, 200 § 11. (See 1996, 200 § 39.)
§ 68A revised, 1996, 200 § 12. (See 1996, 200 § 39.)
§ 72 revised, 1996, 200 § 13. (See 1996, 200 § 39.)
§ 72A revised, 1996, 200 § 13A.
§ 72B added, 1996, 200 § 14.

§ 74 revised, 1996, 200 § 15.
§ 83 **repealed**, 1996, 200 § 16. (See 1996, 200 § 39.)
§ 84 amended, 1996, 450 § 164.

CHAPTER 119A - CHILD SUPPORT ENFORCEMENT.

§ 2 amended, 1995, 5 §§ 56, 57. (See 1995, 5 § 143.)
§ 3 amended, 1995, 5 § 58. (See 1995, 5 § 143.)
§ 4 amended, 1995, 5 § 59. (See 1995, 5 § 143.)
§ 5 amended, 1995, 5 § 60; second paragraph, second sentence revised, 1995, 5 § 61. (See 1995, 5 § 143.)
§ 6 amended, 1995, 5 §62. (See 1995, 5 § 143.)
§ 7 revised, 1995, 5 § 63. (See 1995, 5 § 143.)
§ 8 revised, 1995, 5 § 64. (See 1995, 5 § 143.)
§ 12 amended, 1995, 5 § 65; subsection (a), sentence added, 1995, 5 § 66; **section amended**, 1995, 5 § 67; subsection (l), second sentence revised, 1995, 38 § 139; **section amended**, 1996, 450 §§ 165, 166, 167. (See 1995, 5 § 143; 38 § 358.)
§ 13, subsection (b), second sentence revised, 1995, 38 § 140; subsection (d) amended, 1995, 5 § 68; **section amended**, 1996, 450 §§ 168; subsection (d) amended, 1996, 450 § 170. (See 1995, 5 § 143; 38 § 358.)
§ 14 amended, 1996, 450 § 169; 151 § 463. (See 1996, 152 § 690.)

CHAPTER 120 - Department of Youth Services and Massachusetts Training Schools. (Former title, Youth Service Board and Massachusetts Training Schools.)

§ 10 amended, 1995, 5 § 69. (See 1995, 5 § 143.)
§ 11 amended, 1996, 200 § 17. (See 1996, 200 § 39.)
§ 12 amended, 1995, 5 § 70. (See 1995, 5 § 143.)
§ 13 revised, 1996, 200 § 18. (See 1996, 200 § 39.)
§ 16 amended, 1996, 200 § 19. (See 1996, 200 § 39.)
§ 17, second sentence revised, 1996, 200 § 20. (See 1996, 200 § 39.)
§ 18, first paragraph, sentence added, 1996, 200 § 21. (See 1996, 200 § 39.)
§ 20 **repealed**,1996, 200 § 22. (See 1996, 200 § 39.)
§ 21 amended, 1996, 200 § 23. (See 1996, 200 § 39.)
§ 26 amended, 1996, 200 § 24. (See 1996, 200 § 39.)

CHAPTER 121 - Powers and Duties of the Department of Public Welfare, and the Massachusetts Hospital School.

CHAPTER 121A - Urban Redevelopment Corporations.

CHAPTER 121B - Housing and Urban Renewal.

§ 1 amended, 1995, 179 § 3; definition of "Handicapped persons of low income", three sentences added, 1995, 179 § 4; **section amended**, 1996, 151 § 279; 204 § 32. (See 1995, 179 § 20; 1996, 151 § 690.)

§ 5, sixth paragraph, three sentences added, 1996, 286.
§ 6, second paragraph, sentence inserted after first sentence, 1996, 141.
§ 26, clause (o) added, 1995, 208.
§ 28 **repealed**, 1996, 151 § 280. (See 1996, 151 § 690.)
§ 32, sixth paragraph revised, 1995, 179 § 5; three paragraphs added, 1995, 179 § 6. (See 1995, 179 § 20.)
§ 32C amended, 1995, 179 § 7; first paragraph, sentence added, 1995, 179 § 8. (See 1995, 179 § 20.)
§ 32F amended, 1995, 179 § 9. (See 1995, 179 § 20.)
§ 38B added, 1995, 179 § 10. (See 1995, 179 § 20.)
§ 39, seven paragraphs added, 1995, 179 § 11. (See 1995, 179 § 20.)
§ 40, subsection (h) added, 179 § 12. (See 1995, 179 § 20.)

CHAPTER 121C - Economic Development and Industrial Corporations.

CHAPTER 122 - Tewksbury Hospital.
(Former title, Tewksbury State Hospital and Infirmary.)

§ 11 amended, 1995, 5 § 71. (See 1995, 5 § 143.)
§ 12 amended, 1995, 5 § 72. (See 1995, 5 § 143.)
§ 13 amended, 1995, 5 § 73. (See 1995, 5 § 143.)

CHAPTER 123 - Treatment and Commitment of Mentally Ill and Mentally Retarded Persons.

§ 13 amended, 1996, 213.
§ 15, paragraph (e) revised, 1996, 266.
§ 36 amended, 1996, 239 § 2.

CHAPTER 123A - Care, Treatment and Rehabilitation of Sexually Dangerous Persons.
(Former title, Care, Treatment and Rehabilitation of Sexual Offenders and Victims of such Offenders.)

§ 6A amended, 1996, 151 § 281. (See 1996, 151 § 690.)
§ 9 amended, 1996, 151 § 282. (See 1996, 151 § 690.)

CHAPTER 123B - MENTAL HEALTH.

CHAPTER 124 - Powers and Duties of the Department of Correction.

§ 1 amended, 1996, 151 § 283. (See 1996, 151 § 690.)

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.

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CHAPTER 127 - Officers and Inmates of Penal and Reformatory Institutions, Paroles and Pardons.

§ 3 amended, 1996, 450 § 171.
§ 5 amended, 1996, 240 §§ 1, 2.
§ 16A added, 1996, 151 § 284. (See 1996, 151 § 690.)
§ 20A added, 1996, 420 § 1.
§ 23 amended, 1996, 151 § 285. (See 1996, 151 § 690.)
§ 25 amended, 1996, 151 § 286. (See 1996, 151 § 690.)
§ 27 amended, 1996, 151 § 287. (See 1996, 151 § 690.)
§ 29 amended, 1996, 151 § 288. (See 1996, 151 § 690.)
§ 38D added, 1996, 77.
§ 49, first paragraph, two sentences added, 1996, 239 § 3.
§ 49A, second paragraph, second sentence revised, 1996, 420 § 2; **section amended**, 420 § 3.
§ 127 amended, 1996, 64 §§ 1, 2.
§ 130A amended, 1996, 450§ 172.
§ 133A amended, 1996, 43.
§ 151L added, 1995, 38 § 141. (See 1995, 38 § 358.)

CHAPTER 128 - Agriculture.

§ 1A revised, 1995, 38 § 142. (See 1995, 38 § 358.)

CHAPTER 128A - Horse and Dog Racing Meetings.

§ 7 amended, 1996, 450 § 173.
§ 19 **repealed**, 1996, 58 § 26. (See 1996, 58 § 105.)

CHAPTER 128B - Conservation of Soil and Soil Resources and Prevention and Control of Erosion.

CHAPTER 128C - SIMULCAST WAGERING OF HORSE AND DOG RACING. (New chapter inserted, 1992, 101 § 5.)

§ 1, definitions of "Commission" and "Companion card" inserted, 1995, 268 § 1; definition of "Racing card" revised, 1995, 268 § 2. (See 1995 268 § 21.)
§ 2, second paragraph stricken out, 1995, 268 § 3; fifth paragraph, second sentence stricken out and five sentences inserted, 1995, 268 § 4; **section amended**, 1995, 268 §§ 5, 6. (See 1995 268 § 21.)
§ 7, first paragraph stricken out and three paragraphs inserted, 1995, 268 § 7; second sentence revised, 1996, 450 § 174. (See 1995 268 § 21.)
§ 8 added, 1995, 268 § 8. (See 1995 268 § 21.)

CHAPTER 129 - Livestock Disease Control. (Former title, Animal Industry.)

§ 44, first sentence revised, 1996, 85 § 2.
§ 44A amended, 1996, 85 § 3.

TABLE OF CHANGES

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.)

§ 1 amended, 1996, 236.
§ 40 revised, 1996, 169.
§ 44 amended, 1996, 218 §§ 1,2.
§ 44B added, 1996, 218 § 3.

CHAPTER 131 - Inland Fisheries and Game and Other Natural Resourses.
(Former title, Powers and Duties of the Division of Fisheries and Game.)

§ 11, first paragraph, sentence added, 1996, 12 § 24. (See 1996, 24 § 68.)
§ 12, paragraph added, 1996, 422 § 1.
§ 14 revised, 1996, 12 § 25; amended, 151 § 289; first sentence amended, 365 § 13. (See 1996, 12 § 68; 151 § 690.)
§ 17A added, 1996, 204 § 33. (See 1996, 204 § 169.)
§ 17B added, 1996, 204 § 33. (See 1996, 204 § 169.)
§ 21 amended, 1996, 453 § 2.
§ 21A added, 1996, 453 § 2.
§ 31 revised, 1996 151 § 290. (See 1996, 151 § 690.)
§ 35, paragraph added, 1996, 422 § 2.
§ 37, amended, 1996, 12 § 26.
§ 39 **repealed**, 1995, 38 §143. (See 1995 38 § 358.)
§ 70, second paragraph revised, 1996, 296.
§ 77 revised, 1995, 290; two sentences added, 1996, 151 § 291. (See 1996, 151 § 691.)
§ 80A revised, 1996, 453 § 1.
§ 82 amended, 1996, 450 § 175.
§ 89, sentence added, 1996, 450 § 176.
§ 90 amended, 1996, 450 § 177.

CHAPTER 131A - MASSACHUSETTS ENDANGERED SPECIES ACT.
(New chapter added, 1990, 408 § 4.) (See 1990, 408 § 5.)

§ 2, paragraph added, 1995, 38 § 144. (See 1995 38 § 358.)
§ 3 amended, 1995, 38 § 145. (See 1995 38 § 358.)
§ 5 amended, 1996, 450 § 178.

CHAPTER 132 - Forestry.

§ 47 amended, 1996, 450 § 179.
§ 49 amended, 1996, 450 § 180.
§ 50 **repealed**, 1996, 58 § 27. (See 1996, 58 § 105.)
§ 51 added, 1996, 151 § 292; second paragraph, second and third sentences revised, 1996, 204 § 34.

(See 1996, 151 § 690.)

CHAPTER 132A - State Recreation Areas outside of the Metropolitan Parks District. (Former title, State Parks and Reservations outside of the § Metropolitan Parks District.)

CHAPTER 132B - Massachusetts Pesticide Control Act.

CHAPTER 133 - Disposition of Old and Infirm Animals.

CHAPTER 134 - Lost Goods and Stray Beasts.

CHAPTER 135 - Unclaimed and Abandoned Property.

CHAPTER 136 - Observance of a Common Day of Rest and Legal Holidays. (Former title, Observance of the Lord's Day and Legal Holidays.)

§ 6 amended, 1996, 41 § 1; clause (50) amended, 151 § 293; clause (55) added, 276. (See 1996, 151 § 690.)

CHAPTER 137 - Gaming.

CHAPTER 138 - Alcoholic Liquors. (Former title, Intoxicating Liquors and Certain Non-intoxicating Beverages.)

§ 23, fourth paragraph revised, 1996, 151 § 294; 204 § 35; fifth paragraph, sentence inserted, 151 § 295. (See 1996, 151 § 690.)
§ 23A, sentence added, 1996, 151 § 296. (See 1996, 151 § 690.)
§ 33 amended, 1996, 41 § 2.
§ 51 amended, 1996, 151 §§ 297, 298. (See 1996, 151 § 690.)

CHAPTER 139 - Common Nuisances.

§ 19 revised, 1995, 179 § 13. (See 1995, 179, § 20.)

CHAPTER 140 - Licenses.

§ 32A, caption preceding section revised, 1996, 450 § 181.
§ 61 **repealed,** 1996, 427.
§ 64 **repealed,** 1996, 427.
§ 87 amended, 1996, 151 § 299. (See 1996, 151 § 690.)
§ 97 revised, 1996, 118 § 1.
§ 98 revised, 1996, 118 § 2.
§ 114A amended, 1996, 359 § 1.
§ 114B fourth paragraph stricken, 1996, 129 § 1.
§ 114C amended, 1996, 359 § 2.

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§ 121 amended, 1996, 151 §§ 300, 301. (See 1996, 151 § 690.)
§ 121A amended, 1996, 151 § 302. (See 1996, 151 § 690.)
§ 122 amended, 1996, 151 §§ 303, 304, 305; 200 § 25. (See 1996, 151 § 690; 200 § 39.)
§ 122A inserted, 1996, 151 § 306. (See 1996, 151 § 690.)
§ 122B amended, 1996, 151 §§ 307, 308; 200 § 26. (See 1996, 151 § 690; 200 § 39.)
§ 123 amended, 1996, 151 §§ 309, 310, 311. (See 1996, 151 § 690.)
§ 125 amended, 1996, 151 § 312. (See 1996, 151 § 690.)
§ 127 amended, 1996, 151 § 313. (See 1996, 151 § 690.)
§ 128A amended, 1996, 151 §§ 314, 315. (See 1996, 151 § 690.)
§ 128B amended, 1996, 151 §§ 316, 317. (See 1996, 151 § 690.)
§ 129B amended, 1996, 151 § 317; 200 § 27. (See 1996, 151 § 690; 200 § 39.)
§ 129C amended, 1996, 151 §§ 318, 319, 320, 321; clause (u) added, 151 § 322. (See 1996, 151 § 690.)
§ 129D amended, 1996, 151 §§ 323, 324. (See 1996, 151 § 690.)
§ 131 amended, 1996, 151 §§ 325, 326, 327, 328, 329; 200 § 28. (See 1996, 151 § 690; 200 § 39.)
§ 131A amended, 1996, 151 §§ 330, 331, 332. (See 1996, 151 § 690.)
§ 131F amended, 1996, 151 §§ 333, 334; 200 § 29. (See 1996, 151 § 690; 200 § 39.)
§ 131H amended, 1996, 151 §§ 335, 336. (See 1996, 151 § 690.)
§ 145A amended, 1996, 151 § 337. (See 1996, 151 § 690.)
§ 157 amended, 1995, 286.
§ 173A amended, 1996, 450 § 182.

CHAPTER 140A - Regulation of Certain Credit Transactions.

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 inserted, 1981, 733 § 2.)

§ 4, subsection (a), second paragraph, clause (6) added, 1996, 238 § 1; subsection (d), clause (3) added, 1996, 238 § 2; subsection (e) revised, 1996, 238 § 3.
§ 7, subsection (c), sentence added, 1996, 238 § 4.
§ 10, subsections (h) and (i), added, 1996, 238 § 5.
§ 20 amended, 1996, 129 § 2.
§ 32, subsection (a) amended, 1996, 238 § 6.
§ 33, paragraphs (d) and (e) added, 1996, 238 § 7.
§ 35 added, 1996, 238 § 8.

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.)

§ 18 amended, 1996, 450 § 183.
§ 21 amended, 1996, 450 § 184.

CHAPTER 143 - Inspection and Regulation of, and Licenses for, Buildings, Elevators and Cinematographs.

§ 3 amended, 1996, 96.
§ 71H **repealed,** 1996, 58 § 28. (See 1996, 58 § 105.)
§ 71I **repealed,** 1996, 58 § 28. (See 1996, 58 § 105.)
§ 71J **repealed,** 1996, 58 § 28. (See 1996, 58 § 105.)
§ 71K **repealed,** 1996, 58 § 28. (See 1996, 58 § 105.)
§ 71L **repealed,** 1996, 58 § 28. (See 1996, 58 § 105.)
§ 71M **repealed,** 1996, 58 § 28. (See 1996, 58 § 105.)
§ 71N **repealed,** 1996, 58 § 28. (See 1996, 58 § 105.)

CHAPTER 144 - Tenement Houses in Cities.

§ 44E, subsection (1), paragraph added, 1995, 139 § 1.

CHAPTER 145 - Tenement Houses in Towns.

CHAPTER 146 - Inspection of Boilers, Air Tanks, etc., Licenses of Engineers, Firemen, and Operators of Hoisting Machinery.

§ 81 amended, 1994, 87.

CHAPTER 147 - State and Other Police, and Certain Power and Duties of the Department of Public Safety.

§ 23, second paragraph, paragraph 8 revised; 1996, 56 § 1; paragraph 12 added, 1996, 56 § 2.
§ 24 amended, 1996, 151 § 338. (See 1996, 151 § 690.)
§ 25 amended, 1996, 151 §§ 339, 340 . (See 1996, 151 § 690.)
§ 27 amended, 1996, 151 § 341. (See 1996, 151 § 690.)
§ 28 amended, 1996, 151 § 342. (See 1996, 151 § 690.)
§ 29 amended, 1996, 151 § 343. (See 1996, 151 § 690.)
§ 31 amended, 1996, 151 § 344. (See 1996, 151 § 690.)

CHAPTER 148 - Fire Prevention.

§ 1 amended, 1996, 151 §§ 345, 346, 347,348, 349, 350. (See 1996, 151 § 690.)
§ 2 amended, 1996, 151 § 351. (See 1996, 151 § 690.)
§ 3 amended, 1996, 151 § 352. (See 1996, 151 § 690.)
§ 4 amended, 1996, 151 §§ 353, 354. (See 1996, 151 § 690.)
§ 10 amended, 1996, 151 §§ 355, 356. (See 1996, 151 § 690.)

§ 10A amended, 1996, 151 § 357. (See 1996, 151 § 690.)
§ 11 amended, 1996, 151 § 358. (See 1996, 151 § 690.)
§ 30 amended, 1996, 151 § 359. (See 1996, 151 § 690.)
§ 33 amended, 1996, 151 § 360. (See 1996, 151 § 690.)
§ 37 amended, 1996, 151 § 361. (See 1996, 151 § 690.)
§ 38B, definition of "Department" revised, 1996, 151 § 362; **section amended**, 151 § 363 . (See 1996, 151 § 690.)
§ 38C amended, 1996, 450 § 185.)
§ 50 amended, 1996, 151 § 364. (See 1996, 151 § 690.)

CHAPTER 149 - Labor and Industries.

§ 1, definition of "Commissioner" revised, 1996, 151 § 365; **section amended**, 151 § 366; definition of "Inspector" revised, 151 § 367. (See 1996, 151 § 690.)
§ 2 amended, 1996, 151 § 368. (See 1996, 151 § 690.)
§ 3 amended, 1996, 151 § 369. (See 1996, 151 § 690.)
§ 5 amended, 1996, 151 §§ 370, 371, 372. (See 1996, 151 § 690.)
§ 6 amended, 1996, 151 § 373. (See 1996, 151 § 690.)
§ 10 amended, 1996, 151 § 374. (See 1996, 151 § 690.)
§ 17 amended, 1996, 151 § 375. (See 1996, 151 § 690.)
§ 20E amended, 1996, 151 § 376. (See 1996, 151 § 690.)
§ 29 amended, 1996, 151 § 377. (See 1996, 151 § 690.)
§ 30 amended, 1996, 151 § 378. (See 1996, 151 § 690.)
§ 44A amended, 1996, 151 §§ 379, 380. (See 1996, 151 § 690.)
§ 44C amended, 1996, 151 § 381. (See 1996, 151 § 690.)
§ 44D amended, 1996, 151 § 382. (See 1996, 151 § 690.)
§ 44E, paragraph added, 1995, 139 § 1.
§ 44F, subsection (1) amended, 1996, 151 § 383; paragraph added, 151 § 384; subsection (2) amended, 151 § 384; subsection (4), paragraph (c), paragraph inserted, 1995, 138 § 1; **section amended**, 1996, 450 § 186. (See 1996, 151 § 690.)
§ 44H amended, 1996, 151 § 386. (See 1996, 151 § 690.)
§ 44J, subsection (B) added, 1995, 139 § 2 § 44C; subsection (7) amended, 1996, 151 § 381. (See 1996, 151 § 690.)
§ 51A amended, 1996, 151 § 388. (See 1996, 151 § 690.)
§ 52C amended, 1996, 151 § 389. (See 1996, 151 § 690.)
§ 54 amended, 1996, 151 § 390. (See 1996, 151 § 690.)
§ 56 amended, 1996, 151 §§ 391, 392. (See 1996, 151 § 690.)
§ 60 amended, 1996, 151 § 393. (See 1996, 151 § 690.)
§ 63 amended, 1996, 151 § 394; (See 1996, 151 § 690.)
§ 66 amended, 1996, 268 § 2.
§ 67 amended, 1996, 268 § 3.
§ 74 amended, 1996, 151 § 395. (See 1996, 151 § 690.)
§ 75 amended, 1996, 151 § 396. (See 1996, 151 § 690.)
§ 83 amended, 1996, 151 § 397. (See 1996, 151 § 690.)
§ 94 amended, 1996, 151 § 398. (See 1996, 151 § 690.)
§ 101 amended, 1996, 151 § 399. (See 1996, 151 § 690.)
§ 105A amended, 1996, 151 § 400. (See 1996, 151 § 690.)

§ 105B amended, 1996, 151 § 401. (See 1996, 151 § 690.)
§ 105C amended, 1996, 151 § 402. (See 1996, 151 § 690.)
§ 111 amended, 1996, 151 § 403. (See 1996, 151 § 690.)
§ 113 amended, 1996, 151 §§ 404, 405; 450 § 187. (See 1996, 151 § 690.)
§ 114 amended, 1996, 151 § 406. (See 1996, 151 § 690.)
§ 115 amended, 1996, 151 § 407. (See 1996, 151 § 690.)
§ 116 amended, 1996, 151 § 408. (See 1996, 151 § 690.)
§ 120 amended, 1996, 151 § 409. (See 1996, 151 § 690.)
§ 126 amended, 1996, 151 §§ 410, 411. (See 1996, 151 § 690.)
§ 129A amended, 1996, 151 § 412. (See 1996, 151 § 690.)
§ 135 amended, 1996, 151 § 413. (See 1996, 151 § 690.)
§ 142G amended, 1996, 151 § 414. (See 1996, 151 § 690.)
§ 145 amended, 1996, 151 §§ 415, 416. (See 1996, 151 § 690.)
§ 146 amended, 1996, 151 § 417. (See 1996, 151 § 690.)
§ 147 amended, 1996, 151 § 418. (See 1996, 151 § 690.)
§ 147A amended, 1996, 151 § 419. (See 1996, 151 § 690.)
§ 147C amended, 1996, 151 § 420. (See 1996, 151 § 690.)
§ 147D amended, 1996, 151 § 421. (See 1996, 151 § 690.)
§ 147E amended, 1996, 151 §§ 422, 423. (See 1996, 151 § 690.)
§ 147F amended, 1996, 151 § 424. (See 1996, 151 § 690.)
§ 147G amended, 1996, 151 § 425. (See 1996, 151 § 690.)
§ 148 amended, 1996, 151 § 426. (See 1996, 151 § 690.)
§ 150 amended, 1996, 151 §§ 427, 428. (See 1996, 151 § 690.)
§ 183 amended, 1996, 151 §§ 429, 430, 431; subsection (h) revised, 151 § 432. (See 1996, 151 § 690.)
§ 184, definitions of "Commissioner" and "Department" stricken out, 1996, 151 § 433; section amended, 1996, 151 §§ 434, 435; subsection (h) revised, 151 § 436. (See 1996, 151 § 690.)

CHAPTER 150 - Conciliation and Arbitration of Industrial Disputes.

§ 6 amended, 1996, 450 § 188; last four sentences stricken out, paragraph inserted, 450 § 189.

CHAPTER 150A - Labor Relations.

CHAPTER 150B - Peaceful Settlement of Industrial Disputes Dangerous to Public Health and Safety.

§ 3 amended, 1996, 151 § 437. (See 1996, 151 § 690.)

CHAPTER 150C - Collective Bargaining Agreements to Arbitrate.

CHAPTER 150D - Registration of Labor Replacements of Strike Breakers.

CHAPTER 150E - Labor Relations; Public Employees.

§ 1, definition of "Employer" or "Public employer", sentence added, 1995, 39 § 10. (See 1995, 39 § 62.)

TABLE OF CHANGES

§ 3 amended, 1995, 244.
§ 7 amended, 1996, 12 §§ 7, 8.

CHAPTER 151 - Minimum Fair Wages.
(Former title, Minimum Fair Wages for Women and Minors.)

§ 1, second sentence revised, 1995, 196 §§ 1, 2. (See 1995, 196 § 5.)
§ 1B amended, 1996, 151 § 438. (See 1996, 151 § 690.)
§ 2, definition of "Commissioner" stricken out, 1996, 151 § 439; **section amended**, 151 §§ 440, 441. (See 1996, 151 § 690.)
§ 3 amended, 1996, 151 §§ 442, 443. (See 1996, 151 § 690.)
§ 7 amended, 1995, 196 § 3. (See 1995, 196 § 5.)
§ 15 amended, 1996, 151 §§ 444, 445, 446. (See 1996, 151 § 690.)
§ 17 amended, 1996, 151 § 447. (See 1996, 151 § 690.)
§ 20 amended, 1996, 151 § 448. (See 1996, 151 § 690.)

CHAPTER 151A - EMPLOYMENT AND TRAINING.
(Title revised, 1990, 177 § 247. Former title, Employment Security.)

§ 1, subsection (e ½) revised, 1996, 151 § 449; subsection (g) inserted, 151 § 450. (See 1996, 151 § 690.)
§ 14A amended, 1996, 450 § 190.
§ 14G amended, 1996, 151 § 451; subsection (h), second paragraph, first sentence amended, 151 § 452; subsection (i), second paragraph stricken out, 151 § 453; subsection (k) amended, 151 § 454; last sentence stricken out, 151 § 454; subsection (l) and (m) added, 151 § 455; **section revised**, 203 § 21. (See 1996, 151 §§ 687, 690.)
§ 29D amended, 1996, 450 § 191.
§ 29E added, 1996, 151 § 456. (See 1996, 151 § 687.)
§ 46 amended, 1995, 5 § 74; paragraph (c), clause (4) amended, 1996, 79. (See 1995, 5 § 143.)
§ 71A, definition of "Commissioner" revised, 1996, 151 § 457. (See 1996, 151 § 687.)

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.)

§ 1 amended, 1995, 179 § 14. (See 1995, 179 § 20.)
§ 3A added, 1996, 278 § 1.
§ 4, subsection 16, first paragraph, sentence added, 1996, 262.

CHAPTER 151C - Fair Education Practices.

CHAPTER 151D - Health, Welfare and Retirement Funds.

§ 17 **repealed**, 1996, 58 § 29. (See 1996, 58 § 105.)

CHAPTER 151E - Prohibition of Certain Discrimination by Business.

TABLE OF CHANGES

CHAPTER 152 - Workmen's Compensation.

§ 1 amended, 1996, 151 § 458; subsection (5), first paragraph, sentence added, 337 § 1. (See 1996, 151 § 687.)
§ 5, first paragraph, sentence added, 1996, 337 § 2.
§ 13 amended, 1995, 120 § 12; subsection (1) revised, 1996, 204 § 36. (See 1995, 120 § 88.)
§ 13A amended, 1996, 450 § 192.
§ 25A amended, 1996, 450 § 193.
§ 46A amended, 1995, 5 § 75; second paragraph, first sentence revised, 1995, § 76; paragraph inserted after first paragraph, 1995, 38 § 146; second paragraph, first sentence revised, 1995, 38 § 147. (See 1995, 38 § 358.)
§ 47 amended, 1995, 5 § 77; 1996, 450 § 194. (See 1995, 5 § 143.)
§ 65 amended, 1996, 450 § 195.
§ 86 amended, 1996, 427 § 9. (See 1996, 427 § 16.)

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.

§ 2 amended, 1996, 75.
§ 10 amended, 1995, 281 §§ 15, 15A; subsection (a), two paragraphs added, 1995, 281 § 16. (See 1995, 281 § 22.)

CHAPTER 156B - Certain Business Corporations.

§ 65 amended, 1996, 450 § 196.
§ 83A added, 1995, 281 § 17. (See 1995, 281 § 22.)

CHAPTER 156C - LIMITED LIABILITY COMPANY ACT.
(New chapter inserted, 1995, 281 § 18.) (See 1995, 281 § 22.)

CHAPTER 157 - Co-operative Corporations.

CHAPTER 157A - EMPLOYEE COOPERATIVE CORPORATIONS.

CHAPTER 157B - Cooperative Housing Cooperations.

CHAPTER 158 - Certain Miscellaneous Corporations.

CHAPTER 159 - Common Carriers.

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CHAPTER 159A - Common Carriers of Passengers by Motor Vehicle.

CHAPTER 159B - Carriers of Property by Motor Vehicle.

§ 6B amended, 1996, 450 § 197.
§ 14A amended, 1996, 450 § 198.

CHAPTER 160 - Railroads.

§ 234, paragraph added, 1996, 204 § 37.

CHAPTER 161 - Street Railways.

CHAPTER 161A - Massachusetts Bay Transit Authority.

§ 5, subsection (f¾) inserted, 1995, 38 § 148. (See 1995, 38 § 358.)
§ 6 amended, 1996, 450 § 199.
§ 19 amended, 1995, 38 § 149; first paragraph, subparagraph (I) revised, 1995, 38 § 150. (See 1995, 38 § 358.)
§ 34 amended, 1996, 205 § 30.

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.

§ 1, definition of "Cogeneration facility", sentence added, 1996, 450 § 200; last sentence stricken, 1996, 450 § 201.
§ 69C, second paragraph revised, 1996, 212 § 1.
§ 69D, fourth paragraph revised, 1996, 212 § 2.
§ 69E, third paragraph revised, 1996, 212 § 3.
§ 69I amended, 1996, 97 §§ 2, 3.
§ 69L amended, 1996, 450 §§ 202, 203.
§ 69M amended, 1996, 450 § 204.
§ 69N amended, 1996, 450 § 205.
§ 94½ inserted, 1996, 111.
§ 126A inserted, 1996, 402.

CHAPTER 164A - New England Power Pool.

CHAPTER 165 - Water and Aqueduct Companies.

CHAPTER 166 - Telephone and Telegraph Companies, and Lines for the Transmission of Electricity.

§ 22 amended, 1996, 60 § 1.
§ 42A revised, 1995, 272 § 1.
§ 42B amended, 1995, 272 § 2.

CHAPTER 166A - Community Antenna Television Systems.

§ 2, last paragraph amended, 1995, 38 § 151. (See 1995, 38 § 358.)
§ 22, sixth paragraph revised, 60 § 2.

CHAPTER 167 - Supervision of Banks.

§ 1 revised, 1996, 238 § 9.
§ 2, first paragraph stricken out and two paragraphs inserted, 1996, 238 § 10; sixth paragraph revised, 238 § 11.
§ 2A, definition of "Bank" revised, 1996, 238 § 12.
§ 12, first paragraph stricken out and two paragraphs inserted, 1996, 359 § 3.
§ 14 revised, 1996, 238 § 13.
§ 14B **repealed,** 1996, 359 § 4.
§ 17 **repealed,** 1996, 359 § 5.
§ 38 revised, 1996, 238 § 14.
§ 39 revised, 1996, 238 § 14; fourth paragraph revised, 238 § 14A. (See 1996, 238 § 41.)
§ 39B added, 1996, 238 § 14; fourth paragraph revised, 238 § 14A. (See 1996, 238 § 41.).
§ 39C added, 1996, 238 § 14.
§ 40 revised, 1996, 238 § 14.
§ 41 revised, 1996, 238 § 14.
§ 42 revised, 1996, 238 § 14.
§ 43A added, 1996, 238 § 15.

CHAPTER 167A - Bank Holding Companies.

§ 2, first and second paragraphs revised, 1996, 238 §§ 16, 16A. (See 1996, 238 § 41.)
§ 3A added. 1996, 238 § 17.
§ 4, third paragraph, clause (a) revised, 1996, 238 § 18.

CHAPTER 167B - ELECTRONIC BRANCHES AND ELECTRONIC FUND TRANSFERS.

§ 1, definition of "Bank" inserted, 1996, 238 § 19.
§ 3, last paragraph revised, 1996, 238 § 21; definition of "Financial institution" stricken out and definitions of "Federal bank", "Foreign bank", "Financial Institution", "Out-of-state-bank"

and "Out-of-state federal bank" inserted, 1996, 238 § 20.

CHAPTER 167C - BANK LOCATIONS.

§ 1 revised, 1996, 238 § 22.
§ 7 revised, 1996, 238 § 23.
§ 8 added, 1996, 238 § 23.
§ 9 added, 1996, 238 § 23.
§ 10 added, 1996, 238 § 23.

CHAPTER 167D - DEPOSITS AND ACCOUNTS.

CHAPTER 167E - MORTGAGES AND LOANS.

§ 2, subsection B, paragraph 5, last sentence stricken out, 1996, 244.
§ 14 amended, 1996, 450 § 206.

CHAPTER 167F - INVESTMENTS AND OTHER POWERS.

§ 2, paragraph 8 revised, 1996, 238 § 24; paragraph 29 revised, 238 § 25; paragraph 31. added, 238 § 26.

CHAPTER 167G - TRUST DEPARTMENT.

§ 3, eleventh paragraph revised, 1995, 101.

CHAPTER 167H - MUTUAL HOLDING COMPANIES.
(New chapter inserted, 1987, 630.)

CHAPTER 168 - Savings Banks.

§ 10 amended, 1995, 221 § 1; paragraph 5., third paragraph revised, 1996, 359 § 6.
§ 26 revised, 1996, 359 § 7.
§ 27, second paragraph stricken out, 1996, 359 § 8.
§ 34, introductory paragraph stricken out and four paragraphs inserted, 1996, 359 § 9.
§ 34A, first paragraph, subparagraph 1, sentence added, 1996, 238 § 27; introductory paragraph stricken out and four paragraphs inserted, 1996, 359 § 10.
§ 34B, introductory paragraph stricken out, four paragraphs inserted, 1996, 359 § 11; last paragraph revised, 1996, 238 § 28.
§ 34D, first paragraph, fourth sentence revised, 1996, 359 § 12; last paragraph revised, 1996, 238 § 29.
§ 34F, second paragraph stricken out and four paragraphs inserted, 1996, 359 § 13.
§ 35, third paragraph revised, 1996, 359 § 14.
§ 35A added, 1996, 238 § 29A; revised, 1996, 238 § 29B. (See 1996, 238 § 42.)
§ 36, second paragraph revised, 1996, 238 § 30.
§ 37, paragraph inserted after third paragraph, 1996, 238 § 31; fifth, sixth and seventh paragraphs stricken out, 1996, 238 § 32.

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CHAPTER 169 - Deposits with Others than Banks.
(Chapter revised, 1995, 337 § 1.)

CHAPTER 169A - LICENSING OF CHECK CASHERS.
(New chapter inserted, 1993, 308 § 1.) (See 1993, 308 § 2.)

§ 5 amended, 1996, 359 § 15.
§ 13 revised, 1996, 359 § 16.

CHAPTER 170 - Co-operative Banks.

§ 9 amended, 1995, 221 § 2; paragraph inserted after fourth paragraph, 1996, 359 § 17.
§ 18, first paragraph, second sentence stricken out, 1996, 359 § 18.
§ 21, paragraph (2) stricken out, 1996, 359 § 19.
§ 24, first paragraph, fifth sentence revised, 1996, 359 § 20.
§ 25, introductory paragraph stricken out and five paragraphs inserted, 1996, 359 § 21.
§ 26A, second paragraph, introductory paragraph stricken out and four pargraph inserted, 1996, 359 § 22.
§ 26B, second paragraph, introductory paragraph stricken out and four paragraphs inserted, 1996, 359 § 23; **section amended**, 1996, 450 § 207.
§ 26D, first paragraph, fourth sentence revised, 1996, 359 § 24.
§ 26F, second paragraph stricken out and four paragraphs inserted, 1996, 359 § 25.
§ 26G added, 1996, 238 § 32A; section revised, 1996, 238 § 32B. (See 1996, 238 § 42.)

CHAPTER 171 - Credit Unions.

§ 12, first paragraph, first sentence revised, 1995, 266 § 1; two paragraphs inserted, 1995, 266 § 2.
§ 15, second paragraph revised, 1995, 266 § 3.
§ 16, first paragraph amended, 1995, 266 § 4.
§ 20, first sentence stricken out and four sentences inserted, 1995, 266 § 5.
§ 26, first paragraph revised, 1995, 266 § 6.
§ 30, first paragraph, first sentence revised, 1994, 173 § 1.
§ 31, first paragraph, first sentence revised, 1995, 266 § 7.
§ 31A added, 1995, 173 § 2.
§ 32 amended, 1995, 266 § 8.
§ 59, third paragraph, subparagraph (1) revised, 1995, 173 § 3; **section amended**, 1995, 173 § 4.
§ 59A, third paragraph revised, 1995, 266 § 9.
§ 60, fifth sentence revised, 1995, 266 § 10.
§ 61, second paragraph revised, 1995, 266 § 11.
§ 62 amended, 1995, 173 § 5; paragraph added, 1995, 266 § 12.
§ 64, third paragraph revised, 1995, 266 § 13.
§ 65, second paragraph revised, 1995, 266 § 14; subparagraph (1), second sentence revised, 1995, 266 § 15; subparagraph (2), second sentence revised, 1995, 266 § 16; seventh paragraph, subparagraph 4, fifth sentence revised, 1995, 266 § 17; subparagraph 5A, fifth sentence revised, 1995, 266 § 18; subparagraph 6, second sentence revised, 1995, 266 § 19; subparagraph 8, third sentence revised, 1995, 266 § 20; subparagraph 10, third sentence

revised, 1995, 266 § 21; subparagraph 11, sentence added, 1995, 266 § 22.
§ 67, paragraph (v) added, 1995, 173 § 6; **section amended**, 266 § 23; paragraph (p) revised, 1995, 266 § 24; paragraph (q) revised, 1995, 266 § 25; paragraph (r) revised, 1995, 266 § 26; paragraph added, 1995, 266 § 27.
§ 69, first paragraph revised, 1995, 266 § 28.
§ 70, first paragraph revised, 1995, 266 § 29.
§ 71, paragraph (o) revised, 1995, 266 § 30.
§ 78, first paragraph stricken out and four paragraphs inserted, 1995, 266 § 31.

CHAPTER 172 - Trust Companies.

§ 13 amended, 1995, 221 § 3; paragraph inserted after second paragraph, 1996, 359 § 26.
§ 22, first paragraph, first sentence revised, 1996, 359 § 27; **section amended**, 359 § 28.
§ 22A revised, 1996, 359 § 29.
§ 25, first sentence revised, 1995, 258 § 1.
§ 25A, second sentence revised, 1995, 258 § 2.
§ 26A, last paragraph stricken out, 1996, 359 § 30.
§ 36, subsection A, clause (4), fourth sentence revised, 1996, 359 § 31.
§ 38, second paragraph revised, 1996, 359 § 32.
§ 38A added, 1996, 238 § 32C; section revised, 238 § 32D. (See 1996, 238 § 42.)

CHAPTER 172A - Banking Companies.

CHAPTER 173 - Mortgage Loan Investment Companies.

CHAPTER 174 - BOND AND INVESTMENT COMPANIES. (Chapter repealed, 1950, 822 § 1.)

CHAPTER 174A - Regulation of Rates for Fire, Marine and Inland Marine Insurance, and Rating Organizations.

§ 5, sentence inserted, 1996, 93 § 2.

CHAPTER 174B - Regulation of Automobile Clubs.

CHAPTER 175 - Insurance.

§ 2B, paragraph added, 1996, 297 § 1. (See 1996, 297 § 34.)
§ 3A amended, 1996, 151 § 459. (See 1996, 151 § 690.)
§ 4A added, 1996, 93 § 3; **section amended**, 365 §§ 14, 15.
§ 4B added, 1996, 93 § 3.
§ 4C added, 1996, 93 § 3.
§ 24C **repealed**, 1996, 376 § 1.
§ 47B, paragraph (c), sentence added; 1996, 8 § 1; clause (4) revised, 1996, 293 § 1.
§ 47C, last paragraph, last sentence revised, 1996, 365 § 16.
§ 47F, three paragraphs added, 1995, 218 § 4.
§ 47M revised, 1996, 450 § 208.

§ 47Q amended, 1996, 450 § 209.
§ 47R added, 1996, 450 § 210.
§ 47S added, 1996, 450 § 210.
§ 54E amended, 1996, 450 § 211.
§ 54F amended, 1996, 450 § 212.
§ 66F added, 1995, 281 § 18A. (See 1995, 281 § 22.)
§ 85A amended, 1996, 450 § 213.
§ 94N added, 1995, 111.
§ 95B added, 1995, 38 § 152. (See 1995, 38 § 358.)
§ 99B, paragraph added, 1996, 93 § 4.
§ 108, subdivision (11) added, 1996, 8 § 2; paragraph added, 1996, 297 § 2. (See 1996, 297 § 34.)
§ 108E, introductory paragraph revised, 1996, 8 § 3.
§ 108G added, 1995, 38 § 153.(See 1995, 38 § 358.)
§ 110, subdivision (M) added, 1996, 8 § 4.
§ 113B amended, 1996, 151 § 460. (See 1996, 151 § 690.)
§ 120A added, 1996, 98.
§ 120D added, 1995, 38 § 154. (See 1995, 38 § 358.)
§ 123A added, 1996, 376 § 2.
§ 139 amended, 1996, 261.
§ 157, first paragraph, sentence added, 1996, 89.
§ 163 amended, 1996, 204 § 38.
§ 193F, paragraph added, 1996, 297 § 3. (See 1996, 297 § 34.)
§ 193G, paragraph added, 1996, 297 § 4. (See 1996, 297 § 34.)
§ 193H, paragraph added, 1996, 297 § 5. (See 1996, 297 § 34.)
§ 193P, first paragraph, last sentence stricken out, 1996, 93 § 5.
§ 193R, fourth paragraph, clause (7) revised, 1996, 482.

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.

§ 5C amended, 1996, 450 §§ 214, 215.
§ 10A amended, 1996, 151 § 461. 1996, 151 § 690.)

CHAPTER 175B - Unauthorized Insurer's Process Act.

CHAPTER 175C - Urban Area Insurance Placement Facility.

§ 1, definition of "Facility" stricken out, 1996, 93 § 6; definition of "Association" revised, 1996, 93 § 6; definition of "Basic property insurance" revised, 1996, 93 § 6; definitions of "Territory" and "Credit eligible territory" inserted, 1996, 93 § 6.
§ 2 **repealed**, 1996, 93 § 7.
§ 3 revised, 1996, 93 § 8.
§ 4, revised, 1996, 93 § 9; subsection (e), paragraph (1) revised, 1996, 365 § 17.
§ 5 amended, 1996, 93 § 10; two paragraphs added, 1996, 93 § 11.
§ 6 amended, 1996, 93 §§ 12, 13, 14.

§ 7 amended, 1996, 93 § 15.
§ 9 added, 1996, 93 § 16.

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 inserted, 1988, 295.)

CHAPTER 175I - INSURANCE INFORMATION AND PRIVACY PROTECTION. (New chapter inserted, 1991, 516 § 1.) (See 1991, 516 § 6.)

§ 17 amended, 1996, 450 § 216.

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.

§ 1C added, 1996, 325 § 1.
§ 3A added, 1995, 38 § 155. (See 1995, 38 § 358.)
§ 5 amended, 1996, 450 §§ 217, 218.
§ 6, first paragraph revised, 1996, 297 § 6; second paragraph, first sentence stricken out, 1996, 297 § 7; first, second, third, fourth, fifth and sixth sentences stricken out, 1996, 297 § 8; third to eighth sentences, inclusive, stricken out, 1996, 297 § 9. (See 1996, 297 § 34.)
§ 8 revised, 1996, 1996, 297 § 10. (See 1996, 297 § 34.)
§ 8A, paragraph (c), two sentences added, 1996, 8 § 5; clause (4) revised, 1996, 293 § 2.
§ 8A½ added, 1996, 8 § 2.
§ 8H, three paragraphs added, 1995, 218 § 5.
§ 8O stricken out, 1996, 450 § 219.
§ 8P stricken out, 1996, 450 §§ 220, 221.
§ 8Q added, 1996, 450 § 222.
§ 8R added, 1996, 450 § 222.
§ 8S added, 1996, 450 § 222.
§ 9 **repealed**, 1996, 297 § 11. (See 1996, 297 § 34.)
§ 10, first paragraph, second sentence revised, 1996, 297 § 12. (See 1996, 297 § 34.)

CHAPTER 176B - Medical Service Corporations.

§ 4, second paragraph, second sentence stricken out, 1996, 297 § 13; fourth sentence stricken out,

1996, 297 § 14; sentence added, 1996, 297 § 15; **section amended**, 1996, 297 § 16; paragraph added, 1996, 297 § 17. (See 1996, 297 § 34.)
§ 4A. Paragraph (c), two sentences added, 1996, 8 § 7; clause (4) revised, 1996, 293 § 3.
§ 4B added, 1996, 8 § 8.
§ 4H, three paragraphs added, 1995, 218 § 6.
§ 5A added, 1995, 38 § 156. (See 1995, 38 § 358.)
§ 6 revised, 1996, 297 § 18. (See 1996, 297 § 34.)
§ 7, sentence inserted after first sentence, 1996, 8 § 9.
§ 7C added, 1996, 325 § 2.

CHAPTER 176C - Non-Profit Medical Service Plans.

CHAPTER 176D - UNFAIR PRACTICES AND UNFAIR DECEPTION ACTS AND PRACTICES IN THE BUSINESS OF INSURANCE.

§ 1, paragraph (a) revised, 1996, 313.

CHAPTER 176E - Dental Service Corporations.

CHAPTER 176F - Optometric Service Corporations.

CHAPTER 176G - Health Maintenance Organizations.

§ 4, fourth sentence revised, 1995, 218 § 7; first paragraph, sentence added, 1996, 293 § 4.
§ 4B, introductory paragraph revised, 1996, 8 § 10.
§ 4H amended, 1995, 38 § 157. (See 1995, 38 § 358.)
§ 4I added, 1995, 218 § 8.
§ 6, sentence added, 1996, 8 § 11.
§ 16, paragraph added, 1996, 297 § 19. (See 1996, 297 § 34.)
§ 19 added, 1995, 38 § 158. (See 1995, 38 § 358.)

CHAPTER 176H - Legal Service Plans.

§ 17, second paragraph stricken out, 1996, 58 § 30. (See 1996, 58 § 105.)
§ 18 **repealed**, 1996, 58 § 58. (See 1996, 58 § 105.)

CHAPTER 176I - PREFERRED PROVIDER ARRANGEMENTS. (New chapter inserted, 1988, 23 § 65.) (See 1988, 23 § 92.)

§ 2, first paragraph, sentence added, 1996, 8 § 12.
§ 9, sentence inserted after first sentence, 1996, 297 § 20. (See 1996, 297 § 34.)

CHAPTER 176J - SMALL GROUP HEALTH INSURANCE. (New chapter inserted, 1991, 495 § 42.)

§ 1, definition of "Association group" stricken out, 1996, 297 § 21; **section amended**, 1996, 297 §§ 22, 23, 24; 450 § 223. (See 1996, 297 § 34.)

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§ 2 amended, 1996, 297 § 25. (See 1996, 297 § 34.)
§ 3, three paragraph added, 1996, 297 § 26. (See 1996, 297 § 34.)
§ 5, subsection (a) amended, 1996, 467 § 1.
§ 7 amended, 1996, 297 § 27; 467 § 2. (See 1996, 297 § 34.)
§ 9 added, 1996, 297 § 28. (See 1996, 297 § 34.)

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.)

CHAPTER 176M - NONGROUP HEALTH INSURANCE.
(New chapter inserted, 1996, 297 § 29.) (See 1997, 297 § 34.)

§ 1, definition of "Adjusted composite rate" inserted, 1996, 467 § 3; definition of "Carrier" inserted, 1996, 467 § 4; definition of "Closed plan" revised, 1996, 467 § 5; definition of "Conversion nongroup health plan" inserted, 1996, 467 § 6; definition of "Guaranteed issue managed care plan" revised, 1996, 467 § 7; definition of "Guaranteed issue medical plan" revised, 1996, 467 § 8; definition of "Health plan" revised, 1006, 467 § 9; definition of "Guaranteed issue preferred provider plan" revised, 1996, 467 § 10; definition of "Nongroup health plan", sentence added, 1996, 467 § 11; definition of "Qualifying health plan" stricken out, 1996, 467 § 12; definition of "Rating factor" revised, 1996, 467 § 13.
§ 2, subsections (a) and (b) revised, 1996, 467 § 14; subsection (c), paragraph (1), first sentence revised, 1996, 467 § 15; paragraph (2) revised, 1996, 467 § 16; paragraphs (5) and (6) stricken out, 1996, 467 § 17.
§ 3, subsection (a) revised, 1996, 467 § 18; subsection (b), first sentence revised, 1996, 467 § 19; five subsections added, 1996, 467 § 20.
§ 4, subsection (a), paragraph (1) inserted, 1996, 467 § 21; paragraph (2), first sentence revised, 1996, 467 § 22; third, fourth and fifth sentences stricken out and two sentences inserted, 1996, 467 § 23; paragraph (4) revised, 1996, 467 § 24; subsections (b), (c), (d) and (e) stricken out, 1996, 467 § 25.
§ 5, subsection (a) revised, 1996, 476 § 26; subsection (b), first two sentences revised, 1996, 467 § 27; fifth and sixth sentences revised, 1996, 467 § 28; subsection (e), second sentence revised, 1996, 467 § 29.
§ 6, second sentence revised, 1996, 467 § 30.

CHAPTER 176N - PORTABILITY OF HEALTH INSURANCE.
(New chapter inserted, 1996, 297 § 30.) (See 1996, 297 § 34.)

§ 1, definition of "Health plan", last sentence revised, 1996, 467 § 31; definition of "Out of state health plan" revised. 1996, 467 § 32.
§ 2, clause (a) revised, 1996, 467 § 33; subsection (c), sentence inserted, 1996, 467 § 34

CHAPTER 177 - ASSESSMENT INSURANCE.
(Chapter repealed, 1924, 406 § 17; 1929, 24, § 1.)

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(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.)

§ 9 **repealed**, 1996, 58 § 58. (See 1996, 58 § 105.)

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.

§ 17 amended, 1996, 450 § 224.

CHAPTER 182 - Voluntary Associations and Certain Trusts.

§ 2, three paragraphs added, 1995, 281 § 19. (See 1995, 281 § 22.)

CHAPTER 183 - Alienation of Land.

§ 28A, first sentence revised, 1996, 493 § 1.
§ 54 revised, 1996, 480 § 1.
§ 54C added, 1996, 480 § 2.
§ 55 revised, 1996, 480 § 3.
§ 59 amended, 1996, 341.
§ 63 amended, 1996, 450 § 225.
§ 63A, paragraph inserted, 1996, 493 § 2
§ 63B revised, 1995, 118 § 1. (See 1995, 118 § 2.)

CHAPTER 183A - Condominiums.

§ 6 amended, 1996, 450 § 226.
§ 10 amended, 1996, 450 § 227.

CHAPTER 183B - REAL ESTATE TIME-SHARES.
(New chapter inserted, 1987, 760 § 1.) (See 1987, 760 § 2.)

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CHAPTER 184B - SHORT FORM TERMS FOR WILLS AND TRUSTS.

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CHAPTER 185 - The Land Court and Registration of Title to Land.

§ 14, first paragraph revised, 1995, 38 § 159; 1996, 151 § 462. (See 1995, 38 § 358; 1996, 151 § 688.)
§ 48 revised, 1996, 481 § 1.
§ 50 **repealed**, 1996, 481 § 2.
§ 51, first sentence stricken out, 1996, 481 § 3.
§ 54 revised, 1996, 481 § 4.
§ 55 revised, 1996, 481 § 4.
§ 59, first paragraph, third sentence stricken out, 1996, 481 § 5.
§ 62 revised, 1996, 481 § 6.
§ 64 revised, 1996, 481 § 7.
§ 65 revised, 1996, 481 § 8.
§ 68 revised, 1996, 481 § 9.
§ 70, third paragraph revised, 1996, 481 § 10.
§ 72, second sentence stricken out, 1996, 481 § 11.
§ 74 amended, 1996, 481 § 12.
§ 79 **repealed**, 1996, 481 § 13.
§ 91, second sentence revised, 1996, 481 § 14.
§ 92 amended, 1996, 481 § 15.
§ 93 revised, 1996, 481 § 16.
§ 94 amended, 1996, 481 § 17.
§ 111 **repealed**, 1996, 481 § 18.
§ 113 **repealed**, 1996, 481 § 19.
§ 114 amended, 1996, 481 § 20.
§ 118 amended, 1996, 481 § 21.

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.

§ 4 amended, 1996, 450 § 228.
§ 9A, first paragraph revised, 1995, 38 § 160. (See 1995, 38 § 358.)

CHAPTER 186 - Estates for Years and at Will.

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CHAPTER 188 - Homesteads.

§ 1, first paragraph amended, 1995, 297 § 1.
§ 1A amended, 1996, 450 § 229.

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(New chapter inserted, 1987, 319 § 2.)

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CHAPTER 194 - Public Administrators.

CHAPTER 195 - General Provisions relative to Executors and Administrators.

§ 16 amended, 1996, 450 § 230.

CHAPTER 196 - Allowances to Widows and Children, and Advancements.

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CHAPTER 198 - Insolvent Estates Of Deceased Persons.

§ 1 first paragraph, third clause revised, 1995, 38 § 161. (See 1995, 38 § 358.)

CHAPTER 199 - Settlement of Estates of Deceased Non-residents.

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CHAPTER 200 - Settlement of Estates of Absentees.

CHAPTER 200A - Abandoned Property.

§ 8, subsection (a) revised, 1996, 204 § 39; paragraph (b) amended, 204 § 40.

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§ 2A added, 1995, 210.
§ 2B added, 1995, 210.
§ 2C added, 1995, 210.
§ 2D added, 1995, 210.
§ 2E added, 1995, 210.

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§ 2F added, 1995, 210.
§ 2G added, 1995, 210.
§ 2H added, 1995, 210.
§ 6 amended, 1996, 151 § 464. (See 1996, 151 § 690.)
§ 14 amended, 1996, 151 § 465; 450 § 231. (See 1996, 151 § 690.)

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(Title revised, 1987, 465 § 57.)(Former title, Uniform Gifts to Minors Act.)

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(Title inserted, 1992, 286 § 252.)

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(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.)

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§ 32F, subsection (a) fourth sentence revised, 1995, 5 § 78; sixth sentence revised, 1995, 5 § 79; subsection (h) added, 1995, 5 § 80; **section amended**, 1995, 38 § 162. (See 1995, 5 § 143; 38 § 358.)

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CHAPTER 209A - Abuse Prevention.

§ 1, definition of "protection order issued by another jurisdiction" inserted, 1996, 298 § 1; **section amended**, 450 § 232.
§ 3B amended, 1996, 298 § 2.
§ 3C amended, 1996, 450 § 233.
§ 5 amended, 1996, 298 § 3; first paragraph, sentence inserted after third sentence, 298 § 4.
§ 5A added, 1996, 298 § 5.
§ 6 amended, 1996, 298 § 6, 7.
§ 7, fifth paragraph, sentence added, 1995, 5 § 81; **section amended**, 1996, 298 § 8. (See 1995, 5 § 143.)
§ 8 amended, 1996, 298 § 9.
§ 10 amended, 1996, 151 § 466. (See 1996, 151 § 690.)

CHAPTER 209B - Massachusetts Child Custody Jurisdiction Act.

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§ 3, subsection (d), clause (6) revised, 1995, 38 § 163. (See 1995, 38 § 358.)
§ 4, first sentence revised, 1995, 38 § 164. (See 1995, 38 § 358.)
§ 5 amended, 1995, 38 § 165. (See 1995, 38 § 358.)
§ 7, second sentence revised, 1995, 38 § 166. (See 1995, 38 § 358.)
§ 9, subsection (a), sentence inserted after first sentence, 1995, 38 § 167; two sentences inserted after first sentence, 1996, 199; last sentence revised, 1995, 5 § 82; subsection (b) amended, 1995, 5 § 83; subsection (e) amended, 1995, 5 § 84; subsection (f) amended, 1995, 38 § 168. (See 1995, 5 § 143; 38 § 358.)
§ 11, subsection (a), sentence inserted after first sentence, 1995, 38 § 169; subsection (a) amended, 1995, 38 § 170; subsection (b) amended, 1995, 38 §§ 171, 172. (See 1995, 38 § 358.)
§ 13 amended, 1996, 151 § 467. (See 1996, 151 § 690.)
§ 19 amended, 1996, 450 § 234.
§ 17, fourth sentence amended, 1995, 38 173. (See 1995, 38 § 358.)
§ 18 amended, 1995, 38 § 174. (See 1995, 38 § 358.)
§ 19 amended, 1995, 5 § 85. (See 1995, 5 § 143.)
§ 20, first sentence revised,1995, 38 § 175. (See 1995, 38 § 358.)
§ 22, subsection (b) amended, 1995, 5 § 86. (See 1995, 5 § 143.)

CHAPTER 209D - UNIFORM INTERSTATE FAMILY SUPPORT ACT. (New chapter inserted, 1995, 5 § 87.) (See 1995, 5 § 143.)

CHAPTER 210 - Adoption of Children and Change of Names.

§ 2 amended, 1996, 151 § 468; paragraph added, 151 § 469. (See 1996, 151 § 690.)
§ 11 amended, 1996, 151 §§ 470, 471. (See 1996, 151 § 690.)

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§ 6 revised, 1995, 38 § 176. (See 1995, 38 § 358.)

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§ 1 amended, 1996, 151 § 472. (See 1996, 151 § 690.)
§ 2 amended, 1996, 151 § 473; 450 § 235. (See 1996, 151 § 690.)
§ 4, **section amended**, 1995, 97 § 2; sixth paragraph, sentence inserted after fourth sentence, 1995, 97 § 3.
§ 9 amended, 1996, 450 §§ 236, 237, 238, 239, 240. (See 1996, 151 § 690.)
§ 13 amended, 1996, 450 § 241.
§ 17, second paragraph, two sentences added, 1995, 24 § 1.

CHAPTER 211C - Commission on Judicial Conduct.

CHAPTER 211D - Committee for Public Counsel Services.

§ 6 amended, 1995, 38 § 178; paragraph (a), sentence inserted, 1996, 200 § 30; clause (iv) revised, 200 § 31. (See 1995, 38 § 358; 1996, 200 § 39.)
§ 8 amended, 1995, 38 § 179. (See 1995, 38 § 358.)
§ 9 amended, 1995, 38 § 180; clause (i) added, 1996, 151 § 474. (See 1995, 38 § 358; 1996, 151 § 690.)
§ 12 revised, 1996, 151 § 475; sentence inserted after fourth sentence, 1996, 204 § 41. (See 1996, 151 § 690.)
§ 13 amended, 1995, 38 § 181. (See 1995, 38 § 358.)

CHAPTER 211E - MASSACHUSETTS SENTENCING COMMISSION.
(New chapter inserted, 1996, 12 § 9.)

CHAPTER 211F - OFFICE OF COMMUNITY CORRECTIONS.
(New chapter inserted, 1996, 12 § 9.)

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§ 4 amended, 1995, 5 § 88; amended, 1996, 450 § 242. (See 1995, 5 § 143.)

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§ 2 amended, 1996, 151 §§ 476, 476A. (See 1996, 151 § 690.)
§ 3C amended, 1996, 151 § 477. (See 1996, 151 § 690.)
§ 23A amended, 1996, 151 § 478. (See 1996, 151 § 690.)
§ 28 amended, 1996, 151 § 479. (See 1996, 151 § 690.)
§ 29A amended, 1995, 38 § 182. (See 1995, 38 § 358.)
§ 29B amended, 1995, 38 § 183. (See 1995, 38 § 358.)
§ 35A, first paragraph revised, 1995, 38 § 184. (See 1995, 38 § 358.)
§ 35B, first paragraph revised, 1995, 38 § 185. (See 1995, 38 § 358.)

CHAPTER 218 - District Courts.

§ 1 amended, 1996, 151 § 480; 450 § 243. (See 1996, 151 § 690.)
§ 10, first seven paragraphs stricken out and eight paragraphs inserted, 1995, 38 § 187; first paragraph amended, 1995, 274 § 1; second paragraph amended, 1995, 39 § 11; 120 §§ 13, 14; 274 §§ 2, 3; third paragraph amended, 1995, 39 § 12; 120 §§ 15, 16; 274 § 4; thirteenth paragraph stricken out and one paragraph inserted, 1995, 38 § 188; **section revised**, 1996, 151 § 481. (See 1995, 38 § 358; 39 § 62; 120 § 88; 1996, 151 § 690.)
§ 19, fourth sentence revised, 1995, 5 § 89. (See 1995, 5 § 143.)
§ 26 amended, 1995, 5 § 90; 297 §§ 2,3; 1996, 393 § 1; 450 § 244. (See 1995, 5 § 143.)
§ 27 revised, 1996, 200 § 32. (See 1996, 200 § 39.)
§ 53, first paragraph, last sentence stricken out and two sentences inserted, 1995, 38 § 189. (See 1995, 38 § 358.)
§ 57, first paragraph revised, 1995, 38 § 189A; ninth subparagraph stricken out and two subparagraphs added, 1995, 38 § 190; **section amended**, 1996, 200 § 33. (See 1995, 38 § 358; 1996, 200 § 39.)
§ 58, fourth paragraph, second sentence revised, 1995, 38 § 191; sentence added, 1995, 243 § 10; fifth paragraph revised, 1995, 38 § 192; sentence added, 1996, 151 § 482. (See 1995, 38 § 358; 243 § 11; 1996, 151 § 690.)
§ 75B revised, 1995, 38 § 193. (See 1995, 38 § 358.)
§ 79, subsection (1) stricken out, 1995, 120 § 17. subsection (2), first paragraph revised, 1995, 38 § 194. (See 1995, 38 § 358; 120 § 88.)
§ 80, first paragraph revised, 1995, 38 § 195. (See 1995, 38 § 358.)

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§ 5 amended, 1995, 38 § 196; 1996, 151 § 483. (See 1995, 38 § 358; 1996, 151 § 690.)
§ 26 revised, 1996, 307 § 6.
§ 46 amended, 1995, 281 § 20. (See 1995, 281 § 22.)
§ 93, first paragraph, first sentence stricken out and two sentences inserted, 1995, 38 § 197. (See 1995, 38 § 358.)

§ 94, first paragraph revised, 1995, 38 §§ 198, 199; second sentence amended, 1995, 120 § 18. (See 1995, 38 § 358; 120 § 88.)

CHAPTER 221A - THE MASSACHUSETTS LEGAL ASSISTANCE CORPORATION ACT.

CHAPTER 221B - CHILD SUPPORT HEARING OFFICERS.

§ 3 amended, 1995, 5 § 91. (See 1995, 5 § 143.)
§ 4 amended, 1995, 5 § 92. (See 1995, 5 § 143.)
§ 7 amended, 1995, 5 § 93. (See 1995, 5 § 143.)

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§ 59H amended, 1996, 450 § 245.
§ 85P½ amended, 1996, 308 §§ 1, 2, 3; subsection (d), four sentences inserted after first sentence, 1996, 308 § 4; **section amended**, 1996, 308 §§ 5, 6, 7, 8; subsection (g) added, 308 § 9.
§ 85S amended, 1996, 450 § 246.

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§ 8 amended, 1996, 151 § 484. (See 1996, 151 § 690.)
§ 20 amended, 1995, 5 § 94; Clause First revised, 1996, 298 § 10. (See 1995, 5 § 143.)
§ 20L added, 1996, 177.
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§ 23F added, 1996, 450 § 248.

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§ 3 **repealed,** 1996, 364 § 4.
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§ 5, first sentence revised, 1996, 364 § 6; third sentence revised, 364 § 7.
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§ 8 revised, 1996, 364 § 9.
§ 9, first sentence revised, 1996, 364 § 10.
§ 11, first sentence revised, 1996, 364 § 11.
§ 12 amended, 1996, 364 § 12; last paragraph revised, 364 § 13.
§ 14, last sentence revised, 1996, 364 § 14.
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§ 21, first sentence revised, 1996, 364 § 16; sentence added, 364 § 17.
§ 27 amended, 1996, 364 § 18.
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§ 30, three paragraphs added, 1996, 364 § 21.
§ 32 revised, 1996, 364 § 22.
§ 33 added, 1996, 364 § 23.

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§ 12G, third paragraph, sentence added, 1996, 450 § 249.

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§ 3 revised, 1996, 118 § 3.

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§ 6 revised, 1996, 118 § 4.
§ 7 stricken out, 1996, 118 § 4.

§ 10 **repealed,** 1996, 118 § 5.
§ 21, third sentence stricken out and two sentences inserted, 1996, 326.

CHAPTER 255D - Retail Installment Sales and Services.

§ 3 revised, 1996, 118 § 6.
§ 26 , subsection C, third paragraph, sentence added, 1996, 450 § 250.
§ 27 amended, 1996, 129 § 3.

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§ 2 amended, 1996, 388.
§ 5 amended, 1996, 359 § 33.
§ 8 revised, 1996, 118 § 7.

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§ 1 amended, 1995, 24 § 2; definitions of "Family member" and "Prosecutor" added, 1995, 24 § 3; definitions of "Victim" and Victim-witness" added, 1995, 24 § 4; **section revised,** 1996, 450 § 251.
§ 2 revised, 1995, 24 § 5.
§ 3 revised, 1995, 24 § 5; subsection (v) added, 1996, 200 § 34. (See 1996, 200 § 39.)
§ 8 amended, 1996, 151 § 486. (See 1996, 151 § 690.)
§ 10 added, 1995, 24 § 6.
§ 11 added, 1995, 24 § 6.
§ 12 added, 1995, 24 § 6.
§ 13 added, 1995, 24 § 6.

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§ 21 amended, 1996, 450 § 252.

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§ 4, third paragraph revised, 1996, 200 § 35. (See 1996, 200 § 39.)

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§ 15A amended, 1995, 297 § 5.
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§ 18 amended, 1995, 297 § 7.
§ 19 amended, 1995, 297 § 8.
§ 39 revised, 1996, 163 § 2.
§ 43, paragraph (a) revised, 1996, 298 § 11; **section amended**, 298 § 12.
§ 44 added, 1996, 200 § 36. (See 1996, 200 § 39.)

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§ 30 amended, 1995, 272 § 3; paragraph added, 1995, 297 § 9.
§ 30A amended, 1996, 430.

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§ 13B amended, 1996, 393 §§ 2, 3, 4.
§ 32B added, 1995, 276.

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§ 3 amended, 1996, 39 § 2.

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§ 10, paragraph (h) revised, 1996, 20; **section amended**, 1996, 151 §§ 487, 488. (See 1996, 151 § 690.)
§ 10A amended, 1996, 151 §§ 489. (See 1996, 151 § 690.)
§ 11A amended, 1996, 151 §§ 490. (See 1996, 151 § 690.)
§ 11B amended, 1996, 151 §§ 491. (See 1996, 151 § 690.)
§ 11C amended, 1996, 151 §§ 492. (See 1996, 151 § 690.)
§ 12B amended, 1996, 151 §§ 493. (See 1996, 151 § 690.)
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§ 3 amended, 1996, 151 §§ 497. (See 1996, 151 § 690.)
§ 28 amended, 1996, 298 §§ 13, 14.
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§ 80 amended, 1996, 450 § 253.
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§ 62B added, 1996, 298 § 15.
§ 63, first paragraph revised, 1996, 26.

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§ 29D revised, 1996, 450 § 254.

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